



Homeland
Security

June 10, 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

Robert O'Malley e/s
Attorney Advisor, Legal Counsel Division
Office of the General Counsel

SUBJECT: Seneca County Jail
Complaint Nos. 003354-22-ICE, 03914-22-ICE,
003409-22-ICE, 002966-22-ICE, 002856-22-ICE,
002672-22-ICE, 002659-22-ICE, 002524-22-ICE,
002194-21-ICE, 001312-22-ICE, and 000493-21-ICE

The Office for Civil Rights and Civil Liberties (CRCL) has received complaints alleging that U.S. Immigration and Customs Enforcement (ICE) has potentially violated the civil rights and civil liberties of detainees in ICE custody at the Seneca County Detention Center (Seneca) in Tiffin, Ohio. 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 and other allegations for investigation and conduct an onsite investigation at the Seneca on July 11-13, 2022, and explain how CRCL will work with ICE during the investigation. As part of this investigation, consistent with its authority, CRCL will examine the allegations summarized below and will look at Seneca's operations more generally to address any systemic concerns.

COMPLAINT ALLEGATIONS

Through its review of the Joint Intelligence Operations Center (JIOC-ICE) Daily Detainee Assault Reports (DDAR) which capture, among other things, "any allegations of sexual assault, physical assault and use of force incidents/allegations occurring in ICE detention settings," CRCL noted concerning reports involving Seneca. Specifically, from September 2020 – May 2022, CRCL noted the following incident from the JIOC-ICE DDAR:

Use of Force

1. *Complaint No. 03914-22-ICE*

On February 22, 2021, ERO Detroit reported the use of force with a taser on a Liberian national housed at Seneca. On February 21, 2021, according to the DDAR, Seneca staff gave the detainee a verbal command to remove a torn piece of shirt from his head and surrender it. The detainee removed the shirt but refused to surrender it and twice refused orders to step out into the hallway. One of the staff attempted to grab the detainee by the arm, which resulted in a physical altercation as staff took the detainee to the ground. While on the ground, the detainee allegedly refused to comply with orders to submit to handcuffing. The DDAR states that Seneca staff then warned the detainee that a taser would be used if he didn't comply and that the detainee continued to refuse to comply, and a taser was subsequently deployed making contact with the detainee's lower back. The detainee was then placed in handcuffs. The detainee claimed he was unable to stand so the detainee was picked up and escorted to booking where Seneca medical staff cleared the detainee. A Seneca staff member sought medical attention at the hospital for a minor injury to his left arm and shoulder.

Medical, Mental Health and Dental Care

2. *Complaint No. 002966-22-ICE*

On December 8, 2021, CRCL received a referral from the Department of Homeland Security (DHS) Office of the Inspector General (OIG) of a December 8, 2021 telephone complaint by (b)(6), an ICE detainee at Seneca. Mr. (b)(6) reports that he is diabetic and has not received any medication for his illness since his arrival at the facility. He states that he fears for his life and that he could die. Mr. (b)(6) claims that his sugar levels are very high and that he needs help as soon as possible. CRCL sent a medical referral complaint to ICE ERO on December 17, 2021. As of this date, no response has been received. (b)(6), (b)(5), (b)(7)(E)

3. *Complaint Nos. 002672-22-ICE, 001312-22-ICE and 000493-21-ICE*

On October 26, 2021, CRCL received a referral from the DHS OIG of an October 25, 2021, telephone call by (b)(6) an ICE detainee at Seneca (Complaint 002672-22-ICE). Mr. (b)(6) alleged that ICE was not providing adequate medical attention. Specifically, he stated that, while detained at a prior facility, he saw a specialist who determined he needed surgery for pain and bleeding he suffered while using the restroom, but that medical staff at Seneca had told him there were no doctors in the state of Ohio to perform the surgery. Mr. (b)(6) further stated that ICE had not assigned him a case manager and that, for the prior year, he had been "tortured" for filing a grievance report against an officer, including denial of medical and dental care. In two previous complaints to CRCL (001312-22-ICE, July 20, 2021 and 000493-21-ICE, April 16, 2021) Mr. (b)(6) similarly alleged that he suffered from inadequate medical care in detention and that he feared contracting COVID-19 due to Seneca's alleged failures to follow COVID-19 protocols. CRCL sent medical referral complaints to ICE ERO on June 8, 2021 (000493-21-ICE), October 12, 2021 (001312-22-ICE), October 26, 2021 (002672-22-ICE). As of this date, no responses have been received. (b)(5), (b)(7)(E)

