

On-site Investigation Report

Contra Costa County Jail

June 12-14, 2018

(b)(6) MD, FACP

Table of Contents

Introduction

Expert Qualifications

Methods of Review

Overview

Findings

Complaints and Issues Reviewed

Discussion

Summary of Recommendations

Introduction

This report responds to a request by the Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) to review and comment on the medical care provided to detainees at the West County Detention Facility (WCDF) in Richmond, Contra Costa County, California. My opinions are based on the materials provided and reviewed in advance and during an on-site investigation of the facility on June 12-14, 2018. My opinions are expressed to a reasonable degree of medical certainty. WCDF personnel were most pleasant and cooperative during my investigation.

Expert Qualifications

(b) (6)

Methods of Review

In advance of the on-site investigation, I reviewed documents provided by CRCL. During the on-site investigation, I toured the facility including housing units, pill lines, and the medical clinic, reviewed documents and medical records, and interviewed staff and detainees. I did focused reviews of medical records for those detainees who had chronic medical conditions such as asthma or high blood pressure. Clinical performance was measured by a focused review of medical records using a standardized methodology. (The full methodology for the review is described in the document entitled Assessment of Quality of Medical Care in Detention Facilities, and its accompanying Reviewer Pocket Guide.) The measures are based on nationally accepted clinical guidelines, or consensus guidelines where there are no published clinical guidelines. I reviewed roughly 60 individual detainee medical records in total. I conducted individual interviews with 12 detainees selected at random from chronic care rosters or selected because of complaints received. Where relevant to findings, reference is made to the National Detention Standards (NDS) and the National Commission on Correctional Health Care Jail Standards (NCCHC 2014).

Overview

This report represents the result of an off-site review of documents (including medical records) and my focused three-day on-site medical review at the facility in response to a request by CRCL to investigate specific complaints at WCDF.

WCDF is located in Richmond, California. It has the capacity to house roughly 1100 inmates and detainees. The reported capacity to house detainees for ICE is 260, and the typical detainee census is between 190-210 detainees. Medical care is provided by Contra Costa County. The medical program has been accredited by the National Commission on Correctional Health Care (NCCHC) in the past, but the accreditation has not been maintained.

Overall, I found the medical care at WCDF to be good, but there were four areas where the current program did not meet the NDS or the NCCHC 2014. This report will focus on deficiencies and areas requiring further attention in order to meet those standards.

Findings

Overall medical care of ICE detainees at WCDF meets 2000 NDS and 2014 NCCHC Jail Standards with the exception of the following areas where care **does not** currently meet those standards:

1. **NCCHC Accreditation:** The facility previously was accredited by the National Commission on Correctional Health Care (NCCHC) but allowed the accreditation to expire. While accreditation itself is not specifically required by the NDS for this type of facility (IGSA), there is a reasonable expectation that policies and procedures must meet or exceed NCCHC standards in order to be consistent with standards for all other ICE detention facilities.

PERFORMANCE meets the 2000 NDS (I) but could be improved.

2. **Medical professional staffing:** Insufficient medical staffing contributes to delays in access to care and results in poor and incomplete documentation in some cases. There is insufficient staffing to support the basic needs of the population in multiple categories including physicians, psychiatrists, mental health workers, and nurses. In addition, the facility does not have a full time Health Services Administrator, a critical role for health care services.

PERFORMANCE does NOT meet the 2000 NDS (III(A)) and 2014 NCCHC (J-C-07).

3. **Sick Call and Triage.** There are major problems with the facility's sick call and triage system. The current phone-based system is not consistent with language in the NDS regarding a written request process of sick call and language access challenges make a primarily phone-based process inadequate to ensure proper access to timely care. The system also deprives the facility the ability to document and audit timely access to care.

PERFORMANCE does NOT meet the 2000 NDS (III(F)) and NCCHC (J-E-07)

4. **Language Access:** While the medical unit was able to demonstrate regular use of interpreter services both by language line logs and notations in the individual medical records, there were gaps in provision of language access in some cases. The bigger problem with language access occurs in the areas of the phone triage system (cited above) and when staff are in the housing units (where language access lines currently cannot access wirelessly at the point of care).

PERFORMANCE does NOT meet the 2000 NDS (III(D)).

Complaints and Issues Reviewed

1. 17-03-ICE-0239 - **alleged inadequate medical care for a cardiac condition.** [Case 1 in Appendix I] My investigation of the medical record *did substantiate* this complaint. WCDF medical staff ordered a cardiology consult but failed to follow up on scheduling the appointment. This complaint had previously been substantiated by IHSC in their response to a CRCL inquiry.
2. **Other substantiated complaints:** CRCL received a number of complaints about medical care that were not referenced in the retention memo. These include complaints received in writing prior to the on-site investigations and complaints raised verbally by detainees during the on-site investigation. *Substantiated* complaints included complaints about infrequent use of laboratory diagnostics and infrequent follow up for chronic diseases.

Discussion

While this report focuses on deficiencies in the medical care at WCDF, it is important to comment briefly on the medical program as a whole. Performance of the medical program met the NDS in all other areas not cited. Strengths include the quality of the personnel that make up the medical leadership team in the facility, specifically the medical doctor (who is also the Chief Medical Authority) and the acting Health Services Administrator. Another strength is the use of an electronic health record that is integrated with the entire county health system record.

