

Medical Expert Report

U.S. Department of Homeland Security

Office of Civil Rights and Civil Liberties

March 27-29, 2018

Bergen County Jail

Complaint No. C170-ICE-NYC-20567

Complaint No. C18-ICE-PHL-03993

(b) (6)

MD, MBA, MPH, CCHP-P, CCHP-A

April 2018

EXECUTIVE SUMMARY

During the three day period of March 27, 28 and 29, I visited the Bergen County Jail, NJ as a member of a CRCL team to assess the degree of compliance of Bergen County Jail medical unit with the standard of care for detainees housed in that facility. Additionally, I was tasked with investigating two specific complaints regarding the medical care at Bergen County Jail. I visited several of the Bergen County Jail medical facilities including intake and infirmary and several housing units. I also interviewed various Bergen County custody and healthcare staff including the medical director and the director of nursing as well as several of the detainees. I extend my most sincere thanks to all Bergen County healthcare and custody leadership and front line staff for their hospitality and generosity with their time and resources. I additionally thank Bergen County Healthcare and custody leadership and staff for their openness to the Medical Expert's suggestions and critical appraisal of Bergen County's processes and activities. Bergen County Jail personnel were completely cooperative and helpful in this visit. The Medical Expert enjoyed full and unhindered access to all areas and staff.

While the Medical Expert witnessed many examples of outstanding performance, the following areas stand out as best practice approaches to care:

- The initial health screening and the follow up health assessment which is performed by the medical director
- The response to medical grievances are done by the medical director
- All sick call requests are triaged and responded to within 24 hours
- Detox care including detox protocols and CIWA-Ar and COWS evaluation tools

I found the overall care of the detainees at the Bergen County Jail to be appropriate. The following issues, however, were identified as opportunities for improvement:

- Dental
- Documentation
- Vaccination
- Infection prevention
- Follow up care
- Initial health assessment for detainees with higher acuity chronic medical conditions

These items will be further discussed in the body of this report along with Medical Expert's Recommendations.

Report Organization

In addition to my review of the two specific **medical complains** I will provide a summary of several additional **investigations** that stemmed from my personal interviews with the detainees and interviews performed by other members of the CRCL team. I will also provide an overall assessment of the performance of **healthcare services** at the Bergen County Jail in the following areas: Inter-disciplinary collaboration, policy and procedures, medical facilities, staffing and supervision, medical facilities, intake screening, emergency care, record keeping, mortality review, record keeping, health assessment, infirmary care, chronic care, treatment and management of communicable diseases, access to healthcare, follow up care, medication administration, specialty care, dental care, quality improvement and performance measurement.

My Credentials

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Medical Complaints

C170ICE-NYC-20567: Detainee claims he first had surgery on his foot in 2011. Detainee says a few weeks after his initial surgery, he had a second surgery. Detainee claims he was also diagnosed with diabetes in 2011, and he began to have to inject himself with insulin twice a day. Detainee says he was arrested by ICE and placed in Bergen County Jail on November 27, 2016. Detainee states after one month in Bergen County Jail, his toes began to bleed and the left side of his foot began to swell. Detainee claims he went to medical within the facility, who attempted to treat the issue, but the matter persisted. Detainee says the situation became worse and his pain increased, so he was taken to a foot doctor outside of the facility approximately one month ago for emergency treatment. Detainee states the doctor completed an MRI and found Detainee had a bone infection. Detainee claims he now has to have antibiotics deposited directly into his arm via an IV line twice per day. Detainee says his condition has not gotten any better, and his foot is continuing to swell. Detainee states he has begged to go to the foot doctor again, but has yet to be brought back. Detainee claims he is concerned about losing his toes and about losing his left foot completely. Detainee says he has to use a cane to walk, as he is not comfortable walking on his own. Detainee states he requests that he be taken care of as soon as possible before it becomes too late for additional treatment.

Medical Expert's findings: I reviewed this detainee's health records in entirety. Detainee was admitted to Bergen County Jail on November 29, 2016. He was released from Bergen County Jail in August 2017. At intake, the detainee underwent a comprehensive medical screening including vital signs that were normal and a finger stick blood glucose that measured at 206. Detainee was started on twice daily insulin therapy the first does of which was administered on the day of admission to the Facility. Detainee was additionally started on several other

medications for the treatment of diabetes, hypertension and hypocholesteremia. He was also started on ADA diet one day later. Detainee had one very low FSBG of 32 which was successfully treated with snacks. Detainee received his first physician encounter on December 8, 2016 (9 days after admission). He was tested for Hgb A1C which was found to be 6.8 indicating good control of diabetes. Detainee began to have pain in his left foot on January 28, 2017. This was evaluated by the nursing staff (nursing examination of the foot should have been more robust). Detainee was issued a gel insole and was started on appropriate pain medication. Detainee continued to have worsening of his foot pain and eventually developed a foot wound that appeared to have been closely monitored by the Bergen County Jail Health Services. He underwent two courses of oral antibiotics with mixed results. He was eventually admitted to the local hospital on June 19, 2017 for intravenous treatment of osteomyelitis. He returned to Bergen County Jail on June 23, 2017. He underwent follow up physician visit on June 30th, 2017 (one week after return from the hospital). He continued his intravenous antibiotics at the Facility. The physician note on August 10, 2017 described the wound as “essentially healed”.

Medical Expert’s Impressions: Diabetic foot ulcer and osteomyelitis are unfortunate long term complications of diabetes. The most important predictor of a future foot ulcer is having a previous foot ulcer which is the case in this detainee who reported a previous foot surgery related to trauma. During this detainee’s 9 months stay at the Bergen County Jail, he had 17 physician encounters. It is my opinion that the care provided to this detainee meets the standard of care. While I find the overall care to be appropriate, there were also opportunities for improvement. Complaint not substantiated.

Medical Expert's Recommendations:

1. Insulin dependent diabetic patients should receive their initial health assessment as soon as possible and ideally within 72 hours of admission to the Facility (please also see my recommendations under the Policy and Procedures section below).
2. Nursing documentation related to the focused physical examination should be more robust (please also see my recommendations under Access to Care section below).
3. Physician follow up for ED visits, hospitalizations and specialty care visits must occur in a timely manner and ideally within one business day after return to the facility.

C18-ICE-PHL-03993: Detainee alleges the Bergen County Jail is denying him access to the law library. Detainee has a case deadline of 11/19/2017 and needs access to the law library. However, the Bergen County Jail is not providing Detainee with the standard five hours of access per day. Detainee stated he has started a hunger strike on 10/23/2017 in order for him to be given access to the law library. Detainee stated he did not want to go on hunger strike, but felt as though it was his only option to receive assistance with this matter. Detainee also claims the Lieutenant, FNU Dato, has never acknowledges there is a problem of access to the library being offered to Detainee, despite all of the grievances filed by Detainee. Detainee would like to be transported to another facility as he has been in Bergen County Jail for the past year. Detainee started having issues with access to law library in 09/2017.

Medical Expert's Findings (limited to conditions of hunger strike): Detainee was admitted to Bergen County Jail on October 28, 2016. Detainee underwent a comprehensive medical and mental health screening at the time of admission to Bergen County Jail. He did not have any chronic medical or mental health conditions. He was found to have a pulse rate of 44 (bradycardia). He was, however, asymptomatic. Detainee received his initial health assessment on November 11, 2016. Physician failed to note the bradycardia (pulse of 47). Detainee was again asymptomatic. Detainee had his annual physical examination on October 17, 2017. Physician failed again to note the bradycardia (pulse of 45). Detainee was again asymptomatic. Detainee began hunger strike on October 23, 2017 through October 27, 2017. Detainee was moved to the infirmary housing at the onset of hunger strike. He was evaluated by medical and mental health staff on the same day. He received twice daily follow up by medical staff including vital signs and weights when detainee would consent. Detainee was documented to consume

some food while on hunger strike. By the end of the hunger strike, the detainee had lost 6 pounds most likely due to decreased fluid intake. He was otherwise asymptomatic.

Medical Expert's Impression: Bergen County Jail followed its policy and procedure with regard to detainees entering into hunger strike. I found no deviations from policy and found the overall care to be appropriate. There were again, however, opportunities for improvement.

Complaint not substantiated.

Medical Expert's Recommendations:

1. Physician should note abnormal vital signs in his note including the significance of such findings, impression and plan to address the abnormal vital sign findings.

Investigations:

1. Detainee housed in segregation unit reported tooth ache that was not addressed in a timely manner. Findings: Detainee was evaluated within 24 hours of sick call request and was treated accordingly. Complaint not substantiated.
2. Detainee filing a medical grievance for not getting his medical condition (inflammation and pain in the kidney area) addressed by the physician. Findings: Physician provided appropriate care including appropriate testing and formal response to the grievance in a timely manner. Complaint not substantiated.
3. Female detainee reported “bleeding”. Findings: detainee with right breast pain and discharge who underwent breast biopsy on March 6, 2018 and seen for follow up by Facility physician on March 8, 2018. Complaint not substantiated.
4. Detainee reported being lactose intolerant and not on special diet. Findings: Lactose intolerance was missed at initial intake screening. Detainee had not submitted a sick call request regarding this issue. Detainee was placed on special diet on March 28, 2018 during my visit. **Complaint substantiated.**
5. Detainee reported constipation that is not being addressed. Findings: Detainee reported chronic constipation and use of Miralax during intake screening. She was placed on Miralax which she began to refuse when she began to have diarrhea. Detainee is on two psychotropic medications with anticholinergic effects causing constipation. Complaint not substantiated.

6. Detainee reported chronic lower back pain not receiving care. Findings: Detainee submitted two sick call requests for headache. These were addressed in a timely manner and treated accordingly. Complaint not substantiated.
7. Detainee reported rash that was not being treated. Findings: Detainee was treated by two different dermatologic medications and has a pending dermatology appointment. Complaint not substantiated.
8. Detainee complaining that his foreign body sensation in the back of his throat after swallowing part of his toothbrush is being ignored. Findings: Detained had been sent to the local ED and underwent soft tissue neck radiograph. He has a pending ENT appointment. Complaint not substantiated.
9. Detainee reported decreased hearing that is not being addressed. Findings: Detainee has a pending hearing test. Complaint not substantiated.
10. Detainee reported chronic lower back pain that is not being addressed. Findings: Detainee has been seen by medical staff and has been tried on two different oral pain medications. Complaint not substantiated.
11. Detainee reported chronic peptic ulcer disease that is not being treated. Findings: Detainee has been treated with appropriate medication. Complaint not substantiated.
12. Detainee reported chronic peptic ulcer disease that is not being treated. Findings: Detainee has been treated with appropriate medication. Complaint not substantiated.
13. Detainee reported tooth pain complaint not getting addressed in a timely manner. Findings: Detained submitted a sick call request on February 19, 2018. He was seen by dentist on February 21, 2018. Complaint not substantiated.

14. Detainee reported not receiving dental cleaning. Findings: Detainee was seen by the oral surgeon and had three teeth extractions. Dental cleaning was however declined by the dentist due to “potential impact on the remaining teeth”. Detainee was told to seek treatment after release. **Complaint substantiated.**
15. Detainee reported tooth ache not getting addressed. Findings: Detainee had an initial dental screening during which he did not voice any dental complains. There were no sick call requests about tooth ache. Complaint not substantiated.
16. Detainee reported tooth ache not getting addressed. Findings: Detainee had an initial dental screening during which he did not voice any dental complains. There were no sick call requests about tooth ache. Complaint not substantiated.
17. Detainee reported tooth ache not getting addressed. Findings: Detainee was evaluated by dentist and has a pending oral surgery appointment. Complaint not substantiated.
18. Detainee reported blurred vision and wanting reading glasses. Findings: Detainee has submitted a sick call request regarding the above complaint on November 9, 2017. There were no referrals to optometry. Detainee was referred to Optometry during my visit. **Complaint substantiated.**
19. Detainee reported “cancer” that is not being addressed. Findings: Detained complained of testicular pain on February 6, 2018. He underwent testicular ultrasound on February 9, 2018 that was normal. Complaint not substantiated.
20. Detainee reported toothache that is not being addressed. Findings: Detainee submitted a sick call request for toothache on February 20, 2018. He was seen by dentist on February 21, 2018. However, while the dentist describes very poor dentition, he fails to provide a

definitive treatment or follow up care and asks the detainee to submit another sick call request if the condition persists. **Complaint substantiated.**

21. Detainee reported blurred vision that is not being addressed. Findings: Detainee was evaluated by Optometry on January 6, 2018 and received prescription glasses on January 18, 2018. Detainee had an abrupt visual loss due to ruptured retina on February 28, 2018 that could not have been prevented or anticipated. He is receiving continued follow up. Complaint not substantiated.

