

STATE OF NORTH DAKOTA
NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND
REHABILITATION

In the Matter of the Adams County Jail,
Hettinger, North Dakota

ORDER OF NONCOMPLIANCE AND RECLASSIFICATION

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.

Adams County Jail is a county correctional facility in Hettinger, North Dakota. On September 3, 2019, DOCR correctional facility inspectors inspected the Adams County Jail in accordance with N.D.C.C. §§ 12-44.1-24 and 12-44.1-25 and current North Dakota Correctional Facility Standards. DOCR facility inspectors previously inspected the Adams County Jail in June of 2018.

II.

Adams County Jail is currently classified as a grade three correctional facility under N.D.C.C. §.12-44.1-06. The facility is located at 604 Adams Ave., Hettinger, North Dakota. Adams County Jail is operated under the authority of the Adams County Commissioners; the Adams County Sheriff, Travis Collins; and Jail Administrator, Samantha A. Smith.

III.

Adams County Jail was constructed and completed in 1963. The Adams County Jail is contained in one building and is a one-level facility. The control room serves as office space for the Jail Administrator. The control room/jail administrator office is located within the facility with no direct line of sight into the housing units. Adams County Jail's physical plant consists of an administrative office for the sheriff, two administrative offices for the employees, a small utility/laundry area, a booking area, a kitchen, and a male and a female restroom for employees

IV.

Adams County Jail has a maximum capacity of seven. Adams County Jail has limited services, including distribution of prescribed medications, food service, laundry, and a limited library. Breakfast, lunch, and supper meals are prepared and provided by the facility. Inmates eat meals within the cells or in the dayroom.

V.

Adams County Jail's operational design concept is to receive unclassified individuals, hold pretrial and convicted persons up to ninety-six (96) hours, and allow for processing, classifying, and releasing individuals at all times. Adams County Jail houses male and female offenders up to ninety-six (96) hours. The Adams County Jail does not have the ability to separate genders as required by standard, so the facility will choose which gender will be housed based on current operational need. Others who are not able to be accommodated are transferred to another facility.

VI.

Adams County Jail has two (2) housing units. The east housing unit has a single-occupancy pod. The east-housing unit also has a small dayroom, washbasin, toilet, and a shower stall with a shower curtain. The west housing unit has two multi-occupancy pods with three (3) beds in each of the pods. The west unit also has a small dayroom. Washbasins and toilets are included in every pod. Offenders assigned to the west pods are escorted to a shower in the east unit area to shower. Adams County Jail has two dayrooms, which have basic furnishings, television, and adequate and appropriate seating provided for the number of offenders.

IX.

Adams County Jail's staff members do not receive suicide prevention training during orientation or annually. They are not trained to identify the warning signs and symptoms of suicidal behavior and mental illness; to provide proper responses to suicidal behavior or attempts; to follow referral procedures and watch level procedures; or to provide follow-up monitoring.

V.

Adams County Jail does not follow its policy for the frequency of observation. Staff are not trained on the requirements of observation and do not document observation.

VI.

The Adams County Jail does not provide routine, daily healthcare. The facility does have a contract with the local medical facility to provide emergency care, but the contract does not include daily care.

VII.

The Adams County Jail does not have a designated health care administrator or a medically-approved training program.

VIII.

The Adams County Jail does not have required health care orders. The Adams County Jail provides medication, such as sleeping pills, Benadryl, Nicorette and Ibuprofen, upon inmates' request, without the order or guidance of a medical professional.

IX.

On at least one occasion, the Adams County Jail housed an intoxicated inmate without medical clearance. This individual was neither placed on observation as required by facility policy, nor were trained staff within constant hearing distance of the intoxicated person.

X.

The Adams County Jail does not provide a documented staff orientation training. The facility has one staff member who has correctional officer basic training; however, this officer is on-call only. As a result, staffing of this jail is completed by staff who have not gone through correctional officer basic training.

Based on the above Findings of Fact, the DOCR makes the following:

Conclusions of Law

I.

Adams County Jail is a county correctional center subject to N.D.C.C. chapter 12-44.1.

II.

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 rules and regulations to be made available to inmates; and to appoint a correctional facility inspector qualified by special experience, education, or training to inspect correctional facilities at least once a year to determine if the rules and regulations have been complied with. Inspection must include health and safety, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined, and personnel training.

III.

The DOCR has promulgated Correctional Facility Standards in accordance with N.D.C.C. § 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.

IV.

N.D.C.C. § 12.44.1-25 authorizes the Director of the DOCR to issue a report of noncompliance if a correctional facility is in violation of any required minimum standards, applicable state or federal law, or DOCR rules for correctional facilities.

V.

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, N.D.C.C. § 12-44.1-25 authorizes the Director of the DOCR to issue an order of closure.

VI.

Standard 31 of the North Dakota Correctional Facility Standards requires every facility have a written suicide prevention plan that includes: a) Identification of the warning signs and symptoms of suicidal behavior and mental illness; b) Proper response to suicide behavior or attempts; c) Referral procedures; d) Housing observation and suicide watch level procedures; e) Follow up monitoring; and f) Annual training for staff with responsibility for inmate supervision. Adams County Jail is in violation of Standard 31 of the North Dakota Correctional Facility Standards because its staff are not trained in any of the required suicide prevention plan topics.

VII.

Standard 32 of the North Dakota Correctional Facility Standards requires trained staff observe inmates according to a written policy and document the following: a) Reason for placement [in observation]; b) Staff assigned to supervise; c) Location, date, time, activities, and condition of inmate at each check; d) Actions by agency to provide specialized outside services for inmate; and e) Reason for removal from observation. Adams County Jail is in violation of Standard 32 of the North Dakota Correctional Facility Standards because staff does not follow its policy for the frequency of observation. Staff are not trained on the requirements of observation and do not document observations in accordance with its policy.