The focus of this report is on deficiencies. The deficiencies cited in this report are all correctable, and recommendations for correction are provided below.

While I cite four specific areas requiring attention, it should be appreciated that deficiencies in those cited areas create other problems. For example, inefficiencies created by inadequate staff of the clinical operation all have impact on the timeliness of medical care. My review of 60 medical records of patients requiring ongoing care for chronic medical problems such as diabetes, hypertension, HIV, and asthma revealed that frequency of evaluation does not meet published disease specific standards guidelines (including NIH and NCCHC guidelines). Many patients with chronic illnesses were only scheduled for follow up with the doctor infrequently, and much of the care was done by the physician reviewing medical records when he should have seen the patient face to face, also well below the standard. Informed consent was not always obtained when starting new medications. Abnormal lab results were not always shared with and explained to the patients.

During the on-site investigation, medical leadership shared a plan to recruit staff to fill critical vacancies including a permanent full time Health Services Administrator and additional medical and mental health clinicians. If the county follows through with that staffing plan, issues related to staffing would be resolved.

Summary of Medical Recommendations for Contra Costa, June 2018

Overall medical care of ICE detainees at the Contra Costa West County Detention Facility (WCDF) meets 2000 NDS and 2014 NCCHC Jail Standards with the exception of the following areas:

1. **NCCHC Accreditation:** The facility previously was accredited by the National Commission on Correctional Health Care (NCCHC) but allowed the accreditation to expire. While accreditation itself is not specifically required by the NDS for this type of facility (IGSA), there is a reasonable expectation that policies and procedures must meet or exceed NCCHC standards in order to be consistent with standards for all other ICE detention facilities.

Recommendation: Contra Costa should seek accreditation by the NCCHC. (NDS, Medical Care, § I) (Level 1)

2. **Medical professional staffing:** Insufficient medical staffing contributes to delays in access to care and results in poor and incomplete documentation in some cases. There is insufficient staffing to support the basic needs of the population in multiple categories including physicians, psychiatrists, mental health workers, and nurses. In addition, the facility does not have a full time Health Services Administrator, a critical role for health care services.

Recommendation: The facility should move forward with the staffing plan documented by the acting HSA and reviewed by me during the on-site investigation, which includes hiring an additional physician, psychiatrist, mental health workers, and nurses. It is my understanding that the facility is close to hiring a full time Health Services Administrator. That role must be filled as well. (NDS, Medical Care, §III(A); NCCHC 2014 J-C-07) (Level 1)

3. **Sick Call and Triage.** There are major problems with the facility's sick call and triage system. The current phone-based system is not consistent with language in the NDS regarding a written request process of sick call and language access challenges make a primarily phone-based process inadequate to ensure proper access to timely care. The system also deprives the facility the ability to document and audit timely access to care.

Recommendation: The facility should add a written or kiosk based medical request system. The phone access is certainly fine to continue, but it should not be the main process to access medical care, and all requests for medical care must be documented, timed, and triaged in a timely manner. (NDS, Medical Care, §III(F); NCCHC 2014 J-E-07) (Level 1)

4. **Language Access:** While the medical unit was able to demonstrate regular use of interpreter services both by language line logs and notations in the individual medical records, there were gaps in provision of language access in some cases. The bigger problem with language access occurs in the areas of the phone triage system (cited above)

and when staff are in the housing units (where language access lines currently cannot access wirelessly at the point of care).

Recommendation: The facility must ensure that primary language is identified for each patient and that language access is offered and provided and documented for all clinical encounters. The facility should proceed with the technical solutions to allow staff in housing units to access language lines at the point of care. (NDS, Medical Care, § III(D)) (Level 1)

These corrective measures will require monitoring to ensure they adequately address the substantiated deficiencies.

Appendix I

This section includes identifiers to protected health information. Disclosure/distribution of this appendix should be limited accordingly.

Identity of Cases Cited in this Report

<u>My Case No.</u>	<u>A #</u>	<u>Name</u>	<u>CRCL Complaint #</u>
1.		(b)(6)	17-03-ICE-0239

Appendix A
Non-Priority Recommendations
Contra Costa County Jail
West County Detention Facility¹

Conditions of Detention

1. Based on the number of detainee complaints of retaliation and staff verbal abuse, **ICE and WCDF should hold unit meetings with detainees to provide an open forum for detainees to air outstanding grievances and reiterate that staff verbal abuse or retaliation will not be tolerated.** (NDS, Detainee Grievance Procedures, § III(D))
2. WCDF had four bilingual Spanish speaking staff members. **Additional bilingual staff should be hired due to the high number of Spanish speaking detainees housed at this facility.** (DHS and ICE Language Access Plans)
3. Mandated telephone number postings were not located in proximity to the detainee telephones. **WCDF should place the free telephone number postings near the detainee telephones for access to required information.** (NDS, Telephone Access, § III(B))

¹ Complaint No. 18-02-ICE-0040.

REPORT FOR THE U. S. DEPARTMENT OF HOMELAND SECURITY

OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

CONDITIONS OF DETENTION EXPERT'S REPORT

June 12-14, 2018

Investigation regarding

CONTRA COSTA COUNTY JAIL, RICHMOND, CALIFORNIA

Complaints reviewed in this report include the following:

CRCL Complaint No.