22. Detainee reported not receiving physical therapy after a stroke. Findings: Detainee reported a history of stroke in 2013 at the time of initial health screening. Physician documentation lacks a detailed neurological examination of a post stroke patient. There is also no evidence of ongoing physical therapy. This, however, cannot be assessed without the knowledge of the presence or extend of any residual sensory-motor deficits. **Complaint substantiated.**

23. Detainee reported toothache this is not being addressed. Findings: Detainee underwent an initial dental screening on January 17, 2018. Detainee has not submitted any sick call requests regarding toothache. Complaint not substantiated.

24. Detainee reported hypoglycemia due to gastric bypass surgery in the past. Findings: review of detainee's health records shows multiple capillary blood glucose measurements all of which are within normal. Complaint not substantiated.

Healthcare Services

Inter-Disciplinary Collaboration

I found the degree of cooperation and collaboration between the healthcare and custody staff to be robust and conducive to promotion and effective and efficient care that is safe for the

Policies and Procedures

The following policy and procedures were reviewed:

- i. Organization and Staff Composition
- ii. Staffing
- iii. Medical Autonomy
- iv. Medical Diets
- v. Access to Care
- vi. Non-emergency Healthcare Requests and Services
- vii. Oral Care
- viii. Health assessment
- ix. Patients with Special Health Needs
- x. Administrative Meetings and reports
- xi. chronic disease services
- xii. Clinical Space, Equipment and Supplies
- xiii. Communication of Patient Health Needs
- xiv. Confidentiality of Health Records
- xv. Continuous Quality Improvement Program
- xvi. Controlled Substances

- xvii. Co-Pay
- xviii. Emergency Response Plan
- xix. Health Training for Correctional Officers
- xx. Hospital and Specialty Care
- xxi. Hunger Strike
- xxii. Infection Control Program
- xxiii. Infirmary Care
- xxiv. Intoxication and Withdrawal
- xxv. Medication Services
- xxvi. intoxication and detoxification
- xxvii. sick call triage
- xxviii. intake screening

I found the policy and procedures to be adequate and up to date. There were, however, opportunities for improvement. The Chronic Disease Services Policy delineates the care for the detainees with acute medical conditions at the time of Initial Intake screening (referral to the local ED or follow up with the Medical Director at the next business day). While this policy is sound, it does not specify for the timely care of detainees with chronic medical conditions who may not be suffering an acute medical condition but who nonetheless require an initial physician encounter earlier than 14 days post admission to the facility.

Medical Expert's Recommendations:

I recommend a more granular stratification of detainees' health status at the time of the Initial Health Screening to allow for timelier physician encounters. The following is one example for such a stratification scheme:

- Acuity 1: detainees with acute medical condition requiring immediate higher level care. These detainees are normally sent out to the local ED via ambulance or squad car.
- Acuity 2: detainees with chronic medical conditions that are considered in poor control or chronic medical conditions that by definition require higher level of care. These include but are not limited to insulin dependent diabetes mellitus (IDDM), HIV positive detainees, pregnant detainees, detainees on chronic anti-coagulation therapy, etc. These detainees should receive their initial face to face physician encounter within 72 hours.
- Acuity 3: detainees with chronic medical conditions that are under fair/good control at the time of the initial health screening (this is the majority of detainees with chronic medical conditions). These detainees may receive their initial face to face physician encounter within 7 days of admission to the facility.
- Acuity 4: detainees with no known chronic medical conditions or with chronic medical conditions that do not pose a threat to the overall health of the detainees (eczema, dyspepsia, chronic pain managed by over the counter medications, etc.). These detainees may receive their initial face to face physician encounter within 14 days of admission to the facility (at the time of their initial health assessment).

Medical Facilities

The Medical Expert would like to commend Bergen County Jail for the overall cleanliness for all clinical and non-clinical areas that I toured during this visit.

Staffing, Training, Supervision and Leadership

I found the level of staffing, staff training and supervision to be adequate with the exception of dental where having an dental assistant seems logical and could provide additional dentist time that can be used to provide definitive dental care that appeared to be lacking during this visit (for more detail please refer to the section under dental care).

I reviewed the annual health care staff training content and found it to be appropriate. The topics included PREA, Hunger Strike, Medication Administration, Dental, Schizophrenia, Suicide Prevention, Bipolar Disorder, Depression, Sexual Harassment, IV therapy and Blood Borne Pathogens. I additionally reviewed the professional licensure and evidence of current CPR training for a randomly selected group of nurses and the medical director. I was also able to find evidence of ongoing professional practice evaluation (OPPE) for nurses and the medical director. The OPPE process for nursing staff was found to be much more robust and based on actual chart reviews. The OPPE process for the medical director was subjective and without supporting evidence.

Medical Expert's Recommendations:

- i. Add a dental assistant/dental hygienist to the dental clinic
- ii. Create a chart review process for objective professional practice evaluation of the physician staff.

Intake Screening

I found the initial Intake Screening to be timely and adequate for the identification and proper treatment of medical and mental health issues of detainees. Specifically, I found that qualified medical staff (Registered Nurses) utilize an appropriate medical intake screening instrument to identify and record observable and non-observable medical needs of detainees including history of substance abuse and treatment, pregnancy (all adult female detainees

undergo a urine pregnancy test at the time of the initial intake screening), history and symptoms of communicable disease, suicide risk history, and history of mental illness and treatment, including medication and hospitalization. Additionally, vital signs were recorded for all detainees at the time of the initial health screening. Detainees with Asthma and Diabetes received peak flow and capillary glucose measurements. I was able to verify that detainees were able to receive the first dose of their chronic disease medications soon after intake. Intake nurses are able to communicate special needs and special housing recommendations with the custody staff by completing the “Status Notification Form” and electronically via the Offender Management System (OMS).

Emergency Care

Onsite emergency care is provided by trained healthcare staff. Offsite emergency care was provided at two local hospitals. Detainees received follow up care upon return from the hospital to ensure adequate continuity of care. Occasionally, there are issues with obtaining the hospital medical records in a timely manner. These issues are not restricted to Bergen County Jail but none the less are issues that must be addressed to avoid a potential negative outcome.

Record Keeping

Bergen County Jail uses Centricity EHR. All healthcare related activities are recorded in the EHR. I was able to review several records with ease. The health records appeared to be complete and accessible. Staff appeared well trained in the use of the EHR.

Mortality Reviews

Bergen County Jail has not had a death in custody for several years. As such I did not evaluate their mortality review activities.

Grievances

I reviewed two grievances against the medical director related to detained disagreement with the provided care. I reviewed the medical records of these detainees as well as the medical director's response to these grievances. I found the care to be appropriate and the grievances to be unsubstantiated.

Health Assessments

Bergen County Jail health services is accredited by the National Commission on Correctional Health Care (NCCCHC) and follows the "14-day Health Assessment" protocol. I was no examples of a health assessment falling beyond the 14-day timeline. As mentioned in the executive summary, all health assessments are performed by the medical director which establishes this program as best in class since in other correctional facilities the 14-day health assessments are normally performed by registered nurses.

Acute Care-Infirmery

Bergen County jail has a 10 bed infirmery unit. All beds are within sight and sound of the nursing staff who are present at the unit 24/7. The Medical Director oversees the infirmery operations. While there were no detainees in the infirmery at time of my visit, I was able to verify timely physician encounters for infirmery detainees through my chart reviews for detainees who had previously been housed at the infirmery.

Chronic Care

I reviewed several health records for detainees with chronic medical conditions including hypertension, diabetes, Seizure, HIV and epilepsy. Bergen County Jail health services maintains a detainee chronic disease registry. Detainees with chronic medical conditions are evaluated by

the Medical Director at the chronic disease clinic in intervals there appear to be appropriate for the severity of illness. I found the overall care to be timely and appropriate. There were, however, opportunities for improvement.

- For diabetic patients, degree of disease control was lacking 50% of the time
- For diabetic patients, pneumococcal vaccination was not offered
- For epilepsy patients, serum drug level for the anti-epileptic medications were not ordered in a timely fashion.
- One HIV positive detainee did not receive the QFT-Gold TB test
- One HIV positive detainee did not receive LTBI treatment despite a positive QFT-Gold TB test
- For HIV positive patients, pneumococcal vaccination was not offered

Medical Expert's Recommendations:

1. Ensure that the degree of disease control for all chronic diseases is clearly documented in the encounter note.
2. Ensure that all anti-epileptic medication levels are obtained in a timely manner (within 30 days for a new drug or within 90 days for continuation of free world medications).
3. Ensure that all HIV positive detainees undergo QFT-Gold TB test if their TST test is negative.
4. Ensure that all HIV positive detainees are offered LTBI treatment if their TST or QFT-TB test is positive.

Treatment and Management of Communicable Diseases

Bergen County Jail Health Services offers Tuberculin Skin Test to all detainees at the time of the initial health screening. If positive (greater than 10mm induration), this test is currently being confirmed by a QFT-TB test. This is not indicated and is not aligned with the current CDC guidelines for the TB screening. Bergen County Jail Health Services also tracks other communicable diseases including HIV, Hepatitis C and MRSA. All TB suspect detainees are transferred to the local hospital for TB rule out procedure since Bergen County Jail does not have negative pressure isolation rooms. In my interview with the infection prevention nurse, I discovered that the facility does not maintain a very good registry of all detainees who test positive for TST or QFT-Gold TB test. Instead, the infection prevention nurse receives report of every detainee who is started on LTBI treatments. Since this group is only a small subset of the entire population of detainees to test positive to LTBI, there is a potential for missed opportunities that can lead to detainee and staff exposure situations.

Medical Expert's Recommendation

- i. Report all TST and GFT-Gold TB test results to the infection prevention nurse. Alternatively, identify a way to obtain a report from the EHR and/or your lab provider to ensure all potential LTBI cases are entered into a comprehensive registry.

Access to Health Care

I was able to verify that detainees at Bergen County Jail have 24/7 access to non-emergent healthcare requests (sick call). Nursing staff visit every housing unit at least twice daily including the segregation areas. Nurses collect the written sick call requests that are available in English and Spanish from locked sick call boxes to ensure confidentiality. All sick call requests are triaged same day and all are addressed within 24 hours (majority of time same day). This was confirmed during my chart reviews as well as my interviews with detainees. All original sick call

request forms are time stamped and scanned back into the detainees' EHR. While the overall sick call process is exceedingly efficient, the content of the nursing documentation presented an opportunity for improvement. Specifically, I encountered a few nursing notes with sparse or inadequate physical examination details including one nursing note in which a detainee's complaint of foot wound lacked a documented examination of the foot and another detainee's condition of weakness lacked a detailed neurological examination.

Medical Expert's Recommendations:

1. Continue to monitor the quality of nursing documentation and use the peer review process for improving this activity.

Follow-Up Care

I was able to confirm that detainees who return to the Facility following hospitalization, specialty care or outside emergency room visits receive timely follow up to ensure continuity of care.

Medication Administration

Bergen County Jail Health Services uses an e-MAR system. Medication orders are transmitted electronically to Diamond pharmacy who then delivers blister pack medications to the Facility for dispensing to the detainees. Nursing staff are able to pull up detainees' individual electronic MAR by entering detainees' identification number in the medication cart computer. Each medication administration is then individually noted in the e-MAR system and becomes immediately available to all healthcare staff. I was able to review Diamond pharmacy's drug formulary and found it to be adequate. I was also able to review the non-formulary drug request form and procedure and found it to be efficient. Stat medications are available to detainees via

the “Emergency Prescription Request” process that allows for obtaining medications through a local pharmacy until Diamond pharmacy is able to provide the medication. On my initial audit of the expired/expiring medication procedures, I noted that open insulin bottles were not dated as is the standard of medication administration practices. This, however, was corrected immediately so that in my follow up audit the following day all open insulin bottles were dated as required. I found the counting of controlled substances to be accurate and up to date.

Specialty Care

Detainees at Bergen County Jail access specialty care services at the local hospital. I did not encounter any resistance or delay in obtaining specialty care or special diagnostic tests (Ultrasound, CT scan, MRI, etc.) for the detainees who needed such services.

