



**Homeland
Security**

January 5, 2022

MEMORANDUM FOR: Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement

Kerry E. Doyle
Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement

FROM: Dana Salvano-Dunn (b)(6)
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

(b)(6)
Attorney Advisor, Legal Counsel Division
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SUBJECT: Plymouth County Correctional Facility (PCCF)
Complaint Nos. 001282-21-ICE, 002150-21-ICE, 001745-22-ICE,
001720-21-ICE, 001726-22-ICE, 001777-21-ICE, 001757-22-ICE,
001963-21-ICE, 002013-22-ICE, 002121-21-ICE, 002463-22-ICE,
002348-22-ICE, and 002756-22-ICE

The Office for Civil Rights and Civil Liberties (CRCL) has received complaints alleging that U.S. Immigration and Customs Enforcement (ICE) has violated individuals' civil rights and civil liberties at the Plymouth County Correctional Facility (PCCF) in Plymouth, Massachusetts. The purpose of this memorandum is to notify you of the complaints and describe the allegations, inform you that CRCL will retain the above-referenced complaints for investigation and conduct an in-person, onsite investigation February 9 through February 11, 2022, and explain how CRCL will work with ICE during our investigation. Specifically, the allegations raise concerns regarding legal access, religious accommodations, inadequate food and/or nutrition, inadequate medical care, lack of COVID-19 policies and procedures, and claims of retaliation through the use of segregation and/or transfer to another facility. During the onsite investigation, CRCL will also look at PCCF's operations more generally to determine if the individual allegations or findings are indicative of systemic civil rights and civil liberties issues and will review other areas of the facility's operations that may also raise important civil rights and civil liberties issues.

ALLEGATIONS

1. Complaint No. 001282-21-ICE

Between July 19 and 21, 2021, CRCL received email correspondence from two organizations¹ and four individuals containing the same form letter which alleged that individuals detained at PCCF were facing unacceptable conditions and human rights abuses, including rotten food, dirty water, limited access to their attorneys, and total lack of confidentiality resulting in detainees struggling to “fight their immigration cases.”

2. Complaint No. 002150-21-ICE²

On August 10, 2021, CRCL received a referral from the Department of Homeland Security (DHS), Office of the Inspector General (OIG) regarding (b)(6), previously detained at PCCF. In a telephone call to the OIG hotline on August 9, 2021, Mr. (b)(6) made several allegations regarding the conditions of detention at PCCF, including: 1) The facility fails to provide adequate access to computers or the law library, visitation, or outside time; 2) the facility does not allow him access to the Quran, a prayer rug, or privacy to practice his religion and that food portions are small with no non-pork alternatives for Muslim detainees; 3) facility staff do not wear masks or follow COVID-19 safety protocols; 4) facility staff never mailed a letter he wrote to his attorney on July 30, 2021 regarding the conditions at PCCF; 5) facility staff retaliate against detainees who speak out or complain about the conditions; and 6) the facility cuts off the phone lines and blocks numbers to civil rights organizations.

Mr. (b)(6) also described an alleged incident on July 9, 2021, wherein he claimed that a 65-year-old detained individual “complained he did not want to share a cell” and, in response, “guards held the man down in his wheelchair, pepper sprayed him, and then took him to solitary confinement.” Mr. (b)(6) also stated that, on the same date, he spoke up about what happened and was also pepper sprayed.

3. Complaint No. 001745-22-ICE

On August 12, 2021, CRCL received a second email referral from the DHS OIG regarding an August 10, 2021, telephone call from Mr. (b)(6). On that call, Mr. (b)(6) reiterated his concerns regarding PCCF’s COVID-19 precautions and alleged that a Lieutenant tested positive for COVID-19 but continued to work in the facility for one week before quarantining. He stated that “staff (including medical) do not consistently wear masks” and “officers continuously make comments that COVID-19 is fake/a hoax.” Mr. (b)(6) further claimed that “due to the overpopulation at the facility, being locked up 23 hours a day, and the lack of COVID-19 precautions, many of the detainees are becoming sick and COVID is spreading quickly.” Finally, Mr. (b)(6) alleged that many detainees, including himself, have experienced COVID-19 symptoms and have asked to be tested; however, they have been refused a test. (b)(5)
(b)(5), (b) (7)(E)

¹ Good Shepherd Presbyterian Church and Showing Up for Racial Justice (SURJ).

² CRCL previously requested information related to this complaint on December 21, 2021 and is awaiting ICE’s response.

(b)(5), (b) (7)(E)

4. *Complaint No. 001720-21-ICE*

On August 12, 2021, CRCL received a referral from the DHS OIG regarding an August 10, 2021, telephone call made by (b)(6). Mr. (b)(6) alleged that the facility doesn't have hot water with which to cook food, an insufficient number of computers, and that the facility doesn't have a library to enable him to prepare for his court hearings.

