

STATE OF NORTH DAKOTA
DEPARTMENT OF CORRECTIONS AND REHABILITATION

In the Matter of the Richland County Jail, Wahpeton, North Dakota

ORDER OF NONCOMPLIANCE

This order is issued in accordance with N.D.C.C. § 12-44.1-25.

The North Dakota Department of Corrections and Rehabilitation (“DOCR”) makes the following:

Findings of Fact

I.

The Richland County Jail (RCJ) is a county correctional facility in Wahpeton, Richland County, North Dakota. On April 26, 2023, DOCR correctional facility inspectors inspected RCJ in accordance with N.D.C.C. Section 12-44.1-24 and 12-44.1-25 and current North Dakota Correctional Facility Standards. DOCR facility inspectors previously inspected the RCJ on May 5 and 6, 2022.

II.

RCJ is classified as a grade one (1) correctional facility under N.D.C.C. - S.S.12-44.1-06; the jail is located at 413 3rd Avenue North, Wahpeton, North Dakota. RCJ is operated under the authority of Richland County Sheriff Gary Ruhl and Assistant Jail Administrator Melissa Neitzke. RCJ is under the governing authority of the Richland County Commissioners.

III.

RCJ and the law enforcement center were constructed in 1975. The RCJ is part of the law enforcement center, encompassing a two-story level building. The jail is encompassed within the first floor of a two-story building.

IV.

RCJ has a maximum capacity of thirty-three (33) offenders. Services available to offenders include ministry programs, work release, medical, education, commissary, food service, laundry, and library.

V.

RCJ has one (1) female unit and five (5) male units for general population inmates and work release. Male or female distinction of each unit is based on facility needs. Each housing unit consists of a one-tier housing unit. Unit one (1) consists of six (6) single-bunk cells. Individuals in unit one (1) share a community washbasin, toilet, and shower unit located off the dayroom. Unit two (2) consists of four (4) single-bunk cells with a

washbasin and a toilet in each cell. Individuals in unit two (2) share a community shower unit located off from the dayroom. Unit three (3) is comprised of four (4) double-bunk cells. Individuals in unit three (3) share a community washbasin, toilet, and shower unit located off from the dayroom. Unit four (4) is comprised of three (3) double-bunk cells, individuals in unit four (4) share a community washbasin, toilet, and shower unit that is located off the dayroom. Unit five (5) is comprised of three (3) double-bunk cells, with a washbasin, and a toilet in each cell and a dayroom, unit five (5) does not have a shower unit. Offenders housed in unit five (5) must use the shower located right outside of their housing unit. Unit six (6) consists of three (3) single cells with a washbasin and a toilet in each cell. Individuals in unit six (6) share a community shower located off from the dayroom. The entrance door to all units is equipped with one (1) small window used for officer observation. These windows have a door/cover to restrict visibility from the inside of the unit.

VI.

RCJ is using a seventh (7) a single cell, used as a safety/observation cell. Unit seven (7) does not have a washbasin, toilet, or a shower. The safety/observation cell does contain a floor drain; the floor drain does not serve as a floor toilet. Individuals housed in Unit seven (7) must use the washbasin, toilet, or shower located outside of this cell. Unit seven (7) safety/observation cell is used temporarily for inmates who are under the influence of alcohol or drugs, display violent behavior, self-harm, or inability to exercise self-control. The safety observation cell is equipped with an intercom. Unit seven (7) has no direct visual observation from the control room or booking area. Personal visual observation is accomplished face to face through observation rounds. In addition, observation is further supported by electronic camera(s), which are monitored in the control room.

VII.

RCJ housing units have basic furnishings, television, phone, and multi-purpose areas. All housing units have seating for the number of inmates that make use of each unit. Dayrooms allow offenders to congregate, watch television, and have access to the telephone system. Light at the desk level in the sleeping areas and in the dayrooms is below standard.

VIII.

RCJ has an authorized staff consisting of Chief Corrections Deputy, Melissa Neitzke, nine (9) full-time security staff, one (1) part-time security staff, and two (2) administration staff. RCJ maintains staffing levels of one (1) employee to eight (8) offenders. The average length of stay for inmates is ten (10) days. 2022 RCJ booked in five thousand four hundred thirty-eight (5,438) people, five thousand eighty-two (5082) were male offenders, three hundred fifty-six (356) were female offenders.

