



Homeland
Security

November 3, 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)
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Office for Civil Rights and Civil Liberties

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Senior Attorney, Legal Counsel Division
Office of the General Counsel

SUBJECT: **Retention Memorandum:** Targeted Onsite Investigation of
South Texas ICE Processing Center
Complaint Nos. 005134-23-ICE, 003166-22-ICE,
005859-23-ICE, 007018-23-ICE, and 007159-23-ICE.

I. Purpose

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 South Texas ICE Processing Center (South Texas) in Pearsall, Texas. The purpose of this memorandum is to inform you that CRCL will conduct a targeted onsite investigation at South Texas to investigate the complaints described below involving the grievance system and staff-noncitizen communication.¹

II. Complaints

In Fiscal Year 2023, CRCL received 19 allegations involving South Texas. Many of the allegations involved two distinct and related areas, the grievance process and staff-detainee communication. Accordingly, of the 19, CRCL opened five complaints for investigation focused on those topics.

¹ CRCL's Targeted Onsites are investigations that focused or targeted based on a specific discipline or the interplay between two disciplines.

These complaints were selected as representative samples of allegations involving the grievance system and lack of communication between the noncitizens and facility staff and ICE officials. Specifically, the complaints allege difficulties communicating with facility staff and ICE officials; language access barriers to communicating with ICE officials; that facility staff are not responsive to informal grievances; and that noncitizens are either not able to file formal grievances or do not receive adequate responses to grievances that are filed. These complaints are described in detail below.

1. Complaint No. 005134-23-ICE

On October 18, 2022, CRCL received an Office of the Immigration Detention Ombudsman referral reporting allegations made by (b) (6) (Complainant), a noncitizen formerly in ICE custody at South Texas. Complainant alleged that he informally requested to facility staff to be placed in the bottom bunk for medical and safety concerns associated with a prior fall from the top bunk; however, he had not received a response prior to his removal, which occurred on October 20, 2022.

2. Complaint No. 003166-22-ICE

On January 18, 2022, CRCL received an Office of Inspector General (OIG) referral from (b) (6) (b) (6) (Complainant), a noncitizen formerly in ICE custody at South Texas. Complainant alleged that noncitizens are treated very badly by the officers and that he has attempted to file grievance(s) but they are given to the same officers they are reporting about so no action is taken.

3. Complaint No. 005859-23-ICE

On March 8, 2023, CRCL received an OIG referral from (b) (6) (Complainant) a noncitizen formerly detained at South Texas. Complainant alleged he filed multiple formal grievances concerning the moldy food at the facility. Complainant alleged he received moldy bread for breakfast and lunch on March 7, 2023.

4. Complaint No. 007018-23-ICE

On August 24, 2023, CRCL received an OIG referral from (b) (6) (b) (6) (Complainant), a noncitizen formerly detained at South Texas. In a phone call to the OIG on August 23, 2023, Complainant stated he has filed multiple formal complaints against the facility and that they are being ignored or are being “erased from the system.” Complainant feels like there is nothing else he can do and that the facility is “targeting him for no reason.”

5. Complaint No. 007159-23-ICE

On September 8, 2023, CRCL received an OIG referral regarding allegations made by (b) (6) (b) (6) (Complainant), a noncitizen formerly detained at South Texas. Complainant alleged that he has not been provided with any information on his immigration case. Complainant further alleged that he is unable to properly communicate with ICE officials as he only speaks

Spanish and does not fully understand them. Complainant also stated that he is not allowed to file any grievances at the facility, so he is unaware of what further action to take in regard to these matters.

III. Scope of Review

This investigation will address whether ICE and South Texas personnel have conformed to ICE standards, policies and procedures, and to civil rights requirements, in the treatment of detained noncitizens at this facility.

In addition to investigating the specific complaints referenced above, CRCL will also look at the grievance system as well as ICE and facility communication more generally to ensure that the issues raised are not systemic to the overall operation of the facility. It is possible that our investigation will reveal other matters of concern; if this occurs, we will inform you.

CRCL will investigate these complaints 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.

IV. CRCL Mission and Authorities

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.”² Additionally, pursuant to DHS

² In addition, pursuant to 42 U.S.C. § 2000ee-1(a)(2), CRCL has the authority to “periodically investigate and review

Delegation Number 19003, issued October 26, 2012, the Secretary has delegated to the Officer of CRCL the authority to “assess 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, lack of arbitrary punishment, and religious accommodation for ICE noncitizens are examples that 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 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 OHS 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.”

Further guidance is contained in DHS Instruction 046-01-002, and, pursuant to section 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 section 3.3 of Directive 8010.1, ICE will provide the requested information and materials to CRCL within the timeframe indicated below, and not edit or otherwise limit review of the information that is responsive to CRCL's request. Pursuant to section 2 of Directive 8010.1, CRCL understands that this request will be handled by the appropriate ICE program office or ICE's Office of Diversity and Civil Rights (ODCR).

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 made 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. 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.”

department, agency, or elements 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)

V. Next Steps

This investigation is assigned to (b) (6), Senior Policy Advisor. We look forward to continuing to work together to gather relevant information and conduct the targeted investigation onsite at the facility. If you have any questions, please do not hesitate to contact Ms. (b) (6) at (b) (6)

We look forward to working with your staff on this matter and will report back to you our findings and any recommendations at the conclusion of our investigation.

Enclosure

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