



February 8, 2024

MEMORANDUM FOR:

Patrick J. Lechleitner  
Deputy Director and  
Senior Official Performing the Duties of the Director  
U.S. Immigration and Customs Enforcement

Kenneth Padilla  
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FROM:

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Office for Civil Rights and Civil Liberties

(b) (6)  
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Office of the General Counsel

SUBJECT:

**Retention Memo:** Multidisciplinary Onsite Investigation of  
El Paso Service Processing Center  
Complaint Nos. 007151-23-ICE, 007229-24-ICE,  
007254-23-ICE, 007243-23-ICE, 007390-24-ICE,  
007396-24-ICE, 007450-24-ICE, 007493-24-ICE,  
008543-24-ICE, 008542-24-ICE, and 006006-23-ICE

The Office for Civil Rights and Civil Liberties (CRCL) has received allegations that U.S. Immigration and Customs Enforcement (ICE) has violated the civil rights and civil liberties of noncitizens at the El Paso Service Processing Center (El Paso) in El Paso, Texas. The purpose of this memorandum is to inform you that CRCL will conduct a multidisciplinary onsite investigation<sup>1</sup> at El Paso to investigate the complaints described below and review El Paso's operations more generally to address any systemic civil rights concerns.

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<sup>1</sup> CRCL's Multidisciplinary Onsites investigate a broad range of alleged civil rights and civil liberties violations within multiple disciplines, including conditions of detention, medical and mental health care, and environmental health and safety.

## Complaints

Since the beginning of Fiscal Year 2023, CRCL has received approximately 113 separate allegations concerning potential civil rights and civil liberties violations at El Paso. Approximately 44% of these matters raised concerns regarding lack of communication between noncitizens and staff; 34% expressed concerns with the food; 25% involved allegations of inadequate medical care and mental health care; and about 15% were reported allegations involving staff abuse/treatment of detained noncitizens, including Prison Rape Elimination Act (PREA) allegations. After reviewing these allegations, CRCL decided to conduct a multidisciplinary onsite investigation at El Paso and opened nine complaints as representative samples, due to the serious nature and/or the frequency of the allegations. In addition to the above areas of concern, CRCL also received allegations about the medical care of hunger strikers, lack of access to language access; discriminatory treatment based on sexual orientation; and, the retaliatory use of the disciplinary system in response to noncitizens raising grievances about facility conditions.

### **1. Complaint No. 007151-23-ICE<sup>2</sup>**

On September 8, 2023, CRCL received a referral from the Department of Homeland Security Office of Inspector General (OIG) regarding (b) (6) (Complainant) (b) (6), a noncitizen detained at El Paso. Complainant alleged that he has a broken nose after a physical altercation with two other noncitizens that occurred on August 18, 2023, and although he requested a medical report be filed after the incident his request was ignored. Complainant alleges that he has filed numerous grievances regarding the two noncitizens he has been having issues with at the facility.

Complainant also alleged that he is not being provided his required insulin and has not been feeling good without his medication. Additionally, he alleges that the facility is not providing proper food portions or nutrition, and commissary food is prohibitively expensive.

### **2. Complaint No. 007229-24-ICE<sup>3</sup>**

On September 18, 2023, CRCL received an OIG Referral concerning (b) (6) (Complainant), a former noncitizen detained at El Paso. Complainant alleged that officers have been taunting him and verbally abusing him because of his sexual orientation. Complainant also alleged that he has HIV and has not received any medical assistance. Also, he reported that officers and noncitizens found out about his medical condition, worsening the discrimination and leaving him suffering physically and mentally. Additionally, Complainant alleges that on many occasions officers take away their “break” time.

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<sup>2</sup> On September 8, 2023, CRCL opened this complaint as a medical referral and forwarded the medical referral to ERO/IHSC for review. To date, CRCL is awaiting IHSC’s response.

<sup>3</sup> On September 19, 2023, CRCL opened this complaint as a medical referral and forwarded the medical referral to ERO/IHSC for review. To date, CRCL is awaiting IHSC’s response.