IX.

RCJ has PREA policies and procedures. However, RCJ does not follow its policies and procedures for investigating and reporting PREA incidents. Inspection discovered PREA events that were not reported as required by PREA regulations, North Dakota Correctional Facility Standards, and RCJ policy.

X.

RCJ does not review its policies annually, the correctional facility inspectors identified several RCJ policies that do not accurately reflect the facilities current procedures. In addition, RCJ facility administrator failed to make the policies available in electronic form to the DOCR Office of Facility Inspections when requested.

XI.

RCJ has significant incident reporting policies and procedures. However, RCJ does not follow its policies and procedures for reporting significant incidents to DOCR. PREA events were not reported as required by North Dakota Correctional Facility Standards, and RCJ policy.

XII.

RCJ has failed to maintain adequately trained staff and female staff. In March 2023, the RCJ work schedule confirmed that there was eleven (11) times where the facility housed female inmates when no female staff were on duty. In March 2023, the RCJ staff work schedule confirmed that there was thirteen (13) shifts where the staff on duty were not correction officer trained. RCJ staff work schedule confirmed RCJ had operated the facility on April 19th and 20th 2023, with only one person on duty.

XIII.

RCJ has a suicide prevention plan, policy, and procedures. However, RCJ does not follow its policies and procedures for close observation. RCJ video and Guardian electronic time stamped records from 4-26-23 confirmed close observation procedures had failed due to eleven (11) of the observation checks going beyond the required 15 minutes frequency for suicide prevention and monitoring those who are intoxicated.

XIV.

RCJ has inmate observation policies and procedures. However, RCJ does not follow its policies and procedures for inmate observation. RCJ video recordings confirmed the observation rounds conducted are not adequate. RCJ staff are not patrolling the area associated with a housing unit to directly observe all spaces accessible by inmates and other specified spaces and visually assess the wellbeing of every inmate.

XV.

RCJ has policies and procedures for inmate searches - clothed and unclothed. However, RCJ does not follow its policies and procedures for inmate searches. Inspection found that a male correctional officer had conducted a pat search on a female inmate when other female officers were available to perform this function.

XVI.

RCJ has staff orientation policies and procedures. However, RCJ does not follow its policies and procedures for staff orientation training. RCJ training records showed that RCJ is not requiring that facility specific training be completed by staff prior to independent assignment. This standard required training is not part of the new employee training curriculum at RCJ.

XVII.

RCJ has staff training policies and procedures. However, RCJ does not follow its policies and procedures for staff training. RCJ training records showed that RCJ is not providing the required annual suicide prevention training for all staff with responsibility for inmate supervision.

Based on the above Findings of Fact, the North Dakota Department of Corrections and Rehabilitation ("DOCR") makes the following:

Conclusions of Law.

I.

The Richland County Jail is a county correctional facility subject to N.D.C.C. ch.12-44.1.

II.

In accordance with N.D.C.C. § 11-15-03(6) the Sheriff of Richland County is in charge of the Richland County Jail.

III.

N.D.C.C. § 12-44.1-24 requires the DOCR to prescribe rules establishing minimum standards for the construction, operation, and maintenance of county correctional facilities, prescribe rules for the care and treatment of inmates, cause the rules and regulations be made available to inmates, and to appoint a correctional facility inspector qualified by special experience, education, or training to inspect correctional facilities. Inspection must include health and safety, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined, and personnel training.

IV.

The DOCR has promulgated rules in accordance with Section 12-44.1-24 and has appointed a correctional facility inspector in accordance with the requirements of N.D.C.C. § 12-44.1-24.

V.

N.D.C.C. § 12-44.1-25 authorizes the Director of the DOCR to issue a report of non-compliance if a correctional facility is in violation of any required minimum standards, applicable state or federal law, or DOCR rules for correctional facilities.

VI.