4. Complaint Nos. 003354-22-ICE, 003409-22-ICE, 002659-22-ICE and 002524-22-ICE

On February 15, 2022, CRCL received email correspondence from (b)(6) with Freedom for Immigrants (FFI), and the Ohio Immigrant Alliance, on behalf of 11 ICE detainees—four named and seven anonymous—at Seneca (003354-22-ICE). The complaint alleges that Seneca detainees have suffered “severe medical neglect with long-term and life-threatening implications for these individuals’ health.” On February 16, 2022, CRCL sent a medical referral complaint on behalf of all four named detainees.¹

(b)(6) **Complaint No. 003354-22-ICE**

On behalf of (b)(6) the complaint alleges he “reported that his limbs were going numb and his blood pressure was increasing according to the weekly measurements Seneca was taking (when adequate medical care in fact calls for daily measurements)” as well as “rapid heart palpitations and hyperhidrosis,” convulsions and blood in his nose and in his stool. Mr. (b)(6) further claimed that he has repeatedly asked for copies of his medical records but that his requests have been denied. Finally, Mr. (b)(6) reported “dental negligence,” stating that he has been requesting dental care since a molar filling fell out on June 4, 2021 and is suffering from extreme pain and bleeding, for which he has not seen a dentist.² As of this date, no response has been received to the medical referral portion of Mr. (b)(6) complaint. (b)(5)

(b)(6) **Complaint No. 003409-22-ICE**

(b)(6)³ reported he has only been able to see a psychiatrist once his arriving, despite an alleged diagnosis of post-traumatic stress disorder. As of this date, no response has been received to the medical referral portion of Mr. (b)(6) complaint. (b)(6), (b)(5), (b) (7)(E)

¹ At ERO’s request, CRCL later assigned separate complaint numbers to each of the four named detainees. This included two new complaints: (b)(6) (Complaint 003354-22-ICE, Master Complaint) and (b)(6) (Complaint 003409-22-ICE). CRCL had existing open complaints with similar allegations for the other two named detainees and thereby treated the allegations in the February 15, 2022 correspondence as supplemental to those existing complaints: (b)(6) (Complaint 002659-22-ICE) and (b)(6) (Complaint 002524-22-ICE).

² Mr. (b)(6) also alleged inadequate medical and dental care in August 2021. CRCL sent a medical referral on September 2, 2021 (Complaint 002107-21-ICE) which it later closed. CRCL later identified another open complaint investigation concerning Mr. (b)(6), Complaint 002856-22-ICE, discussed below in the allegations regarding conditions of detention.

³ Mr. (b)(6) A number was not included in the original complaint but was later provided by ICE ERO.

(b)(6): *Complaint 002659-22-ICE (Supp.)*

(b)(6) also reported continued dental negligence as part of the February 15, 2022 FFI correspondence. Specifically, he claimed that, on September 7, 2021, Immigration Judge Bruce Imbacuan requested that Seneca County Jail Officer (b)(6), (b)(7)(C) arrange that Mr. (b)(6) be seen by a dentist during his immigration hearing, and that Officer (b)(6), (b)(7)(C) verbally committed to doing so, but that he has yet to see a provider. Mr. (b)(6) alleges that he continues “to suffer severe tooth pain due to an infected molar abscess, and that he ha[s]... been in pain for four months, since he arrived at Seneca.” Mr. (b)(6) further reports that medical communications and records are only available in English, not Spanish or other languages spoken by individuals in ICE detention.

CRCL sent the original medical referral regarding Mr. (b)(6) allegations of inadequate dental care on October 27, 2021 and its supplemental request, based on the February 15, 2022 FFI allegations, on February 16, 2022. On March 22, 2022—nearly 5 months after the initial complaint—ERO submitted its initial response stating that, although Mr. (b)(6) had reported pain from a gash in his molar beginning in June 2021, he was not seen by a dentist until October 22, 2021, at which time three cavities were found and he was treated with antibiotics and over the counter pain medications. The response further stated that Mr. (b)(6) did not see a dentist again until March 4, 2022, whereupon it was “recommended that the detainee have three teeth removed” but that “[c]urrently the tooth extraction is in the approval process with Immigration Health Service Corps (IHSC).” (b)(6), (b)(5), (b)(7)(E)

(b)(6) *Complaint No. 002524-22-ICE (Supp.)*

In his original correspondence to CRCL on September 19, 2021 (b)(6) alleged that he was “being discriminated against by the institution” as he had dental and medical issues that are not being addressed. The Detainee specifically stated, “at this time I asked for medicines for the pain in my tooth 9 days ago and I have not received any response right now I am in so much pain and have such an infection that I cannot eat and I hardly sleep.” CRCL sent a medical referral regarding these allegations on January 7, 2022.