Dental Care

I reviewed several detainee health records and sick call requests pertaining to dental pain. I also interviewed the Facility’s only dentist who is on site 5 days a week. An oral surgeon visits the Facility once a week and addresses complicated dental extraction cases. While detainees are receiving their routine initial dental screening and timely dental follow up for their dental sick call requests, I could not find any evidence of preventive dental care including dental cleaning for any detainees. Additionally, I found that the normal course of events for a dental encounter due to dental pain or apparent infection is simply a prescription for pain medication and if indicated an oral antibiotic. Time after time, there was no evidence of a definitive intervention by the Facility dentist. Instead, detainees are asked to submit additional sick call requests if the issue persists or returns. Detainees are also routinely told to seek additional attention once they are released from the Facility.

Medical Expert’s Recommendations:

- i. Add a dental hygienist to your staff to allow for some routine preventive dental care.
- ii. Encourage the dentist to provide definitive dental care at every encounter to reduce the amount of pain and suffering by the detainees.
- iii. Include the dentist in ongoing professional practice evaluation by performing chart audits for dental encounter notes.

Quality Improvement and Performance Measurement

I interviewed the Bergen County Jail Health Services director of quality improvement and reviewed minutes of their monthly administrative meeting that includes nursing and medical leadership as well as custody leadership and others. The administrative meetings are almost entirely focused on utilization reviews. There are also additional quarterly quality improvement meetings in which quality of care issues and quality improvement projects are discussed.

Detainee Identification Key:

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REPORT FOR THE
U.S. DEPARTMENT OF HOMELAND SECURITY
OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES
March 27-29, 2018

Investigation Regarding Bergen County Jail
Hackensack, New Jersey

Complaints Reviewed during the site visit:

Complaint No 18-03-ICE-0062
Complaint No 18-02-ICE-0056
Complaint No C18 ICE-PHL-03993
Complaint No C17-ICE-NYC-20567
Complaint No 18-05-ICE-0126
Complaint No 18-01-ICE-0034

(b) (6) Prepared by
Psy.D.

Report Date
April 12, 2018

Introduction

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), requested that I participate in an onsite investigation regarding complaints that were received alleging civil rights and civil liberties abuses of individuals in U.S. Immigration and Customs Enforcement (ICE) custody at the Bergen County Jail (BCJ) in Hackensack, New Jersey. The complaints raised allegations regarding the conditions of detention.

There were a total of ten complaints three of which were also received in advance of the retention memo. Five complaints detailed in the retention memo identify concerns about protection from harm (the use of oleoresin capsicum spray per the Joint Intelligence Operation Center Daily Detainee Assault Reports; 18-05-ICE-0126; 18-01-ICE-0034; 18-03-ICE-0139 and 17-08-ICE-0534); two complaints concerned legal access (18-03-ICE-0062 and 18-02-ICE-0056) and three environmental health and safety complaints (DHS-18-0612, DHS 17-2887 and DHS 17-2892) were identified. Four complaints were received in advance of the retention memo, three of which were duplicated on the retention memo. One of the duplicated complaints (C18-ICE-PHL-03993) referenced a hunger strike that was prompted by problems with law library access. The sole complaint that raised concerns about appropriate medical care (C17-ICE-NYC-20567) was not on the retention memo.

While the complaints that prompted the current investigation were not directly related to mental health services, an assessment of mental health programming including mental health response to a hunger strike in accordance with National Detention Standards (NDS) was requested.

Method of Review

Prior to the site visit relevant NDS and material provided by the facility were reviewed (relevant BCJ policies, provided healthcare records, material on quality improvement activities and staffing patterns).

During the site visit I toured the facility including the booking area, infirmary, mental health housing unit for male detainees, general housing units for male and female detainees and the segregation unit. During the site visit I reviewed the following documents:

1. Policy and procedures
2. Suicide prevention material
3. Medical Management Committee Minutes
4. National Commission on Correctional Health Care report
5. Chronic care roster for detainees receiving mental health services in the past year
6. 35 detainee healthcare records (see Appendix 1) were chosen from the following sources:
 - a. List of detainees placed on suicide watch during the previous 12 months
 - b. List of detainees identified with mental health concerns on the chronic care list
 - c. Detainees admitted during the previous three months

- d. List of detainees whose complaints prompted the current review
- e. Detainees that submitted sick slips during the previous year

Additionally, I conducted group interviews in general population housing units alongside the medical expert and conducted individual interviews (Appendix 2) with two detainees. These interviews were conducted with the aid of a qualified Spanish-language interpreter when needed. I also interviewed Patrick Hughes, LCSW (Mental Health Director) and (b)(6) (psychiatrist) and (b)(6) (b)(6) (Director of Nursing).

Analysis, Conclusions and Recommendations

Overall Mental Health Care/Program

The following section provides a review of compliance with NDS standards as they pertain to mental health care programming at BCJ.

Mental Health Programming

Standard NDS 2000, INS Detention Standard Medical Care, IIIA, General “The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community.”

Reviewed mental health policies were reasonable and set practice requirements above NDS standards. BCJ is accredited by the National Commission on Correctional Health Care (NCCHC).

The mental health department includes one full-time mental health director, three full-time licensed clinical social workers and two part-time psychiatrists that provide a total of 26 hours of on-site services. Social workers are on site Monday through Saturday and psychiatric staff are on-site Monday through Friday. Psychiatric staff and the Mental Health Director are on-call seven days a week, 24 hours a day.

Detainees who need specialized mental health housing are housed in the mental health unit, C2. At present there is no specific admission or discharge criteria, other than the individual “suffers from an established or suspected mental illness and is unable to function adequately in general population (Mental Health Screening and Evaluations policy). Detainees are admitted to the mental health unit by mental health staff using clinical judgment. A psychiatrist and social worker complete daily rounds on this unit. Two groups are also facilitated on the unit by mental health clinicians. At the time of the site visit there were no detainees on the mental health unit.

Detainees in need of acute hospitalization or stabilization at any time during their incarceration are transferred to Bergen Regional Medical Center D-1 Unit which has five mental health beds. There have been no incidents of emergency psychiatric medication, use of mental health seclusion or restraints for the past year for detainees.

BCJ does not have a policy regarding caseload and the mental health department does not maintain an active caseload list. The number of detainees that are actively followed by mental health staff was unable to be determined. The need for a tracking system for detainees that receive ongoing mental health services is discussed in the recommendations section.

Healthcare record reviews and interviews with staff and detainees confirmed there is limited ongoing mental health care provided at BCJ. Services focus on medication management, case management and crisis management. Provision of individual therapy is based on clinical judgment and is rarely conducted. In contrast, detainees indicated that they wanted counseling for trauma symptoms during a group interview on C4. A need for increased programming is discussed further in the recommendations section.

The Quality Improvement program at BCJ is reasonable. Multidisciplinary meetings are held monthly and general utilization of services was discussed. Audits were conducted on the admission nurse's documentation to ensure proper suicide risk assessments were conducted and appropriate referral to mental health from admissions. A process study regarding medication compliance was conducted.

Confidentiality

Standard NDS, 2000 INS Detention Standard Medical Care, IIIB, Facilities "Adequate space and equipment will be furnished in all facilities so that all detainees may be provided basic health examinations and treatment in private."

An initial suicide assessment is completed by custodial staff in the booking area (either through the control window in the entrance way or a cubicle located in the center of the booking area). Neither location offers the detainee privacy or confidentiality. A recommendation for a private location is made in the recommendations section. The office the nurse uses to complete the initial mental health assessment in the booking area was fully confidential.

Detainees are seen by psychiatric staff in the infirmary which offers confidential space. Detainees are typically seen by a qualified mental health professionals on the housing unit for the mental health evaluation and any individual contacts, including sick slips. Staff reported that the space was confidential, however, during the site tour, rooms were observed as not confidential to sight as other detainees on the housing unit could readily see the detainee and clinician in the interview room.

We experienced some difficulty conducting a private interview with the one detainee in the segregation unit during the site visit. We requested a private interview and there was resistance from custodial staff as they would have to escort the detainee off the unit since there was no option for a private interview on the segregation unit. The detainee was escorted to the infirmary where the interview was conducted. This raised concerns about the feasibility of mental health being able to conduct private interviews with detainees in segregation.

Assessment of Mental Health Needs

Standard NDS, 2000 INS Detention Standard Medical Care, IIID, Medical Screening (New Arrivals) "All new arrivals shall receive initial medical and mental health screening immediately upon their arrival by a health care provider or an officer trained to perform this function. This screening shall include observation and interview items related to the detainee's potential suicide risk and possible mental disabilities, including mental illness and mental retardation."

Assessment of mental health needs begins upon admission. As part of the booking process a nurse completes an initial mental health assessment which includes a suicide risk assessment. After the assessment the nurse makes a determination of whether the detainee requires suicide precautions

(Level I or Level II described in the suicide prevention section below). Other referral decisions include Routine Referral, Medical Detox Referral or No Referral.

Routine referrals are made for detainees who have a mental health history or concern. Detainees who are referred for Routine Referrals are seen by a qualified mental health professional (licensed professional counselor, social worker or psychiatrist) within 72 hours for a mental health evaluation. Medical detox referrals are made when detainees require medical detox from drugs and/or alcohol and are seen by mental health within a week of referral. The No Referral category is used for detainees who are assessed by the nurse as not having a mental health concern. These detainees do not receive a mental health evaluation. A recommendation for mental health to complete a mental health assessment with all detainees is discussed in the recommendations section.

Per BCJ policy “appropriate” detainees are referred for a psychiatric evaluation, staff explained that this was based on detainee’s needs and past history. Specific guidelines for signs or symptoms that warrant a psychiatric referral is recommended. Psychiatric referrals initiated from the mental health evaluation are seen the week of admission. Psychiatric referrals initiated for detainees on the mental health unit are seen within 24-48 hours. These timelines are based on institutional practice; memorialization in a policy is recommended. The psychiatrist reported good access to formulary medication. There were no concerns receiving approval for non-formulary medications.

Sick Call

Standard NDS, 2000, INS Detention Standard, Medical Care, IIF, Sick Call “All facilities must have a procedure in place to ensure that all request slips are received by the medical facility in a timely manner.”

Sick slips are triaged timely by nursing staff. If the request is received after hours and deemed an urgent mental health need, the nurse places the detainee on suicide precautions. For non-emergent requests, the nurse submits an order which is reviewed daily by mental health. The mental health director indicated that detainees were typically seen within 24 hours, which is in accordance with NCCHC standards. However, only 5 of the 10 randomly chosen detainees who submitted sick slips were seen within 24 hours. The remainder were seen between two and five calendar days with one not seen at all. The detainee who was not seen by mental health submitted two separate slips (Augusts and December 2017) both of which requested a Halal tray which nursing believed was processed through the mental health department. The nurse submitted the order for the Halal tray at the time the oversight was discovered. During the site visit, we were informed that the Mental Health Director also served as the Religious Programs Coordinator. This might have resulted in the confusion for the Halal tray.

At the time of the site visit there was no log that allowed for tracking and monitoring of sick slips by the mental health department.

Overall, interviewed detainees were aware how to access mental health for emergency and non-emergency needs. The process was reviewed for the few detainees that were unaware.

Suicide Prevention

Standard NDS, 2000, INS Detention Standard, Suicide Prevention and Intervention, I-IV

BCJ has not had a completed suicide for at least ten years. A log of three incidents of self-harm was provided in advance of the site visit, but once on-site it was confirmed that there have been no incidents of self-harm amongst detainees for the past year. At the time of the site visit there were no detainees on suicide precautions.

Suicide prevention training for all staff occurs on an annual basis. Correctional officers receive training separately from healthcare staff. Recommendations for both trainings are discussed under the recommendation section.

Identification of the risk of suicide begins at the time of admission and is ongoing throughout the detainee's incarceration. Custodial staff assess the detainee upon admission followed by a more comprehensive assessment by nursing staff. Any time during a detainee's incarceration, custodial staff with concerns about a detainee's mental status alert medical or mental health.

Regarding suicide precautions, BCJ uses a level system (Level I, II or III) for detainees deemed a risk of harm to themselves or others. Placement on a Level can be initiated by medical or mental health staff but must be discontinued by mental health staff. Conflicting language was used to describe the use of Level I in BCJ policies. Specifically, the Suicide Prevention Program policy indicated that Level I is for detainees that pose a "potential danger." In contrast the Mental Health Screening and Evaluations policy indicated that Level I is for those "who appear to be an immediate danger." This discrepancy will need to be resolved. Practice suggests that the "potential for danger" is more likely the guiding criteria for Level I. Detainees that are assessed as high or imminent risk are transferred to Bergen Regional Medical Center for psychiatric hospitalization.