When the DOCR determines that the nature and extent of deficiencies in a correctional facility subject to N.D.C.C. ch.12-44.1 are such that an immediate order of full, partial, or temporary closure is necessary to protect the health and safety of the inmates, correctional facility staff, law enforcement, visitors, or the public, §12-44.1-25 authorizes the Director of the DOCR to issue an order of full, partial, or temporary closure.

VII.

N.D.C.C. § 12-44.1-01(10) defines "Trained correctional facility staff" to mean correctional personnel who have completed a course of training approved by the Peace Officer Standards and Training Board.

VIII.

N.D.C.C. § 12-44.1-13(1) requires inmates be supervised on a twenty-four hour by trained correctional facility staff.

IX.

N.D.C.C. § 12-44.1-13(4) requires each correctional facility to maintain sufficient law enforcement officers with correctional training or trained correctional facility staff to perform all functions relating to the intake and booking, security, control, custody, and supervision of inmates.

X.

- a) Standard two (2) of the North Dakota Correctional Facility Standards requires RCJ to follow all applicable laws, correctional facilities shall comply with all applicable state and federal laws, rules, and regulations, including all requirements of 28 Code of Federal Regulations Part 115 (PREA).
- b) RCJ is in violation of Standard two (2) of the North Dakota Correctional Facility Standards because PREA events occurring at RCJ were not reported as required.

XI.

- a) Standard four (4) of the North Dakota Correctional Facility Standards requires RCJ to review each of their policies and compliance with them at least annually.
- b) RCJ is in violation of Standard four (4) of the North Dakota Correctional Facility Standards because RCJ does not review its policies annually, and the correctional facility inspectors identified several RCJ policies that do not accurately reflect the facilities current procedures. In addition, RCJ facility administrator failed to make the policies available in electronic form to the DOCR Office of Facility Inspections when requested.

XII.

- a) Standard twenty-eight (28) of the North Dakota Correctional Facility Standards requires RCJ to report significant incidents by submitting the Significant Incident Reporting form provided by the DOCR to the DOCR Office of Facility Inspections within 24 hours of a significant incident.
- b) RCJ is in violation of Standard twenty-eight (28) of the North Dakota Correctional Facility Standards because RCJ failed to report PREA events.

XII.

- a) Standard thirty (30) of the North Dakota Correctional Facility Standards requires RCJ to maintain facility staffing with at least two correctional officers who have completed the training required under North Dakota Correctional Facility Standard 103 or are acting under the supervision of trained correctional facility staff on duty capable of responding to the reasonable needs of the inmate, and having completed North Dakota Correctional Officer Basic Certification, Correctional Medical Training I and II, and when females are housed in a correctional facility, at least one female correctional officer must be on duty at all times in the correctional facility.
- b) RCJ is in violation of Standard thirty (30) of the North Dakota Correctional Facility Standards because RCJ failed to maintain adequately trained staff and female staff. March 2023 RCJ work schedule confirmed eleven (11) times where the facility housed female inmates when no female staff were on duty. March 2023, the RCJ work schedule confirmed thirteen (13) shifts where the staff on duty were not correction officer trained. April 19th and 20th 2023, the RCJ work schedule confirmed RCJ had operated the night shift with only one person on duty.

XIII.

- a) Standard thirty-one (31) of the North Dakota Correctional Facility Standards requires RCJ to have a written suicide prevention plan that includes housing observations.

- b) RCJ is in violation of Standard thirty-one (31) of the North Dakota Correctional Facility Standards because on 4-26-23 close observation procedures were not followed, staff failed eleven (11) of the observation checks letting them go beyond the required 15 minutes frequency of observation.

XIV.

- a) Standard thirty-two (32) of the North Dakota Correctional Facility Standards requires RCJ to have a written policy and procedure for inmate observation. Trained staff shall conduct rounds to personally observe each inmate during each hourly period on an irregular basis.
- b) RCJ is in violation of Standard thirty-two (32) of the North Dakota Correctional Facility Standards because RCJ staff are not patrolling the area associated with a housing unit to directly observe all spaces accessible by inmates and other specified spaces and visually assess the wellbeing of every inmate.

XV.