In the February 15, 2022 FFI correspondence, Mr. (b)(6) alleges he has “requested a myriad of times to be scheduled for health, dental and mental treatment, but to no avail... The doctor only comes in on Wednesday and no medical staff on the weekends or nights...” Mr. (b)(6) states that he has experienced tooth pain “so excruciating that he was unable to sleep,” but was told by Seneca staff “there is no dentist available” and was given salt water. Mr. (b)(6) further alleges that “despite a prior diagnosis and medication prescription for major depression, he had been unable to see a psychologist despite requesting to do so upon his arrival to Seneca on September 9, 2021.” As of this date, no response has been received to the medical referral portion of Mr. (b)(6) complaint. (b)(6), (b)(5), (b)(7)(E)

⁴ CRCL later identified a second open complaint for Mr. (b)(6), Complaint 002194-21-ICE, referred to in the allegations regarding the prevention of COVID-19. In some correspondence Mr. (b)(6) is mistakenly referred to as Mr. (b)(6)

order of supervision on February 16, 2022. CRCL will review Mr. (b)(6)' medical records as part of its onsite investigation.

Conditions of Detention and Environmental Health and Safety

The February 15, 2022, correspondence also contained numerous allegations regarding conditions of detention, particularly pertaining to environmental health and safety. These allegations were found to be consistent with much of the prior correspondence received by CRCL from Seneca detainees. The following is a sample of some of the most concerning allegations:

Freezing Cold Temperatures and Lack of Adequate Clothing

Multiple detainees reported freezing cold temperatures at Seneca, and that they lacked the clothing necessary to withstand the cold. On November 4, 2021, an anonymous detainee allegedly reported to FFI that it was “really, really cold...we are freezing to death.” On November 11, 2021, Mr. (b)(6) reported to FFI that the heater was not working for weeks during low temperatures but the air conditioning unit remained on and detainees were not issued jackets. On December 14, 2021, Mr. (b)(6) reported that “they do not have hot running water, so the showers were cold. He also reported that they had gone 8 days without heating, despite it being approximately 20 degrees Fahrenheit outside.” On January 7, 2022, Mr. (b)(6) reported that despite it being approximately 40-45 degrees Fahrenheit inside the jail, he had only been provided with a short-sleeved scrub top, pants, socks and sandals as clothing. Mr. (b)(6) further alleged that only “potential source of warmth that is offered in addition to the inadequate clothing are thin blankets that are worn and tattered.”

On May 5, 2022, CRCL received an initial response to the non-medical allegations raised in the Master Complaint (003354-22-ICE), denying that the facility was ever without heat for 8 days but concurring that “During the month of January 2022, the facility did experience technical difficulties with the HVAC system, resulting in some areas of the facility being colder than others” but that “[a]llegations of colder temperatures during the months of October or November of 2021, were attributed to sudden drops in temperatures outside.” The response further stated that the “facility’s maintenance staff monitor temperatures daily and adjust the system accordingly” and “during the colder time frames, extra blankets were provided to accommodate the dips in temperature.” However, in describing the clothing allotted to each detainee, ERO noted that detainees are given only one uniform pant and one top, one pair of sandals and “zip up hooded sweatshirts for use in outdoor recreation during cold-weather months,” which seemed insufficient for Ohio winters.

Unsanitary Conditions

Similarly, both the Master Complaint and several previous complaints raised concerns regarding unsanitary conditions including dirty bathrooms and tables, that facility staff did not clean up the garbage, that toilets and sinks were clogged with no running water and that there were no cleaning materials or paper towels provided. Other detainees reported that the only place to brush their teeth was “where we prepare food,” and that the practice was unsanitary. In January 2022, Mr. (b)(6) reported that certain critical hygiene items like dental floss, mouth wash, and skin care had been removed from the list of commissary items available for purchase.

Telephone and Legal Access/ Retaliation

Several detainees reported that Seneca does not facilitate free legal calls and/or that the only free phone available to make calls are in highly public places that lack the required privacy. One detainee alleged that the officers at Seneca listen in on phone calls and force people to hang up sometimes or terminate calls early. On November 4, 2021, Mr. (b)(6) reported that he had been requesting a copy of his custody review denial for over a week without results, and that he was being refused access to the law library on an ongoing basis. On Mr. (b)(6) reported experiencing retaliation for requesting free legal calls. He also noted that stamps and legal envelopes had been removed from the list of commissary items available for purchase, and that staff had started to refuse the dissemination of grievance forms as a form of retaliation.