18-02-ICE-0040

Prepared by:

(b) (6)

MAS

Rocklin, CA

September 4, 2018

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CONTRA COSTA COUNTY JAIL

I. SUMMARY OF INVESTIGATION

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) conducted a June 12-14, 2018 onsite investigation at the Contra Costa County Jail at the West Detention Facility (WCDF) in Richmond, California. The investigation was initiated due to complaints received alleging that U.S. Immigrations and Customs Enforcement (ICE) violated the civil rights and civil liberties of persons being detained at the WCDF. On November 16, 2017, CRCL learned of allegations by made 27 female ICE detainees related to conditions of confinement at the WCDF. The female detainees alleged they were confined in locked cells for hours and told by staff to “use bags in their cells...to go to the bathroom.” At least one detainee also informed a reporter that detainees must stay in their cells all day even if their doors are unlocked and must be escorted to use the bathroom. Detainees also made allegations about their safety, appropriate medical care, access to hygiene supplies, and retaliation against detainees who made these complaints. During this onsite investigation, I reviewed the conditions of confinement allegations and the following additional areas: use of force, detainee safety, security, contraband control, recreation access, special management unit use and conditions, classification and screening, grievance system, mail access, law library and legal materials access, language access, retaliation, religious accommodation, staff-detainee communication, sexual assault and abuse prevention and intervention (SAAPI/PREA), and mail access. I also reviewed outstanding deficiencies that were identified during the October 26, 2017 Office of Enforcement and Removal Operations annual review and detailed in the Uniform Corrective Action Plan dated February 14, 2018.

To examine the allegations in the complaints, this investigation reviewed WCDF’s adherence to the NDS in the relevant areas. Allegations related to medical health care are addressed by another CRCL expert.

Through this review, I found operational deficiencies related to some of the allegations in the complaints. This investigation was severely limited by the refusal of WCDF officials to provide access to requested information critical to the investigation of complaints and conditions of confinement at this facility.

This report contains observations and limited recommendations to address deficiencies identified that are based on ICE’s detention standards, correctional experience, and recognized correctional standards including those published by the American Correctional Association (ACA). WCDF notified ICE in July 2018 that the contract with ICE to hold detainees would be terminated; however recommendations are being provided in the event a future ICE detention contract is pursued.

II. PROFESSIONAL EXPERTISE

I am an expert corrections and conditions of detention consultant. My educational background includes (b) (6)
(b) (6)

III. RELEVANT STANDARDS

A. ICE Detention Standards

ICE's 2000 NDS currently apply to WCDF. The facility was covered by these standards during the entire period relevant to this investigation. Consequently, I relied on the NDS when looking at the specific allegations regarding conditions at the facility. Additionally, I considered PBNDS 2011 Sexual Abuse and Assault Prevention and Intervention (SAAPI), and ICE Directive 11062.2, Sexual Abuse and Assault Prevention and Intervention, issued May 22, 2014, which was in force and in effect during this period, the Department of Homeland Security Language Access Plan,

February 28, 2012, and U.S. Immigration and Customs Enforcement Language Access Plan, June 14, 2015.

IV. FACILITY BACKGROUND AND POPULATION DEMOGRAPHICS

WCDF is located in Richmond, California, and is operated and managed by the Contra Costa Sheriff under an Inter-Governmental Agreement between the U.S. Marshals Service and the Contra Costa Sheriff's Department to house 193 ICE detainees, 162 male detainees and 31 female detainees. WCDF also houses County inmates.

V. REVIEW PURPOSE AND METHODOLOGY

The purpose of this review was to examine the specific allegations made in the complaints, as well as to identify other areas of concern regarding the operation of the facility. I was also tasked with reviewing facility policies and procedures. As part of this review, I examined a variety of documents; was onsite at WCDF on June 12-14, 2018, along with CRCL staff; and interviewed ICE and WCDF staff and detainees.

The staff at WCDF was helpful during our onsite investigation, and I appreciated their assistance; however, the facility was unwilling to provide the majority of documents requested related to this investigation. WCDF's failure to provide the requested documents directly impeded the investigation which could not be concluded based on the lack of information needed to investigate conditions and the complaint allegations. I appreciated the cooperation and assistance provided by ICE staff before, during, and after our trip.

In preparation for the onsite and completion of this report, I did the following:

- Reviewed the ICE and WCDF Inter Governmental Agreement 011-09-0034
- Reviewed the April 2016 ICE National Detainee Handbook
- Reviewed relevant ICE NDS 2000 standards:
 - Contraband
 - Grievance Procedures
 - Detainee Handbook
 - Correspondence and Other Mail
 - Admission and Release
 - Access to Legal Material
 - Group Presentations on Legal Rights
 - Recreation
 - Religious Practices
 - Staff-Detainee Communication
 - Special Management Units (Administrative and Disciplinary)
 - Detainee Classification System
 - Population Counts
 - Disciplinary Policy
 - SAAPI/PREA (PBNDS 2011)
 - Funds and Personal Property

- Suicide Prevention and Intervention
- Telephone Access
- Detention Files
- Visitation
- Reviewed the ICE ERO Annual Inspection Uniform Corrective Action Plan-February 2018
- Reviewed relevant ACA correctional standards