5. *Complaint No. 001726-22-ICE*

On August 12, 2021, CRCL received a referral from the DHS OIG regarding an August 10, 2021 telephone call made by (b)(6), previously detained at PCCF. Mr. (b)(6) alleged that he had received inadequate medical care for asthma, diabetes, high cholesterol, and high blood pressure at the facility. Mr. (b)(6) further claimed that he was bipolar and suffers from depression and anxiety, conditions which have been exacerbated since his arrival at PCCF. Mr. (b)(6) also alleged that he had been unable to reach his deportation officer, the facility is overpopulated, and the food is "bad."

6. *Complaint No. 001777-21-ICE*

On August 13, 2021, CRCL received a referral from the DHS OIG of an August 11, 2021 telephone call made by (b)(6). Mr. (b)(6) reported that case workers have gotten COVID-19 and he felt that detainee safety was not being prioritized. Further, Mr. (b)(6) alleged that the dorms do not have hot water which is necessary to prepare food and drinks.

7. *Complaint No. 001757-22-ICE*³

On August 13, 2021, CRCL received a referral from the DHS OIG of an August 12, 2021 telephone call made by (b)(6). Mr. (b)(6) alleged that his mental health condition was worsening because he is high risk for COVID-19 and does not believe that the facility is following proper safety precautions. Mr. (b)(6) further alleged that the facility's food was inadequate and does not provide proper nutrients.

8. *Complaint No. 001963-21-ICE*

On August 23, 2021, CRCL received a referral from the DHS OIG of an August 12, 2021 telephone call made by (b)(6), previously detained at PCCF. Mr. (b)(6) made several allegations concerning the conditions of detention at PCCF, including: 1) PCCF refused to provide him with his legal mail; 2) PCCF denied him access to religious materials; 3) PCCF does not properly classify detainees; 4) PCCF keeps detainees in their cells for 15 hours at a time with broken toilets; and 5) it takes the medical unit two weeks to process requests for medical attention. (b)(6), (b)(5), (b) (7)(E)

³ CRCL previously requested information related to this complaint on September 29, 2021 through the medical referral process and is awaiting ICE's response.

9. *Complaint No. 002013-22-ICE*⁴

On August 25, 2021, CRCL received a referral from the DHS OIG of an August 23, 2021, telephone call made by (b)(6). Mr. (b)(6) made several allegations concerning the conditions of detention at PCCF, including: 1) the facility is unsanitary and unsafe; 2) detainees are served spoiled food; 3) detainees are locked in their cells for 16 hours a day; 4) detainees are not provided with recreation; 5) detainees are not accommodated with requested religious meals; 6) the law library is inadequate; 7) detainees are not provided medical attention; and 8) he had received inadequate medical care for pain and bed sores.

10. *Complaint No. 002121-21-ICE*⁵

On August 27, 2021, CRCL received email correspondence from America Friends Service Committee (AFSC), on behalf of her client, (b)(6). AFSC alleged that PCCF was not allowing Mr. (b)(6) to make international calls to legal counsel in El Salvador managing his “immigration case in the United States.” AFSC further alleged that the facility’s denial of these phone calls is, “in clear violation of the 2011 PBNDS requirement that, ‘Each facility shall provide detainees access to international telephone service.’” AFSC’s representative stated that when she requested to add the lawyers’ telephone number to Mr. (b)(6)’s call list, the facility responded that they are only in charge of making sure detainees are able to talk to their attorneys with cases they have here within “our country.”

The complainant also included several allegations regarding the conditions of detention at PCCF, including: 1) the facility has “exorbitantly expensive” commissary; 2) phone rates are \$139.99 per hour; 3) PCCF lacks hot water; 4) PCCF provides inadequate food which leaves the detainees hungry; 5) PCCF doesn’t enable detainees to have adequate access to family members; 6) detainees are abused by facility staff; 7) there is “retaliatory and discriminatory conduct by [PCCF] officials,” and 8) detainees suffer from inadequate medical care.

11. *Complaint No. 002463-22-ICE*

On September 24, 2021, CRCL received email correspondence from (b)(6) on behalf of the Boston Immigration Justice Accompaniment Network (BIJAN) and a group of other non-government organizations (NGOs).⁶ The email forwarded a September 23, 2021, letter addressed to ICE’s Boston Field Office and Plymouth County Sheriff’s Department that alleged several concerns regarding conditions at PCCF: 1) PCCF lacks appropriate and timely medical, mental health, and substance abuse disorder services; 2) PCCF has irregular and deficient COVID-19 protocols; 3) PCCF charges prohibitively high fees for detainee phone calls; 4) staff retaliate

⁴ CRCL previously requested information related to this complaint on October 7, 2021 through the medical referral process and is awaiting ICE’s response.

⁵ CRCL previously requested information related to this complaint on December 3, 2021 and is awaiting ICE’s response.

