

Joseph Nozius Dantica
Department of Homeland Security
Office of Inspector General
Reports of Investigation

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of the Freedom of Information Act

March 31, 2005 Memorandum
And Exhibits



Homeland Security

MAR 31 2005

MEMORANDUM FOR: Robert W. Weber, Director
Office of Professional Responsibility
U.S. Immigration and Customs Enforcement

FROM: Elizabeth M. Redman *Elizabeth M. Redman*
Assistant Inspector General for Investigations

SUBJECT: Joseph Nozius Dantica
Detainee (Deceased)
Krome Service Processing Center (KSPC)
U.S. Immigration and Customs Enforcement
Miami, FL

CASE NUMBER: I05-BICE-MIA-01646

Attached is our Report of Investigation (ROI) on the above individual.

The ROI is furnished for whatever action you consider appropriate and no reply is necessary. However, should you take any action in response to our ROI, please inform this office so that we may update our records. Please destroy the ROI upon disposition of this matter.

Should you have any questions regarding the ROI, you may call me at (202) 254-4100, or a member of your staff may call Deputy Assistant Inspector General for Investigations-East, John S. Laferty at (202) 254-4300.

Attachments:

**DEPARTMENT OF HOMELAND SECURITY
OFFICE OF INSPECTOR GENERAL**

REPORT OF INVESTIGATION

I05-BICE-MIA-01646



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Homeland Security

REPORT OF INVESTIGATION

Case Number:	I05-BICE-MIA-01646
Case Title:	Joseph Nozius Dantica Detainee (Deceased) Krome Service Processing Center (KSPC) U.S. Immigration and Customs Enforcement Miami, FL
Report Status:	Final
Alleged Violation(s):	Death in Custody Investigation

SYNOPSIS

This investigation was initiated to determine whether the death of 81-year-old Haitian National Joseph Nozius Dantica on November 3, 2004, while in U.S. Immigration and Customs Enforcement (ICE) custody, was the result of any improper actions by ICE or other personnel.

Our investigation determined that Dantica arrived in the U.S. at Miami International Airport (MIA) on October 29, 2004, aboard a commercial airline flight originating from Port au Prince, Haiti. When Dantica was being processed by U.S. Customs and Border Protection (CBP) officials upon his arrival in the U.S., he orally requested political asylum based on a fear that his life was threatened in Haiti. In accordance with established CBP procedures, Dantica was immediately detained and transported to the Krome Service Processing Center (KSPC), an alien detention and processing facility in Miami, Florida to await an asylum interview to determine the validity of his claim for political asylum. During processing at the KSPC, all of Dantica's personal property, including his medications, were collected, inventoried and maintained in accordance with the facility's policy.

On November 2, 2004, during his asylum interview at KSPC, Dantica began to vomit and experience stomach pains. Dantica received medical attention in the asylum office and was transferred to the Public Health Service (PHS) unit at KSPC where he was placed under the care of a physician. Later that day, when Dantica's vital signs began to diminish, the PHS physician directed that Dantica be

Reporting Agent		Distribution:	
Name: [Redacted]	Signature: [Redacted]	Miami Field Office	Original
Title: Special Agent	Date: MARCH 21, 2005	Headquarters	cc
Approving Official		Component(s)	cc
Name: Donald J. Balberchak	Signature: [Redacted]	Other	cc
Title: Special Agent in Charge	Date: 3/22/05		

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taken to Jackson Memorial Hospital (JMH), Miami, Florida. Dantica was admitted to JMH on November 2, 2004, and was a patient there until he died of Acute and Chronic Pancreatitis on November 3, 2004.

Our investigation determined that Dantica's death was the result of an illness that likely pre-existed his entry into the United States five days earlier. There was no evidence of mistreatment or malfeasance by any CPB or JMH employees. This report will be forwarded to ICE, Office of Professional Responsibility (OPR) for whatever action they deem appropriate.

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DETAILS

The Department of Homeland Security (DHS), Office of Inspector General (OIG) initiated this investigation on November 18, 2004, after reviewing an article in the Sun-Sentinel newspaper and contacting [REDACTED], Deputy Officer in Charge for Detention, Krome Service Processing Center (KSPC), Miami, Florida, to determine the circumstances surrounding the death of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nozius Dantica, Haitian National, Alien Number 27 041 999, who died on November 3, 2004, while in ICE custody. [REDACTED] said that [REDACTED] did not immediately contact the OIG because Dantica died at Jackson Memorial Hospital, Miami, Florida, and because the Miami-Dade Medical Examiner had determined that Dantica's death was due to natural causes. On November 18, 2004, the OIG received a copy of a letter from Congressman Kendrick B. Meek requesting an investigation into the circumstances surrounding the death of Dantica. (Exhibits 1 and 2)

U.S. Customs and Border Protection (CBP) created a special report pertaining to the arrival and detention of Dantica for the Assistant Commissioner, due to the media interest generated by Dantica's death. A review of this report, obtained from [REDACTED], CBP, Miami, Florida, disclosed that Dantica arrived in the U.S. at Miami International Airport (MIA) at 5:38 p.m. on October 29, 2004, aboard American Airlines flight #822 from Port au Prince, Haiti. Dantica arrived with his son, Maxo Osnac, Haitian National, Alien Number [REDACTED]. At the CBP checkpoint, Dantica presented a valid Haitian passport, number 65658424, which contained a valid B1/B2 tourist visa, number 65658424.

According to the CBP report, Dantica told the first CBP officer he encountered, [REDACTED] that he came to the U.S. to request political asylum. Based on this statement, Dantica was referred to CBP secondary inspection for further immigration processing. During CBP secondary inspection at MIA, Dantica was interviewed by [REDACTED], Officer, CBP in his native Creole language. During this interview, Dantica was asked his purpose for visiting the U.S. In response, Dantica replied, "Because a group that is causing trouble in Haiti wants to kill me." Further, Dantica was asked exactly why he was requesting political asylum in the U.S. In response, Dantica replied, "Because they burned down my church in Haiti and I fear for my life." In the course of the routine questioning that ordinarily takes place during CBP secondary inspection interviews, Dantica was asked to describe his current health status. In response, Dantica replied, "Not bad." At the conclusion of the CBP secondary inspection, Dantica was transported to the KSPC, where he was detained pending an asylum interview pursuant to the U.S. Immigration and Nationality Act (INA), and the Code of Federal Regulations (CFR), Section 8, which state as follows:

INA 235(b)(1)(B)(ii) "Referral of certain aliens. If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum."

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8 CFR 1235.3(b)(4)(ii) "Detention pending credible fear interview. Pending the credible fear determination by an asylum officer and any review of that determination by an immigration judge, the alien shall be detained."

Dantica's son Osnac also requested political asylum and was detained and sent to the KSPC to await his own asylum interview. However, Osnac was placed in removal proceedings pending the outcome of his asylum case, based on database queries by CBP that indicated that he was previously removed from the U.S. on October 17, 1995, [REDACTED]

[REDACTED] (Exhibits 3 and 4)

The OIG interviewed [REDACTED], Medical Doctor, [REDACTED], Public Health Service (PHS), KSPC, who said that Dantica was provided with a medical screening upon his admission to the facility on October 29, 2004, in accordance with KSPC policy (number KRO/02-18, pages 2 and 3). [REDACTED] stated that upon admission to the KSPC, Dantica was in possession of two prescription medications: Hydrea (Hydroxyurea)/50 milligrams, and Valium, both of which Dantica said that he took as needed. [REDACTED] stated that in accordance with the KSPC Pharmacy Policy (Section 11.16), Dantica's medications were placed into his personal property inventory and removed from Dantica's access. [REDACTED] stated that in accordance with the KSPC Pharmacy Policy, Dantica was not provided with doses of Hydrea and Valium from the clinic's stock due to the uncertainty of the medical necessity for the medications and the potential harm caused by the misuse of the medications. Moreover, [REDACTED] stated that Hydrea is only approved by the Food and Drug Administration (FDA) to treat cancer. [REDACTED] stated that during Dantica's initial medical screening, Dantica was diagnosed with hypertension and arthritis, and it was determined that Dantica required the use of an electronic voice box to communicate because his larynx had previously been removed. Dantica was permitted to retain the electronic voice box that he brought with him to the KSPC in order to communicate. [REDACTED] stated that due to this diagnosis, Dantica was assigned to reside in the PHS, Short Stay Unit (SSU) and was provided with five-milligram doses of Enalapril to help lower his blood pressure and 250-milligram doses of Naproxen to ease the pain and reduce the swelling caused by his arthritis. [REDACTED] stated that the screening did not indicate that Dantica was suffering from pancreatitis. Further, [REDACTED] stated that Dantica did not specifically mention that he was suffering from pancreatitis. (Exhibits 5-7)

[REDACTED] provided the OIG with a copy of Dantica's complete medical file generated during his detention at the KSPC. Additionally, the OIG obtained copies of the KSPC written policies pertaining to the medical treatment of detainees. These documents outline the information obtained from [REDACTED] during the OIG interview. (Exhibit 8)

The OIG interviewed [REDACTED], Asylum Pre-Screening Officer (APSO), U.S. Citizenship and Immigration Services (USCIS), KSPC. [REDACTED] stated that at approximately 9:00 a.m. on November 2, 2004, Dantica arrived in [REDACTED] office at the KSPC for a pre-scheduled asylum interview with an

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attorney, identified as John Pratt from the Law Offices of Kurzban, Kurzban, Weinger and Tetzeli. Pratt attended the asylum interview to provide Dantica with legal representation. [REDACTED] stated that Pratt voiced concern to [REDACTED] over the fact that his client's medication had been taken away from him. [REDACTED] stated that [REDACTED] began the interview by telephonically contacting an interpretation service to accommodate Dantica's inability to speak fluent English. [REDACTED] stated that [REDACTED] connected with the interpreter and placed the interpreter on speakerphone and that the interpreter began conversing with Dantica in Creole. Dantica communicated with the assistance of his functioning electronic voice box. [REDACTED] stated that the interpreter had trouble hearing Dantica and asked him to come closer to the telephone to improve reception. When Dantica leaned forward, he suddenly began vomiting. [REDACTED] stated that Pratt immediately jumped up onto his chair and reached forward to gather his legal books off of [REDACTED] desk. [REDACTED] stated that [REDACTED] immediately proceeded around [REDACTED] desk and grabbed Dantica by his shirt to hold his head up straight and that [REDACTED] also immediately yelled for assistance to [REDACTED] APISO, who was directly outside of [REDACTED] office. [REDACTED] stated that [REDACTED] asked [REDACTED] Security Officer present in the Asylum Office, later identified as [REDACTED], to call for the PHS two separate times. [REDACTED] stated that it took approximately 15 minutes for the PHS employees to arrive on scene.

[Agent's Note: Information gathered during subsequent OIG interviews determined that this 15 minute response time was not unreasonable given the size of the KSPC facility and the stringent security procedures in place throughout the facility.]

[REDACTED] stated that Pratt requested that Dantica's son, Osnac, who was also in ICE custody at the KSPC, be brought to the Asylum Office to provide translation services for the PHS. [REDACTED] stated that when PHS employees [REDACTED], Registered Nurse, and [REDACTED], Physician's Assistant, arrived at [REDACTED] office, Pratt informed them that someone from the KSPC had taken away Dantica's medications. [REDACTED] stated that there was another [REDACTED] Security Officer, later identified as [REDACTED], who also responded to the incident and was present when the PHS employees arrived. [REDACTED] stated that the PHS employees moved Dantica from inside [REDACTED] office to the hallway immediately outside [REDACTED] office. [REDACTED] stated that when Osnac arrived, he was visibly upset and was not cooperating with the PHS employees to provide translation services. [REDACTED] stated that the PHS employees informed Osnac that if he did not cooperate and provide translation services, he would not be permitted to stay. [REDACTED] stated that [REDACTED] and [REDACTED] conversed with Pratt and discussed the validity and severity of Dantica's illness. [REDACTED] stated that [REDACTED] and [REDACTED] moved Dantica from the Asylum Office to the PHS facility at the KSPC to provide him with further treatment. [REDACTED] stated that Pratt asked [REDACTED] whether or not he could continue Dantica's asylum interview at the PHS facility. [REDACTED] stated that the asylum interview was not continued. (Exhibit 9)

The OIG interviewed [REDACTED] APISO, USCIS, KSPC. [REDACTED] stated that at approximately 9:00 a.m. on November 2, 2004, [REDACTED] verbally requested [REDACTED] assistance by calling to [REDACTED] from

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inside [redacted] office. [redacted] stated that [redacted] immediately responded from [redacted] desk, approximately 20 feet away. [redacted] stated that upon entering [redacted] office, [redacted] witnessed Dantica vomiting from a seated position onto [redacted] desk and that [redacted], Dantica and Pratt were present in the office at that time. [redacted] added that when [redacted] entered the office, Pratt was standing on top of his chair attempting to move his legal books away from the vomit. [redacted] stated that [redacted] immediately called for the Security Officer, identified as [redacted], to respond. [redacted] stated that [redacted] radioed for PHS employees to respond to the scene and that two employees from PHS responded approximately 10 to 15 minutes later. [redacted] stated that Dantica was conscious but was not responding verbally to the PHS employees' questions. [redacted] stated that Osnac was brought to the scene at a later point in an attempt to provide interpretive services. [redacted] stated that Dantica was placed on a stretcher and removed from the Asylum Office. [redacted] stated that, due to the small size of [redacted] office, [redacted] stepped out into the hallway when the PHS employees arrived on scene. [redacted] stated that an unidentified PHS employee made a comment that Dantica was not being cooperative. [redacted] stated that Osnac mentioned that his father's medication had been taken away from him. (Exhibit 10)

The OIG interviewed John Pratt, Attorney, Law Offices of Kurzban, Kurzban, Weinger and Tetzeli, who requested that Ira Kurzban, Attorney, provide him with legal representation during the interview. Pratt stated that he met with Dantica on November 2, 2004, at the KSPC to provide him with legal representation during his asylum interview. Pratt stated that during the hearing, Dantica became sick and began vomiting. Pratt stated that [redacted] immediately requested medical assistance. Pratt added that [redacted] and a [redacted] Security Officer, identified as [redacted], responded to provide assistance and that one of the two guards, he could not remember which, informed him that, "we are on a lockdown" and implied that medical assistance could not be provided.

[Agent's Note: In subsequent OIG interviews, all KSPC personnel present at the scene denied telling Pratt, or anyone else, that KSPC was on a lockdown.]

Pratt stated that the PHS medical unit arrived approximately 15 minutes after Dantica became sick. Pratt stated that the PHS employees attended to Dantica in the Asylum Office for approximately 30 minutes. However, Pratt stated that while the PHS employees were attending to Dantica, communication was hindered because Dantica did not have a working electronic voice box.

[Agent's Note: In subsequent OIG interviews, it was established that Dantica's own vomit had rendered the electronic voice box inoperable.]

Pratt stated that one of the PHS employees, whom he could not identify, informed him that Dantica was "not cooperating." Pratt stated that approximately 15 minutes after the PHS employees arrived, Osnac was brought in to facilitate language translation. Pratt stated that the PHS employees asked

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Osnac to communicate with Dantica to identify the source of his pain and that Osnac was subsequently escorted out of the Asylum Office because the PHS employees stated that he (Osnac) was not cooperating. Pratt stated that he did not witness the PHS employees examine Dantica's vital signs and that he never heard Dantica actually speak to either Osnac or the PHS employees. Pratt stated that the PHS employees placed Dantica on a stretcher and removed him from the Asylum Office. Pratt stated that it was his understanding that Osnac was allowed to escort Dantica to the PHS facility at the KSPC.

[Agent's Note: In subsequent OIG interviews, it was established that Osnac was brought to the PHS facility at the KSPC to facilitate translation.]

When OIG agents questioned Pratt about Dantica's previous medical history, Kurzban requested that the interview be concluded. Pratt never responded to this question and the interview was terminated. (Exhibit 11)

The OIG interviewed Maxo Osnac who requested that Cheryl Little, Executive Director, Florida Immigrant Advocacy Center, provide him with legal representation during the interview. Additionally, [REDACTED], a native Creole speaker, provided translation services for Osnac. Osnac stated that on November 2, 2004, he was escorted to a building at KSPC, identified as the Asylum Office, to assist Dantica, his father, with translation services. Osnac stated that when he arrived at the Asylum Office, Dantica's face and chest were covered with vomit and he was propped up in a wheelchair and was leaning slightly to the right. Osnac added that there were approximately three individuals attending to Dantica that were dressed in blue uniforms.

[Agent's Note: The individuals dressed in the blue uniforms were later identified as the PHS employees.]

Osnac stated that the three individuals dressed in blue uniforms would not allow him to wash Dantica's face. Osnac stated that he was asked repeatedly to attempt to elicit Dantica to speak using his electronic voice box, but that Dantica was unable to hold the electronic voice box to his larynx. Osnac could not recall if any medical equipment was present in the Asylum Office. Osnac added that one of the individuals dressed in a blue uniform informed him that he felt that Dantica was faking his illness. Osnac said that he was escorted out of the Asylum Office before Dantica was removed and that he pleaded with one of the individuals dressed in a blue uniform to allow him to remain with Dantica. Osnac stated that after he was removed from the Asylum Office, he did not see Dantica again.

[Agent's Note: In subsequent OIG interviews, it was corroborated that Osnac was brought to the PHS facility at the KSPC to facilitate translation.]

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Osnac stated that he was later informed that Dantica had passed away. Osnac further stated that, according to what he could remember, Dantica had been taking a regular regimen of medication for high blood pressure and for his prostate. Osnac added that Dantica had suffered a bout of throat cancer more than 20 years ago, resulting in the removal of his larynx. (Exhibit 12)

The OIG interviewed [REDACTED], Security Officer, AKAL (contracted security guard service), KSPC, who stated that [REDACTED] was assigned to a post at the Asylum Office on November 2, 2004. [REDACTED] stated that during [REDACTED] shift, [REDACTED] came out of [REDACTED] office and yelled for assistance. [REDACTED] stated that [REDACTED] asked [REDACTED] to contact the PHS and that [REDACTED] immediately telephoned the PHS as requested. [REDACTED] stated that [REDACTED] was in the front part of the Asylum Office standing guard for three or four other detainees and that Dantica was inside [REDACTED] office. [REDACTED] stated that a short time after [REDACTED] called PHS, [REDACTED] received a telephone call from an unidentified doctor at PHS who asked [REDACTED] what was happening. [REDACTED] stated that [REDACTED] informed the doctor that a detainee was vomiting inside of the Asylum Office. [REDACTED] stated that two PHS employees arrived within less than 15 minutes after [REDACTED] original call and that [REDACTED] was still standing guard for the three or four other detainees present in the Asylum Office when the PHS employees arrived. [REDACTED] stated that [REDACTED] was unable to see what the PHS employees were doing to Dantica. [REDACTED] stated that [REDACTED], Security Officer, AKAL, KSPC, arrived and assisted the PHS employees. [REDACTED] denied telling anyone that the KSPC was on "lockdown," or that medical personnel would not be able to provide assistance. [REDACTED] stated that the PHS employees tended to Dantica for approximately 20 to 30 minutes before transporting him out of the Asylum Office. (Exhibit 13)

The OIG interviewed [REDACTED], Security Officer, AKAL, KSPC. [REDACTED] stated that [REDACTED] was assigned to a post at the Asylum Office on November 2, 2004. [REDACTED] stated that [REDACTED] received radio traffic from [REDACTED] informing [REDACTED] that a detainee was sick inside of the Asylum Office. [REDACTED] stated that [REDACTED] immediately entered the Asylum Office and noticed Dantica, Pratt and [REDACTED] inside [REDACTED] office. [REDACTED] stated that there was a large amount of vomit in [REDACTED] office. [REDACTED] stated that when [REDACTED] entered the Asylum Office, [REDACTED] had already contacted the PHS employees and that they entered the Asylum Office directly behind him. [REDACTED] stated that [REDACTED] was not aware of how long it took for the PHS employees to respond to [REDACTED] call. [REDACTED] stated that [REDACTED] was extremely excited and was concerned about the vomit and Dantica, and that [REDACTED] questioned the PHS employees about cleaning up the vomit. [REDACTED] stated that [REDACTED] witnessed the PHS employees examine Dantica's vital signs, including checking his blood pressure, pulse and respiration. [REDACTED] stated that, at the request of [REDACTED] went to locate Osnac and bring him to the Asylum Office. [REDACTED] stated that [REDACTED] brought Osnac to the Asylum Office to provide translation services for Dantica, due to the fact that Dantica only spoke Creole. [REDACTED] stated that [REDACTED] and the two PHS employees placed Dantica on a stretcher and moved him to the PHS facility at the KSPC. [REDACTED] stated that Osnac was brought to the PHS facility with Dantica to continue to provide translation services.

