Office for Civil Rights and Civil Liberties
U.S. Department of Homeland Security
Washington, DC 20528

Homeland Security

April 25, 2018

MEMORANDUM TO: Matthew Albence
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Enforcement and Removal Operation
U.S. Immigration and Customs Enforcement

(b) (6)

FROM: Veronica Venture
Deputy Officer
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Dana Salvano-Dunn
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SUBJECT: Adelanto Correctional Facility 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 Adelanto Correctional Facility (ACF) in Adelanto, California. CRCL's onsite investigation, which occurred on November 13-14, 2017, was a follow-up review to our December 2015, onsite investigation. In addition, the onsite investigation was in response to three detainee deaths and CRCL's receipt of more recent allegations at ACF in the following areas: medical care, mental health care, use of force, hunger strikes, segregation, grievances, staff-detainee communication, legal access, language access, and suicide prevention and intervention.

We greatly appreciate the cooperation and assistance provided by ICE and ACF management and personnel before and during the onsite. As part of the review, CRCL used the same independent subject-matter experts that we used for the 2015 onsite: a medical consultant, a mental health consultant and a penologist. As a result of detainee and staff interviews, document reviews, and direct onsite observations, our experts identified concerns related to medical and mental health care, use of force, segregation and housing, grievances, staff-detainee communication, legal access, language access, and suicide prevention and intervention. At the

[1] Complaint No. (b) (6), alleging inadequate conditions of detention and lack of appropriate visitation, was added to the Adelanto complaints after CRCL disseminated the Retention Memo to ICE.

conclusion of our onsite investigation, CRCL and the subject-matter experts held an exit-briefing where we relayed our findings to local ICE and ACF management and relevant field personnel. During those discussions, the subject-matter experts also provided recommendations to address many of the identified concerns.

Due to the serious nature of certain health and safety-related findings, CRCL also submitted initial informal recommendations to ICE leadership on November 20, 2017 for immediate action. We understand ICE has been working on addressing those matters over that last few months, including a site visit during the week of March 12, 2018.

Enclosed with this memorandum are the reports prepared by our subject-matter experts. The experts' priority recommendations are listed below in the body of this memorandum. CRCL requests that ICE formally concur or non-concur with these recommendations and provide an implementation plan for all accepted recommendations within 60 days.

Recommendations

Medical Care

CRCL's medical expert made the following priority recommendations regarding medical care at ACF. All of these recommendations relate to the 2011 PBNDS Medical Care Standard, which requires timely and efficient access to medical services

Medical Leadership

1. (b) (5)
2. (b) (5)

Provider Staffing

The ACF medical contractor, Core Civic Solutions (CCS), in consultation with IHSC, should increase day-to-day medical care for detainees at ACF. Attention should be focused on the following areas of concern:

3. Current staffing levels and appointment scheduling are inadequate and lead to a high rate of appointment cancellations and chronically delayed access to care. **The current inadequate provider staffing levels and appointment scheduling problems should be corrected in the following ways**. (PBNDS 2011 Medical Care: II.1, II.5 through 9, II.21 and 22, II.27, V.A and B, V.F.3.a, V.U and W, V.BB)

    a. Providers should not be allowed to fully control and change their own appointment schedules.

    b. Detainee appointment cancellations at ACF should be monitored and tracked.

    c. When detainee-patient cancellations *are* appropriate, the detainee should be rescheduled for the first available provider.

4. Those providers whose medical care has been sub-standard should be more closely monitored and supervised. Probation or temporary limitations of privileges should be considered for those problematic providers, in order to ensure improvements. (2011 PBNDS Medical Care: II.21, V.B, V.T and U)

Detainee Returns from Offsite Care

The current inadequate "hand-off" procedures being utilized, when detainees return from medical or mental health care at an outside hospital, emergency room or medical specialty consultation should be improved to ensure an appropriate continuum of care. (2011 PBNDS Medical Care: II.1, II.7 and 8, II.12, II.16 and 20, V. A and B, V.F.a, V.G.2 and 12, V.I, V.S.4 and 5, V.W) Attention should be focused in the following areas:

5. (b) (5)

6. (b) (5)

7. (b) (5)

8. **In all cases where the ACF provider choses to deviate from the care recommended by the outside specialist, a full and complete note should immediately be entered in the medical record** documenting the clinical rational for deviating from the recommended care.

