



# Homeland Security

February 20, 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)  
Assistant General Counsel, Legal Counsel Division  
Office of the General Counsel

SUBJECT: Denver Contract Detention Facility  
Complaint Nos. 19-04-ICE-0751, 19-06-ICE-0753,  
19-09-ICE-0431, 19-09-ICE-0432, 19-09-ICE-0444,  
19-09-ICE-0446, and 20-01-ICE-0005

In August 2018, the Office for Civil Rights and Civil Liberties (CRCL) conducted an onsite investigation related to complaints alleging that U.S. Immigration and Customs Enforcement (ICE) violated the civil rights or civil liberties of individuals held in custody at the Denver Contract Detention Facility (DCDF) in Aurora, Colorado. CRCL found significant concerns at the facility, and, following the onsite, CRCL issued 37 recommendations in November 2018 in the areas of medical and mental health care, suicide prevention and intervention, and conditions of detention. As of the issuance of this memo, ICE has not yet responded to CRCL regarding these recommendations. Since CRCL's August 2018 onsite to DCDF, CRCL had continued to receive allegations concerning DCDF's medical and mental health care, as well as the overall conditions of detention at this facility. Additionally, following the last onsite, DCDF has opened an annex which now houses ICE detainees, raising the overall number of ICE detainees housed at DCDF.

Accordingly, CRCL will be going back onsite from April 28-30, 2020, to assess the implementation of the 2018 recommendations, as well as to investigate new complaints opened since the first review.

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 new allegations, which are discussed below. Because the complaints and allegations raise similar issues, CRCL will look at the DCDF's

operations more generally to determine if the individual allegations are indicative of systemic civil rights and civil liberties issues. Specifically, while onsite, CRCL will look at the facility's medical and mental health care, various aspects of the conditions of detention, and other areas of the facility's operations that often raise important civil rights and civil liberties issues. Lastly, CRCL will also review ICE's implementation of the November 2018 recommendations.

## ALLEGATIONS

**19-04-ICE-0751** - On January 11, 2019, CRCL received an email referral from DHS Office of Inspector General (OIG) regarding (b)(6), an ICE detainee at DCDF. In a telephone call to the OIG on December 26, 2018, Ms. (b)(6) alleged that she was bullied by another detainee. She stated that she filed a grievance and was told by an officer to ignore the bullying. Ms. (b)(6) stated that she was often ignored by officers and had stopped receiving answers to her grievances. She further alleged that she was denied recreation time and that she was also denied necessities, such as razors.

**19-06-ICE-0753** - On March 14, 2019, CRCL received an email referral from the OIG regarding (b)(6) an ICE detainee at DCDF. In a phone call to the OIG on March 13, 2019, Mr. (b)(6) alleged that the detention facility was denying detainees access to the law library. Mr. (b)(6) claimed that whenever the facility is short on staff or an officer does not show up, the detainees' law library time is cancelled. Mr. (b)(6) also alleged that the detainees have been unable to access computers and legal reference material, and are unable to copy and print their documents, preventing them for working on their cases.

**19-09-ICE-0431<sup>1</sup>** - On June 17, 2019, CRCL received an email referral from the OIG regarding (b)(6), an ICE detainee at DCDF. In a call to the OIG hotline on June 12, 2019, Mr. (b)(6) alleged that since June 5, 2019, he has requested to see a physician due to injuries he suffered from a physical assault by a group of detainees on June 2, 2019. Mr. (b)(6) said that his right ribs were broken and claimed he has only been offered Tylenol.

**19-09-ICE-0432<sup>2</sup>** - On June 18, 2019, CRCL received email correspondence from (b)(6) of Rocky Mountain Immigrant Advocacy Network (RMIAN), regarding (b)(6) (b)(6), an ICE detainee at DCDF. RMIAN reported that Ms. (b)(6) (b)(6) had the following urgent medical needs which required immediate care:

- Ms. (b)(6) had been hemorrhaging blood and blood clots for approximately 18 days. Her blood was reportedly drawn in the medical unit, where she was advised that this bleeding was normal because she had not had her period for months prior.