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██████████ stated that Pratt's request to go to the PHS facility with Dantica was denied. (Exhibit 14)

The OIG interviewed ██████████, Registered Nurse, PHS, KSPC. ██████████ stated that on November 2, 2004, ██████████ and ██████████, Physician's Assistant, were called to respond to the Asylum Office at the KSPC. ██████████ stated that ██████████ informed ██████████ that there was an emergency involving a vomiting detainee. ██████████ stated that ██████████ retrieved a pre-assembled medical bag containing emergency response equipment (scissors, bandages, a stethoscope, blood pressure cuff, etc.) and responded immediately with ██████████ to the Asylum Office. ██████████ stated that when ██████████ and ██████████ arrived, ██████████ checked Dantica's vital signs, including pulse and respiratory signs, and determined that ██████████ was not in any immediate distress. ██████████ stated that Dantica was covered in vomit but that he was conscious and coherent. ██████████ stated that ██████████ attempted to interact with Dantica to gather information about his condition, but that Dantica appeared to be uncooperative with ██████████. ██████████ stated that Osnac was brought to the scene and that Dantica communicated with Osnac. ██████████ further stated that ██████████ and ██████████ attended to Dantica for approximately 20 to 30 minutes and then transported him to the PHS clinic at the KSPC. (Exhibit 15)

The OIG interviewed ██████████, Physician's Assistant, PHS, KSPC. ██████████ stated that on November 2, 2004, ██████████ and ██████████ were called to respond to the Asylum Office at the KSPC. ██████████ stated that the call was in reference to a detainee vomiting. ██████████ stated that when ██████████ arrived on scene at the Asylum Office, there were several people standing around Dantica where he was seated. ██████████ stated that ██████████ checked Dantica's vital signs and determined that his breathing and pulse were normal. ██████████ stated that the area surrounding Dantica was covered in vomit. ██████████ added that ██████████ was familiar with Dantica due to the fact that he had been residing in the PHS SSU. ██████████ stated that an interpreter was contacted telephonically to provide translation services and that ██████████ repeatedly asked the unidentified interpreter to tell Dantica to point to the area that was in pain. ██████████ stated that Dantica did not respond to the interpreter. ██████████ stated that ██████████ requested that a wheelchair be brought into the Asylum Office to attempt to move Dantica out of the office he was in to the connecting hallway. ██████████ stated that Pratt informed ██████████ that Dantica's medication had been switched when he was initially detained at the KSPC. ██████████ stated that Osnac was brought to the scene in an attempt to provide additional translation services. ██████████ stated that once Osnac arrived, Dantica responded to him and indicated that his stomach was the primary source of pain. ██████████ stated that Pratt asked ██████████ about Dantica's condition. ██████████ stated that ██████████ told Pratt that ██████████ felt that Dantica could have been more cooperative with the PHS response team. ██████████ stated that Dantica was transported to the PHS clinic at the KSPC to receive further treatment. (Exhibit 16)

The OIG interviewed ██████████, Licensed Nurse Practitioner, PHS, KSPC. ██████████ stated that ██████████ was stationed at the PHS clinic at the KSPC on November 2, 2004. ██████████ stated that ██████████ assistance was requested with Dantica when he was brought to the PHS clinic from the Asylum Office due to the fact that ██████████ is fluent in Creole. ██████████ stated that ██████████ witnessed Dantica converse with Osnac using an electronic voice box. ██████████ stated that ██████████ asked Dantica to

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REPORT OF INVESTIGATION

provide [REDACTED] with some information regarding his health and that Dantica informed [REDACTED] that he was having pain in his stomach. [REDACTED] stated that Dantica informed [REDACTED] that his stomach was extremely sensitive to touch. [REDACTED] added that [REDACTED] contact with Dantica was limited and that [REDACTED] could not provide any further information. (Exhibit 17)

The OIG interviewed [REDACTED], Registered Nurse, PHS, KSPC, who stated that [REDACTED] was stationed at the PHS clinic at the KSPC on November 2, 2004. [REDACTED] stated that upon Dantica's arrival at the PHS clinic, [REDACTED] changed [REDACTED] issued uniform because it was soiled with vomit. [REDACTED] also stated that [REDACTED] affixed an intravenous line for Dantica on the orders of a KSPC physician, identified as [REDACTED]. [REDACTED] stated that [REDACTED] checked Dantica's vital signs, including his blood pressure, pulse and respiration and that all of his vital signs appeared to be normal. [REDACTED] stated that [REDACTED] performed three electrocardiograms at [REDACTED] orders. [REDACTED] further stated that during the time [REDACTED] spent with Dantica [REDACTED] responded to [REDACTED] translated questions both verbally in Creole, with the assistance of an electronic voice box provided by PHS, and physically, by pointing out that his stomach was causing him pain. [REDACTED] stated that Dantica was in the Urgent Response (UR) unit of the PHS clinic for approximately 30 minutes. [REDACTED] stated that Dantica was subsequently transported out of the KSPC to the JMH via a contracted ambulance service. (Exhibit 18)

The OIG interviewed [REDACTED], Medical Doctor, PHS, KSPC. [REDACTED] stated that on November 2, 2004, [REDACTED] examined Dantica when he was brought to the PHS facility at the KSPC. [REDACTED] stated that Dantica arrived with [REDACTED], [REDACTED], an unidentified Security Officer, and Osnac. [REDACTED] stated that Dantica was immediately brought to the UR unit. [REDACTED] stated that Dantica was provided with an electronic voice box to facilitate his verbal communication responses. [REDACTED] stated that Osnac was asked to instruct his father, in Creole, to point to the areas that were in pain. [REDACTED] stated that Osnac was visibly upset and refused to provide the necessary translation service and that Osnac was instructed to leave. Further, [REDACTED] stated that [REDACTED] was asked to report to the UR unit to provide translation services. [REDACTED] stated that when Dantica arrived at the PHS facility he was provided with a full physical assessment. [REDACTED] stated that this assessment included rechecking his vital signs and performing three electrocardiograms to check for heart conditions. [REDACTED] stated that the EKGs were performed because Dantica's medical file indicated that he had a history of hypertension. [REDACTED] stated that Dantica was provided with oxygen saturation, a normal procedure. [REDACTED] added that [REDACTED] informed [REDACTED] that Dantica indicated his stomach was causing him pain and that Dantica's stomach appeared to be distended. [REDACTED] stated that Dantica's vital signs began to diminish. [REDACTED] stated that [REDACTED] determined that Dantica needed to be transported to a hospital. [REDACTED] stated that, in accordance with the KSPC policy (number KRO/02-20, page 1; and KRO/02-18, pages 1 and 3), a contracted ambulance service was contacted and arrived at the KSPC at 11:10 a.m., departed with Dantica and an Immigration Enforcement Agent (IEA) escort at 11:35 a.m., and admitted Dantica to Jackson Memorial Hospital (JMH), Miami, Florida, at 12:15 p.m. (Exhibits 6, 19, and 20)

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REPORT OF INVESTIGATION

[Agent's Note: OIG interviews established that Dantica's own vomit had rendered his electronic voice box inoperable and that he was provided with another electronic voice box by the PHS at KSPC.]

The OIG interviewed [REDACTED] Medical Doctor, Attending Physician, Ward D, JMH. [REDACTED] stated that when [REDACTED] began [REDACTED] shift on November 2, 2004, Dantica's condition was stable and he appeared to be awake and alert. [REDACTED] stated that [REDACTED] shift ended at 7:00 p.m. on November 2, 2004. [REDACTED] stated that Dantica's condition began to deteriorate after [REDACTED] shift ended. [REDACTED] stated that the JMH is operated under a Public Health Trust and is a Miami-Dade County, Florida Facility. [REDACTED] stated that DHS employees escorted Dantica while he was admitted to JMH and that DHS employees maintained all control over visitation rights while Dantica was in JMH. (Exhibit 21)

The OIG interviewed [REDACTED], IEA, ICE, KSPC. [REDACTED] stated that [REDACTED] was assigned to post guard for Dantica's room at JMH on November 2-3, 2004. [REDACTED] stated that when [REDACTED] began standing post, Dantica was awake and alert. [REDACTED] stated that during [REDACTED] shift, Dantica became noticeably uncomfortable, and [REDACTED] immediately notified an unidentified attending nurse. [REDACTED] stated that the nurse and an unidentified doctor attended to Dantica and checked his vital signs. [REDACTED] stated that [REDACTED] then took [REDACTED] scheduled break and that [REDACTED] relieved her. [REDACTED] stated that shortly after returning to Dantica's room, [REDACTED] noticed that he became unresponsive. [REDACTED] stated that [REDACTED] called his name and that he did not respond. [REDACTED] stated that [REDACTED] immediately notified an unidentified attending nurse. [REDACTED] stated that an unidentified doctor entered the room and attempted to perform some type of emergency resuscitation. [REDACTED] stated that, following this resuscitation attempt, Dantica died (KSPC/JMH Logbook notes indicate at 8:46 p.m.). [REDACTED] stated that an unidentified individual attempted to visit Dantica at JMH shortly after he died. [REDACTED] stated that [REDACTED] referred the request to [REDACTED] and that [REDACTED] subsequently telephoned a supervisor with the request. [REDACTED] stated that while standing post at JMH, requests for visitation are forwarded to a supervisor, pursuant to KSPC policy (number KRO/02-20, page 1). [REDACTED] stated that [REDACTED] could not recall if any requests for visitation were received prior to Dantica's death. (Exhibits 20 and 22)

The OIG interviewed [REDACTED], IEA, ICE, KSPC. [REDACTED] stated that [REDACTED] was assigned to JMH when Dantica died on November 3, 2004. [REDACTED] stated that [REDACTED] and [REDACTED] were responsible for Dantica and another ICE detainee being housed at JMH. [REDACTED] stated that at approximately 8:30 p.m. on November 3, 2004, [REDACTED] notified [REDACTED] that Dantica did not look well. [REDACTED] stated that [REDACTED] and [REDACTED] immediately notified an unidentified duty nurse of their observation. [REDACTED] stated that multiple unidentified members of the JMH medical staff arrived on scene and administered numerous emergency resuscitation efforts. [REDACTED] stated that when Dantica was pronounced dead, [REDACTED] immediately notified [REDACTED] supervisor, identified as [REDACTED] Supervisory Immigration Enforcement Agent (SIEA). [REDACTED] stated that prior to Dantica's death,

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REPORT OF INVESTIGATION

█ did not receive any requests for visitation. █ stated that █ was contacted telephonically by an unidentified male and female after Dantica's death requesting to view Dantica's body. █ stated that █ informed the unidentified male and female that, according to KSPC policy (number KRO/02-20, page 1), █ supervisor's authorization would be required to arrange the viewing. █ stated that █ offered the unidentified male and female █ supervisor's telephone number. However, █ stated that the unidentified male and female informed █ that they did not wish to contact anyone else. █ stated that █ then contacted █ and informed █ of the request and the fact that the unidentified individuals informed █ that they did not wish to follow up on their request. █ stated that █ did not write any reports regarding the visitation requests. (Exhibits 20 and 23)

The OIG interviewed █, Supervisory Immigration Enforcement Agent (SIEA), ICE, KSPC. █ stated that █ was the shift supervisor when Dantica died at JMH on November 3, 2004. █ stated that █ was contacted by █ on the above date and notified of Dantica's death. █ stated that █ and █ were assigned to JMH on that date and were also responsible for another ICE detainee. █ added that when █ was notified of Dantica's death, █ immediately notified █ supervisor, identified as █. █ stated that arrangements were made to notify Osnac of his father's passing. █ further stated that █ did not recall █ or █ contacting █ to forward any visitation requests. █ stated that IEAs assigned to JMH do not log visitation requests in the official incident log, but that visitation requests are forwarded through the chain of command to the Officer in Charge (OIC), KSPC, per KSPC policy (number KRO/02-20, page 1), which states:

"A detainee in a community hospital remains under ICE authority. ICE retains the authority to make administrative decisions affecting the detainee (visitors, movement, authorizing/limiting services, etc.)." (Exhibits 20 and 24)

A review of the KSPC/JMH logbook documenting the activities corresponding to the dates and times of Dantica's admission to JMH confirmed information obtained from █, █, and █ during the OIG interviews. Moreover, no information was noted in the KSPC/JMH logbook to indicate any requests for visitation. (Exhibit 25)

The OIG received a copy of Miami-Dade Police Report number 585312C, from █, Detective, Miami-Dade Police Department (MDPD), Miami, FL. The report is the result of an investigation conducted by the MDPD into the details surrounding the death of Dantica. The report annotates 8:46 p.m. as the time of death on November 3, 2004. In summary, the report states that the MDPD determined Dantica's death to be the result of natural causes; they suspected no foul play and closed their case. Moreover, the report documents that the Medical Examiner, █, Medical Doctor, performed an autopsy on November 4, 2004, and made the following conclusion in her report: "Natural (causes): Acute and Chronic Pancreatitis." (Exhibit 26)

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REPORT OF INVESTIGATION

The OIG interviewed [REDACTED], Medical Doctor, Medical Examiner, Miami-Dade County Medical Examiner Department, Miami, Florida. [REDACTED] stated that [REDACTED] performed an autopsy on Dantica on November 4, 2004. [REDACTED] stated that [REDACTED] determined Dantica's death to be of natural causes: specifically, due to Acute and Chronic Pancreatitis (inflammation of the pancreas). [REDACTED] stated that, in [REDACTED] professional opinion, it is highly unlikely that the KSPC's decision to withhold Dantica's Hydrea (Hydroxyurea) and Valium medications would have caused or contributed to his Acute and Chronic Pancreatitis. Further, [REDACTED] stated that, in [REDACTED] professional opinion, it is also highly unlikely that the Enalapril and Naproxen that were prescribed to Dantica while he was detained at KSPC would have caused or contributed to his Acute and Chronic Pancreatitis. [REDACTED] also stated that, in [REDACTED] professional opinion, Dantica's Pancreatitis was a pre-existing condition that existed before his entry to the United States. A photocopy of Dantica's Certificate of Death, local file number: 016125, was obtained. (Exhibits 27 and 28)

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REPORT OF INVESTIGATION

EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>
1	Memorandum of Activity, Interview of [REDACTED], dated November 18, 2004.
2	Memorandum of Activity, Records Review: Congressional Inquiry, dated November 18, 2004, with attachment.
3	Memorandum of Activity, Records Review: CBP Report, dated December 16, 2004, with attachment.
4	Memorandum of Activity, Records Review: U.S. Immigration and Nationality Act, dated January 14, 2005, with attachment.
5	Memorandum of Activity, Interview of [REDACTED], dated November 22, 2004.
6	Memorandum of Activity, Records Review: KRO/02-18, dated December 10, 2004, with attachment.
7	Memorandum of Activity, Records Review: KSPC Pharmacy Policy, dated November 22, 2004, with attachment.
8	Memorandum of Activity, Records Review: KSPC Medical Charts/Reports Re: Dantica, dated November 22, 2004, with attachment.
9	Memorandum of Activity, Interview of [REDACTED], dated November 18, 2004.
10	Memorandum of Activity, Interview of [REDACTED], dated November 18, 2004.
11	Memorandum of Activity, Interview of John Pratt, dated November 23, 2004.
12	Memorandum of Activity, Interview of Maxo Osnac, dated December 16, 2004.
13	Memorandum of Activity, Interview of [REDACTED], dated December 3, 2004.
14	Memorandum of Activity, Interview of [REDACTED], dated December 6, 2004.

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REPORT OF INVESTIGATION

- 15 Memorandum of Activity, Interview of [REDACTED], dated November 18, 2004.
- 16 Memorandum of Activity, Interview of [REDACTED], dated November 18, 2004.
- 17 Memorandum of Activity, Interview of [REDACTED], dated November 24, 2004.
- 18 Memorandum of Activity, Interview of [REDACTED], dated November 22, 2004.
- 19 Memorandum of Activity, Interview of [REDACTED], dated November 19, 2004.
- 20 Memorandum of Activity, Records Review: KRO/02-20, dated December 10, 2004, with attachment.
- 21 Memorandum of Activity, Interview of [REDACTED], dated November 23, 2004.
- 22 Memorandum of Activity, Interview of [REDACTED], dated November 24, 2004.
- 23 Memorandum of Activity, Interview of [REDACTED], dated December 15, 2004.
- 24 Memorandum of Activity, Interview of [REDACTED], dated December 15, 2004.
- 25 Memorandum of Activity, Records Review: KSPC/JMH Logbook, dated December 15, 2004, with attachment.
- 26 Memorandum of Activity, Records Review: Miami-Dade Police Report: 585312C, dated December 3, 2004, with attachment.
- 27 Memorandum of Activity, Interview of [REDACTED], dated December 10, 2004.
- 28 Memorandum of Activity, Records Review: Certificate of Death, dated February 4, 2005, with attachment.

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Exhibit 1

Attachments to Exhibit 1 were referred to DHS Component for Review and processing





Homeland Security

MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact - [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
---------------------------------	----------------------------

On November 18, 2004, the Office of Inspector General (OIG) contacted [REDACTED], Deputy Officer in Charge – Detention, Krome Service Processing Center (KSPC), Miami, Florida, regarding an article in the South Florida Sun-Sentinel newspaper, which appeared on November 17, 2004, stating that Joseph Dantica, an 81-year-old Haitian man, died while he was in the custody of the Department of Homeland Security.

[REDACTED] said that Dantica had been transferred to Jackson Memorial Hospital (JMH), Miami, Florida, after he became ill while attending an asylum interview at the KSPC on November 2, 2004. [REDACTED] said that [REDACTED], Deputy Officer in Charge – Detention and Removals, KPSC, prepared a Significant Incident Report (SIR).