### 3. Complaint No. 007254-23-ICE<sup>4</sup>

On September 20, 2023, CRCL received an OIG referral regarding (b) (6) (b) (6) (Complainant), a former noncitizen at El Paso. Complainant alleged that he has been suffering mentally while at El Paso. Specifically, that when he and other noncitizens are in need of medical help, officers ignore and laugh at them. He also alleged that many officers verbally abuse the noncitizens and punish noncitizens for no reason, for example throwing away noncitizens' food. Additionally, Complainant reported that there are no basic hygiene products, and that there are about 1000 noncitizens at the facility making many of the spaces overcrowded and above capacity. Finally, Complainant alleged that he has been waiting on court documents from different places, but El Paso staff has not been delivering mail to the noncitizens.

### 4. Complaint No. 007243-23-ICE<sup>5</sup>

On September 19, 2023, CRCL received on OIG referral regarding (b) (6) (A number unknown) (Complainant) a noncitizen at El Paso. Complainant alleged that he has been suffering mentally due to the stress and anxiety he experiences from the conditions of detention. Complainant alleged that officers take away their break time, food, and punish them by putting them in empty dark rooms for many days at a time. Complainant alleged that many noncitizens have been punished just for asking for simple amenities and requests. Complainant alleged that he has not spoken to his Deportation Officer and that that they are "treated like animals," and "many noncitizens want to give up and commit suicide because of the conditions."

### 5. Complaint No. 007390-24-ICE

On October 5, 2023, CRCL received an OIG referral concerning (b) (6) (b) (6) (Complainant), a noncitizen at El Paso. Complainant alleged that the food is always rotten or inedible. Additionally, the Complainant alleges that there are no hygiene products, such as shampoo and soap. Complainant alleges he and other noncitizens experience physical and verbal abuse from multiple officers at the facility and are forced to sign documents. Regarding ICE, Complainant alleged that he has not been able to speak to his Deportation Officer.

### 6. Complaint No. 007396-24-ICE<sup>6</sup>

On October 5, 2023, CRCL received an OIG referral concerning (b) (6) (b) (6) (Complainant), a former noncitizen at El Paso, alleging sexual assault, physical abuse, and fear of retaliation from ICE officers at this facility. The Complainant alleged noncitizens have experienced sexual assault from female ICE Officer (b) (6), (b) (7)(C) at the facility. The Complainant alleged the ICE Officer has asked about his plans after release, which caused him to stop working in the kitchen because the Officer would get very close to him, pull him by his clothes, and touch him

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<sup>4</sup> On September 20, 2023, CRCL opened this complaint as a medical referral and forwarded the medical referral to ERO/IHSC for review. To date, CRCL is awaiting IHSC's response.

<sup>5</sup> The A number provided in the OIG referral was incorrect, and ICE was unable to confirm the individual's identity. Therefore, no medical referral was sent to ICE on this matter. However, CRCL will conduct a systemic review the allegations referenced in this complaint.

<sup>6</sup> On October 10, 2023, CRCL sent to ICE a PREA request. On October 12, 2023, ICE provided the Significant Incident Report.

in his intimate parts. The Complainant further alleged this incident was reported to psychologist, and he requested to be transferred to another detention center, however the noncitizen was not transferred. In addition, he stated there is noncitizen-to-noncitizen verbal, physical, and sexual abuse, due to the lack of supervision.

#### **7. Complaint No. 007450-24-ICE<sup>7</sup>**

On October 11, 2023, CRCL received an OIG referral from (b) (6) (Complainant), a former noncitizen at El Paso, alleging while in the bathroom, an unknown noncitizen attempted to sexually assault him. The Complainant alleged he reported this to facility personnel and was told to "keep it to himself" and not report it to any other agency. Since reporting this incident, the Complainant alleged he was been denied medication for the injuries he sustained during the attempted assault.<sup>8</sup>

#### **8. Complaint No. 007493-24-ICE**

On October 16, 2023, CRCL received an OIG referral reporting allegations made by (b) (6) (Complainant), a transgender noncitizen in ICE custody at El Paso. The Complainant alleged that she was placed in segregation without any understandable explanation. When the Complainant asked why she was in segregation, an officer only spoke to her in English, but she did not understand because she knows very little English. The Complainant believes that she was placed in solitary confinement because she is transgender and identifies as a woman.