While at the WCDF on June 12-14, 2018, and post-visit, I did the following:

- Toured male housing units
- Toured female housing unit
- Interviewed housing officers
- Interviewed male detainees
- Interviewed female detainees
- Reviewed detainee housing rosters
- Reviewed detainee files
- Reviewed the WCDF Detainee/Inmate Handbook
- Inspected telephone pro bono number postings in housing units
- Tested telephone functionality
- Toured visiting room and tested telephone functionality
- Inspected the law libraries
- Reviewed the facility schedule for the law library
- Inspected the recreation yards
- Reviewed the recreation schedule
- Reviewed the religious service area
- Reviewed detainee grievance logs for June 2017 – June 2018
- Reviewed specific detainee grievances and responses
- Reviewed detainee disciplinary reports
- Reviewed detainee requests made to ICE
- Reviewed the daily activity schedule (in policy)
- Interviewed custody and program personnel regarding orientation, intake, SAAP/PEA, security, use of force, special management unit, disciplinary system, law library and legal access, religious access and services, recreation programs, grievance system, staff-detainee communication, investigations, visitation, suicide prevention policies, language access, telephone access, and mail
- Met with various ICE and WCDF staff during the course of the review
- Reviewed WCDF policies on:
 - Sexual Assault and Abuse Prevention and Intervention (PEA)
 - Admission and Release (Intake)
 - Classification System
 - Detainee Housing
 - Orientation
 - Detention Files (Records)
 - Contraband
 - Visiting

- Correspondence/Mail
- Recreation
- Housing
- Use of Force
- Grievance Procedures
- Disciplinary Policy
- Detainee Handbook
- Staff and Detainee Communication
- Law Library/Inmate Advocate
- Staff Training
- Property
- Telephone Access
- Mental Health Services
- Religious Practices
- Special Management Unit

In the context of this report, a finding of “substantiated” refers to an allegation that was investigated and determined to have occurred; a finding of “not substantiated” refers to an allegation that was investigated and the investigation produced insufficient evidence to make a final determination as to whether or not the event occurred; and a finding of “unfounded” means an allegation that was investigated and determined not to have occurred. The Staff name referred to in this report was provided to the Facility Administration and ICE for appropriate follow-up action.

VI. CONDITIONS OF DETENTION FINDINGS AND RECOMMENDATIONS

A. Use of Force, Staff Misconduct, Retaliation, Staff Detainee Communication, Grievance System Access, Postings, Disability Accommodation, Detention and Medical Files

WCDF did not allow CRCL access to the documents and information it requested, and the lack of access impeded CRCL’s investigation. CRCL could not complete a thorough review of the allegations contained in one of the main complaints leading to this investigation, although the information the facility did provide, and detainee interviews offer some support for the claims made by the detainees. The facility also lacked logs, tracking mechanisms, and files in several areas that CRCL wanted to review, which frustrated CRCL’s ability to assess these areas because of the difficulty of accessing information. These areas include use of force, detainee complaints about staff, internal affairs investigation logs, incident reports, detainee disciplinary process, disciplinary segregation records, and detainee language records. Many of these same materials are also not routinely provided to ICE as required by the NDS. If the contract would not have been terminated, I would have recommended that the materials requested by CRCL be provided so that CRCL can complete its investigation, and ICE can provide appropriate oversight of the care of detainees at the facility.

During this investigation, I was able to review some incident reports involving detainees during the period of June 2017 – March 2018. I interviewed over 45 detainees in three different

groups. Group one consisted of female detainees housed in building 8 and male detainees housed in building 7A and 7B. All three groups, which were interviewed independently, raised complaints regarding disrespectful treatment and other concerns. I will address the specifics of the detainee concerns in the following sections. While I found conditions that contribute to the overall detainee-staff relations and treatment complaints in the facility and NDS violations, based on the facility refusing to provide information I could not substantiate the specific complaint of the 27 female detainees regarding lack of bathroom access and being locked in their cells for extended periods of time associated with this investigation.

Complaint No. 18-02-ICE-0040

The November 16, 2017 allegations of female detainees that claimed staff locked detainees up for hours in their cell and use bags in their cells to go to the restroom could not be sufficiently investigated as the facility refused to provide the investigative report related to these allegations.

Grievance System

I reviewed the grievance system as part of this investigation. The NDS protects detainees' rights and ensures they are treated fairly by providing a procedure to file both informal and formal grievances and receive timely responses related to any aspect of his or her detention, including medical care. The grievance system is designed to act as an early warning system to the administration, so detainee issues can be resolved timely and at the lowest level possible. The NDS requires that each facility will maintain a detainee grievance log. Documentation in the log must include a grievance number, the receipt date of the grievance, and the date and disposition (outcome) of the grievance. WCDF's grievance log does not comply with these NDS requirements. The 2017 and 2018 grievance log only recorded one detainee grievance for each year. For a facility this size it is unrealistic that only one grievance was filed each year. The 2018 log had four grievances completely redacted. There should be no redactions on grievance log. The grievance log also did not contain a log number assigned to each grievance, and it did not contain the disposition for both grievances as mandated by the NDS. WCDF's detainee grievance process does not comply with the detention standards because staff are not required to document resolution of informal grievances. Detainees who need assistance filing grievances are not provided with assistance (e.g., grievances are sometimes not accepted if they are not written in English). During interviews, detainees also described disrespectful and offensive language that some WCDF staff use when addressing them. Detainees also clearly expressed a fear of retaliation for filing a grievance or otherwise raising a concern about the facility or staff. Detainees feared losing work assignments or program access because of inappropriate disciplinary action by some staff, and ultimately losing housing placements or even being removed from the facility and sent to another detention facility.

