



Homeland
Security

January 23, 2024

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

(b) (6)

Senior Counsel, Legal Counsel Division
Office of General Counsel

SUBJECT: Retention Memo: Multidisciplinary Onsite Investigation at
Nevada Southern Detention Center

Complaint Nos. 006417-23-ICE; 007268-23-ICE; 007272-23-
ICE; 007278-23-ICE; 007472-24-ICE; 007482-24-ICE; 007483-
24-ICE; 007485-24-ICE; 007495-24-ICE; 007601-24-ICE;
007604-24-ICE; 007806-24-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 Nevada Southern Detention Center (Nevada Southern) in Pahrump, Nevada. The purpose of this memorandum is to inform you that CRCL will conduct a multidisciplinary onsite investigation to investigate the complaints described below.¹ As part of this investigation,

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.

and consistent with its authority described in the CRCL and Scope of Review sections below, CRCL will also examine Nevada Southern operations more generally to address any systemic civil rights concerns.

II. Complaints

In calendar year 2023, CRCL received 36 unrelated allegations involving Nevada Southern. Of those, CRCL opened 12 for this investigation. These complaints were selected as representative samples based upon the serious nature, unique circumstances, and/or the frequency of the allegations received related to Nevada Southern. The representative complaints exemplify a broad range of allegations that noncitizens have raised about the conditions at Nevada Southern, including contaminated water; lack of nutritious food; deficient medical and mental health care; excessive lockdowns; and inadequate access to phones, recreation time, and clean clothing. The complaints also raised concerns about facility staff, including discrimination, verbal abuse of noncitizens, and insufficient language access. Lastly, the complaints alleged that communication with ICE Deportation Officers was scarce and deficient when provided. Detailed summaries of the complaints are provided below.

Complaint No. 006417-23-ICE

On May 30, 2023, CRCL received direct correspondence from (b) (6) at Freedom for Immigrants on behalf of (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. According to Complainant, the food at Nevada Southern is not provided at regular times and is “disgusting.” He states that the water is not clean and has affected his teeth, and that the combination of bad food and water caused him to experience chest and heart pain. The complainant also alleged that the facility failed to provide him with medical care for chest pain.

Complaint No. 007268-23-ICE

On September 21, 2023, CRCL received a referral from the DHS Office of Inspector General (OIG) regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. The Complainant claimed that he and other Venezuelan noncitizens’ experienced significantly delayed “interviews” with ICE, and that they planned to start a hunger strike.² He also alleges that he has only been allowed to make one phone call since arriving at the facility on September 8, 2023.

Complaint Nos. 007272-23-ICE and 007601-24-ICE

On September 21, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. The Complainant alleged that he and other noncitizens were given “interview dates” to review their removal and their cases, but that when the time for the interview came, the officers would not allow them to go. He also states that they were then told they would not be able to get an interview for another couple of months.

² CRCL was unable to confirm whether a hunger strike took place.

On October 26, 2023, CRCL received a referral from DHS OIG regarding additional allegations made by the same Complainant.³ He alleged that the officers verbally and physically abuse the noncitizens, there are no translators or Spanish speaking officers, and there is no deportation officer at the facility. He also states that noncitizens are put in the same cells as people in criminal custody, and that he is worried about his safety.

Complaint No. 007278-23-ICE

On September 21, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. According to the Complainant, he was scheduled to have an “interview over his deportation” in September 2023, officers did not let him go to the interview and told him that he would have to wait 45-60 days for his next “interview”. The Complainant further alleged that the food at Nevada Southern has made him and multiple other noncitizens sick.

On October 12, 2023, CRCL received supplemental information from Complainant further alleging that the officers scream at the noncitizens, and that most of the noncitizens do not understand what the officers are saying. He says that many of the noncitizens are under high levels of stress because of what is happening at the facility. The Complainant further alleged that noncitizens are “seldom given any time for a break,” and sometimes are not given any break time. He states that they are only given one call a week and that it cannot be used to call family. He also says that the noncitizens are not given enough food.

Complaint No. 007472-24-ICE

On October 12, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. According to Complainant, he and other noncitizens have not been provided with clean clothes for long periods of time. He stated that he and other noncitizens are being discriminated against for being Latino and not speaking English. He further alleged that ICE has not provided him with timely information about his case, and that ICE officers do not respond to his requests for information.