[REDACTED] said that [REDACTED] did not contact the OIG at the time of the incident because Dantica died at JMH and the death was due to natural causes.

Attachments

Name, Title, Signature, and Date:	
[REDACTED]	[REDACTED]
Assistant Special Agent in Charge	11/18/04
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Haitian groups wants probe into death of man in federal c Krome

Associated Press
Posted November 17 2004, 3:05 PM EST

MIAMI -- An immigrant rights group called Wednesday for an investigation into the death of an 81-year-old Haitian man five days after he was taken into federal custody.

The New York-based National Coalition of Haitian Rights says it has questions about the death of Joseph Dantica, who flew to Miami from Haiti with his son Maxo on Oct. 29.

They were taken into custody by the U.S. Department of Homeland Security when they arrived. After spending the night at the Miami International Airport, they were then transferred to the Krome Detention Center west of Miami. Homeland Security officials would not say Wednesday why the pair was detained, but the Haitian rights group says they had valid passports and visas.

Dantica was hospitalized on Nov. 2 and died the next day of pancreatitis, the department said in a statement. The department said he had the disease when he arrived.

But the Haitian rights group said Danitca's son says his father suffered from a heart condition and had his medication taken away from him by authorities.

"We call on the Justice Department to conduct a full and impartial investigation into the tragic death," said Joceyln McCalla, the group's leader.

But Homeland Security said it is not responsible for Dandica's death.

"We understand his family's grief, but there is no connection between the pre-existing, terminal medical condition he had and the process through which he entered the country," the statement said.

The statement also said Dandica had a folk remedy, but no medication for the pancreatitis.

Maxo Dantica was released after his father's death.

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Exhibit 2



U.S. Department of Homeland Security

Office of Inspector General – Investigations

MEMORANDUM OF ACTIVITY

Type of Activity: Records Review (Congressional Inquiry)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
--	-----------------------------------

On November 18, 2004, the Office of Inspector General (OIG) received a copy of a letter from Congressman Kendrick Meek’s Office, dated November 17, 2004, requesting an investigation of the details surrounding the death of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number 27 041 999.

Attachment

Name, Title, Signature, and Date: Special Agent [Redacted]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [Redacted]
<p align="center">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>	

202 226 0777

Hon. Kendrick Meek

Hon. Kendrick B. Meek

01:02:52 p.m. 11-17-2004

1/8



F4I

U.S. REP. KENDRICK B. MEEK

1039 Longworth House Office Building
Washington, D.C. 20515
(202) 225-4506 (202) 226-0777 (fax)

Facsimile

Date: 17 November 2004

To: Inspector General Clark Kent Ervin

Number Faxed to: 254-4285

From: Congressman Kendrick B. Meek

John Schelble

Tasha Cole

Clarence Williams

Joyce Postell

Lizzie Whitworth

Rob Miller

Preeti Chaudhari

Chris Neal

Drew Hammill

Moshe Nelson

Page 1 of 6

COMMENTS:

202 226 0777

Hon. Kendrick Meek

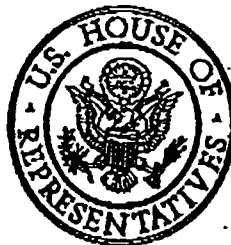
Hon. Kendrick B. Meek

01:03:01 p.m. 11-17-2004

2/6

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POMONA BEACH, FL 32026
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FAC: (321) 490-4768

CONGRESSMAN KENDRICK B. MEEK

November 17, 2004

Mr. Clark Kent Ervin
Inspector General
Department of Homeland Security
245 Murray Dr., Bldg. 4120
Washington, DC 20528
FAX 202-254-4285

RE: Investigation into Death of Joseph Dantica, Haitian National Detained at Krome Detention Center

Dear Inspector General Ervin:

I write to you to ask that you investigate the circumstances surrounding the death of Joseph Dantica, a Haitian who reportedly entered this country legally and sought asylum, but died under suspicious circumstances while in DHS custody. I am enclosing a recent news article about this matter for your information.

According to reports, 81-year old Mr. Dantica and his son feared for their safety after UN troops used the church Mr. Dantica founded to stage an attack on a gang. Threatened with gang retribution for the UN attack, Mr. Dantica and his son fled Haiti for safety to the United States. Upon entry, Mr. Dantica reportedly provided a passport and a valid visa to immigration officials in Miami and requested asylum. The immigration official reportedly stated that Mr. Dantica would "have to go into the system" and Homeland Security officials sent him and his son to the Krome detention center.

Reportedly, when he arrived at Krome, Mr. Dantica's blood pressure medication was taken away from him and he was separated from his son. At the time of Mr. Dantica's credible fear hearing four days later, his medication apparently still had not been returned to him. At the hearing, he reportedly started throwing up and fell against a wall whereupon medics transported him to the Krome clinic and later to Jackson Memorial Hospital. During that time, Krome reportedly denied Mr. Dantica any visits from his lawyer or even his family members. The next day, Mr. Dantica was pronounced dead.

This matter is of great concern to me. My constituents have long raised complaints about arbitrary and poor treatment of Haitian detainees at Krome.

202 226 0777

Hon. Kendrick Meek

Hon. Kendrick B. Meek

01:03:18 p.m.

11-17-2004

3/6

DHS issued a statement concluding that Mr. Dantica died of pancreatitis, which it said was a preexisting and fatal condition. DHS further stated that there was no connection between Mr. Dantica's medical condition and the way he entered the United States. However, I am concerned because the statement failed to address and raises questions concerning: why Mr. Dantica was even taken into U.S. custody when he apparently possessed a valid visa; why he was separated from his son while in detention; why Krome took away his medication; and why, considering his age and the fact that he had medication, he was not provided with timely medical attention.

I believe that this matter is so serious that it should not be dismissed as "business as usual," but rather warrants an independent and thorough investigation. It is for this reason that I bring it to your personal attention and I ask that you initiate an immediate investigation.

I look forward to your response and thank you for your kind attention to this important matter.

Sincerely,


KENDRICK B. MEEK
Member of Congress

202 226 0777

Hon. Kandrick Meek

Hon. Kandrick B. Meek

01:03:28 p.m. 11-17-2004

4/6

Print Results

Page 1 of 3



Dow Jones & Reuters

The Miami Herald

Found on Miami.com

B
 Jim DeFede/In My Opinion
 Twice a victim: first in Haiti, then in the U.S.
 1,207 words
 14 November 2004
 The Miami Herald
 F1
 1
 English
 (c) Copyright 2004, The Miami Herald. All Rights Reserved.

The gun battle started around 5 a.m. with Haitian police and U.N. troops entering the slum neighborhood of Bel Air, a stronghold for those still loyal to former President Jean-Bertrand Aristide. Using bulldozers, the police broke through barricades of burned-out cars.

But unlike previous raids into Bel Air that lasted less than an hour, this one, on Sunday, Oct. 24, would persist for the better part of the day.

Soon after the fighting started, Joseph Dantica, 81, took refuge with a handful of people inside the Church of the Redeemer. Dantica had founded the Baptist church more than 25 years ago and was its senior pastor. He had spent the better part of his life in Bel Air, and although his family had begged him to move somewhere safer, he always refused.

"He was a very good man and extremely loyal to the neighborhood where he lived," said his niece, acclaimed Haitian author Edwidge Danticat. "Even when things got very rough and difficult in Bel Air, he stayed. He stayed through all the different regimes, serving the people of his neighborhood. He was, in his own quiet way, trying to make a difference."

By 9:30 a.m., police and U.N. troops using armored cars with mounted machine guns, approached Dantica's church. The police wanted to go inside. Dantica let them in.

They then took up combat positions on the upper floors of the church, as well as an adjoining school the church operates. The new vantage point allowed police to ambush a group of gang members in an alley below.

"A lot of them must have died," said Dantica's son, Maxo. "The shooting went on for a long time."

A government spokesman said one police officer died in the day's fighting and at least two "bandits" were killed. An unknown number of civilians were wounded.

By early afternoon, the police began to withdraw, calling the operation a success. A government spokesman told The Associated Press that Haitian police would establish a permanent presence in the area to protect residents.

Maxo didn't believe them. No sooner had the police left than he heard there was a group of gunmen looking for him and his father. "I told my father we must go," he said. "And my father said no. He would stay and talk to them. He knew many of them since they were little boys."

The next day, gang leaders came knocking on Dantica's door. They were angry, accusing him of cooperating with the police and setting up the roof-top ambush. According to Maxo, the gang members claimed 15 people died in the alley and Dantica was going to have to pay for their funerals.

When the gang members left, Dantica knew he could no longer stay. For three days he hid in a neighbor's

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house. "When the gangs couldn't find him," Maxo said, "they went into the church and took the altar out into the street and burned it."

On Thursday, Oct. 28, friends smuggled Dantica out of Bel Air and the next day, Dantica and Maxo boarded a plane for Miami.

Although he provided immigration officials in Miami a passport with a valid visa, he told the immigration official that he wanted to seek asylum in the United States.

The official told him, "Well, if that's the case, then you have to go into the system," Maxo recalled. "I begged them, 'Please, do not hold my father, because he will not survive.'"

Homeland Security officials sent Dantica to the Krome detention center along with Maxo.

"I couldn't imagine why they would put someone his age in prison," said Edwidge, who rushed to the airport hoping to retrieve Dantica. "Especially since we were here ready to be responsible for him."

According to Maxo, when Dantica arrived at Krome, his high-blood-pressure medication was taken away from him. Maxo and his father were placed in separate housing units.

Edwidge hired immigration attorney John Pratt, who tried Monday to convince immigration officers to release Dantica on humanitarian grounds. He did arrange for a "credible fear interview" Tuesday morning.

Sitting in the waiting room before Tuesday's hearing, Dantica, according to Pratt, said: "They didn't give me my medicine."

Before Pratt could find out more, they were called before the hearing officer. Five minutes into the hearing, Dantica leaned forward and threw up. "All of a sudden he started vomiting," Pratt said. "He had some kind of an attack. He fell back against the wall. He looked like he had passed out."

A medic from the detention center was summoned but suggested Dantica was faking his illness. "He's not cooperating," the medic said, according to Pratt. After a few minutes, the medic agreed to take Dantica to the detention center clinic.

"The medic was very insensitive," Pratt said. "His whole attitude was wrong."

Tuesday afternoon, Dantica was taken to Jackson Memorial Hospital. Pratt was told Dantica would be held overnight for observation.

"I asked the officials at Krome, could a family member go and visit him in the hospital, and they said no, for security reasons," Pratt said. "I kept trying to tell them that having family members around him would be reassuring for him, especially if his condition was serious. They kept saying no."

On Wednesday, Pratt was told that Dantica would remain at the hospital for at least another day. Officials again refused to let the family visit Dantica.

At 11 p.m. Wednesday, Pratt was notified that Dantica had died. "I don't know what he died of. But once they realized it was serious they should have let this man see his family."

The Department of Homeland Security issued a statement saying Dantica "died of pancreatitis while in Homeland Security custody, which an autopsy by the Miami-Dade County medical examiner's office revealed as a preexisting and fatal condition."

"It is unfortunate that Mr. Dantica died during the benefits application process, and we understand his family's grief, but there is no connection between the preexisting terminal medical condition he had and the process through which he entered the country."

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Homeland Security would not explain why Dantica was taken into custody if he had a valid visa, nor would the agency address claims that he had been deprived of his medication.

Maxo said he knew nothing of his father's illness. "All I know is that he wasn't sick when we left Haiti," Maxo said.

Even in death Dantica is unable to return home.

Amid the escalating violence in Haiti, Maxo is afraid to take his father there for a funeral.

Instead, Maxo plans to bury him on Saturday in New York, where they have relatives.

The final weeks of Dantica's life is the story of Haiti today, where good people find themselves vulnerable and alone and easily forgotten.

"He was one of those people caught in the crossfire," Edwidge said of her uncle.

"And that's true for the majority of people in Haiti; they are now in the crossfire and they have nowhere to go."

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Exhibit 3

Attachment to Exhibit 3 was referred to DHS Component for Review and processing



Type of Activity: Records Review (CBP Report, November 23, 2004)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On December 16, 2004, the Office of Inspector General (OIG) received a copy of the U.S. Customs and Boarder Protection (CBP) report pertaining to the processing of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, dated November 23, 2004. The report contains a copy of Dantica's sworn statement to [REDACTED] CBP Officer, dated October 27, 2004; official U.S. Department of Homeland Security (DHS) documentation pertaining to Dantica's detention; and two 8 C.F.R. citations pertaining to the detention of aliens awaiting credible fear asylum interviews.

Attachment

Name, Title, Signature, and Date:	[REDACTED]
Special Agent [REDACTED]	Reviewing Official Name: Donald J. Balberchak Special Agent in Charge

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Exhibit 4



Homeland
Security

MEMORANDUM OF ACTIVITY

Type of Activity: Records Review (INA 235 and 8 CFR 1235.3)

Case Number: I05-BICE-MLA-01646	Case Title: Joseph Dantica
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On January 14, 2005, the Office of Inspector General (OIG) reviewed the U.S. Immigration and Nationality Act (INA) and the Code of Federal Regulations (CFR) in reference to the investigation surrounding the death of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. The following information was gathered:

INA 235(b)(1)(B)(ii) and 8 CFR 1235.3(b)(4)(ii) cover the detention of arriving aliens requesting asylum.

Attachment

Name, Title, Signature, and Date: Special Agent [Redacted]	Reviewing Official Name, Title, Signature, and Date: Donald J. Bulberchak Special Agent in Charge [Redacted]
IMPORTANT NOTICE	
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INSERTS/SERVICE LAW BOOKS/SERVICE LAW BOOKS MENU /IMMIGRATION AND NATIONALITY ACT/INA: ACT 235 - INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

INA: ACT 235 - INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED REMOVAL OF INADMISSIBLE ARRIVING ALIENS; REFERRAL FOR HEARING

Sec. 235. 1/ (a) Inspection.-

- (1) Aliens treated as applicants for admission.-An alien present in the United States who has not been admitted, or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this Act an applicant for admission.
- (2) Stowaways.-An arriving alien who is a stowaway is not eligible to apply for admission or to be admitted and shall be ordered removed upon inspection by an immigration officer. Upon such inspection if the alien indicates an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview under subsection (b)(1)(B). A stowaway may apply for asylum only if the stowaway is found to have a credible fear of persecution under subsection (b)(1)(B). In no case may a stowaway be considered an applicant for admission or eligible for a hearing under section 240.
- (3) Inspection.-All aliens (including alien crewmen) who are applicants for admission or otherwise seeking admission or readmission to or transit through the United States shall be inspected by immigration officers.
- (4) Withdrawal of application for admission.-An alien applying for admission may, in the discretion of the Attorney General and at any time, be permitted to withdraw the application for admission and depart immediately from the United States.
- (5) Statements.-An applicant for admission may be required to state under oath any information sought by an immigration officer regarding the purposes and intentions of the applicant in seeking admission to the United States, including the applicant's intended length of stay and whether the applicant intends to remain permanently or become a United States citizen, and whether the applicant is inadmissible.

(b) 2/ Inspection of Applicants for Admission.-

(1) Inspection of aliens arriving in the United States and certain other aliens who have not been admitted or paroled.-

(A) Screening.-

(i) In general.-If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review unless the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution.

(ii) Claims for asylum.-If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States or is described in clause (iii) is inadmissible under section 212(a)(6)(C) or 212(a)(7) and the alien indicates either an intention to apply for asylum under section 208 or a fear of persecution, the officer shall refer the alien for an interview by an asylum officer under subparagraph (B).

(iii) Application to certain other aliens.-

(I) In general.-The Attorney General may apply clauses (i) and (ii) of this subparagraph to any or all aliens described in subclause (II) as designated by the Attorney General. Such designation shall be in the sole and unreviewable discretion of the Attorney General and may be modified at any time.

(II) Aliens described.-An alien described in this clause is an alien who is not described in subparagraph (F), who has not been admitted or paroled into the United States, and who has not affirmatively shown, to the satisfaction of an immigration officer, that the alien has been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility under this subparagraph.

(B) Asylum interviews.-

(i) Conduct by asylum officers.-An asylum officer shall conduct interviews of aliens referred under subparagraph (A)(ii), either at a port of entry or at such other place designated by the Attorney General.

- (ii) Referral of certain aliens.-If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien shall be detained for further consideration of the application for asylum.
- (iii) Removal without further review if no credible fear of persecution.-
 - (I) In general.-Subject to subclause (III), if the officer determines that an alien does not have a credible fear of persecution, the officer shall order the alien removed from the United States without further hearing or review.
 - (II) Record of determination.-The officer shall prepare a written record of a determination under subclause (I). Such record shall include a summary of the material facts as stated by the applicant, such additional facts (if any) relied upon by the officer, and the officer's analysis of why, in light of such facts, the alien has not established a credible fear of persecution. A copy of the officer's interview notes shall be attached to the written summary.
 - (III) Review of determination.-The Attorney General shall provide by regulation and upon the alien's request for prompt review by an immigration judge of a determination under subclause (I) that the alien does not have a credible fear of persecution. Such review shall include an opportunity for the alien to be heard and questioned by the immigration judge, either in person or by telephonic or video connection. Review shall be concluded as expeditiously as possible, to the maximum extent practicable within 24 hours, but in no case later than 7 days after the date of the determination under subclause (I).
 - (IV) Mandatory Detention.-Any alien subject to the procedures under this clause shall be detained pending a final determination of credible fear of persecution and, if found not to have such a fear, until removed.
 - (V) Information about interviews.-The Attorney General shall provide information concerning the asylum interview described in this subparagraph to aliens who may be eligible. An alien who is eligible for such interview may consult with a person or persons of the alien's choosing prior to the interview or any review thereof, according to regulations prescribed by the Attorney General. Such consultation shall be at no expense to the Government and shall not unreasonably delay the process.
- (v) Credible fear of persecution defined.-For purposes of this subparagraph, the term "credible fear of persecution" means that there is a significant possibility, taking into account the credibility of the statements made by the alien in support of the alien's claim and such other facts as are known to

the officer, that the alien could establish eligibility for asylum under section 208.

(C) Limitation on administrative review.-Except as provided in subparagraph (B)(iii)(III), a removal order entered in accordance with subparagraph (A)(i) or (B)(ii)(I) is not subject to administrative appeal, except that the Attorney General shall provide by regulation for prompt review of such an order under subparagraph (A)(i) against an alien who claims under oath, or as permitted under penalty of perjury under section 1746 of title 28, United States Code, after having been warned of the penalties for falsely making such claim under such conditions, to have been lawfully admitted for permanent residence, to have been admitted as a refugee under section 207, or to have been granted asylum under section 208.

(D) Limit on collateral attacks.-In any action brought against an alien under section 275(a) or section 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under subparagraph (A)(i) or (B)(iii).

(E) Asylum officer defined.-As used in this paragraph, the term "asylum officer" means an immigration officer who-

(i) has had professional training in country conditions, asylum law, and interview techniques comparable to that provided to full-time adjudicators of applications under section 208, and

(ii) is supervised by an officer who meets the condition described in clause (i) and has had substantial experience adjudicating asylum applications.

(F) Exception.-Subparagraph (A) shall not apply to an alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations and who arrives by aircraft at a port of entry.

(2) Inspection of other aliens.-

(A) In general.-Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 240.