The Grievance Officer was also unaware that ICE is to be notified of all detainee complaints against staff. During interviews, WCDF staff claimed they had no way to identify if there had been any staff investigations related to detainee complaints because they did not keep a log. They also made various claims they could not recall any staff investigations, but also they report them all to ICE. This is problematic because of the number of detainees interviewed that had staff mistreatment complaints. Detainees provided names of staff who verbally abuse and

retaliate against them. I gave the administration a full briefing of the nature of the detainee complaints and the specific staff that the detainees reported who were abusing them.

The facility did not have reliable record-keeping regarding detainee complaints about staff. As a result, I was not able to confirm if complaints existed, or whether there were any that should have been transmitted to ICE consistent with the requirements in the detention standards. Both the facility and ICE agree that no complaints have been sent, but it was less clear if any existed and should have been sent.

The NDS protects detainees' rights and ensures they are treated fairly by providing a procedure to file both informal and formal grievances and receive timely responses related to any aspect of his or her detention, including medical care. Another important aspect of the Detainee Grievance Procedure Standard is that detainees are protected from harassment, discipline, punishment, or retaliation for filing a complaint or grievance. The American Correctional Association's Adult Local Detention Facility Performance Based Standard 4-ALDF-6A-07 mandates that inmates [detainees] are not subjected to personal abuse or harassment.

Postings

The facility did not post a facility operations schedule that identifies count times, recreation periods, free time, program time, religious service time, visiting, and lights out. The absence of a posted schedule contributed to several concerns voiced by detainees during interviews. The facility has an existing schedule that clearly indicates the anticipated events over the course of the day (counts, meals, programs, free time, etc.), but it is only contained in a policy and is not posted.

Disability Accommodation

During the investigation, we encountered two detainees who raised disability accommodation concerns related to daily living activities including but not limited to showering, telephone access, prosthesis fitting, etc. The accessible showers in the housing units need appropriate shower chairs, and detainees should not be relying on plastic chairs that are slippery and unstable. The accessible shower in one of the men's units was broken and needs to be fixed. The telephones, including the telephone booths installed for the Lyons court settlement, need chairs that allow detainees who have difficulty standing for extended periods, the ability to use them.

Detention and Medical Files

In reviewing detainee files, I found two files that had confidential medical information in them. The information was a medical summary related to the detainee that should have been removed and transmitted to the medical unit. I recommend training for staff about the sensitivity of this medical information, and review by supervisors to ensure this information is removed and sent to medical for filing in the official medical file. Additionally, all detention files should be audited to ensure any medical information is removed from the central detention files.

Findings:

Complaint No. 18-02-ICE-0040 is **not substantiated** due to a lack of available information.

The WCDF grievance system logging, and grievance and appeal response policy and practice do not conform to the NDS and there is evidence to **substantiate** detainee claims that they suffer retaliation, verbal harassment, and disrespectful treatment by some WCDF staff.

The WCDF practice related to posting a schedule does not meet the NDS requirements **is substantiated.**

WCDF does not provide sufficient or adequate disability accommodation to detainees **is substantiated.**

WCDF does not adequately protect confidential detainee medical information **is substantiated.**

The NDS, along with additional applicable guidelines, support the following recommendations:

Recommendations:

- The WCDF Grievance Log does not contain a consecutive log number and the disposition of each detainee grievance. WCDF should add to the existing grievance log a consecutive logging number and the disposition (outcome) of the grievance to ensure detainees receive a timely response to their grievance and grievance appeals and the outcome of each grievance is tracked. (NDS, Detainee Grievance Procedures, § III(E)) (Level 1)
- In light of evidence supporting detainee claims that they suffer retaliation, verbal harassment, and disrespectful treatment by some WCDF staff, WCDF should review the past 12 months of work assignments terminated by supervisors to identify any potential trend of discrimination or hostile work supervisors. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
- WCDF does not keep a log of detainee complaints about staff or records indicating that these complaints have been transmitted to ICE. WCDF should keep a designated log of detainee complaints about staff and records indicating that any such complaints were transmitted to ICE. ICE should be notified of any internal affairs investigations that are conducted involving detainee complaints. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
- Based on the number of detainee complaints of retaliation and staff verbal abuse, WCDF and ICE should monitor grievances to ensure detainee are not retaliated against for filing a grievance. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
- Based on the number of detainee complaints of retaliation and staff verbal abuse, ICE and WCDF should hold unit meetings with detainees to provide an open forum for detainees to air outstanding grievances and reiterate that staff verbal abuse or retaliation will not be tolerated. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
- WCDF does not post a schedule for all activities including count times in each housing

unit. WCDF should post such a schedule and ensure that it accurately reflects current operations, which varied from the facility schedule contained in the institutional policy, which was not accurate. (NDS, Population Counts, § III, Visitation, § III(B), Religious Practices, § III(F))