Complaint No. 007482-24-ICE

On October 12, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. He alleged that he was told he would be released but had been delayed more than a month due to a lack of resources at the facility. He also claimed that the noncitizens are only allowed to have limited recreation time. According to Complainant, there is a language barrier between the noncitizens and the officers at the facility that is not being addressed. He also alleged that one noncitizen was taken to isolation by four officers because he refused to eat the food, and that another person tried to commit suicide.

³ This referral was opened as a separate complaint because it contained additional and distinct allegations.

Complaint No. 007483-24-ICE

On October 13, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (C), a noncitizen previously detained at Nevada Southern. According to Complainant, noncitizens at the facility do not receive enough food and he feels weak and under-nourished. He stated that he has lost a substantial amount of weight due to the food. He further alleged that it is difficult to talk with his ICE deportation officers, his health is getting worse, and the facility officers are verbally abusive.

Complaint No. 007485-24-ICE

On October 12, 2023, CRCL received a referral from DHS OIG regarding additional allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. According to Complainant, many Venezuelan noncitizens at Nevada Southern have underlying health conditions, and that there are older individuals among them who need medical attention. He further alleges that the food at the facility has caused digestive problems for the noncitizens, that the noncitizens have to pay for calls, and that some noncitizens have tried to commit suicide because of the stress. Complainant also alleges that noncitizens are put in the same cells as people in criminal custody. Regarding ICE, Complainant stated that he has not been able to speak with his deportation officer to receive information about his immigration case.

Complaint No. 007495-24-ICE

On October 16, 2023, CRCL received a referral from DHS OIG regarding allegations made by Jose Daniel Salazar Acosta (A246 714 051) (Complainant), a noncitizen previously detained at Nevada Southern. According to Complainant, the facility only allows noncitizens to make one call a week and they are not allowed to call family members. Complainant also alleged that the food is scarce, and many detainees have lost weight because of not being fed enough. Additionally, he claimed that the noncitizens are suffering tremendously and that some have attempted suicide. Complainant also alleges that he has tried to contact his ICE deportation officer, but the officer has not wanted to assist him or the other noncitizens.

Complaint No. 007604-24-ICE

On October 26, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at Nevada Southern. According to Complainant, he and fourteen other detainees have been isolated to a cell for no reason. Also, the time he is able to contact his family is very limited. Related to ICE, Complainant alleges that he has not spoken to his deportation officer, stating that the officers “do not have time or want to do it.”

Complaint No. 007806-24-ICE

On November 20, 2023, CRCL received a referral from DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen previously detained at

Nevada Southern. Complainant alleged he experienced discrimination while at Nevada Southern due to his “nationality and skin color” and was thrown into a cold and isolated room because of this discrimination. He also claimed that officers have called him and others stupid.

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; 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.”⁴ 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.

⁴ 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).

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.

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 complaint 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 complaint, both individually (if the problem is ongoing) and as a matter of policy.

Protected by Attorney-Client and Deliberative Process Privileges

QUESTIONS PRESENTED

(b) (5)

INITIATING THE INVESTIGATION

CRCL has already taken steps to begin its investigation, which is assigned to (b) (6), Policy Advisor. 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 Policy Advisor (b) (6) at (b) (6)

Copies to:

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

Russell Hott
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)

RDML Jennifer Moon

Deputy Assistant Director, Health Care Compliance, ICE Health Service Corps
Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

(b) (6), (b) (7)(C)

Monica Burke

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

Chief, Custody Programs Division (CPD) Special Populations and Programs Unit (SPPU)
Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

(b) (6), (b) (7)(C)

Greg Hutton

Acting Deputy Assistant Director, Custody Programs Division
Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

(b) (6), (b) (7)(C)

Michael D. Lumpkin

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)

Raymond Linnan (RJ)

Acting Deputy Assistant Director, Policy

Office of Regulatory Affairs and Policy
U.S. Immigration and Customs Enforcement
(b) (6), (b) (7)(C)

Scott Shuchart
Acting Assistant Director
Office of Regulatory Affairs and Policy
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)

(b) (6), (b) (7)(C)