(B) Exception.-Subparagraph (A) shall not apply to an alien-

(i) who is a crewman,

- (ii) to whom paragraph (1) applies, or
- (iii) who is a stowaway.

(C) Treatment of aliens arriving from contiguous territory.-In the case of an alien described in subparagraph (A) who is arriving on land (whether or not at a designated port of arrival) from a foreign territory contiguous to the United States, the Attorney General may return the alien to that territory pending a proceeding under section 240.

(3) Challenge of decision.-The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien whose privilege to be admitted is so challenged, before an immigration judge for a proceeding under section 240.

(c) Removal of Aliens Inadmissible on Security and Related Grounds.-

(1) Removal without further hearing.-If an immigration officer or an immigration judge suspects that an arriving alien may be inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), the officer or judge shall-

(A) order the alien removed, subject to review under paragraph (2);

(B) report the order of removal to the Attorney General; and

(C) not conduct any further inquiry or hearing until ordered by the Attorney General.

(2) Review of order.- (A) The Attorney General shall review orders issued under paragraph (1).

(B) If the Attorney General-

(i) is satisfied on the basis of confidential information that the alien is inadmissible under subparagraph (A) (other than clause (ii)), (B), or (C) of section 212(a)(3), and

(ii) after consulting with appropriate security agencies of the United States Government, concludes that disclosure of the information would be prejudicial to the public interest, safety, or security, the Attorney General may order the alien removed without further inquiry or hearing by an immigration judge.

(C) If the Attorney General does not order the removal of the alien under subparagraph (B), the Attorney General shall specify the further inquiry or hearing that shall be conducted in the case.

(3) Submission of statement and information.-The alien or the alien's representative may submit a written statement and additional information for consideration by the Attorney General.

(d) Authority Relating to Inspections.-

(1) Authority to search conveyances.-Immigration officers are authorized to board and search any vessel, aircraft, railway car, or other conveyance or vehicle in which they believe aliens are being brought into the United States.

(2) Authority to order detention and delivery of arriving aliens.-Immigration officers are authorized to order an owner, agent, master, commanding officer, person in charge, purser, or consignee of a vessel or aircraft bringing an alien (except an alien crewmember) to the United States.-

(A) to detain the alien on the vessel or at the airport of arrival, and

(B) to deliver the alien to an immigration officer for inspection or to a medical officer for examination.

(3) Administration of oath and consideration of evidence.-The Attorney General and any immigration officer shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, transit through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service.

(4) Subpoena authority.- (A) The Attorney General and any immigration officer shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and the production of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this Act and the administration of the Service, and to that end may invoke the aid of any court of the United States.

(B) Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer may, in the event of neglect or refusal to respond to a subpoena issued under this paragraph or refusal to testify before an immigration officer, issue an order requiring such persons to appear before an immigration officer, produce books, papers, and documents if

demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

FOOTNOTES FOR SECTION 235

INA: ACT 235 FN 1

FN 1 Revised and rewritten in its entirety by § 302 of IIRIRA. Note: All references to "special inquiry officer" in former Sec. 235 were changed to "immigration judge" after section was stricken by rewrite. Former section 235 remains in effect during transition period (until April 1, 1997). New section 235 added by § 302 of IIRIRA.

INA: ACT 235 FN2

FN 2 §302(b) of IIRIRA

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[Code of Federal Regulations]
[Title 8, Volume 1]
[Revised as of January 1, 2004]
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[CITE: 8CFR1235]

[Page 922-936]

TITLE 8--ALIENS AND NATIONALITY

CHAPTER V--EXECUTIVE OFFICE OF IMMIGRATION REVIEW, DEPARTMENT OF JUSTICE

PART 1235 INSPECTION OF PERSONS APPLYING FOR ADMISSION

Sec.

- 1235.1 Scope of examination.
- 1235.2 Parole for deferred inspection.
- 1235.3 Inadmissible aliens and expedited removal.
- 1235.4 Withdrawal of application for admission.
- 1235.5 Preinspection.
- 1235.6 Referral to immigration judge.
- 1235.8 Inadmissibility on security and related grounds.
- 1235.9 Northern Marianas identification card.
- 1235.10 U.S. Citizen Identification Card.
- 1235.11 Admission of conditional permanent residents.

Authority: 8 U.S.C. 1101 and note, 1103, 1183, 1201, 1224, 1225, 1226, 1228; 8 CFR part 2.

Source: Duplicated from part 235 at 68 FR 9837, Feb. 28, 2003.

Editorial Note: Nomenclature changes to part 1235 appear at 68 FR 9846, Feb. 28, 2003, and at 68 FR 10354, Mar. 5, 2003.

Sec. 1235.1 Scope of examination.

(a) General. Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. port-of-entry when the port is open for inspection, or as otherwise designated in this section.

(b) U.S. citizens. A person claiming U.S. citizenship must establish that fact to the examining officer's satisfaction and must present a U.S. passport if such passport is required under the provisions of 22 CFR part 53. If such applicant for admission fails to satisfy the examining immigration officer that he or she is a U.S. citizen, he or she shall thereafter be inspected as an alien.

(c) Alien members of United States Armed Forces and members of a force of a NATO country. Any alien member of the United States Armed Forces who is in the uniform of, or bears documents identifying him or her as a member of, such Armed Forces, and who is coming to or departing from the United States under official orders or permit of such Armed Forces is not subject to the removal provisions of the Act. A member of the force of a NATO country signatory to Article III of the Status of

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Forces Agreement seeking to enter the United States under official orders is exempt from the control provision of the Act. Any alien who is a member of either of the foregoing classes may, upon request, be inspected and his or her entry as an alien may be recorded. If the alien

does not appear to the examining immigration officer to be clearly and beyond a doubt entitled to enter the United States under the provisions of the Act, the alien shall be so informed and his or her entry shall not be recorded.

(d) Alien applicants for admission. (1) Each alien seeking admission at a United States port-of-entry shall present whatever documents are required and shall establish to the satisfaction of the immigration officer that he or she is not subject to removal under the immigration laws, Executive Orders, or Presidential Proclamations and is entitled under all of the applicable provisions of the immigration laws and this chapter to enter the United States. A person claiming to have been lawfully admitted for permanent residence must establish that fact to the satisfaction of the inspecting immigration officer and must present proper documents in accordance with Sec. 211.1 of this chapter.

(2) An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated port-of-entry, except as otherwise permitted in this section, is subject to the provisions of section 212(a) of the Act and to removal under section 235(b) or 240 of the Act.

(3) An alien who is brought to the United States, whether or not to a designated port-of-entry and regardless of the means of transportation, after having been interdicted in international or United States waters, is considered an applicant for admission and shall be examined under section 235(b) of the Act.

(4) An alien stowaway is not an applicant for admission and may not be admitted to the United States. A stowaway shall be removed from the United States under section 235(a) (2) of the Act. The provisions of section 240 of the Act are not applicable to stowaways, nor is the stowaway entitled to further hearing or review of the removal, except that an alien stowaway who indicates an intention to apply for asylum, or expresses a **fear** of persecution, a **fear** of torture, or a **fear** of return to the country of proposed removal shall be referred to an asylum officer for a determination of **credible fear** of persecution or torture in accordance with section 235(b) (1) (B) of the Act and Sec. 1208.30 of this chapter. An alien stowaway who is determined to have a **credible fear** of persecution or torture shall have his or her asylum application adjudicated in accordance with Sec. 1208.2(b) (2) of this chapter.

(e) U.S. citizens, lawful permanent residents of the United States, and other aliens, entering the United States along the northern border, other than at a Port-of-Entry. A citizen or lawful permanent resident of the United States, a Canadian national or landed immigrant of Canada having a common nationality with nationals of Canada, or a landed immigrant of Canada who is a national of a country listed in Sec. 217.2(a), may, if in possession of a valid, unexpired, Canadian Border Boat Landing Permit (Form I-68) or evidence of enrollment in any other Service Alternative Inspections program (e.g., the Immigration and Naturalization Service Passenger Accelerated Service System (INSPASS) or the Port Passenger Accelerated Service System (PORTPASS)), enter the United States by means of a pleasure craft along the northern border of the United States from time-to-time without further inspection. No persons other than those described in this paragraph may participate in this program. Landed immigrants of Canada who do not share a common nationality with nationals of Canada, but who are nationals of a designated country listed in Sec. 217.2(a) of this chapter (Visa Waiver Pilot Program) must be in possession of a valid, unexpired passport issued by his or her country of nationality, and an unexpired multiple entry Form I-94 or I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form, and a valid unexpired United States visa (if the alien is not in possession of a valid unexpired Form I-94W). When an entry to the United States is made by a person who is a Canadian citizen or a landed

immigrant of Canada, entry may be made

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under this program only for a purpose as described in section 101(a)(15)(B)(ii) of the Act. Persons seeking to enter the United States for any other purpose must do so at a staffed Port-of-Entry. Persons aboard a vessel which has crossed the international boundary between the United States and Canada and who do not intend to land in the United States, other than at a staffed Port-of-Entry, are not required to be in possession of Form I-68 or evidence of enrollment in an Alternative Inspections program merely because they have crossed the international boundary. However, the Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Act.

(1) Application. An eligible applicant may apply for a Canadian Border Boat Landing Permit by completing the Form I-68 in triplicate. Application forms will be made readily available through the Internet, from a Service office, or by mail. A family may apply on a single application. For the purposes of this paragraph, a family is defined as a husband, wife, unmarried children under the age of 21, and the parents of either husband or wife, who reside at the same address. In order for the I-68 application to be considered complete, it must be accompanied by the following:

(i) For each person included on the application, evidence of citizenship, and, if not a citizen of the United States or Canada, evidence of legal permanent resident status in either the United States or Canada. Evidence of residency must be submitted by all applicants. It is not required that all persons on the application be of the same nationality; however, they must all be individually eligible to participate in this program.

(ii) If multiple members of a family, as defined in paragraph (e)(1) of this section, are included on a single application, evidence of the familial relationship.

(iii) A fee as prescribed in Sec. 103.7(b)(1) of 8 CFR chapter I.

(iv) A copy of any previously approved Form I-68.

(v) A landed immigrant of Canada who does not have a common nationality with nationals of Canada, but who is a national of a designated country listed in Sec. 217.2(a) of 8 CFR chapter I (Visa Waiver Pilot Program) must also present his or her passport, a valid unexpired multiple entry Form I-94 or I-94W and valid, unexpired nonimmigrant visa if he or she is not in possession of a valid, unexpired multiple entry Form I-94W. Such a landed immigrant of Canada may apply for admission simultaneously with the I-68 application and thereby obtain a Form I-94 or I-94W.

(2) Submission of Form I-68. Except as indicated in this paragraph, Form I-68 shall be properly completed and submitted in person, along with the documentary evidence and the required fee as specified in Sec. 103.7(b)(1) of 8 CFR chapter I, to a United States immigration officer at a Canadian border Port-of-Entry located within the district having jurisdiction over the applicant's residence or intended place of landing. Persons previously granted Form I-68 approval may apply by mail to the issuing Service office for renewal if a copy of the previous Form I-68 is included in the application. At the discretion of the district director concerned, any applicant for renewal of Form I-68 may be required to appear for an interview in person if the applicant does not appear to be clearly eligible for renewal.

(3) Denial of Form I-68. If the applicant has committed a violation of any immigration or customs regulation or, in the case of an alien, is inadmissible to the United States, approval of the Form I-68 shall be

denied. However, if, in the exercise of discretion, the district director waives under section 212(d)(3) of the Act all applicable grounds of inadmissibility, the I-68 application may be approved for such non-citizens. If the Form I-68 application is denied, the applicant shall be given written notice of and the reasons for the denial by letter from the district director. There is no appeal from the denial of the Form I-68 application, but the denial is without prejudice to a subsequent application for this program or any other Service benefit, except that the applicant may not submit

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a subsequent Form I-68 application for 90 days after the date of the last denial.

(4) Validity. Form I-68 shall be valid for 1 year from the date of issuance, or until revoked or violated by the Service.

(5) Conditions for participation in the I-68 program. Upon being inspected and positively identified by an immigration officer and found admissible and eligible for participation in the I-68 program, a participant must agree to abide by the following conditions:

(i) Form I-68 may be used only when entering the United States by means of a vessel exclusively used for pleasure, including chartered vessels when such vessel has been chartered by an approved Form I-68 holder. When used by a person who is not a citizen or a lawful permanent resident of the United States, admission shall be for a period not to exceed 72 hours to visit within 25 miles of the shore line along the northern border of the United States, including the shore line of Lake Michigan and Puget Sound.

(ii) Participants must be in possession of any authorization documents issued for participation in this program or another Service Alternative Inspections program (INSPASS or PORTPASS). Participants over the age of 15 years and who are not in possession of an INSPASS or PORTPASS enrollment card must also be in possession of a photographic identification document issued by a governmental agency. Participants who are landed immigrants of Canada and do not have a common nationality with nationals of Canada, but who are nationals of a designated country listed in Sec. 217.2(a) of 8 CFR chapter I must also be in possession of proper documentation as described in paragraph (e) of this section.

(iii) Participants may not import merchandise or transport controlled or restricted items while entering the United States under this program. The entry of any merchandise or goods must be in accordance with the laws and regulations of all Federal Inspection Services.

(iv) Participants must agree to random checks or inspections that may be conducted by the Service, at any time and at any location, to ensure compliance.

(v) Participants must abide by all Federal, state, and local laws regarding the importation of alcohol or agricultural products or the importation or possession of controlled substances as defined in section 101 of the Controlled Substance Act (21 U.S.C. 802).

(vi) Participants acknowledge that all devices, decals, cards, or other Federal Government supplied identification or technology used to identify or inspect persons or vessels seeking entry via this program remain the property of the United States Government at all times, and must be surrendered upon request by a Border Patrol Agent or any other officer of a Federal Inspection Service.

(vii) The captain, charterer, master, or owner (if aboard) of each vessel bringing persons into the United States is responsible for determining that all persons aboard the vessel are in possession of a valid, unexpired Form I-68 or other evidence of participation in a

Service Alternative Inspections program (INSPASS or PORTPASS) prior to entry into the territorial waters of the United States. If any person on board is not in possession of such evidence, the captain, charterer, master, or owner must transport such person to a staffed United States Port-of-Entry for an in-person immigration inspection.

(6) Revocation. The district director, the chief patrol agent, or their designated representatives may revoke the designation of any participant who violates any condition of this program, as contained in paragraph (e) (5) of this section, or who has violated any immigration law or regulation, or a law or regulation of the United States Customs Service or other Federal Inspection Service, has abandoned his or her residence in the United States or Canada, is inadmissible to the United States, or who is otherwise determined by an immigration officer to be ineligible for continued participation in this program. Such persons may be subject to other applicable sanctions, such as criminal and/or administrative prosecution or deportation, as well as possible seizure of goods and/or vessels. If permission to participate is revoked, a written request to the district director for restoration of permission to

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participate may be made. The district director will notify the person of his or her decision and the reasons therefore in writing.

(7) Compliance checking. Participation in this program does not relieve the holder from responsibility to comply with all other aspects of United States Immigration, Customs, or other Federal inspection service laws or regulations. To prevent abuse, the United States Immigration and Naturalization Service retains the right to conduct inspections or examinations of all persons applying for admission or readmission to or seeking transit through the United States in accordance with the Immigration and Nationality Act.

(f) Form I-94, Arrival Departure Record. (1) Unless otherwise exempted, each arriving nonimmigrant who is admitted to the United States shall be issued, upon payment of a fee prescribed in Sec. 103.7(b) (1) of this chapter for land border admissions, a Form I-94 as evidence of the terms of admission. A Form I-94 issued at a land border port-of-entry shall be considered issued for multiple entries unless specifically annotated for a limited number of entries. A Form I-94 issued at other than a land border port-of-entry, unless issued for multiple entries, must be surrendered upon departure from the United States in accordance with the instructions on the form. Form I-94 is not required by:

- (i) Any nonimmigrant alien described in Sec. 1212.1(a) of this chapter and 22 CFR 41.33 who is admitted as a visitor for business or pleasure or admitted to proceed in direct transit through the United States;
- (ii) Any nonimmigrant alien residing in the British Virgin Islands who was admitted only to the U.S. Virgin Islands as a visitor for business or pleasure under Sec. 212.1(b) of this chapter;
- (iii) Except as provided in paragraph (f) (1) (v) of this section, any Mexican national who is exempt from a visa and passport pursuant to Sec. 1212.1(c) (1) of this chapter, or who is in possession of a passport and valid visa who is admitted as a nonimmigrant visitor for a period not to exceed 72 hours to visit within 25 miles of the border;
- (iv) Bearers of Mexican diplomatic or official passports described in Sec. 1212.1(c) of this chapter; or
- (v) Any Mexican national who is exempt from a visa and passport pursuant to Sec. 1212.1(c) (1) of this chapter, or is in possession of a passport and valid visa who is admitted as a nonimmigrant visitor at the

Mexican border POEs in the State of Arizona at Sasabe, Nogales, Mariposa, Naco, or Douglas for a period not to exceed 72 hours to visit within the State of Arizona and within 75 miles of the border.

(2) Paroled aliens. Any alien paroled into the United States under section 212(d)(5) of the Act, including any alien crewmember, shall be issued a completely executed Form I-94, endorsed with the parole stamp.

[62 FR 10353, Mar. 6, 1997, as amended at 62 FR 47751, Sept. 11, 1997; 64 FR 8494, Feb. 19, 1999; 64 FR 36561, July 7, 1999; 64 FR 68617, Dec. 8, 1999; 67 FR 71449, Dec. 2, 2002]

Sec. 1235.2 Parole for deferred inspection.

(a) A district director may, in his or her discretion, defer the inspection of any vessel or aircraft, or of any alien, to another Service office or port-of-entry. Any alien coming to a United States port from a foreign port, from an outlying possession of the United States, from Guam, Puerto Rico, or the Virgin Islands of the United States, or from another port of the United States at which examination under this part was deferred, shall be regarded as an applicant for admission at that onward port.

(b) An examining immigration officer may defer further examination and refer the alien's case to the district director having jurisdiction over the place where the alien is seeking admission, or over the place of the alien's residence or destination in the United States, if the examining immigration officer has reason to believe that the alien can overcome a finding of inadmissibility by:

- (1) Posting a bond under section 213 of the Act;
- (2) Seeking and obtaining a waiver under section 211 or 212(d)(3) or (4) of the Act; or
- (3) Presenting additional evidence of admissibility not available at the time and place of the initial examination.

(c) Such deferral shall be accomplished pursuant to the provisions of

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section 212(d)(5) of the Act for the period of time necessary to complete the deferred inspection.

(d) Refusal of a district director to authorize admission under section 213 of the Act, or to grant an application for the benefits of section 211 or section 212(d)(3) or (4) of the Act, shall be without prejudice to the renewal of such application or the authorizing of such admission by the immigration judge without additional fee.

(e) Whenever an alien on arrival is found or believed to be suffering from a disability that renders it impractical to proceed with the examination under the Act, the examination of such alien, members of his or her family concerning whose admissibility it is necessary to have such alien testify, and any accompanying aliens whose protection or guardianship will be required should such alien be found inadmissible shall be deferred for such time and under such conditions as the district director in whose district the port is located imposes.