- a) Standard one hundred-three (103) of the North Dakota Correctional Facility Standards requires RCJ to have a written policy and procedure requiring all correctional officers to participate in a documented orientation training program prior to independent assignment. The orientation program must meet the particular needs of the correctional facility and must include at a minimum facility policy and procedure, inmate handbook, key and equipment control, emergency procedures to include basic first aid, emergency equipment, CPR, and Naloxone administration, classification of inmates, booking procedures, including medical and mental health screening, use of force, suicide behavior, response, intervention, and observation, victim notification in accordance with state law, Prison Rape Elimination Act (PREA), and bloodborne pathogen training, with an emphasis on any facility-specific control measures.
- b) RCJ is in violation of Standard one hundred-three (103) of the North Dakota Correctional Facility Standards because RCJ is not requiring that training be completed by staff prior to independent assignment. RCJ has not included the standard required training as part of the new employee training curriculum.

XVI.

- a) Standard one hundred-four (104) of the North Dakota Correctional Facility Standards requires all RCJ correctional facility administrators and staff who work in direct and continuing contact with inmates to receive training determined and approved by the North Dakota Peace Officer Standards and Training (P.O.S.T.) Board and receive an additional forty-eight (48) hours of training during every three-year period following the first day of January after the date of employment.

- b) RCJ is in violation of Standard one hundred-four (104) of the North Dakota Correctional Facility Standards because RCJ is not providing the required annual suicide prevention training for all staff with responsibility for inmate supervision.

XVII.

Richland County Jail would remain subject to the Order of Noncompliance until vacated by the DOCR.

ORDER OF NON-COMPLIANCE

Based on the above Findings of Fact and Conclusions of Law, the DOCR issues this Order of Noncompliance.

IT IS HEREBY ORDERED, in accordance with N.D.C.C. Section 12-44.1-25, that BCCC comply with the following requirements:

1. RCJ shall be subject to regular inspections and monitoring by DOCR Correctional Facility Inspectors. RCJ shall pay to the DOCR the reasonable and actual costs incurred by the DOCR for additional inspections and monitoring which occur due to this order.

IT IS FURTHER ORDERED RCJ shall remain subject to this Order of Noncompliance until the RCJ can provide evidence to support resources are available to at least two trained correctional officers who have completed North Dakota Correctional Officer Basic Certification and Correctional Medical Training I and II, have completed the training required under Standard 103, or are acting under the supervision of trained correctional facility staff on duty capable of responding to the reasonable needs of the inmate.

IT IS FURTHER ORDERED RCJ shall remain subject to this Order of Noncompliance until the RCJ can provide evidence to support resources are available to have at least one trained female officer on each shift while females are housed in its facility.

IT IS FURTHER ORDERED this order shall remain subject to the DOCR's continuing jurisdiction and authority under N.D.C.C. Chapter 12-44.1 to continue to inspect RCJ and establish and amend or modify conditions and requirements the DOCR may determine are necessary for the safety of the inmates, staff, visitors, and the public based upon its inspections.

IT IS FURTHER ORDERED if RCJ fails to comply with any of the requirements of this order, any of the requirements of the DOCR, or any of the requirements of the North Dakota Correctional Facility Rules and N.D.C.C. Chapter 12-44.1, the DOCR may exercise its authority under N.D.C.C. Section 12-44.1-25 and order BCCC be reclassified or closed.

Dated this 8th day of June, 2023.



Dave Krabbenhoft, Director
North Dakota Department of Corrections and
Rehabilitation



Lance Anderson, Warden of Transitional Facilities
Office of Inspections North Dakota Department of
Corrections and Rehabilitation

ADMISSION OF SERVICE

I hereby accept service of the June 9, 2023 North Dakota Department of Corrections and Rehabilitation Richland County Jail Order of Non-compliance.

Name: Melina Neigh Date: 6-9-2023 Location: _____

Name: Tom Carl Date: 6.9.2023 Location: _____

Name: Dary Ruhl Date: 6-9-2023 Location: _____

Served by: Lance Anderson Date: 6/9/2023

This order is issued in accordance with N.D.C.C. § 12-44.1-25

