



Homeland
Security

September 5, 2024

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

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Principal Legal Advisor
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FROM:

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Office for Civil Rights and Civil Liberties

/s/ (b) (6)
Attorney Advisor, Legal Counsel Division
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SUBJECT: **Retention Memo:** Winn Correctional Center
Complaint Nos. CR-010301, CR-011451, CR-010510,
CR-010174, CR-009803, 005603-23-ICE

I. Purpose

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 Winn Correctional Center (Winn) in Winnfield, Louisiana. The purpose of this memorandum is to inform you that CRCL will conduct a multidisciplinary onsite investigation¹ at Winn to investigate the complaints described below and review Winn's operations more generally to address any systemic civil rights concerns.²

II. Allegations

Since conducting a multidisciplinary onsite investigation at Winn on July 26-29, 2021, CRCL has received 120 separate allegations concerning civil rights and civil liberties violations involving the

¹ 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.

² See 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1.

facility. Forty-two (42) of the allegations involve excessive or inappropriate force by facility staff; physical and verbal misconduct by ICE and/or facility personnel, and inadequate conditions of detention related specifically to environmental health and food service concerns.³ After reviewing these allegations, CRCL opened six complaints as representative samples based upon the serious nature, unique circumstances, and/or the frequency of the allegations in relation to Winn. In sum, the representative complaints exemplify a broad range of allegations related to inappropriate use of force and treatment of noncitizens, environmental health/safety, and food service.⁴ Accordingly, CRCL is planning a targeted onsite investigation into these areas of concern. The complaints are described in detail below.

III. Complaints

1. Complaint No. CR-010301

On March 27, 2024, CRCL received correspondence from six non-governmental organizations (NGOs) alleging that ICE and its contractors at Winn violently attacked a dorm of approximately 200 people with pepper spray.⁵

According to the signatories, officers walked around the housing unit with five canisters of pepper spray a.k.a. oleoresin capsicum (OC) spray, dousing the area for approximately five minutes. Allegedly, they first entered unit A-1 before moving through C-2, D-1, and D- 2 indiscriminately spraying noncitizens directly in their faces and on their bodies, some from less than an arm's length away. This allegedly included noncitizens who were fleeing and attempting to hide, as well as individuals with chronic medical conditions, making them particularly vulnerable to the deployment of OC spray (ex. asthma and heart conditions).

After spraying the unit, the officers allegedly exited and locked the doors and windows, turned off cameras in the unit, and cut power and water to the unit, thereby denying noncitizens the ability to rinse their eyes, throats, and skin. According to the complaint, noncitizens remained locked in their cells without access to medical care for approximately three hours.

2. Complaint No. CR-011451

On April 26, 2024, CRCL received a referral from the DHS Office of Inspector General (OIG) regarding allegations made by (b) (6) (Complainant), a noncitizen in ICE custody at Winn. According to Complainant, a female officer told him that in order to get his missing legal documents, he must get down on his knees and beg for them.

³ Excessive or inappropriate force (9); abuse of authority (2); discrimination/profiling (3); retaliation (3); and conditions of detention (25) which includes environmental health/safety and food service.

⁴ CRCL currently has open investigations into Complaint Numbers 008676-24-ICE (re: alleged mistreatment by named ICE Officer and facility librarian, language access issues), 008413-24-ICE (re: conditions in ICE transportation), and 006733-23-ICE (re: excessive use of force).

⁵ Southeast Dignity Not Detention Coalition (“SDND Coalition”), Robert F. Kennedy Human Rights (“RFK Human Rights”), Immigration Services and Legal Advocacy (“ISLA”), Southern Poverty Law Center (“SPLC”), the ACLU of Louisiana (“ACLULA”), and the National Immigration Project of the National Lawyers’ Guild (“NIPNLG”).

3. Complaint No. CR-010510

On April 2, 2024, CRCL received email correspondence from Al Otro Lado (Complainant) on behalf of (b) (6), a noncitizen in ICE custody at Winn. Complainant alleged that on March 19, 2024, three ICE officers at Winn used excessive force on the noncitizen in the cafeteria.