[62 FR 10355, Mar. 6, 1997]

Sec. 1235.3 Inadmissible aliens and expedited removal.

(a) Detention prior to inspection. All persons arriving at a port-of-entry in the United States by vessel or aircraft shall be detained aboard the vessel or at the airport of arrival by the owner, agent,

master, commanding officer, person in charge, purser, or consignee of such vessel or aircraft until admitted or otherwise permitted to land by an officer of the Service. Notice or order to detain shall not be required. The owner, agent, master, commanding officer, person in charge, purser, or consignee of such vessel or aircraft shall deliver every alien requiring examination to an immigration officer for inspection or to a medical officer for examination. The Service will not be liable for any expenses related to such detention or presentation or for any expenses of a passenger who has not been presented for inspection and for whom a determination has not been made concerning admissibility by a Service officer.

(b) Expedited removal--(1) Applicability. The expedited removal provisions shall apply to the following classes of aliens who are determined to be inadmissible under section 212(a)(6)(C) or (7) of the Act:

(i) Arriving aliens, as defined in Sec. 1001.1(q) of this chapter, except for citizens of Cuba arriving at a United States port-of-entry by aircraft;

(ii) As specifically designated by the Commissioner, aliens who arrive in, attempt to enter, or have entered the United States without having been admitted or paroled following inspection by an immigration officer at a designated port-of-entry, and who have not established to the satisfaction of the immigration officer that they have been physically present in the United States continuously for the 2-year period immediately prior to the date of determination of inadmissibility. The Commissioner shall have the sole discretion to apply the provisions of section 235(b)(1) of the Act, at any time, to any class of aliens described in this section. The Commissioner's designation shall become effective upon publication of a notice in the Federal Register. However, if the Commissioner determines, in the exercise of discretion, that the delay caused by publication would adversely affect the interests of the United States or the effective enforcement of the immigration laws, the Commissioner's designation shall become effective immediately upon issuance, and shall be published in the Federal Register as soon as practicable thereafter. When these provisions are in effect for aliens who enter without inspection, the burden of proof rests with the alien to affirmatively show that he or she has the required continuous physical presence in the United States. Any absence from the United States shall serve to break the period of continuous physical presence. An alien who was not inspected and admitted or paroled into the United States but who establishes that he or she has been continuously physically present in the United States for the 2-year period immediately prior to the date of determination of inadmissibility shall be detained in accordance with section 235(b)(2) of the Act for a proceeding under section 240 of the Act.

(2) Determination of inadmissibility--(i) Record of proceeding. An alien who is arriving in the United States, or other

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alien as designated pursuant to paragraph (b)(1)(ii) of this section, who is determined to be inadmissible under section 212(a)(6)(C) or 212(a)(7) of the Act (except an alien for whom documentary requirements are waived under Sec. 1211.1(b)(3) or Sec. 1212.1 of this chapter), shall be ordered removed from the United States in accordance with section 235(b)(1) of the Act. In every case in which the expedited removal provisions will be applied and before removing an alien from the United States pursuant to this section, the examining immigration officer shall create a record of the facts of the case and statements made by the alien. This shall be accomplished by means of a sworn

statement using Form I-867AB, Record of Sworn Statement in Proceedings under Section 235(b) (1) of the Act. The examining immigration officer shall read (or have read) to the alien all information contained on Form I-867A. Following questioning and recording of the alien's statement regarding identity, alienage, and inadmissibility, the examining immigration officer shall record the alien's response to the questions contained on Form I-867B, and have the alien read (or have read to him or her) the statement, and the alien shall sign and initial each page of the statement and each correction. The examining immigration officer shall advise the alien of the charges against him or her on Form I-860, Notice and Order of Expedited Removal, and the alien shall be given an opportunity to respond to those charges in the sworn statement. After obtaining supervisory concurrence in accordance with paragraph (b) (7) of this section, the examining immigration official shall serve the alien with Form I-860 and the alien shall sign the reverse of the form acknowledging receipt. Interpretative assistance shall be used if necessary to communicate with the alien.

(ii) No entitlement to hearings and appeals. Except as otherwise provided in this section, such alien is not entitled to a hearing before an immigration judge in proceedings conducted pursuant to section 240 of the Act, or to an appeal of the expedited removal order to the Board of Immigration Appeals.

(iii) Detention and parole of alien in expedited removal. An alien whose inadmissibility is being considered under this section or who has been ordered removed pursuant to this section shall be detained pending determination and removal, except that parole of such alien, in accordance with section 212(d) (5) of the Act, may be permitted only when the Attorney General determines, in the exercise of discretion, that parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective.

(3) Additional charges of inadmissibility. In the expedited removal process, the Service may not charge an alien with any additional grounds of inadmissibility other than section 212(a) (6) (C) or 212(a) (7) of the Act. If an alien appears to be inadmissible under other grounds contained in section 212(a) of the Act, and if the Service wishes to pursue such additional grounds of inadmissibility, the alien shall be detained and referred for a removal hearing before an immigration judge pursuant to sections 235(b) (2) and 240 of the Act for inquiry into all charges. Once the alien is in removal proceedings under section 240 of the Act, the Service is not precluded from lodging additional charges against the alien. Nothing in this paragraph shall preclude the Service from pursuing such additional grounds of inadmissibility against the alien in any subsequent attempt to reenter the United States, provided the additional grounds of inadmissibility still exist.

(4) Claim of asylum or fear of persecution or torture. If an alien subject to the expedited removal provisions indicates an intention to apply for asylum, or expresses a fear of persecution, a fear of torture, or a fear of return to his or her country, the inspecting officer shall not proceed further with removal of the alien until the alien has been referred for an interview by an asylum officer in accordance with Sec. 1208.30 of this chapter to determine if the alien has a **credible fear** of persecution or torture. The examining immigration officer shall record sufficient information in the sworn statement to establish and record that the alien has indicated such intention, **fear**, or concern,

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and to establish the alien's inadmissibility.

(i) Referral. The referring officer shall provide the alien with a written disclosure on Form M-444, Information About **Credible Fear**

Interview, describing:

(A) The purpose of the referral and description of the **credible fear** interview process;

(B) The right to consult with other persons prior to the **interview** and any review thereof at no expense to the United States Government;

(C) The right to request a review by an immigration judge of the asylum officer's **credible fear** determination; and

(D) The consequences of failure to establish a **credible fear** of persecution or torture.

(ii) Detention pending **credible fear** interview. Pending the **credible fear** determination by an asylum officer and any review of that determination by an immigration judge, the alien shall be detained. Parole of such alien in accordance with section 212(d) (5) of the Act may be permitted only when the Attorney General determines, in the exercise of discretion, that parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective. Prior to the **interview**, the alien shall be given time to contact and consult with any person or persons of his or her choosing. Such consultation shall be made available in accordance with the policies and procedures of the detention facility where the alien is detained, shall be at no expense to the government, and shall not unreasonably delay the process.

(5) Claim to lawful permanent resident, refugee, or asylee status or U.S. citizenship--(i) Verification of status. If an applicant for admission who is subject to expedited removal pursuant to section 235(b) (1) of the Act claims to have been lawfully admitted for permanent residence, admitted as a refugee under section 207 of the Act, granted asylum under section 208 of the Act, or claims to be a U.S. citizen, the immigration officer shall attempt to verify the alien's claim. Such verification shall include a check of all available Service data systems and any other means available to the officer. An alien whose claim to lawful permanent resident, refugee, asylee status, or U.S. citizen status cannot be verified will be advised of the penalties for perjury, and will be placed under oath or allowed to make a declaration as permitted under 28 U.S.C. 1746, concerning his or her lawful admission for permanent residence, admission as a refugee under section 207 of the Act, grant of asylum status under section 208 of the Act, or claim to U.S. citizenship. A written statement shall be taken from the alien in the alien's own language and handwriting, stating that he or she declares, certifies, verifies, or states that the claim is true and correct. The immigration officer shall issue an expedited order of removal under section 235(b) (1) (A) (i) of the Act and refer the alien to the immigration judge for review of the order in accordance with paragraph (b) (5) (iv) of this section and Sec. 1235.6(a) (2) (ii). The person shall be detained pending review of the expedited removal order under this section. Parole of such person, in accordance with section 212(d) (5) of the Act, may be permitted only when the Attorney General determines, in the exercise of discretion, that parole is required to meet a medical emergency or is necessary for a legitimate law enforcement objective.

(ii) Verified lawful permanent residents. If the claim to lawful permanent resident status is verified, and such status has not been terminated in exclusion, deportation, or removal proceedings, the examining immigration officer shall not order the alien removed pursuant to section 235(b) (1) of the Act. The examining immigration officer will determine in accordance with section 101(a) (13) (C) of the Act whether the alien is considered to be making an application for admission. If the alien is determined to be seeking admission and the alien is otherwise admissible, except that he or she is not in possession of the required documentation, a discretionary waiver of documentary requirements may be considered in accordance with section 211(b) of the

Act and Sec. 1211.1(b)(3) of this chapter or the alien's inspection may be deferred to an onward office for presentation of the

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required documents. If the alien appears to be inadmissible, the immigration officer may initiate removal proceedings against the alien under section 240 of the Act.

(iii) Verified refugees and asylees. If a check of Service records or other means indicates that the alien has been granted refugee status or asylee status, and such status has not been terminated in deportation, exclusion, or removal proceedings, the immigration officer shall not order the alien removed pursuant to section 235(b)(1) of the Act. If the alien is not in possession of a valid, unexpired refugee travel document, the examining immigration officer may accept an application for a refugee travel document in accordance with Sec. 223.2(b)(2)(ii) of 8 CFR chapter I. If accepted, the immigration officer shall readmit the refugee or asylee in accordance with Sec. 223.3(d)(2)(i) of 8 CFR chapter I. If the alien is determined not to be eligible to file an application for a refugee travel document the immigration officer may initiate removal proceedings against the alien under section 240 of the Act.

(iv) Review of order for claimed lawful permanent residents, refugees, asylees, or U.S. citizens. A person whose claim to U.S. citizenship has been verified may not be ordered removed. When an alien whose status has not been verified but who is claiming under oath or under penalty of perjury to be a lawful permanent resident, refugee, asylee, or U.S. citizen is ordered removed pursuant to section 235(b)(1) of the Act, the case will be referred to an immigration judge for review of the expedited removal order under section 235(b)(1)(C) of the Act and Sec. 1235.6(a)(2)(ii). If the immigration judge determines that the alien has never been admitted as a lawful permanent resident or as a refugee, granted asylum status, or is not a U.S. citizen, the order issued by the immigration officer will be affirmed and the Service will remove the alien. There is no appeal from the decision of the immigration judge. If the immigration judge determines that the alien was once so admitted as a lawful permanent resident or as a refugee, or was granted asylum status, or is a U.S. citizen, and such status has not been terminated by final administrative action, the immigration judge will terminate proceedings and vacate the expedited removal order. The Service may initiate removal proceedings against such an alien, but not against a person determined to be a U.S. citizen, in proceedings under section 240 of the Act. During removal proceedings, the immigration judge may consider any waivers, exceptions, or requests for relief for which the alien is eligible.

(6) Opportunity for alien to establish that he or she was admitted or paroled into the United States. If the Commissioner determines that the expedited removal provisions of section 235(b)(1) of the Act shall apply to any or all aliens described in paragraph (b)(2)(ii) of this section, such alien will be given a reasonable opportunity to establish to the satisfaction of the examining immigration officer that he or she was admitted or paroled into the United States following inspection at a port-of-entry. The alien will be allowed to present evidence or provide sufficient information to support the claim. Such evidence may consist of documentation in the possession of the alien, the Service, or a third party. The examining immigration officer will consider all such evidence and information, make further inquiry if necessary, and will attempt to verify the alien's status through a check of all available Service data systems. The burden rests with the alien to satisfy the examining immigration officer of the claim of lawful admission or parole. If the

alien establishes that he or she was lawfully admitted or paroled, the case will be examined to determine if grounds of deportability under section 237(a) of the Act are applicable, or if paroled, whether such parole has been, or should be, terminated, and whether the alien is inadmissible under section 212(a) of the Act. An alien who cannot satisfy the examining officer that he or she was lawfully admitted or paroled will be ordered removed pursuant to section 235(b)(1) of the Act.

(7) Review of expedited removal orders. Any removal order entered by an examining immigration officer pursuant to section 235(b)(1) of the Act must be reviewed and approved by the appropriate supervisor before the order is

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considered final. Such supervisory review shall not be delegated below the level of the second line supervisor, or a person acting in that capacity. The supervisory review shall include a review of the sworn statement and any answers and statements made by the alien regarding a fear of removal or return. The supervisory review and approval of an expedited removal order for an alien described in section 235(b)(1)(A)(iii) of the Act must include a review of any claim of lawful admission or parole and any evidence or information presented to support such a claim, prior to approval of the order. In such cases, the supervisor may request additional information from any source and may require further interview of the alien.

(8) Removal procedures relating to expedited removal. An alien ordered removed pursuant to section 235(b)(1) of the Act shall be removed from the United States in accordance with section 241(c) of the Act and 8 CFR part 1241.

(9) Waivers of documentary requirements. Nothing in this section limits the discretionary authority of the Attorney General, including authority under sections 211(b) or 212(d) of the Act, to waive the documentary requirements for arriving aliens.

(10) Applicant for admission under section 217 of the Act. The provisions of Sec. 1235.3(b) do not apply to an applicant for admission under section 217 of the Act.

(c) Arriving aliens placed in proceedings under section 240 of the Act. Except as otherwise provided in this chapter, any arriving alien who appears to the inspecting officer to be inadmissible, and who is placed in removal proceedings pursuant to section 240 of the Act shall be detained in accordance with section 235(b) of the Act. Parole of such alien shall only be considered in accordance with Sec. 1212.5(b) of this chapter. This paragraph shall also apply to any alien who arrived before April 1, 1997, and who was placed in exclusion proceedings.

(d) Service custody. The Service will assume custody of any alien subject to detention under paragraph (b) or (c) of this section. In its discretion, the Service may require any alien who appears inadmissible and who arrives at a land border port-of-entry from Canada or Mexico, to remain in that country while awaiting a removal hearing. Such alien shall be considered detained for a proceeding within the meaning of section 235(b) of the Act and may be ordered removed in absentia by an immigration judge if the alien fails to appear for the hearing.

(e) Detention in non-Service facility. Whenever an alien is taken into Service custody and detained at a facility other than at a Service Processing Center, the public or private entities contracted to perform such service shall have been approved for such use by the Service's Jail Inspection Program or shall be performing such service under contract in compliance with the Standard Statement of Work for Contract Detention Facilities. Both programs are administered by the Detention and

Deportation section having jurisdiction over the alien's place of detention. Under no circumstances shall an alien be detained in facilities not meeting the four mandatory criteria for usage. These are:

- (1) 24-Hour supervision,
 - (2) Conformance with safety and emergency codes,
 - (3) Food service, and
 - (4) Availability of emergency medical care.
- (f) Privilege of communication. The mandatory notification requirements of consular and diplomatic officers pursuant to Sec. 1236.1(e) of this chapter apply when an inadmissible alien is detained for removal proceedings, including for purpose of conducting the **credible fear** determination.

[62 FR 10355, Mar. 6, 1997, as amended at 64 FR 8494, Feb. 19, 1999; 65 FR 82256, Dec. 28, 2000]

Sec. 1235.4 Withdrawal of application for admission.

The Attorney General may, in his or her discretion, permit any alien applicant for admission to withdraw his or her application for admission in lieu of removal proceedings under section 240 of the Act or expedited removal under section 235(b)(1) of the Act. The alien's decision to withdraw his or her application for admission must be made voluntarily, but nothing in this section shall be construed as to give an alien the

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right to withdraw his or her application for admission. Permission to withdraw an application for admission should not normally be granted unless the alien intends and is able to depart the United States immediately. An alien permitted to withdraw his or her application for admission shall normally remain in carrier or Service custody pending departure, unless the district director determines that parole of the alien is warranted in accordance with Sec. 1212.5(b) of this chapter.

[62 FR 10358, Mar. 6, 1997; 62 FR 15363, Apr. 1, 1997; 65 FR 82256, Dec. 28, 2000]

Sec. 1235.5 Preinspection.

(a) In United States territories and possessions. In the case of any aircraft proceeding from Guam, Puerto Rico, or the United States Virgin Islands destined directly and without touching at a foreign port or place, to any other of such places, or to one of the States of the United States or the District of Columbia, the examination of the passengers and crew required by the Act may be made prior to the departure of the aircraft, and in such event, final determination of admissibility shall be made immediately prior to such departure. The examination shall be conducted in accordance with sections 232, 235, and 240 of the Act and 8 CFR parts 235 and 1240. If it appears to the examining immigration officer that any person in the United States being examined under this section is prima facie removable from the United States, further action with respect to his or her examination shall be deferred and further proceedings regarding removability conducted as provided in section 240 of the Act and 8 CFR part 1240. When the foregoing inspection procedure is applied to any aircraft, persons examined and found admissible shall be placed aboard the aircraft, or kept at the airport separate and apart from the general public until they are permitted to board the aircraft. No other person shall be permitted to depart on such aircraft until and unless he or she is found

to be admissible as provided in this section.

(b) In foreign territory. In the case of any aircraft, vessel, or train proceeding directly, without stopping, from a port or place in foreign territory to a port-of-entry in the United States, the examination and inspection of passengers and crew required by the Act and final determination of admissibility may be made immediately prior to such departure at the port or place in the foreign territory and shall have the same effect under the Act as though made at the destined port-of-entry in the United States.

[62 FR 10358, Mar. 6, 1997]

Sec. 1235.6 Referral to immigration judge.

(a) Notice--(1) Referral by Form I-862, Notice to Appear. An immigration officer or asylum officer will sign and deliver a Form I-862 to an alien in the following cases:

(i) If, in accordance with the provisions of section 235(b)(2)(A) of the Act, the examining immigration officer detains an alien for a proceeding before an immigration judge under section 240 of the Act; or

(ii) If an asylum officer determines that an alien in expedited removal proceedings has a **credible fear** of persecution or torture and refers the case to the immigration judge for consideration of the application for asylum.

(iii) If the immigration judge determines that an alien in expedited removal proceedings has a **credible fear** of persecution or torture and vacates the expedited removal order issued by the asylum officer.

(iv) If an immigration officer verifies that an alien subject to expedited removal under section 235(b)(1) of the Act has been admitted as a lawful permanent resident refugee, or asylee, or upon review pursuant to Sec. 1235.3(b)(5)(iv) an immigration judge determines that the alien was once so admitted, provided that such status has not been terminated by final administrative action, and the Service initiates removal proceedings against the alien under section 240 of the Act.

(2) Referral by Form I-863, Notice of Referral to Immigration Judge. An immigration officer will sign and deliver a Form I-863 to an alien in the following cases:

(i) If an asylum officer determines that an alien does not have a **credible fear** of persecution or torture, and the alien requests a review of that determination by an immigration judge; or

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(ii) If, in accordance with section 235(b)(1)(C) of the Act, an immigration officer refers an expedited removal order entered on an alien claiming to be a lawful permanent resident, refugee, asylee, or U.S. citizen for whom the officer could not verify such status to an immigration judge for review of the order.

