



Homeland  
Security

November 10, 2022

MEMORANDUM FOR: Chris Magnus  
Commissioner  
U.S. Customs and Border Protection

Scott K. Falk  
Chief Counsel  
U.S. Customs and Border Protection

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

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Attorney Advisor, Legal Counsel Division  
Office of the General Counsel

SUBJECT: Allegations Relating to Treatment of Religious Items During  
CBP Processing and Access to Religious Meals  
Complaint Nos. 004523-22-CBP and 004954-23-CBP

The Office for Civil Rights and Civil Liberties (CRCL) has reviewed correspondence and media reports alleging that Sikh individuals had their turbans discarded by U.S. Border Patrol (USBP) agents during processing in the Yuma Sector. The purpose of this memorandum is to notify you of the complaint, describe the allegations, and inform you that CRCL will retain this complaint for investigation.

### ALLEGATIONS

CRCL has reviewed several reports alleging that USBP agents confiscated the turbans of Sikh individuals apprehended in the Yuma Sector, and failed to return the turbans when the individuals were transferred out of U.S. Customs and Border Protection (CBP) custody.

On August 1, 2022, CRCL received a letter from the American Civil Liberties Union (ACLU) of Arizona, relaying information it received from the International Rescue Committee (IRC) Welcome Center in Phoenix, Arizona, alleging that Sikh individuals reported that their turbans were taken by CBP and never returned.

On August 3, 2022, CRCL reviewed an article published in The Intercept, titled “Border Patrol Agents are Trashing Sikh Asylum-Seekers’ Turbans,” which referenced the ACLU of Arizona’s letter and contained similar allegations concerning the removal and disposal of Sikh individuals’ turbans and other property by USBP agents. News articles published by the Washington Post and CNN also reported the allegations made by the ACLU of Arizona.

On August 22, 2022, CRCL received a letter co-signed by the Sikh Coalition, the ACLU of Arizona, and various organizations alleging, in part, that CBP has been denying migrants meals that comply with their religious beliefs. According to the letter, Sikh individuals held in the Tucson Sector were denied vegetarian meals, and have reportedly been ordered to “eat meat or starve.”<sup>1</sup>

To begin to address these allegations, CRCL participated in a discussion with representatives from the ACLU of Arizona, the Sikh Coalition, the United Sikhs Organization, and the Sikh American Legal Defense and Education Fund (SALDEF) on August 12, 2022, to better understand the concerns surrounding the treatment of Sikh individuals in CBP processing. CRCL also attended an August 17, 2022, meeting between the CBP Office of Professional Responsibility (OPR), the ACLU of Arizona, the IRC, and the Sikh Coalition concerning OPR’s investigation into these allegations.

On October 4, 2022, CRCL received a letter from the ACLU, the ACLU of Arizona, and the Sikh Coalition alleging that Sikh individuals were denied meals that compiled with their religious beliefs while held in CBP custody in the Tucson Sector.

Based upon a review of the allegations and the additional information gathered from the meetings, CRCL’s investigation will focus on the allegations relating to the treatment of religious items, including religious headwear, clothing, and other personal property of religious significance, and the provision of religious diets in the context of USBP processing and short-term custody. This investigation reviews CBP policies, procedures, guidance, and training related to the religious accommodation in the processing and short-term custody setting.

*Complaint No. 004523-22-CBP*<sup>2</sup>

CRCL received correspondence from the ACLU of Arizona alleging that USBP agents in the Yuma Sector were confiscating the turbans of Sikh asylum-seekers during processing. The letter stated that, in two months prior to the submission, the IRC documented reports from nearly fifty individuals alleging that their religious headwear was taken by USBP and never returned or replaced. The letter also alleged that the hijab of a Muslim woman was seized and never returned during CBP processing. The ACLU of Arizona later provided CRCL with the names of the following four individuals who allege that their turbans were taken by USBP agents:

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<sup>1</sup> The letter cites an August 5, 2022, article in the Arizona Luminaria, titled “Whistleblowers Say Arizona Border Patrol Practice of Trashing Sikh Turbans is Widespread,” as the source of these reports.

<sup>2</sup> CRCL has opened a single complaint comprised of the ACLU of Arizona letter; two letters from the Sikh Coalition, and various media articles containing the same allegations.

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The letter also alleged that advocates working with asylum seekers in the Yuma Sector had raised this issue with CBP during stakeholder meetings on multiple occasions since May 2022.

Supplementing this correspondence, on August 3, 2022, The Intercept published an article titled “Border Patrol Agents are Trashing Sikh Asylum-Seekers’ Turbans,” which stated that “[USBP] agents are demanding that Sikh men remove their turbans and are dumping the sacred religious garb in the trash.” The article quotes an individual who alleges that he requested that CBP allow him to keep his turban to wear after his release from CBP custody, but was refused. The individual also alleged that USBP agents cut a ribbon that was holding up his traditional Sikh undergarment.

*Complaint No. 004954-23-CBP*

CRCL received correspondence from the ACLU alleging, in part, that CBP denied asylum-seekers meals that comply with their religious beliefs while they were held in CBP custody in the Tucson Sector. The letter alleged that Sikh individuals were denied vegetarian meals and Muslim individuals were denied halal meals while in custody.

### 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. 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 this Office 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.* 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 its accompanying request for information are 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 CBP has complied with applicable policies and procedures relating to religious accommodations in the processing and short-term custody setting; if any additional facts suggest that the Constitution, a federal statute, or a Departmental policy has been violated; and what steps, if any, should be taken by CBP to address any concerns CRCL identifies, both individually (if the problem is ongoing) and as a matter of policy. It is our goal to produce a report that will assist in making DHS the best agency possible.

QUESTIONS PRESENTED

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INITIATING THE INVESTIGATION

Senior Policy Advisor (b) (6) will be handling this investigation. 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 (b) (6) by phone at (b) (6) or by email at (b) (6).

Enclosure

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