- WCDF had disability accommodations that were not in working order or were not available. WCDF should repair the accessible showers in the detainee housing units and equip them with appropriate shower chairs. Appropriate accommodations should be provided by WCDF to assist with use of the telephones by detainees who have difficulty standing for extended periods because of their disabilities. Detainees who have prosthesis should also be provided medical support to adjust the prosthesis, so the detainee does not experience pain and discomfort for a device which does not fit correctly. (NDS, Medical Care § I, Section 504 of the Rehabilitation Act of 1973)
- WCDF detention files contain confidential medical information, which is a violation of NDS and HIPPA. WCDF should audit all detention files and transfer any confidential medical information into the medical file. (NDS, Medical Care, § III(M))

B. Language Access

I reviewed the language access at this facility as part of this investigation. There were no open language access complaints at the time of investigation; however, during interviews of two groups of detainees which included detainees who are limited English proficient (LEP), the detainees reported language access issues.¹ The facility is not providing appropriate language access to detainees in a number of areas. Only a few forms used for intake, detainee requests, the detainee disciplinary process, and other critical areas were available in languages other than English despite what seemed like a large population of Spanish speakers who spoke limited or no English. There were also no forms in Spanish in any of the detention files I reviewed, and the forms that exist in Spanish were not available in the housing units. Beyond Spanish, there were also detainees who spoke less common languages (e.g., Hindi, Mandarin, and French) and who spoke little or no English. Detainees reported having forms they wrote in Spanish returned by some deputies who told them the forms must be submitted in English, and detainees also reported being teased, mocked, or called names by some deputies for being limited English proficient. Although the language line appeared to be used regularly in intake and a couple other settings, effective communication was not being provided in numerous areas. LEP detainees reported being required to sign documents in a language they did not understand. All of the forms in the files I reviewed were completed in English. A review of detainee files indicated that detainees who were or appeared to be Spanish speakers based on requests they had written in Spanish had signed forms written in English, with no indication of interpretation or translation assistance. Detainees I interviewed reported that LEP detainees were required to sign documents that were written in English and that language line interpretation assistance was not consistently provided. Detainees also reported medical and mental health staff consistently use detainees as interpreters which requires detainees to

¹ CRCL staff and I conducted these interviews with the assistance of a qualified Spanish language interpreter.

disclose personal healthcare information in front of other detainees. “I-Speak” posters that can help literate LEP detainees identify their preferred language were not posted in all key areas of the facility.

WCDF and ICE do not currently comply with providing language access to LEP detainees. Under federal civil rights law and DHS policy, LEP detainees must be provided meaningful access to information, programs, and services within ICE detention. Title VI of the Civil Rights Act of 1964 (Title VI); Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, 65 Fed. Reg. 50,121 (Aug. 11, 2000); Department of Homeland Security Language Access Plan, February 28, 2012; and U.S. Immigration and Customs Enforcement Language Access Plan, June 14, 2015 mandate language access for individuals held in detention. This obligation includes providing access to competent interpretation (oral) and translation (written) services for a wide range of interactions and programs covered by the ICE standards, such as Admission and Release, Custody Classification, Sexual Abuse and Assault Prevention and Intervention, Special Management Units, Staff-Detainee Communication; Disciplinary System; Medical and Mental Health Care; Suicide Prevention; Detainee Handbook; Grievance System; and Law Library and Legal Materials. Furthermore, not only is this a legal requirement, but a failure to provide appropriate language services can impact the safety of detainees and staff and undermine the facility’s compliance with detention standards and its own processes and procedures. WCDF’s contractual obligations require them to provide meaningful language access for residents.

ICE and WCDF staff do not consistently provide oral interpretation through Language Line or translate official documents from English to other languages for LEP detainees. LEP detainees are required to sign documents that they do not understand, which undermines the validity of the documents and purpose of having detainees sign documents. Detainees may violate the rules because they do not understand what the rules are due to a lack of appropriate language access. The facility’s orientation video is currently out of date and only available in English. The facility is in the process of creating an updated orientation video and plans to have it translated into Spanish once the new version is complete. This was an audit finding and a corrective action item in the February 2018 ERO Corrective Plan; however, the updated orientation video still has not been released and the LEP detainees’ video still had not been developed.

Findings:

WCDF fails to provide meaningful access for LEP detainees in compliance with the DHS and ICE language access plans and other requirements **is substantiated**.

The applicable requirements support the following recommendations:

Recommendations:

- WCDF records indicate that language access resources are not consistently used to assist LEP detainees. WCDF 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) (Level 1)

