



Homeland
Security

August 1, 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

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

SUBJECT: Close Memorandum Regarding Investigation at
Rio Grande Valley Sector
Complaint Nos. 19-08-CBP-0345, 19-08-CBP-0358,
19-10-CBP-0497, 19-10-CBP-0551, 19-12-CBP-0671,
19-12-CBP-0724, 19-12-CBP-0732, and 19-11-CBP-0748

This memorandum concludes the investigation the Office for Civil Rights and Civil Liberties (CRCL) conducted into allegations related to detention conditions for individuals held in U.S. Custom and Border Protection (CBP) custody in the Rio Grande Valley (RGV) Sector, including the RGV Central Processing Center (CPC) and the Border Patrol stations in McAllen, Rio Grande City, and Harlingen, Texas. Following a collaborative process between CRCL and CBP, CRCL is closing the above-listed complaints.

Background

From August 31 to September 4, 2020, CRCL conducted a virtual onsite investigation at the RVG Sector, using two subject matter experts in the areas of medical care and conditions of detention. On July 7, 2021, CRCL provided CBP with an Expert Recommendation Memorandum, which contained 33 recommendations, along with the experts' written reports. On February 24, 2022, CBP responded to the recommendations, concurring with nine, partially concurring with eight, and non-concurring with 16.

Analysis

Concurrences

CRCL appreciates CBP's consideration of CRCL's recommendations. The following examples highlight several of the positive changes that stemmed from the nine concurrences.

Food at Harlingen Border Patrol Station (Recommendation No. 6)

Harlingen Station has implemented a new food service contract, which will improve the quality and consistency of food provided to individuals in custody.

Information Technology Equipment (Recommendation No. 10)

The RVG Sector has added additional computer terminals at the Donna Facility. This will help reduce case processing times and help manage high volumes of cases.

Contagious Disease - Personal Protective Equipment (Recommendation Nos. 20-21)

The RGV Sector issues surgical masks to individuals upon apprehension and after arrival at a station or processing site. CBP issued guidance instructing staff to replace face masks of persons in custody "at least daily, or more frequently if they become wet or soiled." The RGV Sector also issued guidance to all staff regarding PPE on July 26, 2021. This will help reduce the risk of the spread of contagious disease for staff and individuals in custody.

Partial Concurrences

CRCL reviewed CBP's response and has concerns related to four recommendations with which CBP partially concurred, but "disagreed with the premise behind the recommendation." CRCL reiterates the importance of these recommendations and encourages CBP to review the expert reports in relation to the CRCL responses to CBP's partial concurrences, stated as follows:

Medical Care (Recommendation Nos. 14 and 28)

In response to CRCL's recommendations that individuals with positive medical screening responses should be referred to a medical provider for treatment, triage, and follow-up, CBP responded that referrals are made as appropriate. While CBP indicated in each partial concurrence that these recommended actions are already occurring, CRCL notes that these recommendations stemmed from the medical expert's finding that these actions were not adequately performed in the specific cases reviewed. CRCL reiterates its prior recommendations to improve the quality of medical care related to medical care referrals, triaging and follow-up appointments.

Medical Care (Recommendation Nos. 29 and 31)

In response to CRCL's recommendations related to medical monitoring and documentation, CBP stated, in part, that these actions are already occurring. However, we note that these recommendations stemmed from the medical expert's finding that these actions were not adequately performed in the specific cases she reviewed. CRCL reiterates its prior recommendations related to medical monitoring and documentation.

Non-Concurrences

CBP non-concurred with 16 recommendations and CRCL has carefully reviewed CBP's response for each non-concurrence. Although CRCL believes these recommendations remain

important, after assessing the response to eight of the non-concurrences, it appears that CBP either generally agreed with the substance of the recommendations or indicated that the recommended actions were already being performed. Accordingly, CRCL considers the following eight responses to be sufficient.

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In contrast to the non-concurrences discussed above, CRCL reviewed CBP's response and has the following concerns related to the remaining eight of CBP's non-concurrences. CRCL reiterates the importance of these recommendations and encourages CBP to review the expert reports in relation to the CRCL responses that follow:

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5) [Redacted text block]

(b) (5)

Conclusion

CRCL appreciates CBP's efforts to address CRCL's recommendations and recognizes the improvements changes CBP has already implemented. While CRCL has reiterated several recommendations that it believes warrant additional review and consideration, CRCL is satisfied with CBP's overall response and is closing the complaints related to this investigation of the RGV Sector. CRCL will continue to monitor new information related to the RGV Sector and how it impacts our findings and recommendations.

It is CRCL's statutory role to advise Department leadership and personnel about civil rights and civil liberties issues. Accordingly, CRCL may in the future review CBP's implementation of any of the recommendations discussed in this memorandum and will notify CBP of any plans to do so. If you have any questions, please contact the Director of the Compliance Branch, Dana Salvano-Dunn, at (b) (6) or (b) (6).

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