(iii) If an immigration officer refers an applicant described in Sec. 1208.2(b)(1) of this chapter to an immigration judge for an asylum hearing under Sec. 208.2(b)(2) of this chapter.

(b) Certification for mental condition; medical appeal. An alien certified under sections 212(a)(1) and 232(b) of the Act shall be advised by the examining immigration officer that he or she may appeal to a board of medical examiners of the United States Public Health Service pursuant to section 232 of the Act. If such appeal is taken, the district director shall arrange for the convening of the medical board.

[62 FR 10358, Mar. 6, 1997, as amended at 64 FR 8494, Feb. 19, 1999]

Sec. 1235.8 Inadmissibility on security and related grounds.

(a) Report. When an immigration officer or an immigration judge suspects that an arriving alien appears to be inadmissible under section 212(a)(3)(A) (other than clause (ii)), (B), or (C) of the Act, the immigration officer or immigration judge shall order the alien removed and report the action promptly to the district director who has administrative jurisdiction over the place where the alien has arrived or where the hearing is being held. The immigration officer shall, if possible, take a brief sworn question-and-answer statement from the alien, and the alien shall be notified by personal service of Form I-147, Notice of Temporary Inadmissibility, of the action taken and the right to submit a written statement and additional information for consideration by the Attorney General. The district director shall forward the report to the regional director for further action as provided in paragraph (b) of this section.

(b) Action by regional director. (1) In accordance with section 235(c)(2)(B) of the Act, the regional director may deny any further inquiry or hearing by an immigration judge and order the alien removed by personal service of Form I-148, Notice of Permanent Inadmissibility, or issue any other order disposing of the case that the regional director considers appropriate.

(2) If the regional director concludes that the case does not meet the criteria contained in section 235(c)(2)(B) of the Act, the regional director may direct that:

(i) An immigration officer shall conduct a further examination of the alien, concerning the alien's admissibility; or,

(ii) The alien's case be referred to an immigration judge for a hearing, or for the continuation of any prior hearing.

(3) The regional director's decision shall be in writing and shall be signed by the regional director. Unless the written decision contains confidential information, the disclosure of which would be prejudicial to the public interest, safety, or security of the United States, the written decision shall be served on the alien. If the written decision contains such confidential information, the alien shall be served with a separate written order showing the disposition of the case, but with the confidential information deleted.

(4) The Service shall not execute a removal order under this section under circumstances that violate section 241(b)(3) of the Act or Article 3 of the Convention Against Torture. The provisions of part 1208 of this chapter relating to consideration or review by an immigration judge, the Board of Immigration Appeals, or an asylum officer shall not apply.

(c) Finality of decision. The regional director's decision under this section is final when it is served upon the alien in accordance with paragraph (b)(3) of this section. There is no administrative appeal from the regional director's decision.

(d) Hearing by immigration judge. If the regional director directs that an alien subject to removal under this section be given a hearing or further hearing before an immigration judge, the hearing and all further proceedings in the matter shall be conducted in accordance with the provisions of section 240 of the Act and other applicable sections of the Act to the same extent as

[[Page 934]]

though the alien had been referred to an immigration judge by the examining immigration officer. In a case where the immigration judge ordered the alien removed pursuant to paragraph (a) of this section, the Service shall refer the case back to the immigration judge and proceedings shall be automatically reopened upon receipt of the notice

of referral. If confidential information, not previously considered in the matter, is presented supporting the inadmissibility of the alien under section 212(a)(3)(A) (other than clause (ii)), (B) or (C) of the Act, the disclosure of which, in the discretion of the immigration judge, may be prejudicial to the public interest, safety, or security, the immigration judge may again order the alien removed under the authority of section 235(c) of the Act and further action shall be taken as provided in this section.

(e) Nonapplicability. The provisions of this section shall apply only to arriving aliens, as defined in Sec. 1001.1(q) of this chapter. Aliens present in the United States who have not been admitted or paroled may be subject to proceedings under Title V of the Act.

[62 FR 10358, Mar. 6, 1997, as amended at 64 FR 8494, Feb. 19, 1999]

Sec. 1235.9 Northern Marianas identification card.

During the two-year period that ended July 1, 1990, the Service issued Northern Marianas Identification Cards to aliens who acquired United States citizenship when the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States entered into force on November 3, 1986. These cards remain valid as evidence of United States citizenship. Although the Service no longer issues these cards, a United States citizen to whom a card was issued may file Form I-777, Application for Issuance or Replacement of Northern Marianas Card, to obtain replacement of a lost, stolen, or mutilated Northern Marianas Identification Card.

[62 FR 10359, Mar. 6, 1997]

Sec. 1235.10 U.S. Citizen Identification Card.

(a) General. Form I-197, U.S. Citizen Identification Card, is no longer issued by the Service but valid existing cards will continue to be acceptable documentation of U.S. citizenship. Possession of the identification card is not mandatory for any purpose. A U.S. Citizen Identification Card remains the property of the United States. Because the identification card is no longer issued, there are no provisions for replacement cards.

(b) Surrender and voidance--(1) Institution of proceeding under section 240 or 342 of the Act. A U.S. Citizen Identification Card must be surrendered provisionally to a Service office upon notification by the district director that a proceeding under section 240 or 342 of the Act is being instituted against the person to whom the card was issued. The card shall be returned to the person if the final order in the proceeding does not result in voiding the card under this paragraph. A U.S. Citizen Identification Card is automatically void if the person to whom it was issued is determined to be an alien in a proceeding conducted under section 240 of the Act, or if a certificate, document, or record relating to that person is canceled under section 342 of the Act.

(2) Investigation of validity of identification card. A U.S. Citizen Identification Card must be surrendered provisionally upon notification by a district director that the validity of the card is being investigated. The card shall be returned to the person who surrendered it if the investigation does not result in a determination adverse to his or her claim to be a United States citizen. When an investigation results in a tentative determination adverse to the applicant's claim to be a United States citizen, the applicant shall be notified by certified mail directed to his or her last known address. The notification shall

inform the applicant of the basis for the determination and of the intention of the district director to declare the card void unless within 30 days the applicant objects and demands an opportunity to see and rebut the adverse evidence. Any rebuttal, explanation, or evidence presented by the applicant

[[Page 935]]

must be included in the record of proceeding. The determination whether the applicant is a United States citizen must be based on the entire record and the applicant shall be notified of the determination. If it is determined that the applicant is not a United States citizen, the applicant shall be notified of the reasons, and the card deemed void. There is no appeal from the district director's decision.

(3) Admission of alienage. A U.S. Citizen Identification Card is void if the person to whom it was issued admits in a statement signed before an immigration officer that he or she is an alien and consents to the voidance of the card. Upon signing the statement the card must be surrendered to the immigration officer.

(4) Surrender of void card. A void U.S. Citizen Identification Card which has not been returned to the Service must be surrendered without delay to an immigration officer or to the issuing office of the Service.

(c) U.S. Citizen Identification Card previously issued on Form I-179. A valid Form I-179, U.S. Citizen Identification Card, continues to be valid subject to the provisions of this section.

[62 FR 10359, Mar. 6, 1997]

Sec. 1235.11 Admission of conditional permanent residents.

(a) General--(1) Conditional residence based on family relationship. An alien seeking admission to the United States with an immigrant visa as the spouse or son or daughter of a United States citizen or lawful permanent resident shall be examined to determine whether the conditions of section 216 of the Act apply. If so, the alien shall be admitted conditionally for a period of 2 years. At the time of admission, the alien shall be notified that the alien and his or her petitioning spouse must file a Form I-751, Petition to Remove the Conditions on Residence, within the 90-day period immediately preceding the second anniversary of the alien's admission for permanent residence.

(2) Conditional residence based on entrepreneurship. An alien seeking admission to the United States with an immigrant visa as an alien entrepreneur (as defined in section 216A(f)(1) of the Act) or the spouse or unmarried minor child of an alien entrepreneur shall be admitted conditionally for a period of 2 years. At the time of admission, the alien shall be notified that the principal alien (entrepreneur) must file a Form I-829, Petition by Entrepreneur to Remove Conditions, within the 90-day period immediately preceding the second anniversary of the alien's admission for permanent residence.

(b) Correction of endorsement on immigrant visa. If the alien is subject to the provisions of section 216 of the Act, but the classification endorsed on the immigrant visa does not so indicate, the endorsement shall be corrected and the alien shall be admitted as a lawful permanent resident on a conditional basis, if otherwise admissible. Conversely, if the alien is not subject to the provisions of section 216 of the Act, but the visa classification endorsed on the immigrant visa indicates that the alien is subject thereto (e.g., if the second anniversary of the marriage upon which the immigrant visa is based occurred after the issuance of the visa and prior to the alien's application for admission) the endorsement on the visa shall be

corrected and the alien shall be admitted as a lawful permanent resident without conditions, if otherwise admissible.

(c) Expired conditional permanent resident status. The lawful permanent resident alien status of a conditional resident automatically terminates if the conditional basis of such status is not removed by the Service through approval of a Form I-751, Petition to Remove the Conditions on Residence or, in the case of an alien entrepreneur (as defined in section 216A(f)(1) of the Act), Form I-829, Petition by Entrepreneur to Remove Conditions. Therefore, an alien who is seeking admission as a returning resident subsequent to the second anniversary of the date on which conditional residence was obtained (except as provided in Sec. 1211.1(b)(1) of this chapter) and whose conditional basis of such residence has not been removed pursuant to section 216(c) or 216A(c) of the Act, whichever is applicable, shall be placed under removal proceedings. However, in a case where conditional residence was based on a marriage, removal proceedings may be terminated

[[Page 936]]

and the alien may be admitted as a returning resident if the required Form I-751 is filed jointly, or by the alien alone (if appropriate), and approved by the Service. In the case of an alien entrepreneur, removal proceedings may be terminated and the alien admitted as a returning resident if the required Form I-829 is filed by the alien entrepreneur and approved by the Service.

[62 FR 10360, Mar. 6, 1997]

Exhibit 5



MEMORANDUM OF ACTIVITY

Type of Activity: Personal Interview [redacted]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On November 22, 2004, the Office of Inspector General (OIG) interviewed [redacted], Medical Doctor, [redacted], Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [redacted] regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [redacted] provided the following information:

[redacted] stated that [redacted] personally never examined Dantica. As the [redacted] at the KSPC, [redacted] stated that [redacted] was aware that Dantica first came under PHS's care on October 30, 2004. Further, [redacted] stated that [redacted] was aware that Dantica entered the KSPC with two medications: Hydria, which Dantica stated that he took 50 milligrams as needed, and Valium, which Dantica stated that he also took as needed. [redacted] stated that, due to the KSPC's policy, the medications Dantica arrived with were not provided to him inside of the facility. [redacted] stated that normally PHS independently obtains and provides the proper dosages of any medications detainees possess with a valid prescription. [redacted] stated that this is done because the KSPC and PHS cannot be sure of the contents of the medications brought in by the detainees. [redacted] stated that Hydria, the medicine that Dantica brought with him to the KSPC, is only approved by the Food and Drug Administration (FDA) to treat cancer. However, [redacted] stated that Dantica informed the PHS upon entry to the KSPC that he used the medicine to treat his high blood pressure. [redacted] stated that since the Hydria was being used improperly and Valium was not a medication that PHS was permitted to prescribe to detainees, neither of those medications were provided to Dantica at the KSPC.

[redacted] stated that when Dantica was examined on October 30, 2004, he was diagnosed with high blood pressure and was subsequently placed in the Short Stay Unit of the PHS to receive the proper medical care. [redacted] stated that PHS provided Dantica with two medications while he was at the KSPC: Enalapril to lower his blood pressure, and Naproxen to treat his arthritis.

[redacted] stated that Dantica was removed from the Short Stay Unit of the PHS on November 2, 2004, to attend his credible fear interview without the approval of the PHS staff.

Name, Title, Signature, and Date:	Reviewing Official Name, Title, Signature, and Date:
Special Agent [redacted]	Donald J. Balberchak Special Agent in Charge [redacted]

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Exhibit 6

Attachments to Exhibit 6 were referred to DHS Component for Review and processing





Type of Activity: Records Review (KRO/02-18)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On December 10, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center (KSPC) policy titled, Medical Care, policy number KRO/02-18. The policy, as it relates to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody, states:

“The United States Public Health Service (USPHS) performs basic exams and treatments for all detainees. The OIC, with the cooperation of the Clinical Director, have arrangements with nearby medical facilities and health care providers to provide required health care not available within the facility. These arrangements include providing appropriate custodial officers to transport and remain with the detainee for the duration of any off-site treatment or hospital admission.” (page 1)

“Medical Screening (New Arrivals): The health screening is conducted during in processing and prior to the detainee’s placement into a housing unit. The health care provider completes the In-Processing Health Screening Form (I-794) and all findings of the medical screening process are recorded in the detainee’s medical file. The facility healthcare provider will be responsible for promptly reviewing all I-794s, and deciding whether the detainee should receive prompt medical attention. All new arrivals receive an initial medical and mental health screening immediately upon their arrival by a health care provider.” (pages 2-3)

“Detainees are hospitalized on the order of a physician and with administrative notification. Detainees experiencing severe, life-threatening alcohol or drug withdrawal are immediately transferred to an acute care facility.” (page 3)

“If language difficulties prevent the health care provider from sufficiently communicating with the detainee for purposes of completing the medical screening, the healthcare provider will obtain translation assistance. Such assistance may be provided by another officer or by a professional service, such as a telephone translation service. In some cases, other detainees may be used for translation assistance if they are proficient and reliable and the detainee being medically screened consents. If needed translation assistance cannot be obtained, medical staff is notified or the screening form is filled out to refer the detainee to medical personnel for immediate attention.” (page 3)

Attachment

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent		Donald J. Balberchak Special Agent in Charge	
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Type of Activity: Records Review (Post Orders: Hospital Detail)

Case Number: I05-BICE-MIA-01646

Case Title: Joseph Dantica

On December 10, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center (KSPC) policy titled, Specific Post Orders: Hospital Detail. The policy, as it relates to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody states:

“Friends, family and civilian visitation is not allowed unless authorized by the (Officer in Charge) OIC of Krome SPC.” (page 1)

Attachment

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent	[Redacted]	Donald J. Balberchak Special Agent in Charge	[Redacted]
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Exhibit 7

Attachment to Exhibit 7 was referred to DHS Component for Review and processing



Type of Activity: Records Review (Krome SPC Pharmacy Policy)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 22, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center’s (KSPC) Pharmacy Policy, from [REDACTED], Medical Doctor, [REDACTED], Public Health Services (PHS), KSPC, 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED]. The policy had a direct impact on U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody. In summary, the policy states:

Chapter 11, page 15, section 11.16, titled “Incoming Detainee Medications,” is as follows:

“All medications brought into DIHS detention facilities by detainees must be turned over to the medical provider during medical screening. The provider will examine the medications, document them in the detainee record, and determine if they are still necessary and appropriate for the detainee. The medications will then be placed into the detainee’s property (provided detainee does not have access to them) and medication stocked by the clinic pharmacy issued if there is still a valid need for this particular therapy. If the detainee arrives at a time when the pharmacy is closed, and the provider feels the detainee requires the medication, the medication should be placed on the “pill line” and administered on a dose-by-dose basis until the pharmacist can process the new prescription. If the medication is not stocked by the clinic pharmacy and if the provider feels that a comparable substitute is not available, the detainee’s medication may be used. If additional non-formulary medication is needed, the Non-Formulary Medication Request Form (I.H.S.-177) will be filled out and forwarded to the DIHS Medical Director. Only medications that are properly labeled and bear clear markings on the tablet/capsule to indicate a legitimate manufacturer will be used. Detainees will not be allowed to keep inhalers and nitroglycerin that are in their possession.”

Attachment

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 8

Attachments to Exhibit 8 were referred to DHS Component for Review and processing



Type of Activity: Records Review (Krome SPC Medical Chart/Report)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 22, 2004, the Office of Inspector General (OIG) received a copy of the medical chart, and various medical reports, concerning U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, maintained by the Krome Service Processing Center (KSPC). The OIG received the copy from [REDACTED] Medical Doctor, [REDACTED], Public Health Services (PHS), KSPC, 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED] Dantica died while in ICE custody.

Attachment

Name, Title, Signature, and Date: [REDACTED] Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak [REDACTED] Special Agent in Charge [REDACTED]
<p align="center">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>	

Exhibit 9



Type of Activity: Personal Interview [redacted]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On November 18, 2004, the Office of Inspector General (OIG) interviewed [redacted] Asylum Pre-Screening Officer (APSO), U.S. Citizenship and Immigration Services (USCIS), Krome Asylum Pre-Screening Office, 18201 SW 12th Street, Miami, FL 33194, telephone: [redacted], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [redacted] provided the following information:

[redacted] stated that on November 2, 2004, Dantica arrived in [redacted] office for a pre-scheduled credible fear interview with [redacted] attorney, later identified as John Pratt. [redacted] stated that Pratt stated concern to [redacted] over the fact that his client's medication had been taken away from him. [redacted] stated that [redacted] began the interview by telephonically contacting an interpretation service to accommodate the fact that Dantica was only fluent in Creole. [redacted] stated that [redacted] connected with the interpreter and placed the interpreter on speakerphone. [redacted] stated that the interpreter began speaking with Dantica in Creole. [redacted] stated that the interpreter had trouble hearing Dantica and asked him to come closer to the telephone to improve reception. [redacted] stated that when Dantica leaned forward he began projectile vomiting. [redacted] stated that Pratt immediately jumped up onto his chair and reached forward to gather his legal books off of [redacted] desk. [redacted] stated that [redacted] immediately proceeded around [redacted] desk and grabbed Dantica by his shirt to hold his head up straight. [redacted] stated that [redacted] also immediately yelled for assistance to [redacted] APSO, who was directly outside of [redacted] office.

[redacted] stated that [redacted] asked a [redacted] Security Officer present in the Asylum Office, later identified as [redacted], to call for the Public Health Service (PHS) two separate times. [redacted] stated that it took approximately 15 minutes for the PHS employees to arrive on scene. [redacted] stated that [redacted] informed [redacted] that the response time was not unusual. [redacted] stated that Pratt requested that Dantica's son, Maxo Osnac, A#: [redacted], be brought to the Asylum Office to provide translation services for the PHS. [redacted] stated that Pratt informed the PHS employees that someone from the Krome Service Processing Center had taken away Dantica's medications. [redacted] stated that there was another [redacted] Security Officer, later identified as [redacted], present in the Asylum Office during the incident.

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent [redacted]	[redacted]	Donald J. Balberchak Special Agent in Charge	[redacted]

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MEMORANDUM OF ACTIVITY

[REDACTED] stated that the PHS employees moved Dantica from inside [REDACTED] office to the hallway of the Asylum Office building. [REDACTED] stated that when Osnac arrived, he was visibly upset and was not cooperating with the PHS employees to provide translation services. [REDACTED] stated that the PHS employees informed Osnac that if he did not cooperate and provide translation services, he would not be permitted to stay. [REDACTED] stated that the PHS employees, later identified as [REDACTED] Registered Nurse, and [REDACTED] Physician's Assistant, interacted with Pratt and discussed the validity and severity of Dantica's illness.

[REDACTED] stated that the PHS employees moved Dantica from the Asylum Office to the PHS facility to provide him with further treatment. [REDACTED] stated that Pratt then inquired whether or not he could continue Dantica's credible fear hearing at the PHS facility.