- WCDF records indicate that language access resources are not consistently used to assist LEP detainees. WCDF should develop a Language Line logging system and require all facility 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 Language Access Plans) (Level 2)
- WCDF records indicate that language access resources are not consistently used to assist LEP detainees, and forms and other materials contained in detainee files are written in English without any indication of translation or interpretation assistance. To ensure that WCDF complies with the arrival screening requirements in the Admission and Release standard including official forms that are signed by LEP detainees and informational postings throughout the facility are understood, WCDF should ensure the use of qualified interpreters or professionally translated informational postings and forms commonly used in intake, medical, commissary, programs, disciplinary proceedings, and segregation into Spanish at a minimum to ensure meaningful access for LEP detainees. (DHS and ICE Language Access Plans) (Level 1)
- WCDF's orientation video is currently available only in English. An orientation video for LEP detainees should be developed to ensure that critical information about facility operations is current and more readily available for English and Spanish speakers. I also recommend ensuring clear arrangements are in place to interpret this information for non-English, non-Spanish speakers. (DHS and ICE Language Access Plans) (Level 1)
- WCDF had four bilingual Spanish speaking staff members. Additional bilingual staff should be hired due to the high number of Spanish speaking detainees housed at this facility. (DHS and ICE Language Access Plans) (Level 1)
- WCDF maintained very few records indicating when it provided language assistance to LEP detainees. Facility staff should notate on any document when interpretation is provided to LEP detainees when requiring detainees to sign documents written in English. (DHS and ICE Language Access Plans) (Level 1)
- Detainees reported having grievances and other requests returned by staff when they were not written in English. Facility staff should be provided training to not direct LEP detainees to only make requests in English. (DHS and ICE Language Access Plans) (Level 1)

C. Legal Access

Law Library

I reviewed the law libraries and access to legal material as part of this investigation. I inspected the law library and Lexis-Nexis sites, interviewed detainees regarding use of the Lexis-Nexis computers, reviewed the law library schedule posted in each housing unit, and interviewed detainees regarding law library access. There is a sufficient number of computers in the law library locations to provide detainee access to Lexis-Nexis. The Lexis-Nexis software updates are routinely completed. The computers and printers are maintained in working order. Detainees are not aware or trained on how to use the Lexis-Nexis. The Law Libraries at this facility are not widely utilized. Contra Costa does not have any responsibility for the Lexis Nexis legal computer

system. Detainees who are LEP cannot use the system which is only available in English. There is no official law librarian to assist detainees using the two law libraries. The male law library is housed in the recreational library. The recreational librarian has no responsibility to support detainees use or provide training on using the Lexis Nexis software. The women's law library is located on the women's housing unit. No detainees in the three groups of detainees interviewed knew or understood how to use the Lexis-Nexis computers which impedes legal access at this facility. I recommend identifying a person who is responsible for providing training to detainees on the use of the Lexis Nexis computer system to enable legal access.

Findings:

Sufficient computers and printers are available in the law library and the Lexis-Nexis software is regularly updated; however, detainees have no support or training available to them on how to use the Lexis-Nexis software and the Lexis-Nexis system is only available in English. Effective legal access to the law library is not provided **is substantiated**.

The NDS, along with additional applicable guidelines, support the following recommendations:

Recommendations:

- WCDF and ICE are not providing staff assistance or a law librarian to support LEP detainees use of the Lexis-Nexis software which impairs legal access. ICE and WCDF should contractually agree on who is going to provide detainees with the training on the Lexis-Nexis system and provide assistance to illiterate and LEP detainees as mandated by the NDS. (NDS, Access to Legal Material, §III(L)) (Level 1)

D. Recreation Access

While onsite I reviewed recreation access at this facility. I interviewed detainees and inspected the recreational area. Recreation time provided to detainees exceeds the NDS requirements. Detainees had no complaints regarding recreational access.

Findings:

- None

E. Telephone Access

During the group detainee interviews, detainees reported adequate telephone access. Detainees complained of the high cost of the telephone rates, but the telephone equipment was in working order and adequately maintained. It is my understanding that the WCDF telephone rates are consistent with allowable amounts approved by ICE. Telephone free number listings were not consistently located near the telephones. The facility was providing access to the telephones as mandated by the Lyons court settlement; however, detainees with disability and mobility issues were not provided with a chair to sit in when using the Lyons telephones making it difficult for some detainees with disabilities to use the telephones.

Findings:

Mandated telephone number postings were not located in proximity to the detainee telephones creating difficulty for detainees to obtain consulate, OIG, and other free telephone numbers **is substantiated**.

Mobility impaired detainees were not provided with reasonable accommodation when using the Lyons telephones **is substantiated**.

The NDS, the Lyons settlement along with additional applicable guidelines, support the following recommendations:

Recommendations:

- Mandated telephone number postings were not located in proximity to the detainee telephones. WCDF should place the free telephone number postings near the detainee telephones for access to required information. (NDS, Telephone Access, § III(B)) (Level 2)
- Mobility impaired detainees are not provided with adequate chairs to be able to sit when using the Lyons telephones. (Lyons settlement, NDS, Telephone Access, § III, Section 504 of the Rehabilitation Act of 1973) (Level 1)

F. Sexual Abuse and Assault Prevention and Intervention (SAAPI)/PREA

I reviewed WCDF's SAAPI/PREA program during the onsite investigation. I interviewed the onsite PREA Coordinator and inspected postings throughout the facility. I also reviewed the SAAPI/PREA policy. The facility should be commended for its efforts regarding PREA implementation and compliance. The facility has been proactive in its own implementation efforts and in engaging with the U.S. Department of Justice to host a field training audit, which provided extensive feedback on implementation of the DOJ PREA standards. The facility is not currently in compliance with some provisions, including conducting after action incident reviews following allegations of sexual abuse, annual PREA incident reviews to examine the need for extra cameras or staffing, revising staff post orders, and staff making gender announcements when opposite gender staff enter a housing unit. The facility's SAAPI/PREA policy should also be revised to reflect these revisions and other revisions needed identified in this investigation and in the training audit. The facility is aware of these issues and working on implementation. And the facility has plans to undergo a DOJ PREA audit at its various facilities over the next few years. I recommend that the PREA/SAAPI audit of this facility be prioritized when the audit schedule is developed for the Contra Costa jails.