**The below three complaints are based on allegations arising from a hunger strike that took place in February-March 2023.**

#### **9. Complaint 008543-24-ICE<sup>9</sup>**

On January 26, 2024, CRCL opened a complaint involving the medical care of noncitizen on a hunger strike. Through previous onsite investigations<sup>10</sup>, CRCL learned that seven hunger strikers were transferred from Mesa Verde ICE Processing Center (Mesa Verde) and Golden State Annex to El Paso in March 2023 for a "higher level of care" following a three-to-four-week hunger strike. Specifically, four noncitizens were transferred from Mesa Verde<sup>11</sup> to El Paso on March 7, 2023, and three noncitizens were transferred from Golden State to El Paso<sup>12</sup> on March 14, 2023. Concerns were raised regarding the medical care provided at El Paso, including how it relates to the refeeding

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<sup>7</sup> On October 16, 2023, CRCL sent to ICE a PREA request. On October 30, 2023, ICE provided the Significant Incident Report.

<sup>8</sup> As this noncitizen was no longer in ICE custody when CRCL received the allegations, no Medical Referral was sent to ICE.

<sup>9</sup> As the noncitizens named in this complaint were no longer in custody when CRCL received the allegations, no Medical Referrals were sent to ICE.

<sup>10</sup> CRCL conducted targeted onsite investigations at Mesa Verde and Golden State Annex on September 25-26 and September 27-28, respectively.

<sup>11</sup> (b) (6)

(b) (6)

<sup>12</sup> (b) (6)

(b) (6)

protocol for the hunger strikers once coming off hunger strike and what information was communicated to El Paso about the care that the hunger strikes needed.

## **10. Complaint 008542-24-ICE**

On January 26, 2024, CRCL opened a complaint received as an OIG referral reporting allegations made by (b) (6) (Complainant), a noncitizen previously in ICE custody at El Paso. The Complainant alleged that he participated in a hunger strike at Mesa Verde in February 2023, and in retaliation, ICE officers transferred him to El Paso where he could be forcibly fed. The Complainant alleged that he and other noncitizens were force-fed cheeseburgers after a 19-day hunger strike.

## **11. Complaint 006006-23-ICE<sup>13</sup>**

On March 28, 2023, CRCL received direct correspondence from Cornell Law School on behalf of (b) (6) (Complainant), a noncitizen previously in ICE custody at El Paso. The Complainant alleged that he participated in a hunger strike at Golden State Annex in February 2023 and was injured in a use of force incident related to the hunger strike. The Complainant alleged he was then transferred to El Paso, reportedly for a higher level of care, but asserts he was not provided adequate medical treatment while at El Paso. He also alleged retaliation, lack of access to commissary funds, and lack of access to counsel at El Paso.

## **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;
- 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. §

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<sup>13</sup> On March 29, 2023, CRCL opened this complaint as a medical referral and forwarded the medical referral to ERO/IHSC for review. On May 11, 2023, ICE provided a response partially substantiating the allegations with a corrective action plan.

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>14</sup> Additionally, pursuant to DHS Delegation Number 19003, issued October 26, 2012, the Secretary has delegated to the Officer of CRCL the authority to “[a]ssess[] 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, arbitrary punishment, language access, and religious accommodation for ICE detainees 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 the Officer access to the “information, material, and resources necessary to fulfill the functions” of the office, including (but not limited to) 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 8010.1, “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 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 request for 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 as well as any other applicable privileges. Under 6 U.S.C. § 345(b), however, we submit an annual report to Congress—also posted

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<sup>14</sup> 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).

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; if the facts we find suggest that the Constitution, a federal statute, or a Departmental policy has been violated; and 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.

### **QUESTIONS PRESENTED**



### **INITIATING THE INVESTIGATION**

CRCL has already taken steps to begin its investigation, which is assigned to (b) (6) [redacted], Senior Policy Advisor and (b) (6) [redacted], Team Lead. 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 Ms. (b) (6) [redacted] at (b) (6) [redacted] and Ms. (b) (6) [redacted] at (b) (6) [redacted].

Enclosure

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