



Homeland  
Security

November 12, 2021

MEMORANDUM FOR: Tae D. Johnson  
Acting 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)  
Attorney Advisor, Legal Counsel Division  
Office of the General Counsel

SUBJECT: Krome North Service Processing Center  
Complaint Nos. 002533-22-ICE, 002304-21-ICE, 002175-21-ICE,  
001227-21-ICE, and 21-06-ICE-0306

The Office for Civil Rights and Civil Liberties (CRCL) has opened complaints alleging that U.S. Immigration and Customs Enforcement (ICE) has potentially violated the civil rights and civil liberties of detainees in ICE custody at the Krome North Service Processing Center (Krome) in Miami, FL. The purpose of this memorandum is to notify you of the complaints, describe the allegations, inform you that CRCL will retain the above-referenced complaints for investigation, and conduct a virtual onsite investigation at Krome on December 6-9, 2021, and explain how CRCL will work with ICE during our investigation. As part of this investigation, and consistent with the authority described in the CRCL and Scope of Review sections below, CRCL will examine the allegations described in the complaints, and Krome's operations more generally, to determine if the individual allegations are indicative of systemic civil rights and civil liberties issues. CRCL will also review other areas of the facility's operations that often raise civil rights and civil liberties issues. In addition to the general review, based upon the specific instances identified below, CRCL will be reviewing Krome's COVID-19 policies, use of force policies, mental health and suicide prevention and intervention policies, and related policies during the onsite.

### COMPLAINTS

Below is a summary of significant complaint investigations opened by CRCL related to Krome. In addition, since the beginning of FY21, CRCL has received 61 allegations and has opened 21 other

complaints related to Krome. The below were selected to represent the issues currently being raised at Krome that undergird CRCL's investigation.

**1. Complaint No. 002533-22-ICE**

On October 6, 2021, CRCL received direct correspondence from UndocuBlack Network, Haitian Bridge Alliance, Freedom for Immigrants, and the National Immigration Project of the National Lawyers Guild on behalf of (b)(6), (b)(6), and 7 other detainees or former detainees who wish to remain anonymous. The detainees, from Haiti, Sierra Leone, St. Lucia, Jamaica, and the Bahamas are currently detained, or had previously been detained, at Krome. The correspondence alleges civil rights violations at the facility, including longstanding and widespread discrimination against, and abuse of, Black detainees, as well as medical neglect, sexual abuse, religious discrimination, retaliation, verbal abuse from guards, and improper COVID-19 protocols.<sup>1</sup>

**2. Complaint No. 002304-21-ICE**

On September 7, 2021, CRCL received a referral from the OIG regarding a September 1, 2021 telephone call from ICE detainee (b)(6). During the call, the subject alleged that detainees who are negative for COVID-19 are being mixed with detainees who are positive for COVID-19 or have been exposed to it. He also alleged that detainees are sent outside at the hottest time of day or when it's raining and then are sent back in while the detention center is at its coldest, causing detainees to get sick. As of the writing of this memo, the subject is currently detained at Krome.

**3. Complaint No. 002175-21-ICE**

On August 30, 2021, CRCL received email correspondence from (b)(6) on behalf of (b)(6). According to the complainant, the subject had been feeling sick since August 25, 2021 with a fever, cough, and runny nose. The correspondence alleged that the subject was denied a COVID-19 test and has other health conditions, including high blood pressure and a kidney stone. This complaint was sent to ERO as a medical referral on September 3, 2021, and ERO submitted a response on September 27, 2021 stating that the subject denied having the symptoms stated above and was feeling okay. His medications were also checked. However, CRCL requested further follow-up regarding the results of the subject's ordered urology consultation and also noted that the subject was hospitalized on or around September 20, 2021.<sup>2</sup> The subject remains in custody at Krome.

**4. Complaint No. 001227-21-ICE**

On July 12, 2021, CRCL received direct correspondence from Felix Montanez of the Southern Poverty Law Center on behalf of detainee (b)(6). The correspondence alleged that the subject suffers from a range of mental health and other conditions and claimed that detention officers used excessive force on the subject during a mental health emergency, and then subsequently denied his request for follow-up medical attention after the force

<sup>1</sup> The named detainees are no longer in custody at Krome.

<sup>2</sup> CRCL has requested to see any corresponding records associated with that hospitalization. The follow-up requests are still pending response from ERO.

incident. The correspondence further alleged that the subject did not receive adequate medical and psychiatric care at the facility despite medical staff being aware of his uncontrolled bipolar disorder, post-traumatic stress disorder, high blood pressure, and anxiety. CRCL sent these allegations to ERO as a medical referral on September 28, 2021. CRCL had previously received a similar allegation from the subject through the OIG on June 17, 2021 (000858-21-ICE), which was also sent as a medical referral. To date CRCL has not yet received responses from ERO on either medical referral.<sup>3</sup>

##### 5. *Complaint No. 21-06-ICE-0306*

On April 16, 2021, CRCL received correspondence from Freedom for Immigrants, Americans for Immigrant Justice, and Doctors for America on behalf of detainee (b)(6). The correspondence summarized concerns made over the length of the subject's detention at Krome from June 26, 2020 until May 26, 2021. The correspondence included allegations of discrimination and abuse, including medical neglect, homophobia, racism, and Islamophobia. It alleged that the subject's asthma, seizure disorder, hypertension, diabetes, migraines, PTSD, and chronic pelvic pain related to a traumatic injury to his genitals worsened while he was detained at Krome. The subject had previously submitted many similar allegations directly to ICE, CRCL, and the OIG including multiple medical matters and a PREA allegation. The subject was removed on May 27, 2021.

*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;
- 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>4</sup> Additionally, pursuant to DHS

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<sup>3</sup> The subject was transferred to Glades County Detention Center on August 3, 2021.

<sup>4</sup> In addition, pursuant to 42 U.S.C. § 2000ee-1(a)(2), CRCL has the authority to “periodically investigate and review

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 that 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 this Office 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 OHS 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 section 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 section 3.3 of Directive 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 section 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 its accompanying request for information are made 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.”

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department, agency, or elements 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)

We look forward to working with your staff on this matter and will report back to you our findings and any recommendations.

PURPOSE AND SCOPE OF REVIEW

The purpose of this review is to determine if the allegations in the complaints can be verified or disproven, determine whether the facts suggest that the Constitution, a federal statute, or a Departmental policy has been violated, and to recommend 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.

We will review the following areas: medical care, mental health care, suicide prevention, detainee safety, segregation, the grievance system, and environmental health and safety. CRCL will also review the facility's COVID-19 practices during the review.

QUESTION(S) PRESENTED

(b)(5)



INITIATING THE INVESTIGATION

CRCL Policy Advisor Julie Plavsic will be handling this review. We request that ICE ERO schedule an initial discussion about these complaints and CRCL's plans for reviewing the matters with Ms. Plavsic as soon as possible.

We look forward to working 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 Ms. (b)(6) at (b)(6) or by email at (b)(6)

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