



Homeland
Security

January 31, 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

(b)(6)

FROM: Cameron P. Quinn
Officer
Office for Civil Rights and Civil Liberties
(b)(6)

Attorney Advisor (Legal Counsel Division)
Office of General Counsel

SUBJECT: Richwood Correctional Center
Complaint Nos. 20-01-ICE-0075 and 19-11-ICE-0754

The Office for Civil Rights and Civil Liberties (CRCL) has opened complaints alleging abuses of the civil rights and civil liberties of individuals in the custody of U.S. Immigration and Customs Enforcement (ICE) at the Richwood Correctional Center (Richwood) in Richwood, Louisiana. 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 an onsite investigation at Richwood, and to 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 Richwood's operations more generally, to determine if the individual allegations are indicative of systemic civil rights and civil liberties issues.

ALLEGATIONS

MENTAL HEALTH CARE

1. *Complaint No. 20-01-ICE-0075*

On October 15, 2019, CRCL received notification from ICE of the death of Mr. Roylan Hernandez-Diaz (), an ICE detainee at Richwood from June 13, 2019 to October 15, 2019. The Richwood medical staff pronounced Mr. Hernandez deceased at 2:21p.m. CDT and identified the

preliminary cause of death as suicide. According to ICE documents, Mr. Hernandez went on a hunger strike on October 10, 2019, and was placed in administrative segregation for observation and monitoring. On October 15, 2019, the Richwood staff reportedly notified ERO that Mr. Hernandez had missed his ninth consecutive meal and declared a hunger strike, citing his frustration with the immigration process. That same afternoon, the Richwood facility captain reportedly walked by Mr. Hernandez's cell and noticed a strong odor coming from the cell. The Richwood facility captain attempted to visibly check on Mr. Hernandez by looking through the cell door window but could not see him; at that time, the Richwood facility captain entered the cell and found Mr. Hernandez hanging from his top bunk with a bedsheet attached to his neck. The Richwood facility captain immediately called a medical emergency and requested medical assistance.

2. *Complaint No. 19-11-ICE-0754*

On August 27, 2019, CRCL received email correspondence from the U.S. Department of Homeland Security (DHS), Office of the Inspector General (OIG) regarding ICE detainee Mr. (b)(6) (b)(6) alleging various civil rights violations at Richwood including inadequate mental health care, physical and verbal abuse by inmates and staff, and lack of control of contraband. Specifically, the complainant alleged that an inmate at the facility threatened to kill Mr. (b)(6) (b)(6) on at least two occasions for reporting to detention staff that the inmate had contraband. As a result, Mr. (b)(6) states he was placed in protective segregation, an act that reportedly triggered psychological symptoms for him due to death threats he experienced in Honduras by people who allegedly killed his father. The complainant further reported that he was allegedly assaulted by detention staff for requesting mental health care. Specifically, he reported that a detention officer struck and threatened him for knocking on his cell door to make the request. In supplemental correspondence, Mr. (b)(6) reported feeling scared and in need of mental health assistance.

CONDITIONS OF CONFINEMENT

1. *Complaint No. 19-11-ICE-0754*

The August 27, 2019, email correspondence CRCL received from Mr. (b)(6) also elaborate on concerns regarding physical and verbal abuse from detention staff and ICE. Of note, Mr. (b)(6) (b)(6) alleges being left without food for 13-hours on July 4th, 2019. When Mr. (b)(6) tried to complain to an ICE officer he was reportedly told to "shut the f*** up." As noted above, Mr. (b)(6) alleged physical and verbal abuse by inmates and staff and the alleged uncontrolled introduction of contraband by inmates. In his complaint he also alleged that these incidents occurred in full view of other inmates/detainees and on at least one occasion, facility staff. In a supplemental correspondence from DHS-OIG, Mr. (b)(6) alleged that the individual who allegedly made the death threat also made racist statements. The complainant also reported that a detention officer struck and threatened Mr. (b)(6) for knocking on his cell door to request mental health assistance.

AREAS TO BE REVIEWED

CRCL plans to review the following areas of the facility's operations because they raise important civil right and civil liberties considerations: medical care, mental health care, suicide prevention, detainee safety, segregation, the grievance system, and environmental health and safety. CRCL will

also look at corrections generally to ensure that the issues raised are not systemic to the overall operation of the facility.

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. § 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.”¹ Additionally, pursuant to DHS 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.

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

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.”

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 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. This review will also examine the additional areas specified above for similar concerns related to protection of civil rights and civil liberties. It is our goal to produce a report that will assist in making ICE the best agency possible.

QUESTION(S) PRESENTED

(b)(5)

INITIATING THE INVESTIGATION

CRCL Policy Advisors (b)(6) will be handling this review. We request that ICE ERO schedule an initial discussion about this complaint and CRCL's plans for reviewing the matter with Ms. (b)(6) as soon as possible.

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

Copies to:

Timothy S. Robbins
Acting Executive Associate Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
(b)(6), (b) (7)(C)

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

Tae Johnson
Assistant Director, Custody Management
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)