



U.S. Immigration
and Customs
Enforcement

March 13, 2009

Ms. Meghan Rhoad
U.S. Researcher
Human Rights Watch
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

Dear Ms. Rhoad:

Thank you for your March 5, 2009, letter regarding a forthcoming report by the Human Rights Watch (HRW) on medical care provided to women in U.S. Immigration and Customs Enforcement (ICE) custody. ICE is grateful for the work that you are doing in this area and I appreciate being provided a summary of the findings and recommendations of the Women's Rights Division of HRW. Of course, I look forward to reviewing the final report when it is released.

This letter will briefly summarize some of my thoughts regarding the preliminary materials provided. My hope is to improve understanding of these matters of mutual concern and importance to us both. Below in italics you will find a summary of your recommendation, followed by our initial response.

Implement the recommendation of the UN special rapporteur on the human rights of migrants that ICE develop gender-specific detention standards.

Please be aware that ICE did consider the special needs of female detainees during the development of performance-based National Detention Standards (PBNDS) and included language addressing special gender specific situations consistent with the recommendations of the United Nations special rapporteur. As examples, the revised Use of Force standard recognizes the need for special medical consideration of pregnant women. The updated Personal Hygiene standard also addresses gender issues to eliminate discriminatory distribution of supplies. Additionally, the new Medical Care standard includes a section on Special Needs and Close Medical Supervision specific to health concerns of female detainees.

During the process of revising the current standards, HRW submitted a request to add a section to the Medical Care standard specifically addressing women's health services. Its submission was carefully considered and resulted in modifications that enhanced the final product. HRW did not recommend at that time that there be a separate standard for female detainees. However, as part of our commitment to continuous improvement, we will consider this suggestion.

Incorporate into the performance-based national detention standards the American Public Health Association's (APHA) standards on women's health care in correctional institutions and the National Commission on Correctional Health Care's (NCCHC) recommendations contained in its policy statement on women's health care.

Current ICE and DIHS policy and practice depart from APHA and NCCHC recommendations to the extent that differences in the population dictate. For example, one half of the population is released from detention within 17 days of admission. Given the typically short stays, a pap smear is not routinely included in the initial medical screening on day 1 or the physical examination by day 14. A pelvic examination and a pap smear are provided when a female 18 years of age or older is held for a year or more, or the screening and physical examination suggests that is medically warranted, or at any time that an indicator presents.

Finally, this suggestion was not specifically raised previously by HRW. Now that it has been brought to our attention, ICE will consider it fully in any future modification of the standards.

Amend the DIHS Medical Dental Detainee Covered Services Package to remove inappropriate consideration of an individual's removal (deportation) prospects in determining eligibility for medical procedures and harmonize the package with the revised ICE medical standard so that detained individuals can access a full continuum of health services, whether available inside or outside the detention facility.

The revision of the standard on Medical Care is intended to provide detainees with access to the full spectrum of health care services, as you suggest it should be. According to the applicable PBNDS standard, an initial dental screening exam will be performed within 14 days of a detainee's arrival. Both routine and emergency dental treatment is available at any time.

Conduct intensive outreach to instruct health professionals that it is ICE and DIHS policy to provide care to detainees that meets standards of medical practice in the United States.

ICE agrees that conducting intensive ongoing training and instruction for health professionals is a critical element of providing quality health care. As part of the implementation the performance-based National Detention Standards, training is currently underway for medical staff that cares for detainees, to ensure that they provide care to detainees that meets standards of medical practice in the United States. In addition, as standard operating procedures are developed, training will be provided to assure all health professionals are aware of the new procedures.

Improve the current system for receiving and tracking complaints made by individuals in ICE custody. Ensure that all individuals receive notice of complaint procedures in their native languages and that they are informed of the availability of these mechanisms for complaints regarding medical care.

Addressing detainee complaints is an important issue whose resolution is emphasized in the revised standards, and included in the PBNDS training and implementation process. To further inform this effort, last month ICE started to make a closer review of statistical data about

detainee grievances with the field offices to encourage timely and where possible, informal resolution and improve communication between staff and detainees. Further improvements are being finalized with DIHS and will be implemented this spring. In addition, as you indicated in your letter, the revised standards are provided to detainees in a language that they understand.

In closing, it is our plan to begin implementing the revised standards in April 2009, starting with ICE owned facilities, and continuously assessing and revising as indicated, any section that will benefit from modification. ICE welcomes feedback at every point in this process and is appreciative of the feedback HRW has provided.

As always, ICE values its partnership with HRW and prizes its deep and long-standing commitment to the humane and just treatment of the detained immigrant population. We appreciate the opportunity to respond to the summary that you provided us and hope that our feedback is helpful. We look forward to reading the report when it is released and to continuing our conversation.

Sincerely

A handwritten signature in blue ink that reads "Susan M. Cullen by ABO". The signature is written in a cursive style.

Susan M. Cullen
Director