Food Service

Food served in the facility was described as “contaminated,” alleging that detainees have found “inedible and unsanitary items such as hair” and portions were “meager.” Mr. (b)(6) also reported that workers in the kitchen do not wear hair covers or face masks and that guards wear the same gloves to both pick up trash and serve food. On December 16, 2021, Mr. (b)(6) reported to FFI that another detained individual was retaliated against by a guard who had overheard them express discontent about the quality of the food and put into solitary confinement as punishment.

COVID-19 Protocols

Nearly all of the CRCL complaints cited herein also included allegations that Seneca was not taking adequate measures to prevent the spread of COVID-19, including that staff did not wear masks, lack of social distancing, lack of testing, availability of vaccines and lack of cohorting or quarantining measures with incoming detainees and detainees who had tested positive for, or exhibited symptoms of, the virus.⁵ In January 2022, one detainee alleged that he had asked for a booster COVID-19 vaccine shot, but that Seneca did not offer them, while a second alleged he had not timely received his second dose.

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;

⁵ See., e.g., 003354-22-ICE, 002194-21-ICE, 001312-22-ICE and 000493-21-ICE.

- 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.”⁶ Additionally, pursuant to DHS Delegation Number 19003, issued October 26, 2012, the Secretary has delegated to the Officer of CRCL the authority to “assess 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, lack of arbitrary punishment, and religious accommodation for ICE detainees are examples of issues that raise civil rights and liberties concerns. The procedures for CRCL investigations and the recommendations those investigations 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 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.”

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 timeframe indicated below, 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

⁶ In addition, 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 such department, agency, or element is adequately considering privacy and civil liberties in its actions” (emphasis added).

be handled by the appropriate ICE program office or ICE's Office of Diversity and Civil Rights (ODCR).

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 accompanying request for documents and 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. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted on CRCL’s Web site—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.”

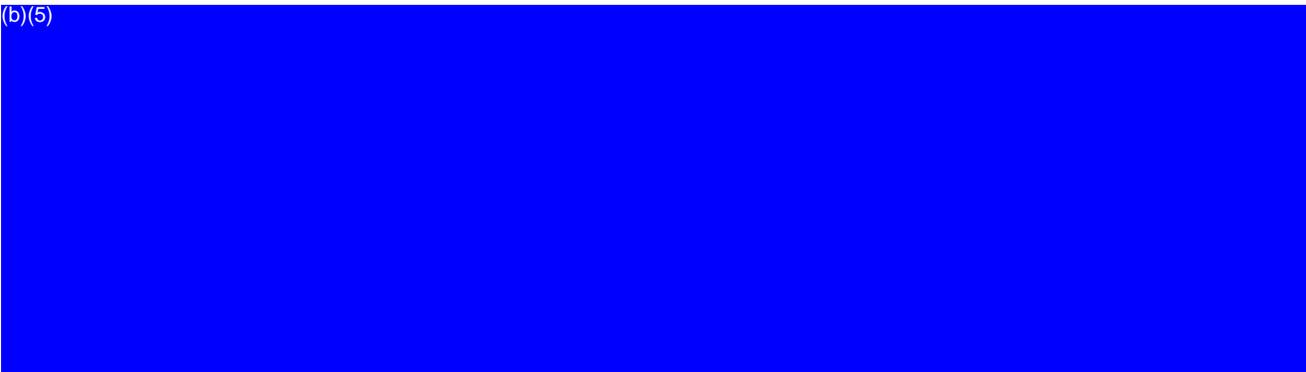
We look forward to working with your staff on this matter and will report back to you our findings and any recommendations.

SCOPE OF REVIEW

The purpose of our review is to determine 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. This review will also examine the additional areas specified above for similar concerns related to protection of civil rights and civil liberties. It is our goal to produce a report that will assist you in making ICE the best agency possible.

QUESTION(S) PRESENTED

(b)(5)



INITIATING THE INVESTIGATION

CRCL has already taken steps to begin its investigation of these complaints, which are assigned to (b)(6), Senior Policy Advisor, CRCL. We look forward to working 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 Ms. (b)(6) by phone at (b)(6) or by email at (b)(6).

Enclosure

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