



# Homeland Security

April 27, 2018

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

FROM: Veronica Venture (b) (6)  
Deputy Officer for Compliance (Acting)  
Office for Civil Rights and Civil Liberties  
(b) (6)  
Dana Salvano-Dunn (b) (6)  
Director, Compliance Branch  
Office for Civil Rights and Civil Liberties

SUBJECT: Expert Recommendations Memorandum  
Orange County Jail  
Complaint Nos. (b) (6)  
(b) (6)

The U.S. Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties conducted an investigation into conditions of detention for U.S. Immigration and Customs Enforcement (ICE) detainees at the Orange County Jail (OCJ) in Goshen, New York. CRCL's review focused in large part on operations in the areas of medical care, general conditions of detention, and environmental health and safety.

Prior to the onsite, CRCL received numerous allegations of civil rights and civil liberties violations involving detainees at OCJ in the aforementioned areas. Additionally, we received notice from ICE regarding the July 28, 2016, death of a detainee in ICE custody, which after further review, was opened as a complaint. In response, CRCL conducted an onsite investigation at OCJ on October 16-17, 2017. As part of the review, CRCL engaged the assistance of three subject-matter experts: a medical consultant, a corrections consultant, and an environmental health and safety consultant. As a result of resident and staff interviews, document reviews, and direct observation, the subject-matter experts identified concerns regarding the medical care, environmental health and safety, and the overall conditions at the facility.

On October 17, 2017, as part of the OCJ onsite closing briefs, CRCL and the subject-matter experts discussed concerns found during the investigation with ICE Enforcement and Removal Operations (ERO) headquarters management, field office management, personnel from the ICE Office for Diversity and Civil Rights (ODCR), and OCJ senior management. During these

discussions, the subject-matter experts also provided recommendations and best practices to address the immediate concerns identified.<sup>1</sup>

Enclosed with this memorandum are the reports prepared by the subject-matter experts. 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 the attachments 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.

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

### **Recommendations**

#### **Medical**

CRCL's mental health expert made the following priority recommendations related to mental health care at OCJ:

1. There has been inadequate dental staffing to provide care for the population, resulting in delays in access to dental care. While dental staffing has recently been increased, appropriate staffing must be sustained. The HSA should use the quality assurance process to monitor response times for symptomatic dental complaints in coming months to document correction of this deficit. (NDS – III.A. General, III.E. Dental Treatment)
2. (b) (5)  
[Redacted]
- a. (b) (5)  
[Redacted]
- b. (b) (5)  
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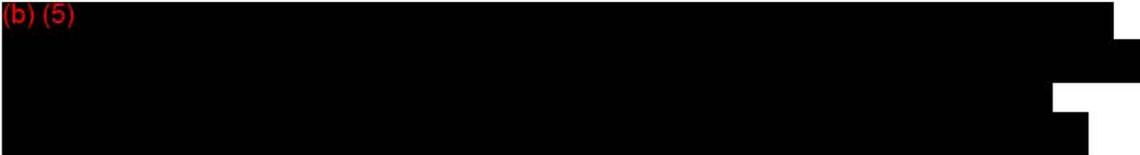
<sup>1</sup> CRCL's experts relied on the applicable Performance-Based National Detention Standards (NDS) for the OCJ onsite, as they are the standards the facility is contractually obligated to implement.

- c. The HSA should monitor the use of the interpreter line to ensure compliance. Medical staff using the language line should include documentation of the language line (including interpreter identifier) in their note in the medical chart.
3. There are cells in the medical housing unit that are used for suicide watch. While the cells have adequate line of site for one-to-one observation, the interior of the cells have not been modified to eliminate structures that a suicidal detainee might use to anchor an improvised noose. The correctional industry has widely adopted specially designed furniture and hardware to prevent the opportunity for an inmate at risk to secure an improvised noose. Modifications to eliminate hanging risk should be made to these cells. (NDS – III.D Medical Screening (New Arrivals) and ICE/DRO 2008 Detention Standard Suicide Prevention and Intervention V. F. and 2014 NCCHC J-G-05)

Corrections

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

4. (b) (5) [Redacted]
5. (b) (5) [Redacted]
6. (b) (5) [Redacted]
7. OCJ's law library officer did not provide appropriate assistance to LEP detainees who used the law library, which subsequently affected meaningful access to legal materials including the Lexis-Nexis legal software, and law library resources. OCJ should provide LEP detainees with access to language translation/interpretation to ensure detainees can access legal materials and resources in the law library. (NDS – Access to Legal Material)
8. (b) (5) [Redacted]

