



Homeland
Security

August 25, 2023

MEMORANDUM FOR: Patrick J. Lechleitner
Deputy Director and
Senior Official Performing the Duties of the 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

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

SUBJECT: **Retention Memo:** Florence Correctional Center
Complaint Nos. 005558-23-ICE, 005642-23-ICE,
005708-23-ICE, 000119W-23-ICE, 000156W-23-ICE, and
000222W-23-ICE

The Office for Civil Rights and Civil Liberties (CRCL) has received allegations that U.S. Immigration and Customs Enforcement (ICE) has violated the civil rights and civil liberties of noncitizens at the Florence Correctional Center (FCC) in Florence, Arizona. 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 conduct a multidisciplinary onsite investigation, and explain how CRCL will work with ICE during our investigation.¹ 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 FCC operations more generally to address any systemic civil rights concerns.

¹ CRCL's Multidisciplinary Onsites investigate a broad range of alleged civil rights and civil liberties violations within multiple disciplines, including conditions of detention, medical and mental health care, and environmental health and safety.

Allegations

Since January 2020, CRCL has received approximately 76 allegations concerning the conditions of detention at FCC. CRCL opened six complaints as representative samples that cover the major issues in the allegations, as well as signify the serious nature and/or the frequency of the allegations. These are described below.

Complaints

The representative complaints below exemplify the broad range of allegations noncitizens raised about conditions at FCC, including: inadequate medical care; excessive lockdowns; unsanitary living conditions; inadequate access to showers and recreation; unhygienic food service operation; lack of nutritious and appetizing meals, and unsafe voluntary work program practices. Other complaints raise concerns about facility staff, including discrimination, verbal abuse of noncitizens, and problematic disciplinary processes. Finally, CRCL received allegations related to staff-noncitizen communication specific to ICE Deportation Officers.

Complaint No. 005558-23-ICE

On January 13, 2023, CRCL received direct correspondence from The Florence Immigrant Rights and Refugee Project (FIRRP), regarding (b) (6) a noncitizen at FCC. FIRRP alleged that in December 2022, the noncitizen and some other men in his pod were prohibited from meeting in their pod to participate in a Christian group. On January 17, 2023, FIRRP submitted another correspondence, alleging: (1) noncitizens did not have access to hygiene supplies, including toothpaste, toilet paper, razors, and soap for several weeks; (2) they are only permitted to one uniform, pair of socks, and boxers, and these are ill-fitting and they cannot get another size; (3) they are not allowed to have batteries due to someone attempting self-harm, which means they cannot play the radios they have access to; (4) guards are no longer wearing masks, despite detainees being sick; (5) when someone has COVID-19 symptoms, they are isolated for eight days but not tested, even if they want to be tested. In a separate correspondence on January 17 from FIRRP, the complainants alleged problem with phone access, including with legal counsel.

Complaint No. 005642-23-ICE

On February 1, 2023, CRCL received direct correspondence from (b) (6), a noncitizen at FCC, who alleged difficulties submitting grievances, inadequate access to the law library, and inappropriate use of segregation. The complainant alleged that he was placed in administrative segregation on August 27, 2022, and remained in segregation despite the charges against him being dismissed. He also alleges that he attempted and requested access to the law library for over 100 days.

Complaint No. 005708-23-ICE²

On February 14, 2023, CRCL received direct correspondence from FIRRP on behalf of (b) (6), a noncitizen at FCC. The complainant stated that after being transferred

² On April 26, 2023, ICE provided its response to CRCL's information request. The investigation remains ongoing.

from U.S. Marshals Service (USMS) custody to ICE custody. According to the complainant, while in USMS custody prior to being transferred to ICE custody the noncitizen requested prescription glasses and an optometry consult. The noncitizen eventually received corrective eyeglasses after three months in ICE custody at FCC.

Complaint No. 000119W-23-ICE

On April 20, 2023, CRCL received a direct web form submission from the FIRRP on behalf of (b) (6) a noncitizen at FCC. The noncitizen alleges that he has been forced to drink and shower in over-chlorinated water and fears this will exacerbate his underlying medical issues.³

Complaint No. 000156W-23-ICE

On May 3, 2023, CRCL received a direct web portal submission from the FIRRP on behalf of (b) (6), a noncitizen at FCC. The noncitizen alleges that he suffers from multiple chronic medical conditions including Hepatitis C and hypertension.⁴ He also claimed that he has an approved special diet for his hypertension, but that he often does not receive the meal that follows his health restrictions and instead is provided the regular meal, and that facility staff refuses to contact the kitchen to correct the problem.

Complaint No. 000222W-23-ICE⁵

On May 24, 2023, CRCL received a direct web form submission from the FIRRP regarding (b) (6), a noncitizen at FCC. According to the submission, the noncitizen has a history of diabetes mellitus and neuropathic pain radiating down his legs, causing foot pain and lesions. The complainant further alleges that the noncitizen has not received needed orthopedic shoes, Thrombo-Embolic Deterrent (TED) socks, or an appropriate diet to control his diabetes, both which were approved.

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;

³ CRCL received ICE's response to the Medical Referral on August 21, 2023 and will further review onsite.

⁴ ICE's response is pending for a Medical Referral sent on May 4, 2023.

⁵ On July 26, 2023, CRCL received ICE's response to the Section 504 information request. The investigation remains ongoing.

- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and
- 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 “[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:

- “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.

⁶ 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).

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 (b) (6), Senior Policy Advisor. We look forward to continuing to work together to determine all the facts surrounding these matters and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b) (6) at (b) (6)

Enclosure

Copy to:

Deborah Fleischaker
Acting 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
(b) (6), (b) (7)(C)

Scott Lanum
Assistant Director
Office of Diversity and Civil Rights
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

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

Daniel Bible
Deputy Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

Jason B. Mitchell
Chief of Staff
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)

Dr. Ada Rivera
Medical Director, ICE Health Service Corps
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)

Stephen M. Antkowiak
Chief of Staff, Custody Management
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

Nathalie Lummert
Acting Deputy Assistant Director, Custody Programs
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

Greg Hutton
Unit Chief, Custody Programs
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

Christopher S. Kelly
Deputy Assistant Director
Office of Regulatory Affairs and Policy
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)