



Homeland Security

February 18, 2020

MEMORANDUM FOR: Matthew T. Albence
Acting Director
U.S. Immigration and Customs Enforcement

Michael P. Davis
Executive Deputy Principal Legal Advisor
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement

FROM: Cameron P. Quinn (b)(6)
Officer
Office for Civil Rights and Civil Liberties
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Attorney Advisor Legal Counsel Division
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SUBJECT: Immigration Centers of America - Farmville
Complaint Nos. 19-02-ICE-0056, 19-09-ICE-0486, 20-04-ICE-0311, 20-04-ICE-0315, 20-04-ICE-0319, and 20-04-ICE-0309

The Office for Civil Rights and Civil Liberties (CRCL) has received allegations that U.S. Immigration and Customs Enforcement (ICE) violated the civil rights and civil liberties of detainees at the Immigration Centers of America (ICA) – Farmville (ICA Farmville) in Farmville, Virginia. The purpose of this memorandum is to notify you of the complaints and describe the allegations, inform you that, consistent with its authority described below, CRCL will retain them for investigation and conduct an onsite investigation at ICA Farmville from April 15-17, 2020, and explain how CRCL will work with ICE during the investigation.

The allegations raise issues regarding conditions of detention, medical and mental health care, suicide prevention and intervention, sexual abuse and assault prevention and intervention, and environmental health and safety. CRCL will also look at ICA Farmville's operations more generally to determine if the individual allegations or findings are indicative of systemic civil rights and civil liberties issues. Additionally, CRCL will review other areas of the facility's operations that may also raise important civil rights and civil liberties issues.

ALLEGATIONS

According to ICE's Daily Detainee Assault Report, which captures, among other things, "any allegations of sexual assault, physical assault and use of force incidents/allegations occurring in ICE detention settings," ICA Farmville reported 30 use-of-force allegations and two allegations involving sexual assault in 2019. Accordingly, in addition to the specific instances identified below, CRCL will be reviewing ICA Farmville's use of force and suicide prevention and intervention policies generally during the onsite.

Use of Force and Suicide Prevention and Intervention:

- On August 5, 2019, ICA Farmville allegedly used force on a Salvadoran detainee who used his shirt in an attempt to strangle himself. According to the complaint, ICA Farmville officers entered the cell to subdue and prevent any possible further injury. Once restrained, the detainee was allegedly taken to the Southside Community Hospital by ambulance. The detainee allegedly returned to ICA Farmville the next day and was placed on suicide watch per the recommendation of the medical unit.¹
- On November 12, 2019, ICA Farmville allegedly used oleoresin capsicum (OC) on a Honduran national detainee housed at the facility when the detainee allegedly attempted suicide by hanging himself with a shirt. According to the complaint, ICA Farmville officers deployed a one-second burst of OC spray to prevent the suicide attempt and gain compliance. ICA medical staff allegedly examined and decontaminated the detainee and determined he did not sustain any injuries. ICA medical staff allegedly placed the detainee on suicide watch.²
- On January 11, 2020, ICA Farmville allegedly used OC spray on four Salvadoran national detainees at the facility when the detainees allegedly engaged in physical altercations and refused to comply with verbal commands. According to the report, in order to prevent injuries to the detainees, ICA officers allegedly deployed one-second bursts of OC spray to gain their compliance. ICA officers allegedly had to use a takedown technique on one detainee and placed him in restraints. ICA officers then allegedly escorted all four subjects to medical for decontamination and evaluation. A fifth Salvadoran national detainee was allegedly escorted to a local hospital and treated for a broken finger, broken nose, and facial laceration which required stitches.³

Sexual Abuse and Assault Prevention and Intervention:

- On January 11, 2019, ERO Washington reported a Mexican national detainee and a Honduran national detainee were allegedly the victims of sexual assault by a Salvadoran

¹ 20-04-ICE-0311

² 20-04-ICE-0315

³ 20-04-ICE-0319

national detainee housed at ICA Farmville. On January 10, 2019, the detainees reported that the subject inappropriately touched them on two separate occasions.⁴

Medical and Mental Health Care:

Along with the provision of general medical and mental health care provided to detainees as described in the complaints below, CRCL was notified about concerns related to mumps and measles outbreaks that occurred at ICA Farmville in 2019 and will be reviewing ICE and facility policies and procedures for their handling of quarantined detainees.

- On November 14 and 21, 2018, CRCL received email referrals from the DHS Office of Inspector General (OIG) regarding an ICE detainee who claimed his gums are bleeding and he needs dental care, and additionally stated that he is clinically depressed and was made to feel worse because of an “insensitive” comment an officer allegedly made. He stated during his call, “I may hurt myself and don't feel like living anymore.”⁵
- On June 20, 2019, CRCL received an email referral from the DHS OIG regarding an ICE detainee at ICA Farmville who alleged that the facility is not taking enough actions to contain the mumps outbreak. Several detainees allegedly went on a hunger strike to demand information about the outbreak.⁶

ADDITIONAL AREAS TO BE REVIEWED

In addition to the allegations discussed above relating to conditions of detention, medical and mental health care, suicide prevention and intervention, sexual abuse and assault prevention and intervention, and environmental health and safety, (b)(5)

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

⁴ 20-04-ICE-0309

⁵ 19-02-ICE-0056. A medical referral was sent to ICE on November 21, 2018 and the matter was closed on July 23, 2019.

⁶ 19-09-ICE-0486

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.”⁷ Additionally, pursuant to DHS 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 detainees are examples of issues that raise civil rights and liberties concerns. The procedures for CRCL investigations and the recommendations those investigations 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 CRCL 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 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.I, “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

⁷ In addition, 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).

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 § 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 the accompanying request for documents and 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. 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; determine whether the facts we find suggest that the Constitution, a federal statute, or a Departmental policy has been violated; and to determine what steps, if any, should be taken to address the complaints, both individually (if the problem is ongoing) and as a matter of policy. This review will also examine the additional areas specified above for similar concerns related to protection of civil rights and civil liberties. It is our goal to produce a report that will assist you in making ICE the best agency possible. It is possible that our investigation will reveal other matters of concern; if this occurs, we will inform you.

QUESTION(S) PRESENTED

(b)(5)

INITIATING THE INVESTIGATION

CRCL will be in contact with ICE ERO staff about this complaint and CRCL's plans for reviewing the matter, which is assigned to (b)(6), Policy Advisor, and (b)(6) Policy Advisor. We look forward to work 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 Ms (b)(6) at (b)(6) or by email at (b)(6)

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