



**Homeland
Security**

December 9, 2011

MEMORANDUM FOR: Gary Mead
Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

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

Assistant Director
ICE Health Service Corps
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement

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

| FROM:

Deputy Officer for Programs and Compliance
Office for Civil Rights and Civil Liberties

Jeffrey S. Blumberg 
Director for Compliance
Office for Civil Rights and Civil Liberties

SUBJECT:

Complaint No. (b)(7)(E)

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

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As you know, the U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL), is conducting an investigation into conditions of detention for lesbian, gay, transgender, and bisexual (LGBT) detainees who are held in the custody of U.S. Immigration and Customs Enforcement (ICE). The investigation arises from fourteen

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complaints submitted to our Office by the National Immigrant Justice Center (NIJC) on April 13, 2011. We have now completed onsite investigations at four of the involved detention facilities: the Santa Ana Jail in Santa Ana, California; the Theo Lacy Facility, in Orange, California; the York County Prison in York, Pennsylvania; and the Kenosha County Detention Center and Jail in Kenosha, Wisconsin. This report relates to the completed investigation of eight of the complaints which alleged mistreatment at the Santa Ana Jail (SAJ) and the Theo Lacy Facility (Theo Lacy).

In its complaint, NIJC alleged mistreatment of fourteen gay and transgender individuals in ICE custody. The majority of the named complainants are transgender. The complaints allege numerous civil rights violations at multiple detention facilities including Theo Lacy and SAJ, related to ICE detention standards on: transportation, admission, classification and housing, searches, sexual abuse and assault prevention and intervention, special management units, staff-detainee communication, use of restraints, discipline, medical and mental health care, personal hygiene, suicide prevention and intervention, correspondence and mail, escorted trips, recreation, religious access, telephone access, visitation, voluntary work, detainee handbook, grievances, law libraries and legal material, staff training, and detainee transfers. In particular, the complaints claim that detainees are subjected to inferior medical and mental health care, medication lapses, sexual assaults, discrimination, verbal and physical abuse, and the misuse of segregation, based on the detainees' gender identity or sexual orientation. Of the fourteen complaints, eight had allegations regarding SAJ and two of those eight also claimed mistreatment while they were in custody at Theo Lacy.

CRCL conducted a site review at SAJ from July 25-27 and at Theo Lacy from July 28-29, 2011. We greatly appreciated the cooperation and assistance provided by ICE, SAJ, and Theo Lacy personnel before and during the review. As part of both reviews, CRCL engaged the assistance of three independent subject-matter experts: (b)(6),(b)(7)(C) a medical consultant; (b)(6),(b)(7)(C) a mental health consultant; and (b)(6),(b)(7)(C) a penologist. As a result of detainee and staff interviews, document reviews, and direct observations, the subject-matter experts identified concerns at both facilities. On July 27 at SAJ and on July 29 at Theo Lacy, as part of a site review closing discussion, CRCL and our subject-matter experts discussed several of these concerns with ICE ERO field office management, local ICE Immigration Health Service Corps (IHSC) representatives, facility senior management. The subject-matter experts also presented recommendations that addressed the concerns they identified at both facilities.

Enclosed with this memorandum are the reports prepared by our subject-matter experts.¹ We expect to conclude this matter with a full report and recommendations that will cover these facilities as well as the other facilities involved in the NIJC complaint. However, because we have not completed our investigation of every named facility, but recognize the expert reports of the California facilities contain a variety of important and valuable findings and recommendations—all of which we endorse—we wanted to send them to you as soon as

¹ In general, CRCL's subject-matter experts relied on the applicable 2000 National Detention Standards at SAJ and the 2008 Performance Based National Detention Standards at Theo Lacy. They also utilized their knowledge of related professional standards in conducting their work and preparing their reports and recommendations. However, some of their analysis or recommendations may be based on constitutional or statutory requirements that exceed the detention or professional standards.

possible so that you would have the benefit of this feedback. All of the recommendations are set forth below,² and we draw your attention to the following recommendations that the experts identified as the most critical: at Santa Ana -- 2-5, 7, 9-12, 16-18, 22, 23, 25, 37, 40-41, 43 and 46; at Theo Lacy -- 5 and 9-14.

Recommendations for the Santa Ana Jail

(b)(6);(b)(7)(C) made the following recommendations regarding medical care. Unless otherwise noted, all of these recommendations relate to the NDS requirement to provide timely access to an appropriate level of medical care:

(b)(5)

² Please note that where two different experts made recommendations on the same issue, we eliminated the duplicate recommendations.

(b)(5)

(b)(5)

(b)(5)

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

made the following recommendations regarding mental health care:

(b)(5)

(b)(5)

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

made the following recommendations regarding security staffing, detainee classification and housing, the detainee grievance system, and detainee access to courts/legal materials:

(b)(5),(b)(7)(E)

(b)(5),(b)(7)(E)

(b)(5),(b)(7)(E)

Recommendations for the Theo Lacy Facility

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

made the following recommendations regarding medical care. Unless otherwise noted, all of these recommendations relate to the PBNDS requirement to provide timely access to an appropriate level of medical care:

(b)(5)

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

made the following recommendations regarding mental health care:

(b)(5)

(b)(5)

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

made the following recommendations regarding security staffing, detainee classification and housing, the detainee grievance system, and detainee access to courts/legal materials:

(b)(5),(b)(7)(E)

It is CRCL's statutory role to advise department leadership and personnel about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions. As a result, we hope that you will take immediate action to address the recommendations contained in this memorandum. We request that ICE provide a response to CRCL within 60 days that indicates whether ICE concurs with the recommendations made and includes an action plan to address the recommendations. We will take account of the

progress you have made in addressing these recommendations when we issue our final report. You can send your response by email. If you have any questions, please contact Compliance Investigator (b)(6),(b)(7)(C) (202-357-(b)(6),(b)(7)(C)) or Senior Policy Advisor (b)(6),(b)(7)(C) (202-357-(b)(6),(b)(7)(C)). You may also contact Officer Margo Schlanger directly.

Copies to:

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

Deputy Chief of Staff Director
Enforcement and Removal Operations
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(b)(6),(b)(7)(C)

Tae D. Johnson
Assistant Director
Detention Management Division
Enforcement and Removal Operations
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(b)(6),(b)(7)(C)

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

Deputy Division Director
Investigative Support Unit
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Regional Operations Manager
Investigative Support Unit
Office of Professional Responsibility
U.S. Immigration and Customs Enforcement

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

Enclosures