



Homeland  
Security

June 15, 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  
(b)(6)

Attorney Advisor, Legal Counsel Division  
Office of the General Counsel

SUBJECT: Medical Isolation and Quarantines in U.S. Immigration and  
Customs Enforcement (ICE) Immigration Detention Facilities  
Complaint Nos. 19-05-ICE-0448, 19-06-ICE-0779,  
19-07-ICE-0781, 19-09-ICE-0782, and 20-05-ICE-0446

Since January 2019, the Office for Civil Rights and Civil Liberties (CRCL) has received allegations concerning the U.S. Immigration and Customs Enforcement (ICE) medical isolation<sup>1</sup> and quarantine<sup>2</sup> processes throughout many of the immigration detention facilities used by ICE. With the increased concern about the rapid spread of infectious diseases, particularly in congregant settings such as detention facilities, CRCL is reviewing how ICE is managing its medical isolation and quarantine processes and how ICE addresses medical and mental health care, law library access, access to legal services and visitation for detainees who are medically isolated or quarantined.

The purpose of this memorandum is to notify you of the complaints and describe the allegations,

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<sup>1</sup> "Isolation" refers to placing a detainee with a confirmed or suspected contagious disease into an individual room with certain infection prevention and control precautions. For purposes of this document, and as defined by the CDC, *isolation* is the separation of a person or group of people known or reasonably believed to be infected with a communicable disease and potentially infectious from others to prevent the spread of the communicable disease.

<sup>2</sup> For purposes of this document, and as defined by the CDC, *quarantine* is the separation of a person or group of people reasonably believed to have been exposed to a communicable disease but not yet symptomatic, from others who have not been exposed, to prevent the possible spread of the communicable disease.

inform you that, consistent with its authority described below, CRCL will retain the complaints for investigation, and to explain how CRCL will work with ICE during our investigation.

As part of this investigation, consistent with its authority described in the CRCL and Scope of Review sections of this memorandum, CRCL will examine the allegations discussed below. Because the matters raise similar issues, CRCL will also look at the detention and care of medically isolated or quarantined individuals more generally to determine if the individual allegations are indicative of systemic civil rights and civil liberties problems. In order to accomplish this broad review, CRCL will:

1. (b)(5)
- 2.
- 3.
- 4.

## **Complaints**

### *Complaint No. 19-05-ICE-0448<sup>3</sup>*

On February 14, 2019, CRCL received correspondence from (b)(6) on behalf of her client, (b)(6), a detainee at the Pine Prairie Detention Center in Pine Prairie, Louisiana. In her correspondence, Ms. (b)(6) alleged that she was unable to see her client because he had been quarantined for a suspected mumps and measles outbreak. Because of the quarantine, Ms. (b)(6) requested additional time (10 days) to prepare Mr. (b)(6) Request for Reinterview or Reconsideration (RFR).

### *Complaint No. 19-06-ICE-0779*

On March 25, 2019, CRCL received an email referral from DHS OIG regarding (b)(6) (b)(6), a detainee at Folkston ICE Processing Center (FIPC) in Folkston, Georgia. In a phone call to the OIG on March 19, 2019, Mr. (b)(6) claimed that the facility was quarantined for three weeks and that the detainees were not tested, nor were they allowed to have visitation. Mr. (b)(6) also alleged that callers inquiring about the quarantine were not given any information.

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<sup>3</sup> In July 2019, CRCL opened this complaint as a short form and requested documents from ERO related to Mr. (b)(6) access to counsel, while quarantined. Upon receipt of the requested documents, CRCL determined that further inquiry was needed, and that this complaint should be retained for this memo.

*Complaint No. 19-07-ICE-0781*

On April 8, 2019, CRCL received an email referral from DHS OIG regarding Mr. (b)(6) (b)(6), a detainee at the La Palma Correctional Center in Eloy, Arizona. Mr. (b)(6) alleged he was quarantined and was unable to go to the law library. Mr. (b)(6) stated that on March 30, 2019, he was placed in quarantine due to a mumps outbreak at the facility. Additionally, Mr. (b)(6) stated that he needed to go to the law library to work on a case brief to be sent to the Board of Immigration Appeals by April 16, 2019. Mr. (b)(6) stated that he was not allowed to go to the law library wearing a mask, despite the fact that other detainees were allowed to go to visitation wearing masks.

*Complaint No. 19-09-ICE-0782*

On June 4, 2019, CRCL received an email correspondence from the DHS OIG regarding Mr. (b)(6), a detainee at the Port Isabel Service Processing Center in Los Fresnos, Texas. Mr. (b)(6) alleged that he was placed on quarantine for mumps. Additionally, he alleged that he was informed that after receiving his second shot he could be released to general population. Mr. (b)(6) alleged he received his second shot one week ago (as of June 3, 2019) and was not released to general population. He alleged that due to being in quarantine, he missed his first court date on May 8, 2019.

*Complaint No. 20-05-ICE-0446*

On February 4, 2020, CRCL received an OIG email referral from (b)(6) on behalf of (b)(6) an ICE detainee at the South Louisiana Detention Center in Basile, Louisiana. Ms. (b)(6) alleged that a woman tested positive for the coronavirus and was isolated, but the woman who arrived with her was not isolated and is in general population. Ms. (b)(6) said face masks were provided to some of the detainees but not all of them.<sup>4</sup>

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;

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<sup>4</sup> The detainee also that the food in the facility has worms. CRCL will not be investigating this issue in this investigation.

- 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.”<sup>5</sup> 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.” The procedures for CRCL 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 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[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 § 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

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<sup>5</sup> 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).

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 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 Web site—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 on 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 by ICE 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.

#### QUESTION(S) PRESENTED

(b)(5)

#### INITIATING THE INVESTIGATION

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

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