Detainees on Level I are monitored at least every 15 minutes at staggered intervals by custodial staff. Access to property is limited to a suicide safe gown and suicide resistant mattress. Female detainees are housed in the infirmary; male detainees are placed in a single cell on the mental health unit which can be changed to housing in the infirmary at the discretion of the psychiatrist. Level I must be discontinued by a mental health professional. Detainees are typically evaluated by mental health staff Monday – Saturday. Recommendations to the policy are discussed in the recommendations section.

Two rooms (rooms 8 and 12) in the Infirmary/C1 are designated for detainees placed on Level I. The rooms are visible from the nurses' station, located in the center of the Infirmary. In addition to a glass door and windows that offer full view of the room, supplemental monitoring of the rooms is conducted by camera. Despite good visibility, these rooms are not fully suicide resistant due to grates in the ceiling and a protruding sprinkler. Recommendations to improve safety are made in the recommendations section.

Per policy, detainees are placed on Level II when the detainee has a "high potential to become unstable easily" and upon return from psychiatric hospitalization at Bergen Regional Medical Center. Detainees on Level II are monitored every 30 minutes by custodial staff. There are no property restrictions. Male detainees are monitored on the mental health unit and female detainees are housed on N3E. An officer's station is located in close proximity to N3E. Two officers are tasked with multiple responsibilities in this busy area including the 30 minute observation of detainees on Level II which is supplemented by camera. Detainees on Level II are seen by medical/mental health twice weekly. Criteria to discontinue the use of Level II will need to be added to the policy as well as specific monitoring by mental health staff.

A review of the policy implies that Level III, Reduced Observation is routinely used for “detainees who are stepping down off of levels.” However, staff reported that Level III is used on a case by case basis. This warrants clarification. Males are housed on the mental health unit and females are housed on N3C. There are no property restrictions or specific monitoring requirements by custodial staff. Detainees on Level III are seen by mental health at least once a week.

BCJ does not currently utilize a formal definition for self-harm or a suicide attempt. It was reported that an incident is categorized as a suicide attempt by nursing staff if the detainee requires hospitalization. Consideration of a uniform definition and distinguishing between self-harm and a suicide attempt is warranted.

Placement in segregation is a risk factor for detainees. All detainees are screened by medical staff in the Infirmary prior to placement in the segregation unit. While not clearly stated in policy, institutional practice is that when a detainee has a mental health history, is agitated or suicidal, the detainee is also evaluated by mental health prior to placement in segregation. When detainees are contra-indicated for segregation they can be placed in the mental health unit. Considerations for contra-indication were current psychosis and potential for exacerbation of symptoms in segregation. These are positive practices that were not explicit in the policy. Policy recommendations are discussed in the recommendations section.

The institution maintains a Special Management Cell (cell 33) in the segregation unit. This cell is used for Special Management Status, in which detainees that are have incurred a disciplinary infraction and by BCJ policy are “attempting to manipulate the mental health system.” Detainees are monitored at least every 15 minutes and have the same property restrictions as detainees placed on Level I. This cell was not suicide resistant as there were multiple points where a detainee could attach a noose. The placement of a detainee who is behaviorally distressed and at risk of self-harm in a segregation unit is concerning. This practice should be discontinued.

Mental health staff conduct rounds in segregation on all detainees once a week. Thus, if a detainee is not evaluated by mental health at the time of admission to segregation it could be up to a week before the detainee is assessed by mental health. Increased monitoring by mental health staff is discussed in the recommendations section.

Hunger Strike

Standard NDS, 2000, INS Detention Standard, Hunger Strikes, IIIA, IIIB, IIID

When a detainee initiates a hunger strike at BCJ, the detainee is referred to mental health for an evaluation. Follow-up by mental health is conducted as clinically indicated. Proper protocol was followed and appropriate mental health assessment was provided to the detainee whose complaint (C18-ICE-PHL-03993) referenced a hunger strike.

Review of Healthcare Records

A total of 35 different healthcare records were reviewed (five complaints, nine from mental health Levels (suicide precautions), two from detainee interviews, ten from detainees referred to mental health from booking and ten to assess review of sick slips). Some files were utilized for dual purposes. As previously indicated, there were no complaints directly related to mental health care at

BCJ. Thus, general observations that are critical access to care and mental health programming areas are provided below. A list of records reviewed is available in Appendix 1.

Twelve incidents from nine different detainees placed on suicide precautions during the past year were reviewed. Healthcare records were selected from the Level Log. Two detainees had two placements on suicide precautions. Six were initiated by the nurse upon admission to BCJ, two of which were placed on Level I; four were placed on Level II. Suicide precautions did not exceed two days. One resulted in a referral to Bergen Regional Medical Center within a day. There was no use of Level III. Documentation regarding rationale for placement was variable. Documentation was lacking in all cases for 1) clinical rationale for discontinuation or continuing the watch 2) review of pertinent mental health documentation 3) clinical interventions to assist detainees in managing distress and 4) safety planning 5) mental status and functioning. While one case had consistent psychiatric contact, clinical contact by mental health after discharge from Level I or Level II was minimal and not routine.

Of the 12 incidents described above, there were three brief incidents of the use of Special Management Status (SMS) for two detainees. Justification for placement on SMS for one detainee (Case 3) was unclear. The other detainee (Case 4) had two incidents of SMS placement which were concerning and also inconsistent with policy. This detainee reported a diagnosis of Bipolar Disorder upon admission and was followed for two consecutive weeks by the clinician with a plan to follow-up with him upon return from vacation, a positive finding. However this planned contact did not occur. Two months later the detainee was placed on SMS for agitation, lack of cooperation and a positive mental health history and sent to Bergen Regional Medical Center for psychiatric hospitalization the next day. This suggests that the detainee's distress was genuine and not manipulative as required by policy or the use of SMS. The detainee returned from the hospital five days later and was initially placed in the mental health unit but then cleared for the disciplinary unit. Within three days he was placed on Level I on the mental health unit due to a report that he was suicidal.

Ten healthcare records were reviewed for mental health response to detainee's non-urgent mental health request. Of the nine sick slips that were followed up on by mental health, seven or 77% resulted in psychiatric referrals, six of which (66%) were for complaints of disturbed sleep. Psychiatric medication was prescribed for all seven cases. Clinician interventions addressing sleep hygiene were not documented. Clinician assessments were brief and limited to the detainee's complaint, broader clinical assessments were not completed. As an example, one detainee (Case 30) indicated he was experiencing visual hallucinations of shadows. During the mental health contact, the detainee denied submitting the sick slip. The detainee report was taken at face value and further assessment (bullying, minimizing symptoms) if completed was not documented.

Ten healthcare records were reviewed to assess the process from point of referral from the initial mental health screen (completed by the nurse at the time of booking) to mental health. Consistent with policy that routine mental health evaluations are completed within 72 hours, nine of the ten detainees were seen within the required timeframe. Five were seen within 24 hours, two of which were on the day of admission. Of the referrals, six evidenced a current symptom or history of symptoms/treatment; five of which were quickly routed to the psychiatrist and psychiatric medication was prescribed. Of the remaining referrals, the nurse exercised caution and good clinical judgment based on detainee's situational stressors.

A review of practices at BCJ indicated that the nursing staff maintain a low threshold for placing detainees on suicide precautions at the time of admission and initiating referrals to mental health. Mental health exercises good judgment when the distress or symptom is obvious. However, there is a need for improvement in assessment, early intervention and management of detainees whose symptoms are subtle or prodromal. Staff had difficulty with cases that require critical thinking regarding the impact of the correctional environment on one's mental status including exacerbation of symptoms and the stressors incarcerated detainees encounter. A few cases are described below to highlight these findings and the need for a procedure to monitor detainees:

1. At the time of admission, the nurse exercised good clinical judgment and referred a detainee (Case 21) for a mental health evaluation due to a history of sexual abuse. Documentation from the mental health evaluation did not fully assess the trauma history; any impact on the detainee's mental status/functioning including known trauma symptoms or consider how symptoms might manifest in a correctional environment.
2. At the time of admission a detainee (Case 33) reported a mental health history that included a suicide attempt four months prior, a diagnosis of Schizophrenia and auditory hallucinations. He was placed on Level I from admissions. During the mental health evaluation the following day he denied any auditory hallucinations and indicated that his symptoms stopped when he discontinued marijuana use. Level I was discontinued and there was no further contact with mental health despite his report of a serious mental illness until he submitted a sick slip six months later requesting psychiatric medication for auditory hallucinations and Schizophrenia. A clinician saw him two days later and described him as stable with no further follow-up and no psychiatric referral. Collateral documentation from ICE (available in the healthcare record) supported a psychiatric hospitalization for auditory hallucinations and Schizophrenia. A request for psychiatric follow-up with this detainee was made during the site visit when this case was discussed with the Mental Health Director and psychiatrist.
3. One detainee (Case 12) reported mood lability when his mental health evaluation was completed but indicated he could manage his symptoms and there was no further mental health follow-up planned. Within five days, he submitted a sick slip and was referred to the psychiatrist. A more in depth psychiatric assessment indicated symptoms that warranted a diagnosis of Bipolar Disorder.
4. A detainee (Case 20) who denied any mental health history upon admission was not referred to mental health. A month after he was admitted, he was referred to mental health by ICE staff due to bizarre behavior. The plan was to follow-up with him the following week but this did not happen. He was not seen again until three months later which was prompted by another referral to mental health. At that time he was transferred from the general population housing unit to the mental health unit.
5. Another case was particularly troubling (Case 31). This detainee was one of two interviewed detainees and indicated that his symptoms had not improved since admission. This detainee had several incidents of prolonged (ten to eighteen days) Level I or SMS placements in a seven month timeframe. Prolonged periods of observation were unusual based on the previous record reviews. During one incident it was unclear when the observation period ended or what type of observation he was on. Consistent with healthcare records selected from the Level Log above, documentation did not provide a rationale for continuing the Level I or SMS or any clinical interventions (supportive therapy, motivational interviewing,

review of coping skills, safety planning or anger management) other than medication. After his third and longest observation period he was referred for inpatient psychiatric care at Bergen Regional Medical Center where he remained for three weeks. Despite his prolonged periods of distress and recent psychiatric hospitalization, upon his return from the hospital mental health contact was minimal and there was no psychiatric contact other than a medication change three months later with no accompanying clinical note. After reviewing the lapse in contact this detainee experienced, this writer requested that nursing staff submit an electronic order for the detainee to be seen by the psychiatrist.

6. A detainee (Case 23, Complaint No 18-01-ICE-0034) was discharged from Bergen Regional Medical Center where he had been psychiatrically hospitalized for two months. Other than placement on Level II per policy there was no mental health documentation following his return to BCJ from the hospital. Five days later custodial staff utilized OC spray on him after he was reportedly aggressive and refused to comply with staff orders to his bunk. Psychiatric staff transferred the detainee back to Bergen Regional Medical Center with a notation that he had been decompensating since his return from the hospital.

Recommendations and Rationale

Each recommendation below is designated as either Level I (highest priority and essential), Level 2 (important) or best practice.

Recommendations are derived from insufficient policies and procedures in meeting the following overarching National Detention Standard: Standard NDS 2000, INS Detention Standard Medical Care, IIIA, General “The OIC will also arrange for specialized health care, mental health care, and hospitalization within the local community.” Where applicable, relevant National Detention Standards and Standards for Mental Health Services in Correctional Facilities, NCCHC are specified.

Level 1

Recommendation: All detainees should receive an initial mental health assessment by mental health staff within 14 days of admission. Prioritization of completing the assessment based on mental health needs will be useful in managing this increased workload.

Rationale: NCCHC, Standards for Mental Health Services in Correctional Facilities MH-E-04 Mental Health Assessment and Evaluation, essential

Recommendation: At present, male detainees in need of suicide precautions and assessed as Level I are placed on the mental health unit. It is recommended that the use of the mental health unit for Level I detainees be discontinued. Instead, it is recommended that Level I detainees be placed on the Infirmary.

Rationale: Placement of detainees on suicide precautions in a healthcare environment is the standard of care in correctional environments. Expedient access to medical staff in the event of any self-injurious behavior is critical to safety. The infirmary is a medical unit and therefore more therapeutic environment than the mental health unit. Lastly, the layout of the Infirmary provides more privacy for distressed detainees than the mental health unit.

