



Homeland
Security

April 18, 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:

(b)(6)

Dana Salvano-Dunn
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

(b)(6)

Attorney Advisor, Legal Counsel Division
Office of the General Counsel

SUBJECT: Imperial Regional Detention Facility
Complaint Nos. 003205-22-ICE, 001622-21-ICE, 003374-22-ICE, 001148-
22-ICE, 000128-22-ICE, 003323-22-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 Imperial Regional Detention Facility (IRDF) in Calexico, CA. 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 onsite investigation, and explain how CRCL will work with ICE during our investigation. As part of this investigation, and consistent with its authority described in the CRCL and Scope of Review sections below, CRCL will examine the allegations summarized below and will look at IRDF's operations more generally to address any systemic concerns.

Complaints

Complaint No. 003374-22-ICE

On February 18, 2022, CRCL received email correspondence from (b)(6) with Freedom for Immigrants on behalf of (b)(6), reporting that the detainee was not

receiving treatment for his Hepatitis C virus. The complainant alleged that the detainee was experiencing blood in his stool and itchy skin related to the virus and that when he reported these symptoms medical staff did not do anything to assist him. Lastly, the complainant alleged that the neglect also placed other detainees and facility staff at risk because of the contagious nature of the virus.

Complaint No. 003323-22-ICE

On February 10, 2022, CRCL received a complaint from (b)(6) alleging that on January 10, 2022, an officer at IRDF threatened him with retaliation in response to filing grievances regarding conditions at the facility. The complainant alleged on January 10, 2022, IRDF's Chief of Security, (b)(6), (b) (7)(C) approached his cell door and stated "y todas esas grievances?" (translation: and all those grievances?) and stated "tu nomas no aprendez" (translation: you just don't learn). At the time the comments were made, Mr. (b)(6) had several grievances pending and asserted that those comments were threats indicating that he would suffer for filing grievances regarding sanitation issues.

Complaint No. 003205-22-ICE

On January 25, 2022, CRCL received email correspondence from (b)(6) with Freedom for Immigrants on behalf of nine detainees at the IRDF alleging concerning serious concerns regarding conditions of detention at IRDF, including toxic and unfiltered air, contaminated water, and exposure to dust and mold. Of the nine detainees, five requested to remain unnamed, due to fear of retaliation.¹).

Complaint No. 001622-21-ICE

On August 6, 2021, CRCL received email correspondence from (b)(6) with Freedom for Immigrants, on behalf of (b)(6)), alleging that that on June 23, 2021, the IRDF detention staff told all detainees that the facility water was unsafe to drink. As a result, detainees were initially provided with bottled water however, there were significant shortages of bottled water, leading to both thirst and anxiety for the individuals detained in the facility. According to the complainant, the unsafe drinking water notification, along with bottled-water shortages, persisted for a three-day period.

The complainant further alleged that about three and a half weeks later, after the official water contamination notification ceased on June 27th, when individuals began to drink the water again, the water had visible particulates and tasted like bleach. The complainant alleged that the water had a chemical taste and visible particles from June 27th through the end of July.

As a result of detainees drinking the "contaminated" water, the complainant alleged that multiple individuals became sick with rashes and itchy skin, including one person who allegedly suffered an infection after rinsing their ear with contaminated water.

¹ The identifying information of the other four detainees if included in the CRCL Information Request.

Complaint No. 001148-22-ICE

On June 17, 2021, CRCL received a referral from the OIG regarding (b)(6) [REDACTED], alleging that he was placed in segregation without cause. In a phone call to the OIG on June 16, 2021, the complainant alleged that he has been housed in segregation since January 2021 – nearly six months, without just cause. According to the complainant, the IRDF staff have placed multiple people into segregation without justification.

Complaint No. 000128-22-ICE

On May 14, 2021, CRCL received direct correspondence from Amanda Diaz with Freedom for Immigrants on behalf of (b)(6) [REDACTED], alleging there were maggots in his food. According to the complainant, the detainee found a maggot in his fruit cup and requested that staff members to take a photo of the fruit cup with the maggot, but staff refused. The complainant alleged that this is a clear indication of the lack of cleanliness within the IRDF kitchen.

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:

- 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. In investigating complaints, if CRCL believes that the complaints raise similar issues, CRCL may look into whether there are systemic problems that justify a broader investigation. Pursuant to its authority under 6 U.S.C. § 345(a) (3), CRCL shall assist components to “periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities.”² Additionally, pursuant to DHS Delegation Number

² Pursuant to 42 U.S.C. § 2000ee-1(a)(2), CRCL has the authority to “periodically investigate and review department, agency, or element actions, *policies, procedures, guidelines*, and related laws and their implementation to ensure that

19003, issued October 26, 2012, the Secretary has delegated to the Officer of CRCL the authority to “[a]ssess[] new and existing policies throughout the Department for the policies’ impact on civil rights and civil liberties” and “review . . . programs within any Component to ensure compliance with standards established by the Officer for CRCL to protect civil rights and civil liberties.” Issues such as appropriate treatment by ICE officials, access to medical care, arbitrary punishment, language access, and religious accommodation for ICE detainees may raise civil rights and liberties concerns. The procedures for our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500, DHS Instruction 046-01-001, and DHS Instruction 046-01-002.

