



Homeland
Security

May 25, 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
Office of the General Counsel

SUBJECT: Caroline Detention Facility
Complaint Nos. 003088-22-ICE, 003858-22-ICE, 002439-21-ICE,
003509-22-ICE, 003666-22-ICE, and 003706-22-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 Caroline Detention Facility (CDF) in Bowling Green, Virginia. 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 from June 14 - 17, 2022, and explain how CRCL will work with ICE during our investigation. Specifically, the allegations raise concerns regarding legal access, religious accommodations, unsanitary conditions, misuse of solitary confinement, inadequate food and/or nutrition, inadequate medical care, and lack of COVID-19 policies and procedures.

ALLEGATIONS

1. Complaint No. 003088-22-ICE

On January 6, 2022, CRCL received a referral from the OIG regarding (b)(6) (Complainant), reporting that he was touched inappropriately by an unnamed ICE officer in order to wake him up, and that ICE officers at CDF continue to inappropriately touch ICE detainees in order to wake them up. The Complainant also alleged that

ICE detainees were comingled with inmates, which causes tension and that CDF officers have appeared to intentionally leave their positions for long periods of time, allowing inmates to target and assault ICE detainees. The Complainant also alleged that CDF officers do not wear face masks or other protective equipment to prevent the spread of COVID-19. Lastly, the Complainant alleged that an unnamed ICE officer recently used his personal phone to take pictures of the ICE detainees without their consent.

2. Complaint No. 003858-22-ICE

On February 2, 2022, CRCL received a referral from the OIG regarding (b)(6) a detainee at the Caroline Detention Facility in Bowling Green, Virginia. The complainant alleged ICE officers forcefully feed him and other detainees and food that is often moldy and past the consumption date.

3. Complaint No. 002439-21-ICE

On August 31, 2021, CRCL received a direct email from Free Them All VA, Freedom for Immigrants, and the National Immigration Project of the National Lawyers Guild on behalf of 19 individuals currently or previously in ICE custody at CDF. The complaint alleged a “clear pattern and practice of abuse and torturous conditions at CDF,” and violations of the 2011 PBNDS. Specifically, detainees reported that they have suffered from physical and verbal abuse, contaminated food, denials of right to practice religion, medical neglect, denial of disability accommodations, unsanitary conditions, phone access restrictions, misuse of solitary confinement, retaliation, and negligence related to COVID-19 protocols.

4. Complaint No. 003509-22-ICE

CRCL received a referral from the OIG of a January 18, 2022, from (b)(6) (Complainant), an ICE detainee at CDF alleging that he broke a tooth in April 2021 and that CDF staff informed him he could not see a dentist until he been at the facility for a year. Complainant stated that he went to the dentist for the filling on January 18, 2022, but that the dentist told him that he could not treat him unless he has been at the facility for a year. He claims that he must wait two additional months for care while his tooth continues to decay.

CRCL also received a separate complaint from (b)(6), Staff Attorney at Immigration Equality on behalf of Complainant reporting that Complainant is a gay asylum seeker from Jamaica who was subjected to persecution in Jamaica, forcing him to flee to the United States. The Complainant reported concerns at CDF including alleged staff retaliation in response to complaints submitted to DHS by the Complainant; detainee transfers between COVID-19 quarantined and non-quarantined units; staff shortages; lack of access to counsel; and staff misconduct. Lastly, the complaint alleged that Complainant was improperly housed in segregation for close to a year, in a high custody unit due to facility misclassification.

5. Complaint No. 003666-22-ICE

On April 12, 2022, CRCL received an OIG referral stating that CDF is kept in poor condition, including that showers have no curtains and, those that do have curtains, have torn curtains that are held up with Velcro causing them to fall down. Additionally, the complaint alleges that some showers do not work and the tiles in the shower are broken and may be used as a weapon. The

Complainant also reported that some pod ceilings leak water and that COVID protocols are not being met. The complaint also alleges that the facility is understaffed, staff will yell and curse at the detainee population, and that the staff is not equipped with skills to handle detainees with mental health issues. Moreover, he claims that detained individuals are not getting the correct measurement of food and laundered clothes are discolored and returned with holes.

6. *Complaint No. 003706-22-ICE*

On April 20, 2022, CRCL received email correspondence from Sofia Casini with Freedom for Immigrants and Free Them All VA on behalf of (b)(6)) (Complainant) in ICE custody at Caroline Detention Facility in Bowling Green, VA. On January 17, 2022, the Complainant reported to the Freedom for Immigrants Hotline that that he was subjected to several instances of physical violence at the hands of Officer (b)(6), (b)(7)(C) between November 2021 and January 2022. He allegedly did not immediately file a complaint because he did not have a lawyer and was fearful of retaliation. The Complainant claimed that he never provoked Officer (b)(6), (b)(7)(C) during any of these incidents and believes that he was targeted because of his vulnerability stemming from not having legal representation and being a non-English speaking immigrant.

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)



(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).

Enclosure

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