



Homeland
Security

April 25, 2018

MEMORANDUM FOR: Matthew Albence
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U.S. Immigration and Customs Enforcement

FROM: Veronica Ventur (b) (6)
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SUBJECT: Otay Mesa Detention Center Recommendations
Complaint No. (b) (6)
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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 Otay Mesa Detention Center (OMDC) in San Diego, California. CRCL's onsite investigation occurred September 25 – 27, 2017, and was in response to allegations received in 2016 and 2017, alleging civil rights and civil liberties violations of detainees at OMDC in the following areas: general conditions of detention at the facility and inadequate medical and mental health care.

We greatly appreciate the cooperation and assistance provided by ICE and OMDC personnel before and during the review. As part of the review, CRCL engaged the assistance of three subject-matter experts: a medical consultant, a mental health consultant, and a corrections consultant. As a result of staff interviews, document review, and direct observation, the subject-matter experts identified concerns regarding medical care and conditions at the facility.

On September 27, 2017, as part of the OMDC site review closing discussions, CRCL and the subject matter experts discussed the general concerns raised with ICE ERO field office management personnel, personnel from ICE ERO headquarters, and OMDC management. During the discussions, the subject-matter experts also provided recommendations to address the concerns identified.

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 the nonpriority recommendations, we encourage ICE to consider and implement these recommendations to the fullest extent possible.

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.

Medical

CRCL's medical expert made the following priority recommendations regarding medical care at OMDC:

1. (b) (5) [REDACTED]
2. According to the Health Care Staffing Plan, 50 health care positions at OMDC are staffed through a contracting company, Ingensis. Many of these positions are vacant. For example, six of the 21 Registered Nurse positions, and four of the 10 Licensed Practical Nurse and Licensed Vocational Nurse positions were not filled. This staffing shortage has caused delays and record keeping inadequacies. OMDC should take steps to ensure these vacant positions are filled. (PBNDS 2011 Medical Care 4.3 V.B)

Mental Health

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

3. Analysis of the levels of care revealed service gaps in the Medical Housing Units (MHUs) and in the Safety Cells. OMDC places detainees in these specialized units and provides periodic mental health assessments of detainee's functional capacity and suicidality, but this does not constitute appropriate mental health treatment. Structured and individualized treatment programs and interventions are needed for detainees who have been placed in these intermediate and acute care units. ICE/OMDC should improve care by developing these

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 analysis or recommendations, however, may be based on constitutional or statutory requirements that exceed the detention or professional standards.

structured and individualized treatment programs and interventions. (PBNDS-2011 4.3 II. 1 and V. A)

4. (b) (5) [Redacted]

5. Required monthly psychiatric follow-up sessions with detainees being treated with psychotropic medication were occurring sporadically. Follow-up sessions need to occur “at least once a month to ensure proper treatment and dosage.” and Quality Improvement studies should be utilized to determine the scope and etiology of this problem (i.e., the use of telepsychiatry due to a psychiatry vacancy and/or a new a relatively new psychiatrist learning the procedures) and to develop strategies to solve it. (PBNDS-2011 4.3 V.A; 4.3 V.M; and 4.3 V. N4)

6. (b) (5) [Redacted]

7. The behavioral health records of all detainees being treated with psychotropic medication should contain signed and dated informed consent which describes the medication’s side effects. OMDC should review behavioral health records to ensure this information is included and instruct mental health staff to include this information in the future. (PBNDS-2011 4.3 II. 24 and V. D)

8. (b) (5) [Redacted]

9. Mental health “treatment plans” at OMDC were generic, generally not individualized, and minimally related to any mental health treatment provided to the detainee. Treatment plans should be meaningful “plans of action” developed by a multidisciplinary treatment team which includes the detainee. OMDC should develop mental health treatment plans and provide training on the development of useful treatment plans. The specific treatment plans may be in any format, as-long-as they contain all required elements, (i.e., 1. signatures from a multidisciplinary team; 2. a diagnosis; and 3. a list of a) strengths, b) weaknesses, c) problems, d) objectives which are targets used to measure progress of the treatment, e) behavioral and measurable goals which are tied to the problems, and f) coordinated interventions which answer the question, “Who does what, when?”) Specific stand-alone treatment plan forms are preferable to Subjective, Objective, Assessment, and Plan (SOAP) notes since they facilitate the development of a comprehensive plan which is easily identifiable, enhancing the likelihood of a “continuity of care.

Additionally, OMDC should facilitate the development and utilization of meaningful treatment plans, the Mental Health Director/designee construct an audit tool, which could be used to annually audit a sample of treatment plans. (PBNDS-2011 4.3 II. 8 and V. N-4)

10. (b) (5) [Redacted]

11. (b) (5) [Redacted]

12. Because of the deprivations and restrictions placed on detainees in Safety Cells, (i.e., no hot meals, no personal property, no toilet aside from a hole in the floor, no clothing aside from a suicide resistant garment, and no privacy) and because of high re-admission rates, lengthy stays, and a perception that detainees are being punished and humiliated when admitted to a Safety Cell, OMDC should develop an enhanced oversight procedure. This procedure should consist of developing and maintaining logs to determine: the number of detainees who have multiple readmissions; the time intervals between admissions; the names of the providers placing detainees in safety cells; the range and average number of readmissions; the average length of stay; and the clinical characteristics of outliers. The information obtained from these logs should be used to improve OMDC’s crisis stabilization services.

Additionally, clinicians should be instructed to use the treatment plan to document their understanding of why a detainee is not improving, what new strategies might be used for stabilization, and when a detainee needs to be sent to a facility that can provide a higher level of care. Without such documentation, Safety Cells can be perceived as tools of punishment and retribution rather than as methods of treatment. (PBND 2011 4.6 V. F and CCA 2016 Suicide Prevention Guide)

Corrections

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

13. Grievance forms were not available in the housing units in Spanish. CRCL recommends that the Spanish grievance forms be distributed to the housing units and made available to the LEP population. (PBND 2011 6.2, II.,10)

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)

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Enclosure