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Exhibit 10



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 18, 2004, the Office of Inspector General (OIG) interviewed [REDACTED], Asylum Pre-Screening Officer (APSO), U.S. Citizenship and Immigration Services (USCIS), Krome Asylum Pre-Screening Office, 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that at approximately 9:00 a.m. on November 2, 2004, [REDACTED], APSO, verbally requested [REDACTED] assistance by calling to [REDACTED] from inside [REDACTED] office. [REDACTED] stated that [REDACTED] immediately responded from [REDACTED] desk, approximately 20 feet away. [REDACTED] stated that upon entering [REDACTED] office, [REDACTED] witnessed Dantica projectile vomiting from a seated position onto [REDACTED] desk. [REDACTED] stated that [REDACTED], Dantica and Dantica's legal representation, later identified as John Patrick Pratt from the Law Offices of Kurzban, Kurzban, Weinger, and Tetzeli, were present in the office at that time. [REDACTED] stated that when [REDACTED] entered the office, Pratt was standing on top of his chair attempting to move his legal books away from the vomit.

[REDACTED] stated that [REDACTED] immediately called for the uniformed Security Officer present in the Asylum Pre-Screening Office to respond. [REDACTED] stated that the unidentified Security Officer radioed for the Public Health Service (PHS) employees to respond to the scene. [REDACTED] stated that two employees from PHS responded approximately ten to fifteen minutes later. [REDACTED] stated that Dantica was conscious but was not responding verbally to the PHS employees' questions. [REDACTED] stated that an unidentified Haitian National detainee also present in the Asylum Pre-Screening Office was brought to the scene in an attempt to provide interpretive services. [REDACTED] stated that Dantica's son, later identified as detainee Maxo Osnac, Alien Number: [REDACTED], was also brought to the scene at a later point in an attempt to provide interpretive services. [REDACTED] stated that Dantica was placed on a stretcher and removed from the Asylum Pre-Screening Office.

[REDACTED] stated that [REDACTED] was not present in [REDACTED] office when the PHS employees arrived. [REDACTED] stated that one of the PHS employees made reference to the fact that Dantica was not being cooperative. [REDACTED] stated that Dantica's son made reference to the fact that his father's medication had been taken away from him.

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent [REDACTED]	[REDACTED]	Donald J. Balberchak Special Agent in Charge	[REDACTED]

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Exhibit 11



Type of Activity: Personal Interview (John Pratt)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 23, 2004, the Office of Inspector General (OIG) interviewed John Pratt, Attorney, Kurzban, Kurzban, Weinger and Tetzeli, 2650 SW 27th Avenue, Miami, FL, telephone: (305) 444-0060, extension: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. Pratt requested Ira Kurzban to provide him with legal representation during the interview. With Kurzban present, Pratt provided the following information:

Pratt stated that he met with Dantica on November 2, 2004 at the Krome Service Processing Center (KSPC) to provide him with legal representation during his credible fear hearing. Pratt stated that during the hearing, Dantica became sick and began vomiting. Pratt stated that the Asylum Pre-Screening Officer conducting the interview, later identified as [REDACTED], immediately requested medical assistance. Pratt stated that a [REDACTED] Security Officer, later identified as [REDACTED], and a [REDACTED] Security Officer, later identified as [REDACTED] responded to provide assistance. Pratt stated that one of the two guards, he could not remember which, informed him that, “we are on a lockdown” and implied that medical assistance could not be provided. However, Pratt stated that the Public Health Services (PHS) medical unit arrived approximately 15 minutes after Dantica became sick. Pratt stated that the PHS employees attended to Dantica in the Asylum Office for approximately 30 minutes.

Pratt stated that while the PHS employees were attending to Dantica, communication was hindered because Dantica did not have a working voice box. Pratt stated that one of the PHS employees informed him that Dantica was, “not cooperating.” Pratt stated that approximately 15 minutes after the PHS employees arrived, Dantica’s son, identified as detainee Maxo Osnac, was brought to facilitate language translation. Pratt stated that the PHS employees asked Osnac to inquire with Dantica about the source of his pain. Pratt stated that Osnac was subsequently escorted out of the Asylum Office because the PHS employees stated that he was not cooperating. Pratt stated that he did not witness the PHS employees examine Dantica’s vital signs. Pratt stated that he never heard Dantica actually speak to either Osnac or the PHS employees.

Pratt stated that the PHS employees attempted to place Dantica in a wheelchair. Pratt stated that when the PHS employees were unable to place Dantica in a wheelchair, they placed him on a stretcher and removed him from the Asylum Office. Pratt stated that it was his understanding that Osnac was allowed to escort Dantica to the PHS facility at the KSPC.

Pratt was asked about Dantica’s previous medical history. Prior to Pratt providing any further information, Kurzban ended the interview.

Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 12



Type of Activity: Personal Interview (Maxo Osnac)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On December 16, 2004, the Office of Inspector General (OIG) interviewed Maxo Osnac, Haitian National, A#: [REDACTED], telephone: [REDACTED] regarding contact he had with his father, U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, while in custody at the Krome Service Processing Center (KSPC). Osnac requested Cheryl Little, Executive Director, Florida Immigrant Advocacy Center, to provide him with legal representation during the interview. Additionally, [REDACTED] provided translation services for Osnac, a native Creole speaker with moderate English language skills. With Little and [REDACTED] present, Osnac provided the following information:

Osnac stated that on November 2, 2004, he was escorted to a building at KSPC, identified as the Asylum Office, to assist Dantica with translation services. Osnac stated that when he arrived at the Asylum Office, Dantica's face and chest was covered with vomit. Osnac stated that Dantica was propped up in a wheelchair and was leaning slightly to the right. Osnac stated that there were numerous people in the room with Dantica. Osnac stated that there were approximately three individuals attending to Dantica that were dressed in blue uniforms. Osnac stated that the three individuals dressed in blue uniforms would not allow him to wash Dantica's face. Osnac stated that he was told that a nurse would clean Dantica up in another location. Osnac stated that he was asked repeatedly to attempt to elicit Dantica to speak using his voice box. Osnac stated that Dantica was unable to hold the voice box to his larynx.

Osnac could not recall if any medical equipment was present in the Asylum Office. Osnac stated that one of the individuals dressed in a blue uniform informed him that he felt that Dantica was faking his illness. Osnac stated that he was escorted out of the Asylum Office before his father was removed. Osnac stated that he pleaded with one of the individuals dressed in a blue uniform to allow him to remain with Dantica. Osnac stated that after he was removed from the Asylum Office he did not see Dantica again. Osnac stated that he was later informed that Dantica had passed away.

Osnac stated that, according to what he could remember, Dantica had been taking a regular regiment of medication for high blood pressure and for his prostate. Further, Osnac stated that Dantica had suffered a bout of throat cancer more than 20 years ago, resulting in the removal of his larynx.

Name, Title, Signature, and Date:		Reviewing Official Name: Donald J. Balberchak Special Agent in Charge
Special Agent [REDACTED]	[REDACTED]	

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Exhibit 13



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On December 3, 2004, the Office of Inspector General (OIG) interviewed [REDACTED], Security Officer, AKAL, Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was assigned to post guard at the Asylum Office on November 2, 2004. [REDACTED] stated that during [REDACTED] post, an Asylum Pre-Screening Office, later identified as [REDACTED], came out of [REDACTED] office and yelled for assistance. [REDACTED] stated that [REDACTED] asked [REDACTED] to contact the Public Health Services (PHS). [REDACTED] stated that [REDACTED] immediately telephoned the PHS, as requested. [REDACTED] stated that [REDACTED] was in the front part of the Asylum Office standing guard for three or four other detainees. [REDACTED] stated that Dantica was inside of [REDACTED] office.

[REDACTED] stated that a short time after [REDACTED] called PHS, [REDACTED] received a telephone call from an unidentified doctor at PHS who asked [REDACTED] what was happening. [REDACTED] stated that [REDACTED] informed the doctor that a detainee was throwing up inside of the Asylum Office. [REDACTED] stated that the PHS arrived within less than 15 minutes after [REDACTED] original call. [REDACTED] stated that two PHS employees arrived. [REDACTED] stated that [REDACTED] was still standing guard for the three or four other detainees present in the Asylum Office when the PHS employees arrived.

[REDACTED] stated that [REDACTED] was unable to see what the PHS employees were doing to Dantica. [REDACTED] stated that another Security Office, identified as [REDACTED], arrived and assisted the PHS employees. [REDACTED] denied telling anyone that the KSPC was on "lockdown," or that medical personnel would not be able to provide assistance. [REDACTED] stated that the PHS employees worked with Dantica for approximately 20 to 30 minutes before transporting him out of the Asylum Office.

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent	[REDACTED]	Donald J. Balberchak	[REDACTED]
		Special Agent in Charge	

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Exhibit 14



Type of Activity: Personal Interview [REDACTED]

<i>Case Number:</i> I05-BICE-MIA-01646	<i>Case Title:</i> Joseph Dantica
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On December 6, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Security Officer, AKAL, Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was assigned to post guard at the Asylum Office on November 2, 2004. [REDACTED] stated that [REDACTED] received radio traffic from [REDACTED] Security Officer, informing [REDACTED] that a detainee was sick inside of the Asylum Office. [REDACTED] stated that [REDACTED] immediately entered the Asylum Office and noticed Dantica, a man dressed in a suit, later identified as John Pratt, Dantica's attorney, and an Asylum Pre-Screening Officer (APSO), identified as [REDACTED], inside of the APSO's office. [REDACTED] stated that there was a large amount of vomit inside of [REDACTED] office. [REDACTED] stated that when [REDACTED] entered the Asylum Office, [REDACTED] had already contacted the Public Health Services (PHS) employees. [REDACTED] stated that the PHS employees entered the Asylum Office directly behind [REDACTED]. [REDACTED] stated that [REDACTED] was extremely excited and was concerned about the vomit and Dantica. [REDACTED] stated that [REDACTED] questioned the PHS employees about cleaning up the vomit.

[REDACTED] stated that [REDACTED] witnessed the PHS employees examine Dantica's vital signs. [REDACTED] stated that, at the request of [REDACTED], [REDACTED] went to collect Dantica's son, later identified as Maxo Osnac. [REDACTED] stated that [REDACTED] brought Osnac to the Asylum Office to provide translation services for Dantica, due to the fact that Dantica only spoke Creole. [REDACTED] stated that [REDACTED] and the two PHS employees placed Dantica on a stretcher and moved him to the PHS facility at the KSPC.

[REDACTED] stated that Osnac was brought to the PHS facility with Dantica to continue to provide translation services. [REDACTED] stated that Pratt requested to go to the PHS facility as well. [REDACTED] stated that Pratt was not allowed to escort Dantica to the PHS facility due to the fact that it is a medical facility.

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 15



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 18, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Registered Nurse, Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that on November 2, 2004, [REDACTED] and [REDACTED], Physician's Assistant, were called to respond to the Asylum Office at the KSPC. [REDACTED] stated that [REDACTED] informed [REDACTED] that there was an emergency involving a detainee projectile vomiting. [REDACTED] stated that [REDACTED] retrieved a pre-assembled medical bag containing emergency response equipment (including: scissors, bandages, a stethoscope, blood pressure cuff, etc.) and responded immediately with [REDACTED] to the Asylum Office. [REDACTED] stated that when [REDACTED] and [REDACTED] arrived, [REDACTED] checked Dantica's vital signs, including pulse and respiratory signs, and determined that [REDACTED] was not in any immediate distress. [REDACTED] stated that Dantica was covered in vomit. [REDACTED] stated that Dantica was conscious and coherent. [REDACTED] stated that [REDACTED] attempted to interact with Dantica to gather information about his condition. [REDACTED] stated that Dantica appeared to be uncooperative with [REDACTED]. [REDACTED] stated that Maxo Osnac, Dantica's son, was brought to the scene. [REDACTED] stated that Dantica interacted with Osnac. [REDACTED] stated that [REDACTED] and [REDACTED] worked with Dantica for approximately 20 to 30 minutes and then transported him to the PHS clinic at KSPC.

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 16



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 18, 2004, the Office of Inspector General (OIG) interviewed [REDACTED], Physician's Assistant, Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that on November 2, 2004, [REDACTED] and [REDACTED], Registered Nurse, were called to respond to the Asylum Office at the Krome Service Processing Center. [REDACTED] stated that the call was in reference to a detainee vomiting. [REDACTED] stated that when [REDACTED] arrived on scene at the Asylum Office, there were several people standing around Dantica. [REDACTED] stated that when [REDACTED] arrived on scene [REDACTED] checked Dantica's vital signs and that his breathing and pulse were normal. [REDACTED] stated that the area surrounding Dantica was covered in vomit. [REDACTED] stated that Dantica had been residing in the PHS Short Stay Unit (SSU) and that [REDACTED] was familiar with him. [REDACTED] stated that an interpreter was contacted telephonically to provide translation services. [REDACTED] stated that [REDACTED] repeatedly asked the interpreter to tell Dantica to point to the area that was in pain. [REDACTED] stated that Dantica did not respond to the interpreter. [REDACTED] stated that [REDACTED] had a wheelchair brought into the Asylum Office to attempt to move Dantica out of the office he was in to the connecting hallway.

[REDACTED] stated that someone, later identified as John Pratt, Dantica's attorney, informed [REDACTED] that Dantica's medication had been switched when he was initially detained at the KSPC. [REDACTED] stated that Dantica's son, later identified as Maxo Osnac, was brought to the scene to attempt to provide additional translation services. [REDACTED] stated that once Osnac arrived, Dantica responded to him and pointed to his stomach as a source of pain. [REDACTED] stated that Pratt questioned him about Dantica's condition. [REDACTED] stated that [REDACTED] informed Pratt that [REDACTED] felt that Dantica could have been more cooperative with the PHS response team.

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 17



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 24, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Licensed Nurse Practitioner, Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was stationed at the PHS office at the KSPC on November 2, 2004. [REDACTED] stated that on that date, [REDACTED] was called to assist with Dantica due to the fact that [REDACTED] is fluent in Creole. [REDACTED] stated that [REDACTED] witnessed Dantica converse with his son using a voice box. [REDACTED] stated that [REDACTED] asked Dantica to provide [REDACTED] with some information regarding his health. [REDACTED] stated that Dantica informed [REDACTED] that he was having pain in his stomach. [REDACTED] stated that Dantica informed [REDACTED] that his stomach was extremely sensitive to touch. [REDACTED] stated that [REDACTED] contact with Dantica was limited and that [REDACTED] could not provide any further information.

Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 18



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 22, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Registered Nurse, Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was stationed at the PHS office at the KSPC on November 2, 2004. [REDACTED] stated that on that date, [REDACTED] was requested to tend to Dantica upon his arrival. [REDACTED] stated that [REDACTED] changed Dantica's issued uniform because it was soiled with vomit. [REDACTED] stated that [REDACTED] affixed an intravenous line for Dantica at the orders of an unidentified physician. [REDACTED] stated that [REDACTED] checked Dantica's vital signs, including his blood pressure, pulse and respiration. [REDACTED] stated that all of Dantica's vital signs appeared to be normal. [REDACTED] stated that [REDACTED] performed three electrocardiograms (EKG) at the same unidentified physician's orders. [REDACTED] stated that during the time that [REDACTED] spent with Dantica, he responded to [REDACTED] both verbally, with the assistance of a speaking device, and physically. [REDACTED] stated that Dantica was in the Urgent Care room of the PHS for approximately 30 minutes.

Name, Title, Signature, and Date: [REDACTED] Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 19



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 19, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Medical Doctor, Public Health Services (PHS), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED] regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that on November 2, 2004, Dantica was brought to the PHS facility at the KSPC. [REDACTED] stated that Dantica arrived with [REDACTED] Physician's Assistant; [REDACTED] Registered Nurse; an unidentified Security Officer; and Dantica's son, later identified as detainee Maxo Osnac. [REDACTED] stated that Dantica was immediately brought to the Urgent Response (UR) Unit. [REDACTED] stated that Dantica was provided with a talk box to facilitate his verbal communication responses. [REDACTED] stated that Osnac was asked to instruct his father, in Creole, to point to the areas that were in pain. [REDACTED] stated that Osnac was visibly upset and refused to provide the necessary translation service. [REDACTED] stated that, at that point, Osnac was instructed to leave and [REDACTED] Registered Nurse, PHS, was asked to report to the UR to provide translation services.

[REDACTED] stated that when Dantica arrived at the PHS facility he was provided with a full physical assessment. [REDACTED] stated that this assessment included rechecking his vital signs and performing three electrocardiograms (EKG) to check for heart conditions. [REDACTED] stated that the EKGs were performed because Dantica's medical file indicated that he had a history of hypertension. [REDACTED] stated that Dantica was provided with oxygen saturation, a normal procedure. [REDACTED] stated that [REDACTED] informed [REDACTED] that Dantica indicated that his stomach was causing him pain. [REDACTED] stated that Dantica's stomach did appear to be distended.

[REDACTED] stated that Dantica's vital signs began to diminish. [REDACTED] stated that [REDACTED] determined that Dantica needed to be transported to the hospital. [REDACTED] stated that the contracted ambulance service arrived and transported Dantica to Jackson Memorial Hospital, Miami, FL.

[REDACTED] stated that when Dantica arrived at the KSPC, he was in possession of Hydrea pills. [REDACTED] stated that Hydrea is an immune suppression medication used for cancer patients that have recently undergone treatment for cancer. [REDACTED] stated that Dantica indicated that the Hydrea medication he possessed was used to treat high blood pressure. [REDACTED] stated that Hydrea provides no medical treatment for high blood pressure. [REDACTED] stated that, due to the KSPC's policy on medications, Dantica was not permitted to take his Hydrea pills into the facility. [REDACTED] stated that, since Dantica indicated that he had problems with high blood pressure, he

Name, Title, Signature, and Date: [REDACTED] Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: for Donald J. Balberchak Special Agent in Charge [REDACTED]
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MEMORANDUM OF ACTIVITY

was provided with proper high blood pressure medication by PHS at the KSPC. In addition, [REDACTED] stated that Dantica was placed in the Short Stay Unit of the PHS to ensure that he was treated properly with regards to his medical condition. Further, [REDACTED] stated that Dantica was removed from the Short Stay Unit of the PHS to attend his credible fear hearing at the Asylum Office against the PHS office's advice.

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Exhibit 20

Attachment to Exhibit 20 was referred to DHS Component for Review and processing



Type of Activity: Records Review (KRO/02-20)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On December 10, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center (KSPC) policy titled, Terminal Illness, Advance Directives and Death, policy number KRO/02-20. The policy, as it relates to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody states:

“The facility’s Clinical Director (CD), assisted by the Health Services Administrator (HSA), will arrange the transfer of chronically, critically, or terminally ill detainees to appropriate off-site medical facilities.” (page 1)

“A detainee in a community hospital remains under ICE authority. ICE retains the authority to make administrative decisions affecting the detainee (visitors, movement, authorizing/limiting services, etc.). The hospital assumes medical decision-making authority consistent with the contract (drug regimen, lab tests, x-rays, treatments, etc.).” (page 1)

Attachment

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent		Donald J. Balberchak	
		Special Agent in Charge	
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Exhibit 21



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 23, 2004, the Office of Inspector General (OIG) interviewed [REDACTED], Medical Doctor, Jackson Memorial Hospital (JMH), 1611 NW 12 Avenue, Miami, FL, telephone: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was not on duty when Dantica entered JMH. [REDACTED] stated that when [REDACTED] began [REDACTED] shift on November 2, 2004, Dantica's condition was stable and he appeared to be awake and alert. [REDACTED] stated that [REDACTED] shift ended at 7:00 pm on November 2, 2004. [REDACTED] stated that Dantica's condition began to deteriorate after [REDACTED] shift ended. [REDACTED] stated that [REDACTED] required an official medical release form to provide any further medical information pertaining to Dantica to the OIG.

