



**Homeland
Security**

March 4, 2022

MEMORANDUM FOR: Ur M. Jaddou
Director
U.S. Citizenship and Immigration Services

Ashley Tabaddor
Chief Counsel
U.S. Citizenship and Immigration Services

FROM: Dana Salvano-Dunn (b)(6)
Director, Compliance Branch
Office for Civil Rights and Civil Liberties

(b)(6)
Attorney Advisor, Legal Counsel Division
Office of the General Counsel

SUBJECT: Language Access Procedures and Protocols
Complaint Nos. 002484-22-USCIS, 002548-22-USCIS,
002779-22-USCIS, and 002633-22-USCIS

The Office for Civil Rights and Civil Liberties (CRCL) has opened the above-referenced complaints related to individuals who have made claims of language access violations during credible fear screenings with U.S. Citizenship and Immigration Services (USCIS). The purpose of this memorandum is to notify you that CRCL has retained these complaints for investigation.

COMPLAINTS

Over the past several months, CRCL has received four allegations concerning individuals who have undergone credible fear screenings and have alleged they were not provided with an interpreter that spoke a language that these individuals understand, which, allegedly, led to these individuals receiving a negative credible fear finding. In particular, CRCL is concerned by the number of allegations received that highlight individuals who speak an indigenous language or uncommon dialect who allege to not have been provided with interpretive services that they can understand. CRCL has selected a representative sample of allegations to open as complaints to investigate potential concerns regarding existing language access procedures and protocols.

1. Complaint: 002484-22-USCIS¹

On September 29, 2021, CRCL received direct correspondence from (b)(6) of the Southern Poverty Law Center (SPLC) regarding two detainees from Burkino Faso at the Winn Correctional Center in Winnfield, LA (Winn). The complaint states that USCIS conducted credible fear screenings in French for (b)(6), and (b)(6), because representatives from the USCIS Houston Asylum Office could not find Bissa interpreters. (b)(5), (b) (7)(E)

2. Complaint: 002548-22-USCIS

On October 7, 2021, CRCL received direct correspondence from (b)(6) of the Southern Poverty Law Center regarding a detainee from Burkino Faso at the Stewart Detention Center in Lumpkin, Georgia. The complaint alleges that detainee (b)(6) was not provided with an interpreter that spoke a language he could understand during his credible fear screening with USCIS. Consequently, the detainee was unable to properly communicate his claims, ultimately receiving a negative credible fear finding.

3. Complaint: 002779-22-USCIS

On November 9, 2021, CRCL received direct correspondence from (b)(6), Senior Managing Attorney, with American Immigration Council, on behalf of (b)(6), an ICE detainee at Aurora ICE Processing Center in Aurora, CO. The complainant alleged that part of the detainee's credible fear screening was conducted in French, rather than Haitian Creole, even though the detainee was not fluent in French. The complaint indicates that the detainee's pro bono counsel filed a RFR with USCIS related to the detainee's credible fear determination due to this concern.

4. Complaint: 002633-22-USCIS

On October 20, 2021, CRCL received postal correspondence from (b)(6), an ICE detainee at Winn and a citizen of Angola. The complaint alleged that the detainee received a credible fear screening in French, however, the detainee claimed his native language is Portuguese. The complainant stated that he could not understand the interpreter well enough to answer the questions being posed, ultimately leading to a negative credible fear finding.

¹ CRCL initially opened this complaint as a short form investigation with USCIS on November 24, 2022. CRCL received a response from USCIS regarding this complaint on January 14, 2022. Within the response, USCIS stated that both detainees confirmed that they spoke French and understood the interpreter during the credible fear screening. USCIS did however, note that it would be conducting another review of the RFR's submitted on behalf of both detainees, due to updates received regarding country conditions.

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 by:

- 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;
- 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. The procedures for our investigations and the recommendations they may generate are outlined in DHS Management Directive 3500.

Access to information. More particularly, 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.”

Reprisals forbidden. 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 its accompanying request for information are issued pursuant to these authorities.

Privilege and required transparency. Our communications with CBP 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 whether the factual allegations in the complaints can be verified or disproven; whether any additional facts suggest that the Constitution, a federal statute, or Department policy or procedures has been violated; and what steps, if any, should be taken by USCIS to address any concerns CRCL identifies, both individually (if a problem is ongoing) and as a matter of policy. It is our goal to produce a report that will assist in making USCIS the best agency possible.

QUESTIONS PRESENTED

(b)(5)



INITIATING THE INVESTIGATION

CRCL has already taken steps to begin its investigation of these complaints, which are assigned to Senior Policy Advisor (b)(6). We look forward to continuing to work together to determine all the facts surrounding these matters and if appropriate, the best way forward. If you have any questions, please do not hesitate to contact (b)(6) by phone at (b)(6), 866-644-8361 (TTY) or by email at (b)(6).

Copy to:

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