Custody Staffing Support for Medical
ACF custody staffing and transportation is currently inadequate to support medical operations and ensure uninterrupted access to appropriate and needed medical care. (2011 PBNDS Medical Care: II.7, V.A and B, V.R and S, V.W)

9. **Custody staffing and transportation capacity should be increased** to adequately support the medical operation and ensure uninterrupted access to appropriate and needed medical care.
10. **Medical appointments – either within the facility or outside (such as a consultation with an off-site specialist) – should not, absent extraordinary circumstances, be canceled due to unavailability of medical duty officers or "runners," or for lack of transportation vehicles** (including transport by wheel chairs or gurneys).

Mental Health Care

CRCL's mental health expert made the following priority recommendations regarding medical care at ACF. All of these recommendations relate to the 2011 PBNDS Medical Care Standard, which requires appropriate, timely, and efficient access to mental health services.

11. Following CRCL's 2015 investigation, it was reported to ERO and GEO management that psychiatric leadership was absent at ACF and that sub-standard mental health care was occurring as a result. During the 2017 onsite, there was no evidence that corrections had been implemented to address this concern. This failure to hire an effective, qualified psychiatric leader continues to pose a risk to the safety of other detainees at ACF. Accordingly, **ACF should hire competent, qualified and effective on-site psychiatric leadership, immediately.** (2011 PBNDS Medical Care: II.5, II. 8 and 9, II.12, II.14 through 16, II.20 and 21, II.25 and 27, II.30; V.A.1-7, V.B, V.F.1 through 3.a, V.G.1 through 4, V.G.6, V.G.11 and 12, V.I-J.2 and 4, V.J.12 and 13, V.J.16 through 19, V.M.1 and 2, V.N.1 through 6, V.Q, V.R.1.a and f, V.R.2, V.S.4 and 5, V.U, V.W, V.X.6 through 12, V.Y.1.b and .4.c.a), V.BB.2.e, V.DD)
12. (b) (5)

13. The ACF medical contractor, in consultation with ICE IHSC and a skilled psychiatrist leader, should review all cases of ACF detainees with serious mental disorders to ensure accuracy or make appropriate changes. Attention should be focused on the following serious areas:

a. **Collateral data should be obtained for each ACF detainee with a serious mental disorder. Moving forward, this data should be acquired and entered in each detainee's initial mental health evaluation and reviewed by the admitting clinician.** In cases where collateral data was never obtained, clinicians should obtain it and document it in the chart. During the investigation, collateral data was absent in ***all*** cases reviewed. Typically, this data comes from the facility where the detainee was housed prior to their transfer to ACF, or from family members. If records cannot be obtained, ACF clinical staff should develop communicative relationships with staff at the facilities where ACF detainees most commonly come from and obtain this information by phone, which is permitted and expected under HIPPA, for purposes of patient safety and coordination of care. (2011 PBNDS Medical Care: II.1 and 5, II.15 and 23, II.30, V.J and K, V.M and N, V.S.5, V.U and W, V.Y, V.BB)

b. **IHSC and CCS and should review diagnoses and medication to ensure they are correct and appropriate. Attention should be given to taking detainees off ineffective medications** – such as those only absorbed well with a meal, but are not administered at ACF meal times, or antipsychotics prescribed as PRN's (as-needed medications) for detainees with clear histories of taking long-acting antipsychotic injections. If detainee-patients refuse medications or injections, the ACF mental health providers should work with the detainee so the detainee will accept them, and then document those compliance attempts. (2011 PBNDS Medical Care: II.1 and 16, II.20 and 27, II.30, V.G and H, V.J.2 and 4, V.J.11 through 13, V.J. 16 and 17 narrative, V.M, V.N.1 through 3, V.N.4 through 6, V.Q, V.R and S, V.W and Y, V.BB)

c. **There should be a housing review and assessment for each detainee with a serious mental disorder to determine whether their housing is appropriate, given the detainee's clinical status.** Although clinical staff reported that some stabilized detainees are segregated because they have *requested* to be in segregation, each detainee should be at the least restrictive level of care when at all possible and deemed appropriate by mental health leadership, taking into account the detainee's mental health status and progress. (2011 PBNDS Medical Care: II.5 and 6, II.13, II.27 and 30, V.F.3, V.N, V.Q and S, V.Y, V.BB)