Recommendation: The placement of a detainee who is behaviorally distressed and at risk of self-harm due to a presumption of manipulating the mental health system in a segregation unit is very concerning. The use of Special Management Status as outlined in the current policy should be discontinued. Any detainee who evidences psychiatric distress should be evaluated by mental health staff. Mental health staff should conduct a risk assessment with the detainee. If mental health opine that the detainee is suicidal or at risk of engaging in self-injurious behavior then the detainee should be placed in the Infirmary on Level I. If the assessment determines that the detainee is not at risk of self-harm or that the behavior is not due to a mental illness, mental health staff should communicate their findings to custodial staff. Any decisions to limit property or increase observation should be made by custodial staff in these cases.

Rationale: Placement of a detainee who is behaviorally distressed into an at-risk environment places the detainee at risk of self-harm. Further, the American Psychiatric Association (APA) noted that “inmates who are in severe psychiatric crisis, including but not limited to acute psychosis and suicidal depression, should be removed from segregation until such time as they are psychologically able to tolerate that setting (APA, Psychiatric Services in Jails and Prisons. Washington, DC (2000)).

Recommendation: Reviewed training materials for custodial and healthcare staff did not cover each area required by NDS. Institutional staff should ensure all areas (see standard below) are covered during training for all disciplines. Additionally, content covered should include: 1) signs and symptoms of mental illness and 2) the following risk factors for suicide: incarceration, segregation and new serious medical diagnosis.

Rationale: Standard NDS, 2000, INS Detention Standard, Suicide Prevention and Intervention, IIIA, Training. The standard states that training should cover, “recognizing signs of suicidal thinking, including suspect behavior, facility referral procedures, suicide prevention techniques, and responding to an in-progress suicide attempt.”

Recommendation: Rooms 8 and 12 in the Infirmary used for Level I detainees are not suicide resistant due to grates in the ceiling and a protruding sprinkler head. Detainees should be placed on 1:1, constant observation until these issues can be rectified by the institution.

Rationale: Standard NDS, 2000, INS Detention Standard, Suicide Prevention and Intervention, IIIC Housing/Hospitalization. The standard states that “If danger to life or property appears imminent....requires close supervision in a setting that minimizes opportunities for self-harm....the isolation room will be free of objects or structural elements that could facilitate a suicide attempt” and NCCHC, Standards for Mental Health Services in Correctional Facilities MH-G-04 Suicide Prevention Program, essential

Recommendation: Level I detainees are placed in isolation cells; due to the isolation constant observation is required.

Rationale: NCCHC Standards for Mental Health Services in Correctional Facilities MH-G-04 Suicide Prevention Program, 1d when a “non-acutely suicidal inmate is placed in an isolation cell, constant observation is required.....” and “unless constant supervision is maintained, a suicidal inmate is not isolated...”

Recommendation: Concern with confidential mental health contacts were evident during the site visit.

- a. Questions assessing risk by custodial staff during booking should be held in a private and confidential setting that allows for confidentiality of sight and sound.
- b. Mental health contacts do not routinely occur in confidential settings. Mental health evaluations or clinical contacts should be held in a private and confidential setting that allows for confidentiality of sight and sound.
- c. A policy and procedure for private mental health contacts for detainees in segregation is needed.

Rationale: Standard NDS, 2000 INS Detention Standard Medical Care, IIB, Facilities “Adequate space and equipment will be furnished in all facilities so that all detainees may be provided basic health examinations and treatment in private.”

Recommendation: Conflicting language regarding the use of Level I needs to be resolved. Specifically, the Suicide Prevention Program policy indicated that Level I is for detainees that pose a “potential danger.” In contrast, the Mental Health Screening and Evaluations policy indicates Level I is for those “who appear to be an immediate danger.”

Rationale: Standard NDS, 2000, INS Detention Standard, Suicide Prevention and Intervention, IIB

Recommendation: Documentation for detainees discharged from psychiatric hospitalization, placed and maintained on suicide precautions (Level I or Level II) needs to include rationale for placement, mental status and functioning, continuation and discontinuation of the watch, consideration/acknowledgement of prior relevant mental health documentation, safety planning, discharge planning, treatment interventions and an appropriate plan for follow-up by mental health once the suicide precautions are discontinued.

Rationale: Standard NDS, 2000, INS Detention Standard, Suicide Prevention and Intervention, I-III and NCCHC, Standards for Mental Health Services in Correctional Facilities MH-G-04 Suicide Prevention Program, essential

Recommendation: BCJ needs to maintain a tracking system for detainees that receive ongoing mental health services, such as an active caseload list. There is also a need to develop a policy regarding placement on the caseload list.

Rationale: At present, the institution does not have a reliable process to track detainees that are in need of ongoing mental health care. Documentation in healthcare records indicated a plan to follow-up with detainees in specified timeframes but this did not occur. Further, caseload data could assist with staffing needs.

Recommendation: A review of practices at BCJ indicated a significant need for improvement in assessment, early intervention and management of detainees whose symptoms are subtle. Staff had difficulty with cases that required critical thinking regarding the impact of the correctional environment and the stressors incarcerated detainees encounter that can have an impact on one’s mental status including the exacerbation of symptoms. Further, expansion of clinical services and comprehensive treatment planning (individual and group therapy, and provision of therapeutic reading) for any detainee with mental health needs is warranted.

Rationale: NCCHC, Standards for Mental Health Services in Correctional Facilities MH-G-02, Mental Health Programs and Residential Units, essential

Recommendation: A staffing assessment is needed to determine if BCJ has sufficient staff to complete assessments and treatment interventions outlined above.

Rationale: Standard NDS, 2000, INS Detention Standard, Medical Care, IIIA

Recommendation: The institution should revise the Use of Force policy, including use of OC spray with detainees in mental health housing or those on suicide precautions. In these situations, prior to any Use of Force, assessment by mental health staff is recommended to determine if the detainee is unable to conform his/her behavior due to his/her mental illness and utilize crisis intervention as clinically indicated.

Rationale: The use of chemical agents or Use of Force with mentally ill detainees, who because of their mental illness are unable to conform their behavior, has been opined as a violation of constitutional rights in Florida and California.

Recommendation: Policy and procedures for detainees in segregation needs specification for evaluation by mental health prior to and upon placement in segregation and contra-indication to segregation. Presently, institutional practice is that if a detainee has a mental health history, is agitated or suicidal the detainee is also evaluated by mental health prior to placement in segregation. Otherwise, detainees are seen during weekly mental health rounds. [Best practice would be to increase rounds from weekly to three times a week]. Considerations for contra-indication were current psychosis and potential for exacerbation of symptoms in segregation. When detainees are contra-indicated for segregation they can be placed in the mental health unit.

Rationale: NCCHC, Standards for Mental Health Services in Correctional Facilities MH-E-07, Segregated Inmates

Recommendation: Timely contact of a face-to-face encounter with mental health staff following receipt of a sick slip is an area in need of improvement. NCCHC requires contact within 24 hours of receipt of the sick slip. A tracking log that can be used for monitoring may be useful.

Rationale: NCCHC, Standards for Mental Health Services in Correctional Facilities MH-E-05, Nonemergency Mental Health Care Requests and Services

Level 2

Recommendation: Policy changes to the Suicide Prevention Program policy are recommended. First, the policy indicated that detainees on Level I “may” be provided with a suicide safe blanket. Recommend that this be changed to language that clearly states that provision of a blanket is standard unless clinically contra-indicated. Second, the policy indicated that detainees are provided with “eating utensils.” Recommend that this be changed to “finger foods” which meets safety needs for the detainee and is consistent with institutional practice. Recommend adding approval for therapeutic reading.

Rationale: This will minimize any errors in the provision of property for at-risk detainees.

Recommendation: The Suicide Prevention Program policy does not indicate the process to discontinue Level II.

Rationale: Standardize clinical practice and clarification for detainees.

Recommendation: A review of the policy implies that Level III, Reduced Observation is routinely used for “detainees who are stepping down off of levels” but staff reported that it is used on a case by case basis. This warrants clarification.

Rationale: Standardize clinical practice and clarification for detainees.

Best practice

Recommendation: Policy language combines medical/mental health staff regarding frequency of contacts for detainees on Level II status.

Rationale: Frequency of mental health contact should be specified clearly and separate from medical contact for these at-risk detainees.

Recommendation: Female detainees on Level II are monitored every 30 minutes by officers with multiple responsibilities in a busy area of the institution. It is recommended that a dedicated officer be tasked with completing the required observation.

Rationale: Observation of the officers’ area indicated that it was very busy and officers had multiple responsibilities to attend to. The design of the area placed their backs to the area where women on Level II were housed.

Recommendation: There is no discharge criteria for detainees placed on the mental health unit. Recommend that clear discharge criteria be added to the policy. Development of a brochure for the unit would be beneficial.

Rationale: Standardize clinical practice and clarification for detainees.

Recommendation: Including specific guidelines for signs or symptoms that would warrant a psychiatric referral and timelines for psychiatric follow-up to policy is recommended. Current policy indicates that referrals occur as “appropriate” with no specific timeframe for follow-up by psychiatric staff.

Rationale: Standardize clinical practice.

Recommendation: BCJ does not currently utilize a formal definition for self-harm or a suicide attempt. Consideration of a uniform definitions is warranted.

Rationale: Aid in treatment planning and improve the ability to distinguish between self-harm and suicide.

Appendix 1

Healthcare files reviewed

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Appendix 2

Interviewed detainees

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Report for the U.S. Department of Homeland Security
Office for Civil Rights and Civil Liberties

Bergen County Jail, Hackensack, NJ

Complaint Numbers
Contact-DHS-18-0612
Contact-DHS-17-2887
Contact-DHS-17-2892

Prepared By: (b) (6)

MS, RD, LD/N, REHS/RS, CPFM, CJM
4/6/2018

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Introduction

On March 27 – 29, 2018, I assessed the environmental health and safety conditions pertaining to U.S. Immigration and Customs Enforcement (ICE) detainees at the *Bergen County Jail* in Hackensack, New Jersey. This onsite investigation was provided under contract with the United States Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL). Accompanying me on this investigation were (b) (6) Policy Advisor, CRCL; (b) (6) Policy Advisor, CRCL; as well as three other subject matter experts who examined Bergen County Jail's medical and mental health care, and correctional operations.

The purpose of this onsite was to investigate complaints made by ICE detainees of various alleged violations of civil rights and civil liberties at the Bergen County Jail. In particular, the allegations contained in Contact-DHS-18-0612, Contact-DHS-17-2887, and Contact-DHS-17-2892 were examined. These complaints raised allegations of poor quality food, insufficient amounts of food, not being served three meals per day, and problems with shower water temperature. This investigation was conducted to obtain an impression of the validity of the allegations by assessing the facility's adherence to applicable standards and best practices related to environmental conditions. The areas reviewed included food service, laundry, fire and life safety, chemical control, housekeeping and sanitation, pest control, maintenance, and potable water. This review included visiting the housing units, kitchen, laundry, barber service area, medical clinic and housing, and the intake area.

Qualifications

(b) (6)

Methodology

The basis of this report includes document reviews, tour of the facility, detainee interviews, facility staff interviews, visual observations, and environmental measurements. The findings and recommendations contained in this report are solely those of the author. The report cites specific examples of conditions found during this review; however, they should not be considered as all-inclusive of the conditions found during the inspection. Consideration was given to national and state standards including the 2000 National Detention Standards (NDS

2000) and Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, published by the American Correctional Association (ACA).

I would like to extend my sincere appreciation to Warden S. Ahrendt and his staff. The facility employees were helpful, respectful, accommodating, and placed no limitations on my requests. Their cooperation and assistance is greatly appreciated.

Facility Overview

The Bergen County Jail has a rated capacity of 1,150 beds. This facility provides detention in a Direct Supervision environment for both sentenced and unsentenced male and female inmates in a minimum, medium, and maximum security environment and also contracts for the detention of ICE detainees. The total ICE detainee population on March 27, 2018, was 365. The Bergen County Jail is operated by the Bergen County Sheriff's Office, however some services, such as Food Services are contracted. The Bergen County Jail houses both male and female detainees, and has a diverse detainee population from multiple nationalities. Spanish is the most common language spoken amongst detainees. The 2000 National Detention Standards (NDS 2000) are applicable to this facility.