According to Complainant, ICE officer (Officer #1) demanded that the noncitizen provide his signature and fingerprint on Form I-205. When the noncitizen told the Officer #1 he did not understand and requested that the document be translated to Spanish, Officer #1 used Google translate to tell him that the document was an ICE form. The noncitizen then allegedly requested a copy of the form so he could show it to his wife or to an attorney, but Officer #1 refused. Officer #1 then allegedly called over a Spanish speaking ICE officer (Officer #2) to speak to the noncitizen, but he too denied the noncitizen's request for a copy of the form in Spanish.

Complainant reported that while noncitizen was speaking with Officer #2, another ICE officer (Officer #3) nearby allegedly grabbed another unidentified noncitizen by the arm and forcibly fingerprinted him. Allegedly, Officer #2 threatened to do the same to the noncitizen, to which he responded that he just wanted to understand what he was signing. Officer #2 then instructed him to go wait in a different area, and when he complied and began walking, Officer #3 ran up to him yelling, "Do you have a problem!?" When the noncitizen told him that he only sought to understand the document, Officer #3 allegedly yelled, "You're forcing me to do this" and pushed the noncitizen in the chest. Officer #3 then allegedly grabbed the noncitizen's hand, twisting his arm back, while Officer #2 grabbed his other arm. Complainant stated, "[Officer #1] rushed over, grabbed [the noncitizen] by his neck, and began choking him. [Noncitizen] told the officers that none of this was necessary and that he would cooperate, but the officers continued twisting his arms and choking him. [Noncitizen] began losing consciousness and then became silent. The ICE officers did not let him go until they forcibly obtained his fingerprint."

Complainant stated that shortly after the noncitizen sat down to collect himself, an ICE supervisor arrived and questioned him about the incident. The noncitizen was then handcuffed and taken to the medical unit. According to Complainant, the noncitizen suffers from immense pain in his shoulder and neck which persists to this day.

4. Complaint No. CR-010174

On March 25, 2024, CRCL received a referral from the DHS OIG regarding allegations made an anonymous noncitizen (Complainant) at Winn. According to Complainant, noncitizens were served expired milk with each meal on February 23, 2024, which resulted in many noncitizens experiencing stomach issues. Allegedly, officers forced noncitizens to drink the milk threatening that if they didn't do so, fresh milk would then not be ordered for them.

5. Complaint No. CR-009803⁶

On March 11, 2024, CRCL received correspondence from (b) (6) (Complainant) on behalf of his brother, (b) (6), a noncitizen in ICE custody at Winn. Complainant alleged that the facility has no air conditioning, no hot water, and no translation services.⁷ Additionally, Complainant alleged that the facility is understaffed, and staff treat the noncitizens “like animals.”

6. Complaint No. 005603-23-ICE⁸

On January 23, 2023, CRCL received a referral from the DHS OIG regarding allegations made by (b) (6) (Complainant), a noncitizen in ICE custody at Winn. According to Complainant, he and other noncitizens were placed into a “freezer” for an unknown reason where ICE officers made racist and derogatory comments at the group. Complainant alleged that after exiting the freezer, one of the officers refused his request for a phone call and forced him down on all fours, making him crawl back to his cell. Additionally, Complainant alleged that ICE officers: 1) force noncitizens to sign papers without translating them to Spanish; 2) refuse to provide the facility address to noncitizens; and 3) deny sick noncitizens from going to the infirmary for treatment. Lastly, one unidentified ICE officer allegedly threatened to place Complainant in an isolation cell after he said he was going to raise his facility-related concerns to a national news outlet.

IV. 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; and
- 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,

⁶ The incoming medical-related allegations were handled as a Medical Referral and sent to ICE on March 13, 2024.

⁷ CR-009290 also alleges lack of air conditioning in January 2024 in addition to water leaks, lack of clean bedding, and noncitizens only being given five minutes to eat.

⁸ The incoming medical-related allegations were handled as part of CRCL’s Winn Implementation Memo issued to ICE on August 15, 2024.

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.”⁹ 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.

⁹ 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).

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 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.

V. 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.

VI. QUESTIONS PRESENTED

This investigation will address whether ICE and Winn personnel have conformed to ICE standards, policies and procedures, and to civil rights requirements, in the treatment of detained noncitizens at this facility.

CRCL will also look at conditions generally to ensure that the issues raised are not systemic to the overall operation of the facility. It is possible that our investigation will reveal other matters of concern; if this occurs, we will inform you.

VII. INITIATING THE INVESTIGATION

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

Enclosure

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