



Homeland
Security

March 29, 2023

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)
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Office for Civil Rights and Civil Liberties

Lisa Taylor (b) (6)
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SUBJECT: Folkston ICE Processing Center
Complaint Nos. 003823-22-ICE, 003863-22-ICE,
003864-22-ICE, 004439-22-ICE, and 004950-23-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 Folkston ICE Processing Center (FIPC) in Folkston, Georgia. 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, 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 FIPC's operations more generally to address any systemic concerns.

Complaints

Complaint No. 003823-22-ICE and 003863-22-ICE¹

On May 10, 2022, CRCL received an email from (b) (6), with Georgia Detention Watch, on behalf of (b) (6) (Complainant #1) a non-citizen detained at the FIPC.

¹ Complaint 003863-22-ICE also addresses the April 18, 2022, use of force incident involving (b) (6). This complaint is supplemental to Complaint 003823-22-ICE

Within the correspondence, Complainant #1 alleged that while detained at the FIPC he has been subjected to intimidation and threats, misuse of the disciplinary process and restriction to legal access. Specifically, he referenced two instances (April 18, 2022, and April 26, 2022) where he was threatened and assaulted by GEO guards. In addition, he alleges that a member of the GEO staff reviewed legal correspondence he sent to his attorney, violating his confidentiality. Lastly, Complainant #1 alleged he was placed in disciplinary segregation for 22 days, without cause.

Complaint No. 003864-22-ICE

On May 18, 2022, CRCL received direct correspondence from (b) (6) (Complainant #2) a non-citizen detained at the FIPC. Within the correspondence, Complainant #2 claimed that on April 16, 2022, Lt. (b) (6), (b) (7) asked him and approximately 15 other non-citizens to go inside the dorms due to an ongoing protest. Complainant #2 stated that he and others refused, as it was their scheduled recreation time. As a result, he alleged that Lt. (b) (6), (b) (7) and other officers closed the recreation yard, leaving him and others outside in the hot sun for several hours, with no access to food or water. While outside, Complainant #2 claimed an individual suffered an asthma attack. Further, on April 18, 2022, Complainant #2 claimed that he and two other non-citizens were sent to segregation and were charged without being present at their disciplinary hearing. Complainant #2 further alleged that he filed numerous grievances regarding an officer that carries a knife throughout the facility and slashes waterbags, which are used by non-citizens for exercise purposes. Lastly, Complainant #2 stated that the showers within his dorm hadn't been cleaned for two-weeks.

Complaint No. 004439-22-ICE²

On July 28, 2022, CRCL received direct correspondence from several non-government organizations (NGO) alleging mistreatment at the FIPC. Within the correspondence, NGOs alleged that non-citizens at the FIPC have faced systematic retaliation orchestrated by multiple GEO staff members, including superior officers, in response to the exercise of their rights. Specifically, on April 16, 2022, approximately sixteen individuals detained at the FIPC allegedly peacefully resisted the curtailment of their regular recreation time. As a result, non-citizens were allegedly locked outside for 3 hours in 90-degree weather and denied requests for medication, shade, food, and water. While locked outside, one non-citizen was reported to have experienced an asthma attack. Lastly, NGOs claimed they have received reports of excessive use of force and the overuse of solitary confinement at FIPC.

Complaint No. 004950-23-ICE

On October 4, 2022, CRCL received a DHS OIG email referral regarding (b) (6) (Complainant #3) a non-citizen detained at the FIPC. The correspondence, alleged that on May 6, 2022, an officer stated, "This is my house and I can do whatever I want with you guys." Additionally, Complainant #3 claimed he requested to return to the infirmary for an ongoing stomach issue however, the officer refused to take him and suggested he put in a medical request instead of responding to it as an emergency. Lastly, Complainant #3 stated he began a hunger strike on an unspecified date and refused 12 meals straight. During the alleged hunger strike, he claimed he began vomiting blood in his cell, that officers didn't help him or provide him with proper medical attention. He alleged that nurses at the FIPC were providing false write-ups and are making him look like he's suffering from a psychological issue.

² Complaint 004439-22-ICE appears to be addressing the same incident referenced in complaint 003864-22-ICE at large.

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.”³ 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, 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:

³ 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).

- “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 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)

Enclosure

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