



February 5, 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)  
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Office for Civil Rights and Civil Liberties  
(b) (6)  
Senior Counsel, Legal Counsel Division  
Office of General Counsel

SUBJECT: **Retention Memo:** Multidisciplinary Onsite Investigation of  
Nye County Detention Center  
Complaint Nos. 006053-24-ICE; 006081-24-ICE; 007884-24-  
ICE; 007431-24-ICE<sup>1</sup>; 007488-24-ICE; 008102-24-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 Nye County Detention Center (Nye County) in Pahrump, Nevada. The purpose of this memorandum is to inform you that CRCL will conduct a multidisciplinary onsite

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<sup>1</sup> Please note that the complainant for Complaint No. 007431-24-ICE is covered by protections under 8 U.S.C. 1367. Section 1367(a)(2) prohibits use by or disclosure to anyone (other than a sworn officer or employee of the Department of Homeland Security, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information which relates to noncitizens who are seeking or have been approved for immigrant status as (1) battered spouses, children and parents under provisions of VAWA; (2) victims of a severe form of human trafficking who generally are cooperating with law enforcement authorities; or (3) victims who have suffered substantial physical or mental abuse and are cooperating with law enforcement authorities.

investigation<sup>2</sup> at Nye County to investigate the complaints described below and will review Nye County's operations more generally to address any systemic civil rights concerns.

## **Complaints**

In calendar year 2023, CRCL received 25 unrelated contacts alleging civil rights and civil liberties violations at Nye County, six of which were opened as complaints and retained 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 in relation to Nye County. Taken together, they exemplify a broad range of allegations raised about the conditions at Nye County, including deficient medical and mental health care; lack of nutritious food; inadequate access to a law library or legal materials; physical and verbal misconduct by Nye County officers; flawed grievance processes; excessive and unnecessary strip searches; and occurrences of racial discrimination. The complaint allegations are described in detail below.

### **Complaint No. 006053-24-ICE**

On April 4, 2023, CRCL received an OIG referral from Arriba Las Vegas Workers Center (Complainant) reporting allegations involving several ICE detention facilities, including Nye County. The Complainant stated (b) (6), a noncitizen at Nye County, experienced "unsanitary" living conditions and was allegedly physically threatened and verbally assaulted by staff. According to the Complainant, the noncitizen also alleged the facility failed to provide "decent meals." Another noncitizen at Nye County, (b) (6), allegedly had gallbladder tumors and kidney stones for which he was not receiving adequate medical treatment.

### **Complaint No. 006081-23-ICE**

On April 7, 2023, CRCL received an OIG referral alleging that a nurse at Nye County inappropriately injected (b) (6) (Complainant), with insulin on March 22, 2023, even though he is not diabetic and only agreed to the injection because he believed that he was receiving a COVID-19 vaccination. Complainant alleged that after receiving the injection the facility nurse addressed him by the wrong name, and after correcting her, asked for information about the injection. According to Complainant, he was then accused of giving the wrong A-number and of taking off his wristband, leading to the erroneous injection. Complainant stated that he never removed his wristband.

### **Complaint No. 007884-24-ICE**

On September 3, 2023, CRCL received information via the ICE Daily Detainee Assault Report

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<sup>2</sup> 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.

that on September 2, 2023, ERO Salt Lake City reported that a Mexican national noncitizen<sup>3</sup> was allegedly the victim of sexual harassment by a Nye County inmate while housed at Nye County. The allegations were that an inmate sexually harassed the victim by asking him lewd questions while standing naked in front of his bunk.

#### **Complaint No. 007431-24-ICE<sup>4</sup>**

On October 10, 2023, CRCL received an OIG referral concerning (b) (6) (Complainant), a noncitizen housed at Nye County, alleging a Nye County staff member denied him medication for three days for a swollen foot.<sup>5</sup> Additionally, Complainant alleged the facility does not have a library or any law books and he was unable to print his documents. He also alleged Nye County does not have adequate medical care or proper food. Additionally, the Complainant alleged that when he filed grievances they were ignored.

#### **Complaint No. 007488-24-ICE**

On October 12, 2023, CRCL received email correspondence from Freedom for Immigrants (Complainant) on behalf of (b) (6), a noncitizen at Nye County. Complainant alleged that the noncitizen was not provided his medication for a total of nine days, and his mental health was suffering while in custody. Specifically, Complainant alleged the noncitizen was denied medical care for medical issues suffered from a hernia on the right side of his groin causing him to struggle walking and to experience constant burning pain and a distended groin. Further, Complainant alleged that the noncitizen experienced difficulty urinating as well as intermittent rectal bleeding. According to Complainant, he was denied necessary hernia surgery recommended by a general surgeon in July 2023 while he was in ICE custody, as well as being denied pain medication, daily recommended glucometer tests for diabetes, and a medically-recommended belt. Complainant further alleged that as a result of being denied his medication, the noncitizen suffered severe heart pain and a seizure, causing him to lose consciousness, and when he regained consciousness, was left alone on the floor in the medical unit for three days. While in the medical unit, he was not provided soap, sufficient amounts of toilet paper, or a shower.<sup>6</sup> Complainant believed that the medical negligence stems from the officers being “racially motivated, hateful toward immigrants.”

Unrelated to medical care, Complainant alleged that the noncitizen’s food and diet are also inadequate, and the noncitizen witnessed officers harass and humiliate noncitizens with fabricated charges and unnecessary public strip searches.

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<sup>3</sup> On November 28, 2023, CRCL sent the ICE SA-API Unit a PREA Information Request, and on November 29, 2023, the SA-API Unit responded with a copy of the Significant Incident Report – identifying that this noncitizen was (b) (6) – and noting that the allegations were designated as PREA and an investigation was pending.

<sup>4</sup> This complainant is covered by protections under 8 U.S.C. 1367.

<sup>5</sup> On October 11, 2023, CRCL sent a Medical Referral to ICE and is awaiting a response.

<sup>6</sup> On October 17, 2023, CRCL sent a Medical Referral to ICE and is awaiting a response.

## Complaint No. 008102-24-ICE

On December 11, 2023, CRCL received an OIG referral regarding (b) (6) (b) (6) (Complainant), a noncitizen at Nye County, alleging that when he asked for medical attention for his bloody stool, prison staff told him he should speak to ICE staff. When he spoke to ICE staff, they allegedly told him the issue would be resolved by facility staff. Complainant alleged that he still had not received any medical attention as his contact with CRCL.<sup>7</sup> He also alleged that most of the other noncitizens at the facility are white and that there is discrimination and racism from the other noncitizens.

### 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.”<sup>8</sup> 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

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<sup>7</sup> On December 12, 2023, CRCL sent a Medical Referral to ICE and is awaiting a response.

<sup>8</sup> 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).

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.

*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

*Protected by Attorney-Client and Deliberative Process Privileges*

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



#### 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 this matter and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b) (6) at (b) (6).

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