d. Detainees with serious mental disorders are routinely – and inappropriately – housed in administrative segregation at ACF. **Detainees with serious mental disorders should only be housed in administrative segregation as a last resort,** as that environment is not conducive to improving mental health status. (2011 PBNDS Medical Care: II.5 and 6, II.13, II.27 and 30, V.F.3, V.N, V.Q and S, V.Y, V.BB; ICE Directive 11065.1, Review of the Use of Segregation for ICE Detainees [Segregation Directive] from the PBNDS 2011 revisions to 2.12 Special Management Units)

14. **In all cases where the ACF provider chooses to deviate from the mental health care recommended by an outside specialist (including a recommendation to continue a long-acting antipsychotic injection), a full and complete note should be entered in the detainee's medical record documenting the clinical rational for the deviation** from the outside provider's recommended care. (See recommendation 8 under Medical Care for further clarity.) (2011 PBNDS Medical Care: II.1, II.7 and 8, II.12, II.16 and 20, V. A and B, V.F.a, V.G.2 and 12, V.I, V.S.4 and 5, V.W)
15. **Custody staffing and transportation capacity should be increased to adequately support the mental health operation. No clinical mental health appointment – either within the facility or outside – should be canceled due to officer unavailability. Staffing and transportation should be increased to ensure uninterrupted access to appropriate medical/mental healthcare.** In 2015, it was recommended that the facility create an office on the West (men's) side for mental health staff to be able to see male detainees without reliance on officers to escort them to clinic, but this important recommendation was not implemented and resulted in related problems that were found during the 2017 onsite. It remains a necessary recommendation. (2011 PBNDS Medical Care: II.7, V.A and B, V.R and S, V.W)
16. **ACF's medical contractor, in consultation with ICE IHSC, should immediately institute an electronic Medication Administration Record (MAR).** Currently, there is no electronic capability allowing ACF mental health staff to see what medications any detainee-patient is currently taking. Although the current ECW has the capacity for this, security concerns were cited as a reason not to provide wireless accessibility throughout the facility. This prevents nurses from documenting on laptops when detainees take their medications or refuse them (which is the standard process in most correctional settings). The ability to do this is especially critical for psychiatric patients, who decompensate quickly when not taking their prescribed medications; often resulting in poor outcomes. ACF's lack of one master electronic MAR has resulted in there being three different records of current medications (ECW current meds, the paper MAR, and the progress notes) which were found to be often contradictory. When clinical staff are forced to go to great time-consuming lengths to pull up a paper MAR and compare the data for medication errors or poor patient adherence, the detainee's safety is at risk. (2011 PBNDS Medical Care: II.23 and 27, V.S, V.Y.1.a)
17. **ACF's medical contractor, in consultation with ICE IHSC, should immediately populate the electronic medical record (ECW) with the detainee-patients' location.** When ACF's clinical staff do not know where their detainee-patients are located, those detainees may not be seen as needed and required. In addition, staff may mistakenly assume the detainee is in an offsite hospital when they, in fact, have just returned to ACF, which is a vulnerable time for those detainees. The detainee's clinical team should know where their detainee-patient is located. It is technically possible, and should be made a priority for GEO to connect with ECW to populate this data, which will better

ensure patient safety. (2011 PBNDS Medical Care: II.8 and 12, II.20 and 23, V.F.3.a.3 and 4, V.G.12, Y.1.a and b)

Conditions

CRCL's corrections expert made the following priority recommendations. All of these recommendations relate to the 2011 PBNDS.