VIII.

Standard 49 of the North Dakota Correctional Facility Standards requires every facility have a written policy and procedure for receiving and documenting inmate health issues on a daily basis, which includes providing access to physical, mental health, eye care and dental care. This procedure must provide that the medical administrator receives all sick call requests. Adams County Jail is in violation of Standard 49 of the North Dakota Correctional Facility Standards because the facility does not provide daily health care. The facility does have a contract with the local medical facility to provide emergency services, but this contract does not include routine care.

IX

Standard 52 of the North Dakota Correctional Facility Standards require every facility have a training program approved by the health care administrator that includes: a) Response to emergency health related situations; b) Recognition of signs and symptoms and knowledge of action required in potential emergencies; c) Administration of first aid and cardiopulmonary resuscitation; d) Methods of obtaining assistance; e) Recognition of signs and symptoms of mental illness, intellectual disability, emotional disturbance, and chemical dependency; f) Procedures for patient transfers to appropriate medical facilities or health care providers; and g) If medications are delivered to inmates by staff within the facility, staff must be trained in and currently certified in accordance with N.D.C.C. § 12-44.1-29. Adams County Jail is in violation of Standard 52 of the North Dakota Correctional Facility Standards because the facility does not have a designated health care administrator, does not have a medically-approved training program, and does not have staff certified to provide medication.

X

Standard 57 of the North Dakota Correctional Facility Standards requires every facility, in conjunction with the health care administrator, establish a written policy and procedures to carry out the orders of the health care administrator relating to an inmate's medical care. Staff shall document all treatment administered to inmates pursuant to orders of the health care administrator. Staff must be trained and able to respond to inmate medical emergencies within a four-minute response time. The Adams County Jail is in violation of Standard 57 of the North Dakota Correctional Facility Standards because it does not have a health care administrator, nor does it have required health care orders. Although the Adams County Jail provides medication, such as sleeping pills, Benadryl, Nicorette and Ibuprofen, upon inmate request, it does so without certified staff and without the order or guidance of a medical professional.

XI

Standard 59 of the North Dakota Correctional Facility Standards requires every facility have a written policy and procedure for detoxification if the facility holds persons solely for detoxification. A facility may not hold a person solely for detoxification for more than 24 hours. Before a facility may hold a person for detoxification: a) A licensed medical provider must provide medical clearance; b) The facility must be able to provide a trained staff person within constant hearing distance of the intoxicated person; and c) The facility shall comply with N.D.C.C. § 5-01-05.1. Adams County Jail is in violation of Standard 59 of the North Dakota Correctional Facility Standards because on at least one occasion the facility housed an intoxicated inmate without medical clearance. This individual was neither placed on observation as required by facility policy, nor were trained staff within constant hearing distance of the intoxicated person.

XII

Standard 103 of the North Dakota Correctional Facility Standards requires every facility have a written policy and procedures requiring all correctional officers 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: a) Facility policy and procedures; b) All emergency procedures to include basic first aid and CPR; c) Classification of prisoners; d) Booking procedures, including medical and mental health screening; e) Use of force; f) Suicide behavior, response, intervention, and observation; g) Victim notification in accordance with state law; and h) Prison Rape Elimination Act (PREA). The Adams County Jail is in violation of Standard 103 of the North Dakota Correctional Facility Standards because it does not provide a documented staff orientation training.

XIII.

Standard 104 of the North Dakota Correctional Facility Standards requires all administrators and staff who work in direct and continuing contact with inmates shall within their first year of employment receive training determined and approved by the North Dakota Peace Officer Standards and Training (P.O.S.T.) Board and shall receive an additional forty-eight hours of training during every three year period following the first day of January after the date of employment. Adams County Jail is in violation of Standard 104 of the North Dakota Correctional Facility Standards because the facility has one staff who has correctional officer basic training, however this officer is on call only. As a result, staffing of this jail is completed by untrained staff.

Adams County Jail has failed to comply with eight out of one-hundred and eight (108) North Dakota Correctional Facility standards. Adams County Jail violations of North Dakota Correctional Facility Standards present a danger to the health and safety of inmates, staff, law enforcement, visitors, and the public and justify an order of reclassification.

ORDER OF NONCOMPLIANCE AND RECLASSIFICATION

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

IT IS ORDERED THAT, in accordance with N.D.C.C. §§ 12-44.1-06 and 12-44.1-25, the Adams County Jail is reclassified to a grade four correctional facility, effective thirty (30) days from the date this order is served, and may not detain or confine inmates for more than eight (8) hours.

IT IS FURTHER ORDERED THAT, in accordance with N.D.C.C § 12-44.1-25, the Adams County Jail shall submit changes to policy required by Standard 107 within thirty (30) days of service of this order.

IT IS FURTHER ORDERED THAT, in accordance with N.D.C.C § 12-44.1-25, the Adams County Jail shall submit all revised and new correctional facility operations and management policies and procedures and post orders to the DOCR for review and recommendation during the period in which this order is in effect.

IT IS FURTHER ORDERED THAT this order shall continue for no less than twelve (12) months from the date it is served.

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

IT IS FURTHER ORDERED THAT if Adams County Jail 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. ch. 12-44.1, the DOCR may exercise its authority under N.D.C.C. § 12-44.1-25 and order Adams County Jail be closed.

Dated this 24th day of October, 2019



Leann K. Bertsch
Director
North Dakota Department of Corrections and Rehabilitation