Findings

Complaint Numbers: Contact-DHS-18-0612, Contact-DHS-17-2887, and Contact-DHS-17-2892 - Food

Contact-DHS-18-0612 alleges that detainees are consuming very bad quality food and the detainees are forced to dine in the stairwell due to the lack of space in the cafeteria. Contact-DHS-17-2887 alleges that Bergen County Jail is not providing the appropriate food. Contact-DHS-17-2892 alleges that Bergen County Jail does not give detainees enough food, some days they are not fed breakfast and must wait until dinner, and they are given very little to eat during dinner, and detainees are forced to eat what is given to them at lunch or wait until the next day to eat.

Findings: The allegations (Contact-DHS-18-0612) that detainees are consuming very bad quality food and the detainees are forced to dine in the stairwell due to the lack of space in the cafeteria is unsubstantiated. The allegation (Contact-DHS-17-0887) that Bergen County Jail is not providing the appropriate food is unsubstantiated. The allegations (Contact-DHS-17-2892) that Bergen County Jail does not give detainees enough food, some days they are not fed breakfast and must wait until dinner, and they are given very little to eat during dinner, and detainees are forced to eat what is given to them at lunch or wait until the next day to eat is unsubstantiated.

Applicable Standard: The NDS 2000 Food Service standard is applicable.

Analysis:

Food Service operations in the Bergen County Jail are contracted with Aramark. There is a dietitian that provides quarterly reviews and an annual review and certification of all menus provided by Bergen County Jail. The last certification of the menus was dated October 1, 2017. Therefore, all menu certifications comply with the NDS 2000 Food Service standard stating, "A registered dietitian shall conduct a complete nutritional analysis of every master-cycle menu planned by the FSA. Menus must be certified by the dietitian before implementation". The master-cycle menu averages 3,000 calories per day, which is adequate to meet the caloric needs of most healthy detainees.

Bergen County Jail does have a therapeutic diet and faith-based diet program. Therapeutic diets include diets such as Cardiac, 2800 Diabetic, Bland, Dental soft, and various diets for allergy/food intolerance, such as lactose intolerant, gluten resistant, and egg allergy. The faith-based diets consist of Kosher and Halal. Bergen County Jail also observes faith-based celebration/ceremonial times, such as serving Passover meals during Passover.

The Regular and Diet menus for the Bergen County Jail are on a five-week menu cycle. Milk is served at breakfast on the regular diet two days per week; however, on diet menus, for example the Kosher and Halal menus, it is served seven days per week. Fresh fruit is shown on the menu two times per week on the regular menu, never at breakfast, but some menus have a fruit once in seven days at lunch and once in seven days at dinner, other menus have fresh fruit twice in seven days, both times during a lunch meal. Juice is served at breakfast, however, it is 50% real juice. Some menus, such as the Kosher menu, have fresh fruit shown on the menu for breakfast, lunch, and dinner every day. During interviews with the detainees, some detainees reported that they get fresh fruit one time per week. On March 28, 2018, I observed a fresh apple served at the lunch meal.

The food service at the Bergen County Jail is a cook serve operation. Detainees are fed on multi-compartment plastic insulated (reusable) trays in the housing areas. There is no detainee or inmate dining room. All meals are cooked and food is put on the trays via a trayline run in the kitchen. Meal trays, including those for therapeutic and faith-based diets are loaded onto delivery carts by floor and housing area as they come off of the trayline. When the total number of all meals needed for a particular housing area has been loaded onto the delivery cart, including the therapeutic & faith-based diets, the delivery cart is moved out into the hallway and delivery staff deliver the loaded cart

to the designated housing area. On March 28, 2018, I observed the lunch meal loaded in the delivery carts and visited housing unit S5 to observe the meal pass. The meal consisted of macaroni salad, salami, coleslaw, wheat bread, apple and mayonnaise. I observed the officer in unit S5 verifying the tray count to ensure that all meals for this unit were included in the delivery, including therapeutic and faith-based meals. Once the verification was completed, the detainees that are designated to assist with the passing out of meals put on plastic food serving gloves. Detainees formed a line and the meals were passed out to them one at a time. Detainees also had ice available to them dispensed from an insulated beverage container. The detainee passing out the ice was using his gloved hands to scoop the ice and place the ice in each detainee's cup. In accordance with the NDS Standard for Food Service, "Servers shall use scoops, tongs, or other approved utensils when handling or dispensing ice for consumption". Using gloved hands is not appropriate for dispensing ice for consumption. Detainees sat in the open dayroom area of the housing unit at multiple tables to eat their meal. After all meals were passed out, I walked around in the unit and observed the trays and spoke with various detainees about their meal and the food in general. Several detainees had peanut butter substituted for the Salami, and they explained that they were on the Halal menu.

During interviews with detainees, both male and female, some stated that some of the food at the Bergen County Jail is o.k., but most often the complaints were that portions are too small, there needs to be more variety, specifically potatoes are served much too often, fruit is only one to two times per week, and the same with milk. Many detainees also stated that the juice is like water, they referred to it as colored water. Some detainees also stated that the cornbread and cake is very "sandy". In addition, detainees suggested that Bergen County Jail should sell water in the Commissary. Detainees did state that they would like to see chicken served more often, and a greater variety of meals, more fresh fruit, milk more often, and definitely less potatoes. Detainees also stated that in reference to milk, they've expressed a desire to have milk more often, but were told they can purchase powdered milk from the commissary. A review of the menu cycle (Menu 1 – 5) for potato items reveals that between breakfast, lunch, and dinner meals, potatoes are served thirty-five times, in comparison to rice being served ten times, and pasta fourteen times. Potatoes are served at breakfast, but rice and pasta are served only on lunch and dinner meals. However, accounting for the breakfast meals that include potatoes, which is nine times, potatoes are still served the most on lunch and dinner. Some of the days, such as Week 2, Saturday, parsley potatoes are served at lunch, and mashed potatoes at dinner; Week 3, cottage fries are served at breakfast on Saturday and then oven stripped potatoes served the same day at lunch. This also occurs on Week 5, Saturday breakfast and lunch. Detainees

recognize this and voiced their dissatisfaction stating, "It's like we get potatoes every meal". A review of the menus also shows a variety of foods incorporating some ethnic variety. Since many detainees are of Hispanic background, it should also be considered to change some of the potato servings to rice, and include black beans or red beans along with rice. A Mexican variety would also go a long way to assisting with variety. Breakfast meals include hot cereal, scrambled eggs, pancakes, waffles, dry cereal, biscuits, and sausage. The master-cycle menu lists a variety of lunch entrees including Hotdogs and Hotdog buns, Charbroiled Patty and bun with cheese, Chili Con Carne with Beans, Spaghetti with Tomato Sauce. Side items at lunch include ranch pinto beans, coleslaw, mixed vegetables, salad with salad dressing, cottage fries, cornbread, biscuit, cookie, and brownie. Dinner meals include chicken patty, Amercian goulash, turkey ham, baked chicken, and Spanish rice. Side dishes at dinner include macaroni and cheese, mashed potatoes, refried beans, Au Gratin potatoes, Cajun potatoes, Scalloped potatoes, carrots, green beans, mixed vegetables, biscuit, roll, cookie, and iced cake.

The Bergen County Jail does comply with the NDS 2000 Food Service standard that specifies, "The FSA shall base menu selections on the best nutritional program the facility can afford" and "The overall goal of a quality food service program is to provide nutritious and appetizing meals efficiently and within the budgetary constraints, manpower resources, equipment and physical layout". However, I recommend greater emphasis on typical foods of detainee's ethnic backgrounds, working into the menus greater variety so that items served are not repeated so close together, such as the number of times potatoes are served and consideration for some fresh fruit on the menus, as well as milk more often. A menu review and modification will facilitate compliance with the NDS 2000 Food Service standard specifying, "The FSA shall consider the ethnic diversity of the facility's detainee population when developing menu cycles." And "Individuality in menu planning is encouraged". It is also understood that each facility must meet all ICE/ERO standards and follow required procedures, however, menu planning that takes into consideration foods that nationalities are accustomed to is encouraged.

A Regular Menu tray for lunch service on March 29, 2018, was requested and delivered to our work area. The meal consisted of Hotdogs, Hotdog buns, baked beans, coleslaw, mustard, and a cookie. Because detainees complained consistently about the food not being hot enough, particular attention was paid to food temperatures. The tray was observed immediately after I was informed that it was available in the employee breakroom. The hotdogs were both 105 degrees F, the baked beans were 138 degrees F, and the coleslaw was 64 degree F. NDS 2000 standards for Food Service Dining Room

and Satellite Feeding Operations require following procedures that apply to the display, service, and transportation of food to not only mainline but also satellite food service areas, with hot foods maintained at a temperature of at least 140 degrees F and foods that require refrigeration maintained at 41 degrees F or below. Therefore, the food temperatures for the hotdogs and beans was too low and the coleslaw was too high. NDS 2000 standards require food temperatures for hot food to be at least 140 degrees F and cold food to be maintained at 41 degrees F or below. This standard is in place because between 41 degrees F and 140 degrees F is a temperature range where bacteria growth is higher. This temperature range is known as the "temperature danger zone". When food items are held in the temperature danger zone, bacteria can multiply more rapidly and present the greatest possibility of having a foodborne illness outbreak. The Bergen County Jail foodservice operation must ensure that proper food temperatures are maintained not only during tray assembly from the trayline, but also during cart storage and delivery.

The Bergen County Jail kitchen is inspected by the Bergen County Department of Public Health. The most recent inspection was conducted on June 2, 2017. This was a routine inspection and the facility scored "Satisfactory". Routine inspections are unannounced inspections for the purpose of ensuring adherence to food safety standards and are not related to any complaint(s) received by the Health Department. There were a few violations noted on the inspection, such as the floor was in disrepair, cardboard was found in the freezer, and bags of flour were found left open. The inspector did note that the refrigerator and freezer temperatures, as well as the tray washer were all in compliance. The previous inspection from the Bergen County Department of Health was dated May 18, 2016. The floor was cited in that inspection also, but the kitchen also scored "Satisfactory". The floor has been rectified and has a nice epoxy seal in a blue/gray color.

During my inspection of the kitchen on March 28, 2018, the kitchen was found to be clean and orderly. The storage room was noted with flour and dry black beans behind multiple shelving units. My recommendation to the Food Service Administrator was to regularly remove food items from the shelving so the shelving can be moved completely out enough to conduct a comprehensive cleaning all along the walls. The food items in the storage room were all dated, and the oldest received items were in front, which indicates that the kitchen is following the first in, first out (FIFO) inventory method properly. There was no evidence of pests or vermin, nor was there evidence of expired, spoiled, or unwholesome food in any parts of the kitchen, including storage areas. The facility has a pest control contract with a reputable pest control provider and the kitchen receives monthly service, along with call back service whenever needed. I

reviewed several inspection documents for the kitchen. All non-compliant issues identified during these inspections are documented and corrective actions were taken and documented. The Food Service Administrator and Assistant Food Service Administrator both have a food safety manager certification through the National Restaurant Association's Educational Foundation ServSafe program.

During my tour and inspection of the kitchen, I also inspected equipment, behind equipment, under equipment, the coolers, freezer, food storage areas, janitorial storage areas, and chemical control. The equipment was found to be clean, behind and under equipment was clean, the floors and walls were clean, the janitorial storage area was clean and orderly as well as the food storage areas. In the chemical storage area, it was noted that there is a chemical inventory log, however, staff only record the daily inventory and when chemicals are received. They do not record when chemicals are taken out. Therefore, if chemicals are issued out, there is no perpetual inventory of the chemicals and the amount on hand is only known when the inventory is counted for the day. NDS 2000 Standards for Food Service require, "All staff members shall know where and how much toxic, flammable, or caustic material is on hand, aware that their use must be controlled and accounted for daily". In order to know how much is on hand at any given time, a perpetual inventory must be maintained, including what comes in, what goes out, and an accurate physical inventory count. The form used by the Bergen County Jail kitchen contains a column to record what is issued out, it just needs to be used. The FSA indicated that this issue would be corrected immediately.

The Bergen County Jail receives food items and ingredients for food preparation from reputable vendors. I reviewed receiving documents randomly selected for food items, ingredients, and supplies received by the Bergen County Jail. During my inspection of the kitchen and storage areas, all food items observed were dated and stock was rotated utilizing the first in, first out (FIFO) method as evidenced by checking dates on multiple items and comparing dates in the front and back of the storage shelves.