⁶ Prisoners’ Legal Services of MA (PLS), Alianza para Movilizar Nuestra Resistencia (AMOR), and Never Again Action Boston.

against and/or threaten retaliation against individuals who file grievances or otherwise make complaints; 5) staff subject detainees to physical and verbal abuse, including discriminatory conduct; 6) PCCF lacks hot water; 7) PCCF lacks adequate translation and interpretation services; 8) PCCF fails to provide appropriate religious accommodations; 9) PCCF frequently blocks phone numbers required by law to be accessible in order to report civil rights violations;⁷ and 10) there are multiple barriers to legal access such as a lack of appropriate and confidential access to attorneys and limited access to legal resources and materials.

BIJAN further alleged that past ICE inspections of PCCF had been “cursory,” and ineffective at identifying pervasive and troubling conditions, allowing PCCF to “circumvent constitutional, statutory and regulatory requirements.” BIJAN requested the immediate release of all ICE detainees at PCCF, termination of the Intergovernmental Service Agreement (IGSA) between ICE and PCCF, and for ICE to halt all transfers to and from all ICE facilities to prevent the spread of COVID-19 throughout the U.S. and to safeguard access to local support services, attorneys, and family members.

12. Complaint No. 002348-22-ICE

On September 10, 2021, CRCL received a referral from the DHS OIG of a September 9, 2021, telephone call made by (b)(6). Mr. (b)(6) alleged that he is blind in his left eye following multiple surgeries and that since September 5, 2021, he had been experiencing pain in his right eye. Mr. (b)(6) stated that the symptoms he was experiencing in his right eye are similar to those he previously experienced in his left eye. Specifically, he expressed fear that the retina in his right eye was detaching, which he stated was the cause of his blindness in his left eye and emphasized that time was of the essence in diagnosing and treating his right eye. Mr. (b)(6) further stated that doctors at the prison where he was incarcerated prior to his ICE detention were “monitoring his right eye since they suspected it would have the same issues as the left eye.” (b)(6), (b)(5), (b) (7)(E).

13. Complaint No. 002756-22-ICE⁸

On November 8, 2021, CRCL received postal mail correspondence from (b)(6) on behalf of (b)(6). Ms. (b)(6) alleged that Mr. (b)(6) had been injured by an officer the previous week and sustained a broken nose, split tongue and was pepper sprayed.⁹ On November 17, 2021, CRCL received three separate emails from individuals describing Mr. (b)(6) alleged injuries and requesting his release. (b)(6), (b)(5), (b) (7)(E)

⁷ Office for Civil Rights and Civil Liberties (CRCL) and DHS Prison Rape Elimination Act (PREA) hotline.

⁸ CRCL previously requested information related to this complaint on November 8, 2021 through the medical referral process and is awaiting ICE’s response.

⁹ (b)(6), (b)(5), (b) (7)(E)

CRCL

CRCL Mission. CRCL supports the Department’s mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL integrates civil rights and civil liberties into all the Department’s activities by:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel;
- Leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

CRCL authorities. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL is charged with investigating and assessing complaints against DHS employees and officials of abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion. The procedures for our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

Access to information. More particularly, 42 U.S.C. § 2000ee-1(d) grants CRCL access to the “information, material, and resources necessary to fulfill the functions” of the office, including the complaint investigation function. Management Directive 3500 further authorizes CRCL to:

- “Notify[] the relevant DHS component(s) involved of the matter and its acceptance by CRCL, and whether the matter will be handled by CRCL or by the component organization”;
- “Interview[] persons and obtain[] other information deemed by CRCL to be relevant and require[e] cooperation by all agency employees”; and
- “Access[] documents and files that may have information deemed by CRCL to be relevant.”

Reprisals forbidden. 42 U.S.C. § 2000ee-1(e) forbids any Federal employee to subject a complainant or witness to any “action constituting a reprisal, or threat of reprisal, for making a complaint or for disclosing information to” CRCL in the course of this investigation. This memorandum and its accompanying request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with CBP personnel and documents generated during this review, particularly the final report, will be protected to the maximum extent possible by attorney-client and deliberative process privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s website—that is

required to detail “any allegations of [civil rights/civil liberties] abuses . . . and any actions taken by the Department in response to such allegations.”

We look forward to working with your staff on this matter and will report back to you our findings and any recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine whether the factual allegations in the complaints can be verified or disproven; whether any additional facts suggest that the Constitution, a federal statute, or a Department policy has been violated; and what steps, if any, should be taken by ICE to address any concerns CRCL identifies, both individually (if a problem is ongoing) and as a matter of policy. It is our goal to produce a report that will assist in making ICE the best agency possible.

QUESTIONS PRESENTED

(b)(5)



INITIATING THE INVESTIGATION

CRCL has already taken steps to begin its investigation, which is assigned to Policy Advisor (b)(6). We look forward to continuing to work together to determine all the facts surrounding this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b)(6) by phone at (b)(6) or by email at (b)(6).

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