9. The Lexis-Nexis software at OCJ was outdated. ICE should update the Lexis-Nexis software to the current version. (NDS – Access to Legal Material)
10. OCJ translation service billings indicated that language access resources were rarely used to assist LEP detainees. OCJ 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. OCJ should document the provision of this training. (DHS and ICE Language Access Plans, NDS – Multiple Standards)
11. OCJ records indicated that language access resources were not frequently used to assist LEP detainees. OCJ should develop a Language Line logging system that is used throughout the facility and require all staff to regularly record its use by date, alien number, and language of interpretation. Documenting Language Line usage is essential to validating compliance with language access obligations. (DHS and ICE Access Plans, NDS – Multiple Standards)
12. OCJ records indicated that language access resources were rarely used to assist LEP detainees during the admission screening process. Critical intake screening forms contained in detainee files were written in English and not interpreted or translated for LEP detainees. Effective communication during the admission screening process is critical to the safe housing of LEP detainees. To ensure compliance with the arrival screening requirements in the Admission and Release standard, OCJ should utilize qualified interpreters or professionally translated forms to ensure meaningful access for LEP detainees. (DHS and ICE Language Access Plans, NDS – Admission and Release)
13. OCJ records indicated that language access resources were rarely used by staff to assist LEP detainees understand the standardized forms including disciplinary, grievance, property receipts, and other materials written in English that were contained in detainee files. OCJ should ensure forms, other written materials and informational posters located in the housing unit for detainees are translated in Spanish and LEP detainees are provided with qualified interpreters to assist with providing meaningful language access. (DHS and ICE Language Access Plans, NDS – Multiple Standards)
14. (b) (5)  

15. Detainees who received disciplinary write-ups were assessed a \$25 administrative fee, and detainees who did not return the OCJ Detainee Handbook were assessed a \$5 fee. OCJ should immediately cease this practice.

### Environmental Health and Safety

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

16. (b) (5)

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17. (b) (5)

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18. The OCJ kitchen was not preparing meals in accordance with the Aramark milk intolerance diet specification that fluid milk and dry cereal be replaced with an equal portion of hot cereal. Failing to comply with dietitian certified menus could result in caloric and nutritional deficiencies. It is extremely important that the kitchen adhere to the dietitian approved menu plans to ensure that meals are nutritionally balanced and comply with the NDS Food Service standard requiring that the overall goal of a quality food service program is providing nutritious and appetizing meals. (NDS – Food Service)

19. The meal components served with the packaged kosher meals at OCJ did not comply with the NDS Food Service standard. The integrity of special diets, especially religious meals is essential to maintain the trust of detainees in the institution. The NDS Food Service standard states, “Common-fare meals shall be served with disposable plates and utensils, except when a supply of reusable plates and utensils has been set aside for common-fare service only. Separate cutting boards, knives, food scoops, food inserts, and other such tools, appliances, and utensils shall be used to prepare common-fare foods, and shall be identified accordingly. Meat and dairy food items and the service utensils used with each group shall be stored in areas separate from each other. A separate dishpan shall be provided for cleaning these items, if a separate or three-compartment sink is not available.”

- a. The failure to provide properly presented kosher meals violates the NDS Food Service standard requirement that “food is appropriately presented” and as such, is not fit for consumption by individuals who strictly observe kosher dietary laws and therefore could result in nutritional deficiencies.
- b. OCJ and Aramark should reassess the religious diet program and ensure compliance with the NDS Food Service standard, which requires “all facilities to provide detainees requesting a religious diet reasonable and equitable opportunity

to observe their religious dietary practice within the constraints of budget limitations.”

- c. OCJ and Aramark should review the preparation of the kosher diet and ensure either that it fully complies with Jewish dietary laws, or label the menu as “common fare” rather than “kosher,” to comply with the NDS Food Service standard. (NDS – Food Service)
20. The containers used to fill the hot water urns with water from the sinks were inappropriate for use as a multiuse food or beverage container and were discolored and appeared to be dirty. Containers that are utilized for food and water can become a source of disease transmission if not suitable for the task and routinely cleaned and sanitized. OCJ should replace the jugs and containers that are used to refill the hot water urns with approved containers that comply with the NDS Food Service standard requiring that all food service equipment and utensils meet the National Sanitation Foundation (NSF) standards (or equivalent standards of other agencies). Furthermore, the facility should ensure that the containers are routinely washed, rinsed, and sanitized manually in an appropriately set-up sink or mechanically cleaned in a dishwasher as required by the NDS Food Service standard. (NDS – Food Service)
21. The vinyl covers on the medical exam tables in the medical triage room and unit “C” housing center were cracked, exposing the foam cushions. The facility should inspect all medical exam tables to ensure that the vinyl covers are in good condition, intact, and without rips, cracks, or exposed inner foam that hinders proper cleaning and disinfection and could result in the transmission of disease causing microorganisms from person to person. In the event that the cover is found to be compromised, either the cover or the table should be replaced, to ensure 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 further specifying that, “[t]he standards include those from the American Correctional Association” and are applicable. ACA Housekeeping standard 4-ALDF-1A-04 stipulates, “The facility is clean and in good repair.” (NDS – Environmental Health and Safety)

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 Policy Advisor (b) (6) by telephone at (b) (6) or by email at (b) (6)

Enclosures:

- Appendix A – Medical Expert Report
- Appendix B – Corrections Expert Report
- Appendix C – Environmental Health and Safety Expert Report
- Appendix D – Non-Priority Recommendations

Copies to:

Nathalie Asher  
Assistant Director  
Field Operations  
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)

Claire Trickler-McNulty  
Acting Assistant Director  
Office of Detention Policy and Planning  
U.S. Immigration and Customs Enforcement  
(b) (6), (b) (7)(C)

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

CAPT Luzviminda Peredo-Berger  
Assistant Director  
Enforcement and Removal Operations/ICE Health Service Corps  
U.S. Immigration and Customs Enforcement  
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)