Access to information. 42 U.S.C. § 2000ee-1(d) grants the Officer access to the “information, material, and resources necessary to fulfill the functions” of the office, including (but not limited to) 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 cooperation by all agency employees;” and
- “Access documents and files that may have information deemed by CRCL to be relevant.”

Further guidance is contained in DHS Instruction 046-01-002, and, pursuant to § 3.3 of ICE Directive 8010.1, “Administration and Management of Inquiries from the Office for Civil Rights and Civil Liberties,” this is a request for information or assistance. Under § 3.3 of Directive 8010.1, ICE will provide the requested information and materials to CRCL within the specified timeframe, and not edit or otherwise limit review of the information that is responsive to CRCL’s request. Pursuant to § 2 of Directive 8010.1, CRCL understands that this request will be handled by the appropriate ICE program office.

Reprisals forbidden. In addition, 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 the request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with ICE 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 as well as any other applicable 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.”

such department, agency, or element is adequately considering privacy and civil liberties in its actions” (emphasis added).

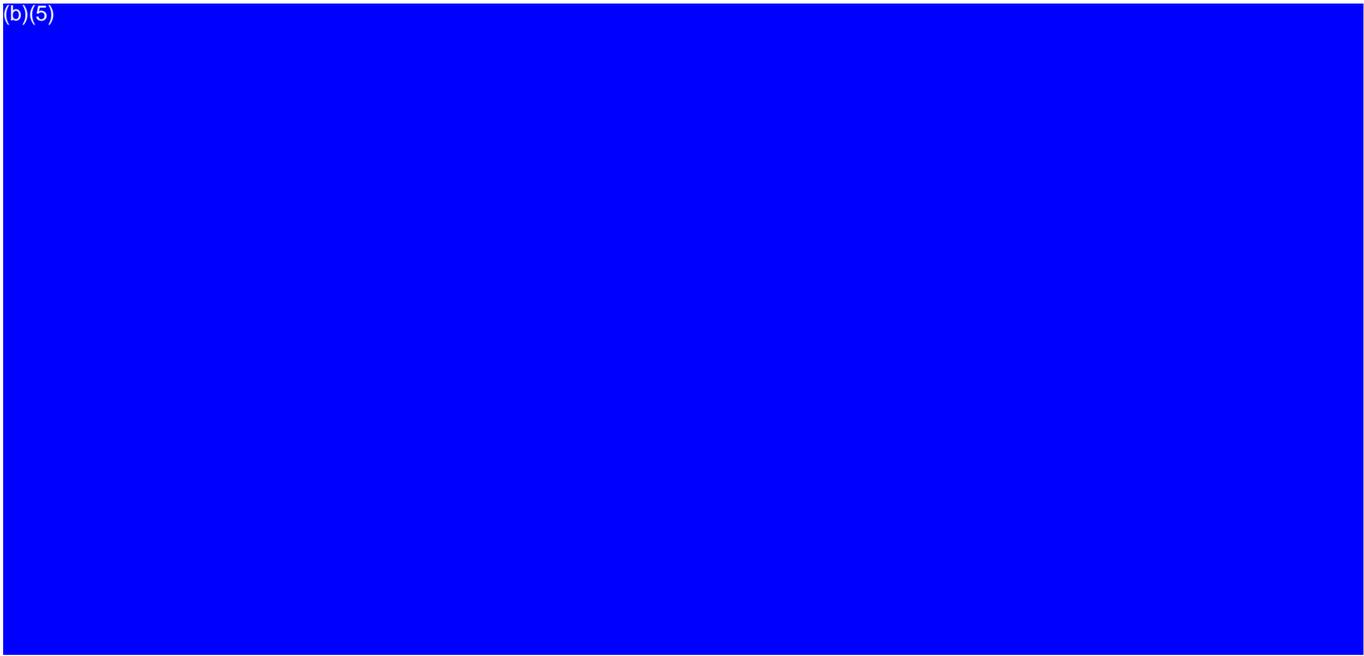
We look forward to working with your staff on this matter and will report back to you our findings and any recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine if: the allegations in the complaints can be verified or disproven; if the facts we find suggest that the Constitution, a federal statute, or a Departmental policy has been violated; and what steps, if any, should be taken by ICE to address the complaints, both individually (if the problem is ongoing) and as a matter of policy.

QUESTIONS PRESENTED

(b)(5)



INITIATING THE INVESTIGATION

CRCL has already taken steps to begin its investigation, which is assigned to Senior 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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