



PRISONERS' LEGAL SERVICES OF MASSACHUSETTS

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May 28, 2020

VIA EMAIL & U.S. MAIL

Sheriff Thomas Hodgson
Superintendent Steve Souza
Bristol County Sheriff's Department
400 Faunce Corner Road
North Dartmouth, MA 02747

Todd M. Lyons
Acting Field Office Director
Enforcement and Removal Operations, Boston Field Office
U.S. Department of Homeland Security
1000 District Avenue
Burlington, MA 01803

RE: Unwarranted use of segregation for ICE Detainees

Dear Sheriff Hodgson, Superintendent Souza and ICE Field Office Director Lyons:

I write on behalf ICE detainees that are currently being held at Bristol County House of Correction ("Bristol County"). It is my understanding that many ICE detainees, including most of the detainees who were previously detained in Unit B of the ICE Building, are now being held in segregation.

I also understand that many of these individuals, particularly those from Unit B, have been held in segregation since May 1, 2020 – nearly four weeks ago. Further, I understand that most of these individuals have not received a "Notice of Placement into Awaiting Action or Administrative Segregation Order Status" or any other written notice advising them as to why they are being held in segregation.

Finally, I understand that due to their placement in segregation, many ICE detainees are facing other issues that threaten their health, access to attorneys and civil rights. Below are some of the issues that have come to our attention through personal experiences or through reports we have received by multiple sources, including ICE detainees and attorneys.

- Detainees have not received a written notice as to why they are being held in segregation, nor a copy of any reviews or final decisions. They are currently unaware of their status and about their right to appeal said status.

- Detainees in segregation are being denied outgoing calls to attorneys, including Prisoners' Legal Services (PLS), unless they already have an attorney and that attorney contacts Bristol County in advance to arrange for a scheduled callback. This set up is of particular concern to PLS because the only way for new clients to contact us via phone is by making the initial outgoing call to our office.
- Even in situations where attorneys make arrangements with Bristol County officials to have their clients contact them, there are instances where those arrangements are not made in a timely manner. This includes instances in which detainees are only given access to a phone call after regular business hours.
- Detainees in segregation are only being allowed up to one attorney phone call a day.
- Detainees in segregation have not been given access to their personal legal materials, and in cases where they have been given access, they have only received partial access to said materials.
- Detainees in segregation have substantially limited access to medical and mental health services. Some of them are currently suffering from PTSD, anxiety, vision impairment, and physical injuries sustained during the incident that took place on May 1.
- Detainees in segregation have limited access canteen purchases, including limited food purchases
- Some detainees have been placed in segregation for refusing to perform non-paid voluntary work assignments, such as cleaning the shared bathrooms and common areas.

We find that the conditions currently faced by immigrants held under your custody run counter to the 2008 ICE Performance-Based National Detention Standards, the Bristol ICE Detainee Handbook, the ERO COVID-19 Pandemic Response Requirements, and the Criminal Justice Reform Act (CJRA), M.G.L. C. 127 §§ 39–39H. Some of the violations of law, policy and detention standards are outlined below:

2008 National Detention Standard

- “Detainees may retain a reasonable amount of personal legal material upon admittance to an SMU, provided such material does not create a safety, security or sanitation hazard. Detainees with a large amount of legal material may be required to place a portion with their stored personal property, with access permitted during scheduled hours. Requests for access to such legal material shall be accommodated as soon as possible, but in no case more than 24 hours after receipt of the initial detainee request to retrieve documents, except for documented security reasons.”
- “Ordinarily, staff shall permit detainees in Administrative Segregation to have telephone access similar to detainees in the general population”
- “A facility may neither restrict the number of calls a detainee places to his/her legal representatives nor limit the duration of such calls by rule or automatic cut-off, unless necessary for security purposes or to maintain orderly and fair access to telephones.”
- “A written order shall be completed and approved by a security supervisor before a detainee is placed in Administrative Segregation, except when exigent circumstances make this impracticable. In such cases, an order shall be prepared as soon as possible. A copy of the order shall be given to the detainee within 24 hours, unless delivery would jeopardize the safety, security, or orderly operation of the facility.”

- “A security supervisor shall conduct a review within 72 hours of the detainee’s placement in Administrative Segregation to determine whether segregation is still warranted. The review shall include an interview with the detainee. A written record shall be made of the decision and the justification.”
- “A security supervisor shall conduct the same type of review after the detainee has spent seven days in Administrative Segregation, and every week thereafter, for the first 60 days and (at least) every 30 days thereafter.”
- “Disciplinary action may not be capricious or retaliatory”

Bristol ICE Detainee Orientation Handbook:

- “Your placement onto AA Status shall be reviewed within 72 hours.”
- “Detainees may appeal decisions of the Hearing Officer within 7 days following receipt of the written decision.”
- “Detainee work programs are strictly voluntary”

Criminal Justice Reform Act (CJRA), M.G.L. C. 127 §§ 39–39H

- “(b) In addition to meeting all standards established by the regulations of the department of public health, restrictive housing units shall provide... (iii) rights of visitation and communication by those properly authorized; provided, however, that the authorization may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for each offense... (viii) the same access to canteen purchases and privileges to retain property in a prisoner's cell as prisoners in the general population at the same facility; provided, however, that such access and privileges may be diminished for the enforcement of discipline for a period not to exceed 15 days in a state correctional facility or 10 days in a county correctional facility for each offense or where inconsistent with the security of the unit;”
- “(a) A prisoner shall not be held in restrictive housing if the prisoner has a serious mental illness... unless, not later than 72 hours after the finding, the commissioner, the sheriff or a designee of the commissioner or sheriff certifies in writing: (i) the reason why the prisoner may not be safely held in the general population; (ii) that there is no available placement in a secure treatment unit; (iii) that efforts are being undertaken to find appropriate housing and the status of the efforts; and (iv) the anticipated time frame for resolution. A copy of the written certification shall be provided to the prisoner
- “(a) All prisoners confined to restrictive housing shall receive placement reviews at the following intervals, and may receive them more frequently, if a prisoner: (i) is being confined to restrictive housing pursuant to subsection (a) of section 39A, every 72 hours;”

ERO COVID-19 Pandemic Response Requirements

- “all detention facilities housing ICE detainees must also comply with the following ...Facilities are encouraged to...suspend all volunteer work assignments for detainees assigned to food service, and other assignments where applicable”

Given the concerns described in this letter, we urge you to immediately comply with these requirements, remove ICE detainees from segregation, and to reinstate attorney phone calls

pursuant to the standards. Additionally, we ask that you please respond in writing to these concerns with steps that you are taking to address them. And finally, we would also like to set up a phone call with you at your earliest convenience.

Thank you for your time and attention to this matter.

Sincerely,

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cc: Attorney Robert Novack
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