It should be noted that even with the identified deficiencies, detainees at this facility reported they feel safe from sexual assault and sexual harassment, but this is no substitute for a complete and fully compliant sexual abuse prevention program.

Findings:

WCDF's PREA/SAAPI policy and program does not meet the requirements of the PBNDS 2011, 2.11, SAAPI is **substantiated**.

My findings support the following recommendations:

Recommendations:

- WCDF does not have a sexual abuse prevention program in place that complies with the requirements of the DHS SAAPI/PREA standards, which poses risks for detainees and the facility. WCDF should ensure compliance with all the requirements in Standard 2.11. (PBNDS 2011, SAAPI/PREA Standard) (Level 1)

OTHER OBSERVATIONS

The facility has extensive educational programming available to its population, including immigration detainees. We visited several program spaces and were impressed by the variety and extent of the programming, which is a significant benefit for detainees. The facility incentivizes participation in educational programming by, among other things, limiting free movement of detainees who do not participate in programming during the times programs are in session. This essentially means that detainees are expected to be in their individual cells unless they are out to use the restrooms or attend to other basic needs during each weekday until 3:30 p.m. If the facility schedule is followed, this allows detainees a few hours of free time each day but adds several hours of generally restricted movement and access to social interaction, showers, television, and other free movement in the common areas. While we understand the desire for incentives, I recommend that the facility consider using positive incentives to encourage participation in educational programming rather than negative incentives for failure to participate as detainee participation in education is not mandated by the NDS. I will not make a formal recommendation as the NDS does not require WCDF to provide educational programming and this contract is being terminated.

VII. SUMMARY OF WCDF RECOMMENDATIONS

Regarding the specific deficiencies I found as part of my review of WCDF, I make the following recommendations if ICE in the future contracts with WCDF for detention beds:

- The WCDF Grievance Log does not contain a consecutive log number and the disposition of each detainee grievance. WCDF should add to the existing grievance log a consecutive logging number and the disposition (outcome) of the grievance to ensure detainees receive a timely response to their grievance and grievance appeals and the outcome of each grievance is tracked. (NDS, Detainee Grievance Procedures, § III(E)) (Level 1)
- In light of evidence supporting detainee claims that they suffer retaliation, verbal harassment, and disrespectful treatment by some WCDF staff, WCDF should review the past 12 months of work assignments terminated by supervisors to identify any potential

- trend of discrimination or hostile work supervisors. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
- WCDF does not keep a log of detainee complaints about staff or records indicating that these complaints have been transmitted to ICE. WCDF should keep a designated log of detainee complaints about staff and records indicating that any such complaints were transmitted to ICE. ICE should be notified of any internal affairs investigations that are conducted involving detainee complaints. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
 - Based on the number of detainee complaints of retaliation and staff verbal abuse, WCDF and ICE should monitor grievances to ensure detainees are not retaliated against for filing a grievance. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
 - Based on the number of detainee complaints of retaliation and staff verbal abuse, ICE and WCDF should hold unit meetings with detainees to provide an open forum for detainees to air outstanding grievances and reiterate that staff verbal abuse or retaliation will not be tolerated. (NDS, Detainee Grievance Procedures, § III(D)) (Level 1)
 - WCDF does not post a schedule for all activities including count times in each housing unit. WCDF should post such a schedule and ensure that it accurately reflects current operations, which varied from the facility schedule contained in the institutional policy, which was not accurate. (NDS, Population Counts, § III, Visitation, § III(B), Religious Practices, § III(F))
 - WCDF had disability accommodations that were not in working order or were not available. WCDF should repair the accessible showers in the detainee housing units and equip them with appropriate shower chairs. Appropriate accommodations should be provided by WCDF to assist with use of the telephones by detainees who have difficulty standing for extended periods because of their disabilities. Detainees who have prosthesis should also be provided medical support to adjust the prosthesis, so the detainee does not experience pain and discomfort for a device which does not fit correctly. (NDS, Medical Care § I, Section 504 of the Rehabilitation Act of 1973)
 - WCDF detention files contain confidential medical information, which is a violation of NDS and HIPPA. WCDF should audit all detention files and transfer any confidential medical information into the medical file. (NDS, Medical Care, § III(M))
 - WCDF records indicate that language access resources are not consistently used to assist LEP detainees. WCDF 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) (Level 1)
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 - Mobility impaired detainees are not provided with adequate chairs to be able to sit when using the Lyons telephones. (Lyons settlement, NDS, Telephone Access, § III, Section 504 of the Rehabilitation Act of 1973) (Level 1)
 - WCDF does not have a sexual abuse prevention program in place that complies with the requirements of the DHS SAAPI/PREA standards, which poses risks for detainees and the facility. WCDF should ensure compliance with all the requirements in Standard 2.11. (PBND 2011, SAAPI/PREA Standard) (Level 1)