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(b)(6), (b)(5)

- Ms. (b)(6) did not have her period for months following a rape that occurred in Mexico and had yet to be tested for sexually transmitted diseases or provided follow up care regarding the rape.
- Ms. (b)(6) physical condition was worsening. Specifically, on June 17, 2019, she was observed to be so weak from blood loss that medical had to be called during her meeting with her social worker, as she could not stand up on her own. She appeared pale, expressed that she had pain while sitting upright, was experiencing fatigue, lethargic speech and movements, and became lightheaded when she stood up. According to the complaint, the medical staff member that responded to the June 17 medical call instructed Ms. (b)(6) to get into a wheelchair, and when Ms. (b)(6) (b)(6) advised that she did not have the strength to do so, the medical staff stated that they could only help her into the chair if she was on the floor. Ultimately, Ms. (b)(6) (b)(6) social worker allegedly had to assist her into the wheelchair.

**19-09-ICE-0444<sup>3</sup>** – On June 12, 2019, CRCL received correspondence from (b)(6) of the American Immigration Council and American Immigration Lawyers Association, regarding inadequate medical and mental health care at DCDF.<sup>4</sup> In the correspondence, Ms. (b)(6) provided examples of inadequate medical and mental health care experienced by individuals detained at DCDF.<sup>5</sup> Only two of those individuals mentioned in the correspondence wanted to be identified, (b)(6) and (b)(6). In the correspondence, it is alleged that Ms. (b)(6) slipped and fell at a previous detention facility, where she received medical attention. However, while at DCDF, her condition worsened and was not effectively treated. Additionally, it was alleged that Ms. (b)(6) had recently developed an allergic reaction that covered her body in bumps and hives.

Concerning Mr. (b)(6), the correspondence alleged that the facility's administration of his medication was inconsistent, and that the facility would provide less than prescribed dosages based on inadequate supply of the medication. He allegedly suffered from daily migraines and complained he was unable to sleep through the night because of the pain due to inconsistency and incorrect dosage of the medicine. Additionally, Mr. (b)(6) reported being disoriented when the medical staff changed the number of pills he received each day without explanation.

**19-09-ICE-0446<sup>6</sup>** - On June 27, 2019, CRCL received an email from (b)(6) of the Catholic Legal Immigration Network, Inc. on behalf of (b)(6) a transgender ICE detainee at DCDF. Ms. (b)(6) reported that her client, Ms. (b)(6) was in administrative segregation and suffered from major depression disorder and post-traumatic stress

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(b)(6), (b)(5)

disorder. Further, she claimed that Ms. (b)(6) had a diagnosis of gender dysphoria and had not been provided with gender-affirming hormones over the span of her five-month detention. The correspondence included a June 8, 2019, statement from (b)(6), MD, a psychiatrist who conducted a mental health evaluation of the detainee in which she wrote, “It is my professional opinion that Ms. (b)(6) not be moved to administrative segregation, as it would be deleterious to her mental health.” Finally, Ms. (b)(6) alleged that rather than hear Ms. (b)(6) (b)(6) appeals to leave administrative segregation, facility staff responded by increasing her medication doses and leaving her to spend 23 hours a day alone in a cell.

Unrelated to medical care, the complaint alleged that two months prior, Ms. (b)(6) had reported repeated harassment by an Officer (b)(6), (b)(7)(C) and another detainee, which was ignored by facility staff. Also reported was that Ms. (b)(6) was groped by a male detainee.

**20-01-ICE-0005**<sup>7</sup> - On October 7, 2019, CRCL received an email referral from the OIG regarding (b)(6), an ICE detainee at DCDF. Mr. (b)(6) alleged that upon arrival to the facility, he had requested ibuprofen for pain suffered from an attack in Honduras but was told that he would have to pay for the medicine. He also claimed that he had the flu with a fever for two weeks, and when he asked for ibuprofen, he was given aspirin.

## 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

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(b)(6), (b)(5)

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>8</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

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<sup>8</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).

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.

#### 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

(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) by phone at (b)(6) or by email at

(b)(6)

Copies to:

Enrique M. Lucero  
Executive Associate Director  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
(b)(6), (b) (7)(C)

Tae Johnson  
Deputy Executive Associate Director  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
(b)(6), (b) (7)(C)

Dr. Stewart D. Smith  
Assistant Director, ICE Health Service Corps  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
(b)(6), (b) (7)(C)

Alison Walder  
Chief of Staff, Custody Management  
Enforcement and Removal Operations  
U.S. Immigration and Customs Enforcement  
(b)(6), (b) (7)(C)