Also, during my kitchen inspection, on March 28, 2018, I checked the water temperature in all hand sinks. All four hand sinks were found with hot water temperature less than 100° F, which is out of compliance with the FDA Food Code requirement of a minimum of 100° F. I recommended to the FSA to contact the Maintenance Department and have them increase the temperature of the hot water to the hand sinks in the kitchen. Proper handwashing, including water temperature is a very important part of personal hygiene practice. The kitchen utilizes a flight type tray washer with heat sanitation in the final rinse. The temperature on the final rinse during my observation on March 28, 2018 was reading 190° F. A minimum of 180° F is required. Therefore, there was no

problem with the temperature of the tray washer for sanitizing purposes. I also reviewed multiple temperature logs for kitchen equipment, including cooler, freezer, and dishwasher temperature logs. All were found to be in compliance with food safety standards.

I observed during my inspection of the tray washing process many trays stacked on carts. The trays observed are currently part of in use trays for meal service. The trays are badly damaged on the rim of the tray, with multiple grooves and crevices formed by the damage. I questioned the Food Services supervisors about why the trays are in this condition and they replied that the trays are banged on a table by detainees and inmates that work in the kitchen to remove food before the tray goes through the tray washer. I discussed this issue at length with the Food Services supervisors. They demonstrated the problem that occurs with the trays that they feel is causing the damage. I recommended to them that they must find a way to stop this damage from occurring, as most importantly, the trays have countless grooves and crevices that can't possibly be sanitized properly, nor will the trays dry properly in the damaged areas. I stressed to the Food Services supervisors that however they decide to work out the solution is their decision, however, the tray damaging must be stopped in order to ensure that the trays are properly cleaned, sanitized and air dried as required by NDS 2000 Standard on Food Service and good food safety practices.

Detainees work in the kitchen during the breakfast and lunch meal preparations. All foodservice workers are medically cleared to work by medical staff prior to being assigned to work in the kitchen. Detainees receive orientation to the kitchen by the Assistant FSA/CS, and also on the job training. The detainees wear gloves, hair nets and beard guards if they have facial hair. Multiple detainees were observed wearing their beard covers below their chins; therefore, Bergen County Jail Foodservice staff must reinforce the requirement to wear the beard guard appropriately if they have facial hair. The food service staff were observed to be considerate of detainees in the kitchen area and work along with them in the various areas of the kitchen.

Conclusion:

The food service program at Bergen County Jail provides detainees with adequate meals, meeting nutritional value and caloric content adequate for most adult detainees. Bergen County Jail must ensure that food temperatures are maintained outside of the temperature danger zone and in accordance with NDS 2000 Standards and good food safety practices are adhered to. Staff do recognize that meal periods are highly anticipated events in a detention/correctional environment. Therefore, the appearance and presentation, taste, and overall satisfaction/dissatisfaction with the meals and meal

service can impact the health and general demeanor of detainees and staff in the facility, as specified by the NDS 2000 Food Service standard, “The food service program significantly influences morale and attitudes of detainees and staff, and creates a climate for good public relations between the facility and the community.” Although the menus utilized by the Bergen County Jail have a variety of food items, consideration of detainee’s desires concerning food items, such as reducing the frequency of potatoes, serving rice with beans, considering Hispanic fare, adding fresh fruit and milk more frequently etc., would go a long way in influencing morale and attitudes toward the food service program. Bergen County Jail should also give the suggestion of selling drinking water in the Commissary some thought.

Recommendations:

1. The Bergen County Jail should ensure that a process for removing left over food items and food particles from meal trays is put in place that precludes kitchen workers from banging trays to accomplish this task. In addition, the Bergen County Jail should replace all trays that have been damaged to avoid harboring of bacteria in the grooves and crevices of the tray where damage has occurred. (Applicable standard: NDS 2000, Food Service, Level 1)
2. The Bergen County Jail should ensure that all food items are maintained at temperatures outside of the Temperature Danger Zone in order to avoid a potential foodborne illness outbreak. (Applicable standard: NDS 2000, Food Service, Level 1)
3. The Bergen County Jail should review the menu offerings with a dietitian and make nutritionally sound modifications where possible to better accommodate the menu preferences of the various nationalities housed at the facility to ensure compliance with the NDS 2000 Food Service standard stating, “The FSA shall consider the ethnic diversity of the facility’s detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged.” (Applicable standard: NDS 2000; Food Service, Level 2)
4. The Bergen County Jail should review the menu offerings with a dietitian and make nutritionally sound modifications to ensure a variety of food items are served, such as fresh fruit and reducing back to back serving of food items, such as potatoes. This review and modifications suggested will assist in ensuring a balance of macronutrients (protein, fat, and carbohydrates) and variety and assist the Bergen County Jail in ensuring compliance with NDS 2000 Standard, stating, “A registered dietitian shall conduct a complete nutritional analysis of every master-cycle menu planned by the FSA.

If necessary, the FSA shall modify the menu in light of the nutritional analysis, to ensure nutritional adequacy.” (Applicable standard: NDS 2000; Food Service, Level 2)

Other Observations

Barber Operation

The Bergen County Jail provides barber services to detainees in individual housing units inside a room they refer to as the multi-purpose room. Staff indicated that barber services are provided inside of the housing units because the Bergen County Jail does not have room for a “barber shop” set up. The barber services room was inspected in two separate housing units, plus the barber box was also inspected in one additional housing unit. On March 28, 2018, I inspected the barber room in housing unit C3. The room is adequate size, with bright lighting. The barber supplies are kept in a rugged plastic box resembling a fishing tackle box. The barber box for Unit C3 was stored on a shelf in the barber room. Inside the barber box was a clipper, comb, brush, clipper attachments, and Wahl’s clipper cleaner. There was hair visible in the bottom of the box and on the clipper ends and attachments. There is no sink provided in the room, therefore there is no hot and cold running water available in the barber room. In addition, I observed clipper attachments sitting on a shelf and a sheet rolled up on another shelf. The room did have the barber rules posted on the wall. Bergen County Jail is not in compliance with the NDS 2000 standard indicating, “The operation will be located in a separate room not used for any other purpose”, and “Both hot and cold water will be available, and the hot water will be capable of maintaining a constant flow of water between 105 degrees and 120 degrees”. The walls and floors were of smooth and nonabsorbent construction. The barber service room was not in use at the time of the inspection.

The barber services room in housing unit S4 was also inspected. In this unit, the barber box was kept secured at the housing unit’s officer post. The room was inspected, and although the space was adequate, the walls and floors were clean and of smooth construction and the lighting was adequate, this room also did not have hot and cold running water. The barber box was inspected at the officer’s post. The box contained clippers, clipper attachments and Wahl’s cleaner. The box had hair in the bottom of the box and on the clippers and attachments. There is no procedure available in the housing area for cleaning and sanitizing barbershop equipment, such as clippers, clipper attachments, etc., as well as chemicals that are to be used for the same. In addition, there is no documentation of training on the use of the clippers, or cleaning and sanitizing the clippers and attachments. There is no logging that cleaning of any barber

equipment is completed between detainee visits or at the end of the barber services. Training of detainees providing barber services is essential in order for the Bergen County Jail to comply with NDS 2000 Environmental Health and Safety standard for Barber Services which states, "Between detainees, all hair care tools coming in contact with the detainees will be cleaned and effectively disinfected".

Applicable Standard: The NDS 2000 Environmental Health and Safety standard is applicable.

Conclusion: The Bergen County Jail hair barber services room complies in part with the NDS 2000 Environmental Health and Safety standard for Barber Services concerning a room with smooth walls and floor and adequate lighting. However, a separate room dedicated to barber services, with hot and cold running water is necessary. In addition, assurance of cleaning of the hair care tools between detainees is needed. Documentation of training and cleaning/sanitizing practices is also needed. Logs of equipment use and cleaning/sanitizing is recommended. NDS 200 Environmental Health and Safety standard states "Sanitation in barber operations is of the utmost concern because of the possible transfer of diseases through direct contact or by towels, combs, and clippers" is applicable. Furthermore, the NDS 2000 Environmental Health and Safety standard requiring, "Instruments such as combs and clippers shall not be used successively on detainees without proper cleaning and disinfecting" is also applicable. In addition, NDS 2000 Environmental Health and Safety standard requiring, "The operation will be located in a separate room not used for any other purpose", and at least one lavatory will be provided. Both hot and cold water will be available, and the hot water will be capable of maintaining a constant flow of water between 105 degrees and 120 degrees" is also applicable.

Recommendations:

5. The Bergen County Jail should ensure that barber services are located in a separate room not used for any other purpose. The room must have hot and cold running water. In addition, cleaning and sanitizing of barber tools must be completed, detainees must be trained on proper use of tools and proper cleaning and sanitizing procedures, as sanitation in a barber service area is essential due to possible transfer of disease through direct contact with equipment, clippers, towels, combs, etc. A log for documenting cleaning/sanitizing processes between each detainee visit is also recommended. (Applicable standard: NDS 2000; Environmental Health and Safety, Level 1)

Laundry Services

The Bergen County Jail runs a central laundry on-site. Inmates from Bergen County Jail work in the laundry supervised by Bergen County Jail staff. Inmate and detainee linens, blankets, clothing, personal clothing and mop heads are laundered in this area in accordance with a pre-established schedule. Posted schedules indicate that uniforms and personal items are washed two times per week, linen one time per week, and blankets every two weeks. On March 28, 2018, I visited the laundry services area and inspected the laundry operations. The laundry has commercial front loading washers, commercial dryers, folding tables, a scale for weighing laundry, and a separate room where washing machine chemicals are dispensed from. The washing machines have automatic dispensing from drums of both laundry detergent and sanitizer. I also reviewed the SDS sheets for the chemicals used for automatic dispensing in the washing machines.

Detainee uniforms and personal items are placed in personal mesh bags and closed with a knot. The unit's mesh bags are then delivered to the laundry services area, washed, dried and then delivered back to the housing unit. Detainees receive the same uniform and personal clothing back that they sent to be laundered. During interviews with detainees there were numerous complaints about laundry services. The most consistent complaint was that the laundry of uniforms, personal items and linens come back yellowed, with stains, and smell dirty. Detainee complaints about laundry were consistent between multiple units where I interviewed detainees and asked about laundry services. One detainee showed me his undershirt and stated that it has mop lint on it when it was returned from the laundry.

During interviews in female detainee units, there were multiple complaints that although there is a washing machine in the housing unit, there is no laundry detergent available to wash clothing, etc. To address the issue of lack of laundry detergent in the housing area for female detainees, I asked Bergen County staff about availability of laundry detergent for the female detainee's unit. I was told that laundry detergent in packets is available upon request and can also be purchased from the Commissary.

Applicable Standard: The NDS 2000 Issuance and Exchange of Clothing, Bedding, and Towels is applicable

Conclusion

Due to the consistent complaints regarding laundry services, I returned to the laundry services area on March 29, 2018. I observed washing machines in use at that time. There are four large commercial washers and one smaller commercial washer. Three of the four large commercial washers were running at the time of my inspection. The first

machine appeared to be overloaded, as there were mesh bags in the machine more than half way up the door. The second and third machine had much less in either one. When I questioned the inmates working in the laundry how they know how much to put in a washer, they stated that they weigh the laundry before placing it in the machine, and pointed to the scale. When I asked what is the maximum weight they can place in any one machine, they answered that 200 pounds is the maximum. I asked staff working in the laundry why one machine had so much more laundry in it than the other two and was told that maybe the 2nd and 3rd machine with the lesser amounts were from a different housing unit and they didn't want to get them mixed up.

I later asked the maintenance supervisor what the maximum weight that can be loaded in the washing machines is and I was told that the washing machines located in the laundry services area are 140 pound machines. It was clear to me that there are two problems based on this information. One is that the maximum amount that any of the four commercial washers should have loaded in it is not known accurately to those working in the laundry services, and that the machine I observed (first machine) with all the mesh bags in it was indeed overloaded. This is a problem that Bergen County Jail must address. When a machine is overloaded, then the automatically injected detergent is not sufficient to properly wash the items in the machine, and more importantly, the sanitizer is not sufficient to properly sanitize the items in the machine because the machine has more in it than it should. NDS 2000 Standard regarding Issuance and Exchange of Clothing, Bedding, and Towels states, "Detainees shall be provided with clean clothing, linen and towels on a regular basis to ensure proper hygiene".

