



Homeland
Security

August 26, 2021

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

John D. Trasviña
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

Susan Mathias /s/
Assistant General Counsel, Legal Counsel Division
Office of the General Counsel

SUBJECT: Bluebonnet Detention Center
Complaint Nos. 002858-21-ICE, 002763-21-ICE,
002387-21-ICE, 001515-21-ICE, and 001471-21-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 Bluebonnet Detention Center ("Bluebonnet") in Anson, Texas. 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 Bluebonnet's operations more generally to address any systemic concerns.

Complaints

Complaint No. 002858-21-ICE

On September 9, 2020, CRCL received postal mail correspondence from (b)(6), an ICE detainee at Bluebonnet. In the undated Spanish language correspondence (which was professionally translated), Mr. (b)(6) alleged that detainees at the facility were exposed to COVID-19 following the transfer of "prisoners from Dallas who were infected with

the virus, and they put them in the cells with the rest of us who were healthy, and we immediately started to get sick little by little until we were all sick.” Mr. (b)(6) reported that on April 20, 2020, he “sent notice” to medical staff that he was feeling ill and “they never took care of [him].” According to Mr. (b)(6), “They would just give Tylenol to everybody. I asked them to give me the COVID-19 test, and they told me that they didn't have it. I asked for masks, and they told me that they only had them for employees.”

Mr. (b)(6)'s correspondence also detailed non-medical related allegations, including that the ceiling is always dropping down fiberglass insulation. Mr. (b)(6) also alleged that he reported that a detainee sexually harassed him, and nothing was done. Specifically, Mr. (b)(6) reported that the detainee would sexually harass him “with his expression with his mouth, facial expressions, looks, he winks at me.” He further alleged that he reported the sexual harassment “with ICE and MTC¹ also, and they ignored me. They didn't do anything. They just moved me to a different cell, but then they put me back in the same cell with the same harasser.”

Complaint No. 002763-21-ICE

On September 16, 2020, CRCL received an email referral from the DHS OIG (C2022331) regarding (b)(6), an ICE detainee at Bluebonnet. In a phone call to the OIG hotline on August 19, 2020, Mr. (b)(6) alleged he was denied food on two occasions because he did not have his ID.

Complaint No. 002387-21-ICE

On July 28, 2020, CRCL received a referral from the DHS OIG (C2018631) regarding (b)(6) an ICE detainee at Bluebonnet. In a phone call to the OIG hotline on June 25, 2020, Mr. (b)(6) alleged he was placed in segregation on June 22, 2020, because an unknown male officer accused him of physically assaulting a female officer with a door. Mr. (b)(6) claimed he slammed the door on the female officer by accident. Allegedly, facility staff told him they would review the footage and place him back into general population, but that had not happened.²

Complaint No. 001515-21-ICE

On April 10, 2020, CRCL received an email referral from DHS OIG (C2012580), regarding (b)(6) an ICE detainee at Bluebonnet. In a phone call to the OIG hotline on April 1, 2020, Mr. (b)(6) made the following allegations: 1) Since being at the facility, he received several sack lunches containing pork which he does not eat,³ and although the facility addressed this issue with officers, he did not see any change; 2) the facility gives detainees expired food to eat; 3) upon arrival at Bluebonnet, he was not permitted to bring any of his hygiene products from the previous facility and had to buy new ones at the commissary; 4) the facility cleaning crew quit and, as a result, detainees had to clean their own dorms without cleaning supplies; and 5)

¹ Management & Training Corporation - the facility's operating company

² The detainee was removed July 24, 2020, shortly after the incident.

³ The allegation does not state why the detainee does not eat pork. The investigation will also cover this issue.

Bluebonnet is understaffed and there is not always an officer in a dorm with 80 detainees, which leads to theft due to the lack of supervision.

Complaint No. 001471-21-ICE

On April 8, 2020, CRCL received an email referral from the DHS OIG (C2012601) regarding (b)(6), an ICE detainee at Bluebonnet. Mr. (b)(6) alleged that detainees are being fed expired food, the meat is discolored, and the food has a terrible smell.

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.”⁴ Additionally, pursuant to DHS Delegation Number 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,

⁴ 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).

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.”

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 Policy Advisor (b)(6) [redacted]. 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) [redacted] by phone at (b)(6) [redacted] or by email at (b)(6) [redacted].

Copies to:

Corey A. Price
Acting Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C) [redacted]

Peter B. Berg
Acting Deputy Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C) [redacted]

Michael V. Bernacke
Chief of Staff
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Monica Burke
Acting Assistant Director, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Dr. Stewart D. Smith
Assistant Director, ICE Health Service Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Dawn Daggett
Acting Chief of Staff, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Timothy C. Perry
Chief of Staff
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Jason Houser
Deputy Chief of Staff
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

Claire Trickler-McNulty
Assistant Director
Office of Immigration Program Evaluation
U.S. Immigration and Customs Enforcement (ICE)
(b)(6), (b) (7)(C)