18. In 2015, CRCL recommended that ACF use interpreters and/or language lines consistently for LEP detainees during the intake screening process and completion of the important and required intake forms. ACF continues to fail to meet the Admission and Release Standard. Interpreters or language lines are not being consistently used for LEP detainees during the intake screening process and completion of the intake forms. **ACF should consistently use interpreters or language lines for LEP detainees during the intake process.** (PBNDS 2011 Admission and Release: II.8, V.F, V.G)
19. (b) (5)
20. (b) (5)
21. In 2015, CRCL recommended that the Mental Health Director and IHSC ensure that ACF Mental Health staff conduct daily face-to-face rounds with all detainees in the SMU, and provide appropriate mental health assessments and treatment. Daily rounds are being conducted; however, **one of the rooms in the SMU should be converted into an interview room where private face-to-face interviews between mental health personnel and detainees can be effectively conducted.** (PBNDS 2011 Special Management Units: II.6 and 7, II.8, V.A, V.F; Medical Care: V.F.1, V.N)
22. (b) (5)

(b) (5)

23. (b) (5)

24. In 2015, CRCL recommended that ERO and ACF Management (including the Warden) develop a reporting system to ensure that facility personnel effectively respond to and resolve the detainee grievance issues assigned to them by the Grievance Coordinator and then report back to the Grievance Coordinator that the matter is resolved. This was not corrected. CRCL again recommends that **ICE and ACF should develop a reporting system to ensure that facility personnel respond and resolve detainee grievances.** (PBNDS 2011 Grievance System: II.2 and 3, II.6 and 8, V.A, V.B.7, V.C)

25. In 2015, CRCL recommended that ERO and ACF Management develop a tracking system to enable review and trend analysis of all grievances involving staff mistreatment. This was not corrected. **CRCL again recommends that ICE and ACF should develop a grievance tracking tool.** (PBNDS 2011 Grievance System: V.D and F, V.H)

26. In 2015, CRCL recommended that ICE should receive a copy of staff mistreatment grievances upon receipt by the GEO Grievance Coordinator. This was not corrected. CRCL again recommends that **detainee grievances involving staff misconduct should be submitted to ICE as mandated by the PBNDS.** (PBNDS 2011 Grievance System: V.F, V.G).

27. In 2015, CRCL recommended that ACF should hold facility staff accountable for substantiated abusive and disrespectful treatment of detainees, as determined by the Grievance Coordinator and/or other facility personnel. This was not corrected. CRCL again recommends that **ACF should hold facility staff accountable for substantiated abusive and disrespectful treatment of detainees.** (PBNDS 2011 Grievance System: V.G)

28. In 2015, CRCL recommended that ERO and ACF develop a post-assignment schedule that creates a sufficient staffing plan that resolves the current, problematic staffing deficiencies. The deficiencies are negatively affecting operational needs, including excessive count times and meal delays, and limitations in access to visitation, law library, and recreation. The post assignment schedule has been revised and additional correctional officer positions have been added, however this has not resolved the problem. **The correctional officer medical escort and transportation staffing should be increased to**

adequately support the medical and mental health escort needs within the facility and to outside appointments. (PBNDS 2011 Post Orders: V; Food Service: II.4, V.D; Visitation: II.4 and 6, V.B and J; Recreation: II.4, V.B; Law Library and Legal Material: II.2, II.4 and 5, V.C)

29. (b) (5)

30. (b) (5)

31. (b) (5)

32. **ERO and ACF should ensure that all forms issued to detainees for informational purposes, but especially those requiring detainee signatures, are written and/or translated in a language the detainee comprehends, or provide oral interpretation of these forms and document the provision.** All written material provided to detainees shall generally be translated into Spanish. (DHS Language Access Plan, 2012) (2011 PBNDS: Multiple)

33. (b) (5)

34. **A separate healthcare medical grievance log should be instituted to track healthcare-related grievance submissions and ensure timely responses**. (PBNDS 2011 Grievance System: II.10, V.A, V.C.2 and 4)

35. **A monthly audit should be conducted of submitted healthcare grievances to improve timeliness of care** and ensure appropriate access to medical, mental health and dental care. (PBNDS 2011 Grievance System: V.C.4)

36. **ACF must provide access to a cold-water shower in the East and West wings for decontamination of detainees who have been exposed to OC Pepper Spray**. (PBNDS 2011 Medical Care: V.F; Use of Force and Restraints: V.A.5, V.B.6 and 11, V.B.14, V.D.2)

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. You can send your response and action plan by email. If you

have any questions, please contact Senior Policy Advisor, (b) (6) by telephone at (b) (6) (b) (6) or by email at (b) (6)

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Enclosures