Recommendations:

6. It is recommended that Bergen County immediately train laundry staff and inmate workers on the proper use of the commercial washing machines located in the laundry services area, including providing training on the total weight allowable in each machine and the importance of not overloading any washing machine. In addition, it was apparent that detainees wish to have clean personal clothing and uniforms as evidenced by the consistent complaints that laundry comes back appearing not to be clean, personal items are yellow from laundering, laundry smells dirty/unwashed, and mop lint is found on personal clothing items. Bergen County needs to ensure that washing machines are not shared between washing mop heads and personal clothing items. (Applicable standard: NDS 2000; Issuance and Exchange of Clothing, Bedding, and Towels, Level 1)

7. It is recommended that an amount of laundry detergent packets needed is determined and is available at all times in detainee housing units that contain washing machines. It is also recommended that Bergen County Jail install automatic laundry dispensing equipment on the washing machines located in female detainee housing units. Laundry chemical companies can install such equipment very easily on any type of washing machine, including those that are household type machines. An automatic dispensing system containing laundry detergent and sanitizer should be installed on the machines. In this type of set up, the detergent and sanitizer are usually in a bag or bottle form and are contained inside of a locked box on the wall next to the machine. The chemicals are automatically dispensed into the machine at the appropriate times during the machine cycles. This will eliminate the need to have laundry detergent packets stored in the facility and in the housing units. (Applicable standard: NDS 2000; Issuance and Exchange of Clothing, Bedding, and Towels, Level 2)

Housing Areas

Multiple detainee living areas were inspected and found to be clean and tidy for the most part. In some shower stalls there was a very minor amount of soap scum. The ambient air temperatures and illumination levels were within acceptable ranges. It was noted in multiple housing units that detainees have multiple personal food containers, such as drinking cups, bowls, and utensils. However, there is no dishwashing detergent available for these items to be cleaned and sanitized properly. During female detainee interviews in Unit N3D on March 27, 2018, several detainees complained that there are flies in the shower area. Female detainees also complained that certain Bergen County staff open the recreation door and when the weather is cold, that causes the housing unit to be extremely cold. I inspected the shower area of this unit on March 27, 2018. I found the shower doors are held closed with plastic that appears to be torn garbage bags, mildew on the top of the shower stalls, and the showers have drain flies and multiple flies were flying around in the shower area. The reason the plastic is being used to hold the shower doors closed must be addressed and the plastic removed. This is a very unsanitary practice, as the plastic becomes wet when someone is taking a shower and from humidity in the shower area and never dries completely. This can cause harboring of germs and bacteria within the wet plastic. The mildew on the top of the shower stalls must be completely cleaned and the showers must be maintained/cleaned so that mildew is not permitted to grow on any surface. The issue with drain flies must also be addressed properly. Drain Flies or Drain Mites are a very small fly that feed on waste matter within sewers and drains, and breed in the organic film found in shower drains. Drain flies do not bite; however, they are an indication that the drain needs attention. Drain flies can carry potentially harmful microorganisms

from drains and sewage on their bodies and contaminate clean surfaces. Therefore, this issue should be recognized as an indication that frequent drain cleanings are necessary to prevent accumulations of organic matter and to prevent drain flies. Detainee housing unit showers are heavily used and therefore they require frequent drain cleanings to prevent the buildup of organic debris in the pipes. However, pouring hot water, bleach, or cleaning chemicals down the drain is not sufficient to remove or dissolve the accumulated organic matter. To address the drain fly issue, the drains should be manually cleaned with a stiff bristle brush that has a slightly larger diameter than the drainpipe or the drains should be power washed if the plumbing system and location is suitable for pressure washing. Enzymatic chemicals designed specifically for use in floor drains can also be used as part of an effective maintenance program. Thereafter, the drains should be routinely inspected and cleaned as needed. If the facility does not implement a program to diligently monitor and thoroughly clean the drains on a regular basis, drain flies will continue to be a problem.

In multiple interviews with detainees, there were complaints in housing areas concerning shower water temperature being either too cold or too hot. In addition, detainees complained that many showers only run for a very short period of time when the shower water button is pressed and they have to keep pushing the water button while taking their shower. Detainees also complained that some showers are working and some are not, limiting the amount of detainees that can shower at any given time. Shower operations, including water temperatures were inspected in housing unit S4 and C3. In housing unit S4, the showers were all working, although some did shut off prematurely after the water button was pushed. Shower water temperatures ranged from 109° F to 111° F. In housing unit C3, there were seven showers observed and out of those 7 showers, only 2 were working.

Conclusion:

The overall shower conditions meet the requirements stipulated by the NDS 2000 standards and therefore provide suitable accommodations for showering. The shower temperatures are acceptable and fall within an acceptable range of 100 to 120° F for appropriate showering and promotion of hygienic practices. Although this allegation was not substantiated, the Bergen County Jail needs to address the issue with malfunctioning showers, as two showers working out of seven is an unacceptable ratio and does present a problem for detainees in scheduling showering and promoting good hygienic practices. In addition, ongoing diligence when cleaning and disinfecting the shower walls, floors, and drains is vital to ensure good detainee health.

Recommendation:

8. The Bergen County Jail must address the shower conditions in the female housing unit N3D. The showers must be properly cleaned, mildew must be cleaned/removed, and the issue with drain flies addressed. Drain flies breed in dirty and clogged shower drains. Shower floor drains blocked with organic matter including hair and soap residues propagate the life cycle of drain flies, which are nuisance pests that can spread disease from sewage and contaminated bathroom drains and surfaces. The Bergen County Jail also needs to address the issue with malfunctioning showers, as two showers working out of seven is an unacceptable ratio. Therefore, the Bergen County Jail should ensure that preventive maintenance inspections and shower cleanings are completed on a regular basis to comply with the NDS 2000 Environmental Health and Safety Standard, including those from the American Correctional Association” specifically ACA Housekeeping standard 4-ALDF-1A-04 indicating, “The facility is clean.” (Applicable standard: NDS 2000; Environmental Health and Safety, Level 2)

It is also recommended that the Bergen County Jail provide dishwashing detergent to the housing areas if they are to allow detainees to remain with personal drinking cups, bowls, and utensils. Detainees must be given the opportunity to properly clean these personal items to avoid the possibility of contamination and possible illness from bacteria that can be harbored when proper cleaning/sanitizing is not taking place.

Summary of NDS 2000 Recommendations – Priority Level 1

The following are statements of issues/problems that are Priority Level 1 observations and are listed as Recommendations with Level 1 priority throughout this report:

Recommendation #1

Observation: Meal trays have damage to the rim of the tray with many grooves and crevices that cannot be cleaned and sanitized properly.

Problem Reason: Cleaning and sanitizing of meal trays must be accomplished properly. This cannot be done when there are places in/on the tray where water, food, and debris can be trapped. In addition, trays are not able to drain and dry properly with this type of damage.

Applicable Standard: NDS 2000, Food Service, H. Safety and Sanitation

Recommendation #2

Observation: Food temperatures on a lunch meal tray were not maintained in the required range of either under 41° F or above 140° F.

Problem Reason: Food maintained between 41° F and 140° F is inside of the Temperature Danger Zone where bacteria growth is the highest. Increased bacteria growth also increases the potential for foodborne illness.

Applicable Standard: NDS 2000, Food Service, C. Display and Service

Recommendation #5

Observation: Barber tools were found dirty and there is no hot and cold running water available where barber services are completed.

Problem Reason: Hair care tools used without disinfection provide excellent means for transfer of skin and scalp diseases, fungus, and transfer of bacteria.

Applicable Standard: NDS 2000, Environmental Health and Safety, P. Guidelines for Specific Areas of the Facility: Barber Operations

Recommendation #6

Observation: Washing machines in the laundry services area were overloaded with detainee uniforms and personal clothing items.

Problem Reason: Overloading of washing machines creates the environment where laundry is not washed with the proper amount of water, detergent, and sanitizer.

Applicable Standard: NDS 2000; Issuance and Exchange of Clothing, Bedding, and Towels, E. Exchange Requirements

Summary of NDS 2000 Report Recommendations - (All Priority Levels)

1. The Bergen County Jail should ensure that a process for removing left over food items and food particles from meal trays is put in place that precludes kitchen workers from banging trays to accomplish this task. In addition, the Bergen County Jail should replace all trays that have been damaged to avoid harboring of bacteria in the grooves and crevices of the tray where damage has occurred. (Applicable standard: NDS 2000, Food Service, Level 1)

2. The Bergen County Jail should ensure that all food items are maintained at temperatures outside of the Temperature Danger Zone in order to avoid a potential foodborne illness outbreak. (Applicable standard: NDS 2000, Food Service, Level 1)

3. The Bergen County Jail should review the menu offerings with a dietitian and make nutritionally sound modifications where possible to better accommodate the menu preferences of the various nationalities housed at the facility to ensure compliance with the NDS 2000 Food Service standard stating, "The FSA shall consider the ethnic diversity of the facility's detainee population when developing menu cycles. While each facility must meet all ICE/ERO standards and follow required procedures, individuality in menu planning is encouraged." (Applicable standard: NDS 2000; Food Service, Level 2)

4. The Bergen County Jail should review the menu offerings with a dietitian and make nutritionally sound modifications to ensure a variety of food items are served, such as fresh fruit and reducing back to back serving of food items, such as potatoes. This review and modifications suggested will assist in ensuring a balance of macronutrients (protein, fat, and carbohydrates) and variety and assist the Bergen County Jail in ensuring compliance with NDS 2000 Standard, stating, "A registered dietitian shall conduct a complete nutritional analysis of every master-cycle menu planned by the FSA. If necessary, the FSA shall modify the menu in light of the nutritional analysis, to ensure nutritional adequacy." (Applicable standard: NDS 2000; Food Service, Level 2)

5. The Bergen County Jail should ensure that barber services are located in a separate room not used for any other purpose. The room must have hot and cold running water. In addition, cleaning and sanitizing of barber tools must be completed, detainees must be trained on proper use of tools and proper cleaning and sanitizing procedures, as sanitation in a barber service area is essential due to possible transfer of disease through direct contact with equipment, clippers, towels, combs, etc. A log for documenting cleaning/sanitizing processes between each detainee visit is also recommended. (Applicable standard: NDS 2000; Environmental Health and Safety, Level 1)

6. It is recommended that Bergen County immediately train laundry staff and inmate workers on the proper use of the commercial washing machines located in the laundry services area, including providing training on the total weight allowable in each machine and the importance of not overloading any washing machine. In addition, it was apparent that detainees wish to have clean personal clothing and uniforms as evidenced by the consistent complaints that laundry comes back appearing not to be clean, personal items are yellow from laundering, laundry smells dirty/unwashed, and mop lint if found on personal clothing items. Bergen County needs to ensure that washing machines are not shared between washing mop heads and personal clothing items. (Applicable standard: NDS 2000; Issuance and Exchange of Clothing, Bedding, and Towels, Level 1)

7. It is recommended that an amount of laundry detergent packets needed is determined and is available at all times in detainee housing units that contain washing machines. It is also recommended that Bergen County Jail install automatic laundry dispensing equipment on the washing machines located in female detainee housing units. Laundry chemical companies can install such equipment very easily on any type of washing machine, including those that are household type machines. An automatic dispensing system containing laundry detergent and sanitizer should be installed on the machines. In this type of set up, the detergent and sanitizer are usually in a bag or bottle form and are contained inside of a locked box on the wall next to the machine. The chemicals are automatically dispensed into the machine at the appropriate times during the machine cycles. This will eliminate the need to have laundry detergent packets stored in the facility and in the housing units. (Applicable standard: NDS 2000; Environmental Health and Safety, Level 2)

8. The Bergen County Jail must address the shower conditions in the female housing unit N3D. The showers must be properly cleaned, mildew must be cleaned/removed, and the issue with drain flies addressed. Drain flies breed in dirty and clogged shower drains. Shower floor drains blocked with organic matter including hair and soap residues propagate the life cycle of drain flies, which are nuisance pests that can spread disease from sewage and contaminated bathroom drains and surfaces. The Bergen County Jail also needs to address the issue with malfunctioning showers. Therefore, the Bergen County Jail should ensure that preventive maintenance inspections and shower cleanings are completed on a regular basis to comply with the NDS 2000 Environmental Health and Safety Standard, including those from the American Correctional Association” specifically ACA Housekeeping standard 4-ALDF-1A-04 indicating, “The facility is clean.” (Applicable standard: NDS 2000; Environmental Health and Safety, Level 2)