[REDACTED] stated that the JMH is operated under a Public Health Trust and is a Dade County Facility. [REDACTED] stated that Department of Homeland Security (DHS) employees escorted Dantica while he was admitted to JMH. Further, [REDACTED] stated that DHS employees maintained all control over visitation rights while Dantica was admitted to JMH.

Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 22



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 24, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Immigration Enforcement Agent (IEA), U.S. Immigration and Customs Enforcement (ICE), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was assigned to post guard for Dantica's room at the Jackson Memorial Hospital (JMH), Miami, FL, on November 2-3, 2004. [REDACTED] stated that when [REDACTED] began standing post, Dantica was awake and alert. [REDACTED] stated that during [REDACTED] shift, Dantica became noticeably uncomfortable and [REDACTED] immediately notified an unidentified attending nurse. [REDACTED] stated that the nurse and an unidentified doctor attended to Dantica and checked his vitals. [REDACTED] stated that [REDACTED] then took [REDACTED] scheduled break and that IEA [REDACTED] relieved [REDACTED]

[REDACTED] stated that shortly after returning to Dantica's room, [REDACTED] noticed that he became unresponsive. [REDACTED] stated that [REDACTED] called his name and that he did not respond. [REDACTED] stated that [REDACTED] immediately notified an unidentified attending nurse. [REDACTED] stated that an unidentified doctor entered the room and attempted to perform some type of emergency resuscitation. [REDACTED] stated that following this attempt Dantica expired.

[REDACTED] stated that an unidentified individual attempted to visit Dantica at JMH shortly after he expired. [REDACTED] stated that [REDACTED] referred the request to IEA [REDACTED]. [REDACTED] stated that IEA [REDACTED] subsequently telephoned a supervisor with the request. [REDACTED] stated that while standing post at JMH, the policy regarding requests for visitation is to contact [REDACTED] Supervisory IEA.

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED]
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Exhibit 23



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On December 15, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Immigration Enforcement Agent (IEA), GS-7, U.S. Immigration and Customs Enforcement (ICE), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was assigned to JMH when Dantica expired on November 3, 2004. [REDACTED] stated that [REDACTED] and [REDACTED] were responsible for Dantica and another ICE detainee being housed at JMH. [REDACTED] stated that at approximately 8:30 p.m. [REDACTED] notified [REDACTED] that Dantica did not look well. [REDACTED] stated that [REDACTED] and [REDACTED] immediately notified a duty nurse of their observation. [REDACTED] stated that multiple members of the JMH medical staff arrived on scene and administered numerous emergency resuscitation efforts. [REDACTED] stated that when Dantica was pronounced expired, [REDACTED] immediately notified [REDACTED] supervisor, identified as [REDACTED], Supervisory Immigration Enforcement Agent (SIEA).

[REDACTED] stated that prior to Dantica's expiration, [REDACTED] did not receive any requests for visitation. [REDACTED] stated that [REDACTED] was contacted telephonically by an unidentified male and female after Dantica's expiration. [REDACTED] stated that the unidentified male and female requested to view Dantica's body. [REDACTED] stated that [REDACTED] informed the unidentified male and female that, according to policy, they would have to contact [REDACTED] supervisor to request such a visitation. [REDACTED] stated that [REDACTED] offered the unidentified male and female [REDACTED] supervisor's telephone number. However, [REDACTED] stated that the unidentified male and female informed [REDACTED] that they did not wish to contact anyone else. [REDACTED] stated that [REDACTED] then contacted [REDACTED] and informed [REDACTED] of the request and the fact that the unidentified individuals informed [REDACTED] that they did not wish to follow up on their request.

Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name Donald J. Balberchak Special Agent in Charge [REDACTED]
--	--

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Exhibit 24



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On December 15, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Supervisory Immigration Enforcement Agent (SIEA), GS-11, U.S. Immigration and Customs Enforcement (ICE), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] was the shift supervisor when Dantica expired at the Jackson Memorial Hospital (JMH), Miami, FL, on November 3, 2004. [REDACTED] stated that [REDACTED] was contacted by [REDACTED] Immigration Enforcement Agent (IEA), on the above date and notified of Dantica's expiration. [REDACTED] stated that [REDACTED] and [REDACTED] IEA, were assigned to JMH on that date and were also responsible for another ICE detainee. [REDACTED] stated that when [REDACTED] was notified of Dantica's expiration, [REDACTED] immediately notified [REDACTED] supervisor, identified as [REDACTED]. [REDACTED] stated that arrangements were made to notify Dantica's son, identified as ICE detainee Maxo Osnac, of his father's passing. [REDACTED] stated that [REDACTED] did not recall [REDACTED] or [REDACTED] contacting [REDACTED] to forward any visitation requests. [REDACTED] stated that IEAs assigned to JMH do not log visitation requests in the official incident log. [REDACTED] stated that visitation requests are forwarded through the chain of command to the Officer in Charge (OIC), per KSPC policy.

Name, Title, Signature, and Date: [REDACTED] Special Agent	Reviewing Official Name Donald J. Balberchak Special Agent in Charge
--	--

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Exhibit 25

Attachment to Exhibit 25 was referred to DHS Component for Review and processing

2017-11-14 10:10:10



Type of Activity: Records Review (KSPC/JMH Logbook)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
--	-----------------------------------

On December 15, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center (KSPC) logbook covering the guard shift at Jackson Memorial Hospital (JMH) from November 02, 2004 to November 3, 2004. The logbook was obtained in reference to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody.

Attachment

Name, Title, Signature, and Date: Special Agent [redacted] 12-16-04	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [redacted] 12/16/04
IMPORTANT NOTICE	
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Exhibit 26



Type of Activity: Records Review (Miami-Dade Police Report)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
--	-----------------------------------

On December 3, 2004, the Office of Inspector General (OIG) received a copy of the Miami-Dade Police Report number: 585312C, from [REDACTED], Detective, Miami-Dade Police Department, 9105 NW 25th Street, Miami, FL, telephone: [REDACTED]. The report is the result of an investigation conducted by Detective [REDACTED] into the details surrounding the death of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. (see attached) In summary, the report states:

The Miami-Dade Police Department has determined Dantica’s death to be the result of natural causes and suspects no foul play. In following, the Miami-Dade Police Department has closed case number: 585312C. Moreover, the report references that the Medical Examiner, [REDACTED], Medical Doctor, performed an autopsy on November 4, 2004, and made the following conclusion in [REDACTED] report: “Natural (causes): Acute and Chronic Pancreatitis.”

Attachment

Name, Title, Signature, and Date: [REDACTED] Special Agent [REDACTED] 12/6/04	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED] 12/6/04
<p align="center">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>	

OFFENSE-INCIDENT REPORT

Agency Code 30 Gang Related Juvenile In Report Juvenile Warn/Dismiss 1. Original 2. Supplement

ADM: Date of Supplement _____ MIAMI-DADE POLICE DEPARTMENT Agency Report Number 5853120

Original Day Reported Wed 11/03/2004 Time (mil) 2151 Time Dispatched (mil) 2153 Time Arrived (mil) 2155 Time Completed (mil) 2200

Incident Type 1. Felony 2. Traffic Felony 3. Misdemeanor 4. Traffic Misdemeanor 5. Ordinance 9. Other Incident: Day Wed 11/03/2004 Date 2006 Time (mil) _____ Day _____ Date _____ Time (mil) _____

OFF/INC # 1 Type Description DECEASED PERSON A-Attempted C-Committed Statute Violation Number _____ NCIC/UCR Code 71000A

OFF/INC # 2 _____

Incident Location (Street, Apt. Number) 1611 NW 12 AVENUE City MIAMI Zip 33128 District P 1147 Area _____ Zone _____

Business Name/Area Identifier JMW-WARD "D" Forced Entry 0. N/A 1. Yes 2. No 3. Occupied 4. Unoccupied 5. Abandoned

Location Type 01. Residence-Single 02. Apartment/Condo 03. Residence-Other 04. Hotel/Motel 05. Convenience Store 06. Gas Station 07. Liquor Sales 08. Bar/Nightclub 09. Supermarket 10. Dept/Discount Store 11. Specialty Store 12. Drug Store/Hospital 13. Bank/Financial Inst. 14. Commercial/Office Bldg. 15. Industrial/Mfg. 16. Storage 17. Gov/Public Bldg. 18. School/University 19. Jail/Prison 20. Religious Bldg. 21. Airport 22. Bus/Rail Terminal 23. Construction Site 24. Other Structure 25. Parking Lot/Garage 26. Highway/Roadway 27. Park/Woodlands/Field 28. Lake/Waterway 29. Motor Vehicle 30. Other Mobile 99. Other

OFF/INC 01 # Victims 00 # Offenders 00 # Prem. Ent. 00 # Veh. Stolen 00 Type Weapon 00. N/A 01. Handgun 02. Rifle 03. Shotgun 04. Firearm 05. Knife/Cutting Instrument 06. Blunt Object 07. Hands/Fist/Feet 08. Poison 09. Explosives 10. Fire/Incidinary 11. Threat/Intimidation 12. Simulated Weapon 13. Drugs 88. Unknown 89. Other 10C

V/W Code V-Victim W-Witness C-Reporting Person P-Proprietor Z-Other Victim Type 0: N/A 1. Juvenile 2. L.E. Officer 3. Adult 4. Business 5. Government 6. Church 9. Other Race N-N/A W-White B-Black I-American Indian O-Oriental/Asian U-Unknown Sex N-N/A M-Male F-Female U-Unknown Residence Type 0: N/A 1. City 2. County 3. Florida 4. Out-of-State Residence Status 0: N/A 1. Full Year 2. Part Year 3. Non-Resident Extent of Injury 0. None 1. Minor 2. Serious 3. Fatal

Injury Type 00. N/A 01. Gunshot 02. Stabbed 03. Laceration 04. Unconscious 05. Poss. Broken Bones 06. Poss. Internal Injury 07. Loss of Teeth 08. Burns 09. Abrasions/Bruiases 99. Other Victim Relationship To Offender 00. N/A 01. Undetermined 02. Stranger 03. Spouse 04. Ex-Spouse 05. Co-Habitant 06. Parent 07. Brother/Sister 08. Child 09. Step-Parent 10. Step-Child 11. In-Law 12. Other Family 13. Student 14. Teacher 15. Child of Boy/Girl Friend 16. Boy/Girl Friend 17. Friend 18. Neighbor 19. Sitter/Day Care 20. Employee 21. Employer 22. Landlord/Tenant 23. Acquaintance 99. Other Known

OFF/INC Indicator 1. #1 2. #2 3. Both V/W Code 1 V. Type Z 01 3 Name (Last, First, Middle or Business) DANTICA JOSEPH NOLUIS Address (Street, Apt. Number) _____ City MIAMI State FLA Zip 33194 Residence Phone _____ Business Phone _____

Other Contact Info. (Name, Address, Employer, etc.) _____ Synopsis of Involvement DECEASED

V/W Code W, or P B Race M Sex M Date of Birth or Age 09071953 Res. Type R Res. Status 1 Extent of Injury 0 Injury Type(s) 0 Relationship 0 Ethnicity 0 Will victim prefer charges? Yes No

F/INC Indicator 1. #1 2. #2 3. Both V/W Code 1 V. Type C 01 Name (Last, First, Middle or Business) _____ Address (Street, Apt. Number) _____ City MIAMI State FLA Zip 33194 Residence Phone _____ Business Phone _____

Other Contact Info. (Name, Address, Employer, etc.) _____ Synopsis of Involvement INVESTIGATION ENFORCEMENT UNIT

V/W Code Y, W, or P W Race M Sex M Date of Birth or Age 0411 Res. Type R Res. Status 1 Extent of Injury 0 Injury Type(s) 0 Relationship 0 Ethnicity 0 Will victim prefer charges? Yes No

OFF/INC Indicator 1. #1 2. #2 3. Both Suspect Code S-Suspect A-Arrested E-Escapee Z-Other Code # _____ Juvenile Name (Last, First, Middle) _____ Maiden Name _____ Nickname/Street Name _____ Place of Birth _____ Residence Phone _____

Last Known Address (Street, Apt. Number) _____ City _____ State _____ Zip _____ Business Phone _____

Occupation _____ Employer/School _____ Address _____ Social Security Number _____

Driver's License State/Number _____ Immigration and Naturalization Number _____ Other LD. Number _____ OBTS Number (Arrested) _____ FCIC/NCIC _____

Clothing (Describe) _____ Scars/Marks/Tattoos (Location/Describe) _____ Hair Style _____

Race _____ Sex _____ Date of Birth or Age _____ Height _____ Weight _____ Eye Color _____ Hair Color _____ Hair Length _____

Complexion _____ Build _____ Facial Hair _____ Teeth _____ Speech/Voice _____ Special Identifiers _____

NARRATIVE

Unit Notified _____ Time 2225 Related Report Number(s) _____

Officer Reviewing (if Applicable) _____ LD. Number 3560 Routed To _____ Referred To Homicide Assigned To _____ Date 11/17/04

Case Status _____ Clearance Type 1. Arrest 2. Exceptional 3. Unfounded 4. Open Pend. A-Adult J-Juvenile Date Cleared _____ Jail Number _____ Number Arrested _____

NARRATIVE CONTINUATION

Agency Code 11-00000	Gang Related <input type="checkbox"/>	MIAMI-DADE POLICE DEPARTMENT	Juvenile In Report <input type="checkbox"/>	1. Original 2. Supplement
Date of Supplement		Agency Report Number 5838120		
ADN Original Date Reported 11-02-04	Original Primary Offense Description MARIJUANA POSSESSION	Victim's Name DANIELA TAYLOR MARCUS	Original NCIC/UCR Code	
Original OFF/INC Location 11-00000	Primary Offense Changed To	A-Attempted C-Committed	New Statute Violation Number	New NCIC/UCR Code

[REDACTED] (THIS EMPLOYMENT AGENCY) ADVISED 2-01 WAS TRANSPORTED TO JOHN WOOD "D" FROM THE THIS OFFICIAL MEDICAL REPORT OF COMPLICATIONS AND TREATMENT FOR TUBERCULOSIS, BRONCHITIS, AND SPERMATOPHYTES FOR TUBERCULOSIS, BRONCHITIS, AND SPERMATOPHYTES, ON TUESDAY 11-02-04.

ON THIS DAY AT 2:00 PM 2-01 WENT INTO CARDIAC ARREST AND WAS PROBABLY DECEASED BY THE ON-SIGHT PHYSICIAN (DR. SCAB).

Homicide Det [REDACTED] WAS NOBLED AT 3225 HRS AND ADVISED THAT Homicide Det [REDACTED] WILL BE RESPONSIBLE.

Yellow copies of report given to WOOD "D" DET. PERSONAL.

A/Sgt [REDACTED] WAS NOBLED

NARRATIVE CONTINUATION

Suspect Code S - Suspect A - Arrestee	Code # 1 #1 3 Both 2 #2	Offense Indicator 1 #1 3 Both 2 #2	Residence Type 1. City 3 Florida 2 County 4. Out of State	Citizenship	Drug Indication 1 Yes 8 Unknown 2 No	Alcohol Indication 1 Yes 8 Unknown 2 No	
Drug Activity N - N/A P - Possess	S - Sell B - Buy	R - Smuggle D - Deliver E - Use	K - Distribute M - Manufacture/Produce/Cultivate Z - Other	Drug Type N - N/A A - Amphetamine	B - Barbiturate C - Cocaine E - Heroin	H - Hallucinogen M - Marijuana O - Opium/Drv	P - Paraphernalia/Equipment U - Unknown Z - Other
Name of Parent or Custodian (Last, First, Middle)							
Address (Street, Apt. Number) (City) (State) (Zip)							
Notified By: (Name)			Date	Time	Juvenile Disposition 1. Handed/Processed Within Dept. and Released 2. Turned Over to HRS/CYF 3. Incarcerated (County Jail)		
Released to: (Name)			Relationship	Date	Time		
Unit Notified			Related Report Number(s)				
Administrative							
ID Number Routed To Assigned To							
Case	Clearance Type 1. Arrest 2. Exceptional 3. Unfounded 4. Open Pend.	A-Adult J-Juvenile	Date Cleared	Jail Number	Number Arrested		
Exception Type 1. Extradition Declined 2. Arrest on Primary Offense Secondary Offense Without Prosecution 3. Death of Offender 4. V/W Refused to			5. Prosecution Declined 6. Juvenile / No Custody		OBTS Number Page Page		

JUVENILE SUSPECT

MIAMI-DADE COUNTY, FLORIDA

CASE NO. 585312-C

VICTIM'S NAME Dantica, Joseph	AGE 81 yrs	DOB 02/07/1923	RACE B	SEX M	ADDRESS 18201 SW 12 Street, Miami Fl Krome Detention Center	RES. PHONE N/A	SOC. SEC. NO. N/A
OCCUPATION N/A	EMPLOYER N/A	DEATH OCCURRED Jackson Memorial Hospital, Ward D Pronounced @ 8:46 PM, Wed, 11/3/2004	VEHICLE (MAKE, YEAR, LIC. TAG) N/A	VEHICLE STORED AT N/A	IN THE PRESENCE OF (ADDRESS) Hospital Staff	IDENTIFIED BY (ADDRESS) US Immigration	ADDRESS OF OCCURENCE 1611 NW 12 Avenue, Miami, Fl
PLACE OF DEATH 1611 NW 12 Avenue, JMHI Miami, Fl	DATE AND TIME VIEWED Wednesday Nov 3, 2004 @ 11:15 pm	TYPE OF PREMISES Hospital room	WEATHER CONDITION clear	HISTORY (WHAT HAPPENED PRIOR TO DEATH)			

The victim arrived in U.S. on 10/30/04 and was held at Krome Detention Center due to illegal alien status. After processing he was found to be ill and sent to Jackson Memorial Hospital, Ward D on 11/2/2004. He deteriorated and expired. The victim had cancer of the larynx and an irregular blood pressure.

CLOTHING WORN:

hospital gown

POSITION OF BODY:

Supine

LIVIDITY: (YES NO CONSISTENT) None visible	RIGOR MORTIS Full	BODY HEAT cool	DECOMPOSITION N/A	LOCATION On hospital bed TRAUMA None apparent
HOSPITAL TAKEN TO NA	TRANSPORTED BY N/A	DR. WHO ATTENDED NA	MEDICATION PRIOR TO DEATH N/A	
MEDICAL HISTORY: Cancer of the Larynx, Hypertension, and Prostate problems. NEXT OF KIN Unknown	RELATION	PHONE NO. ADDRESS:	NOTIFIED BY, DATE/TIME	
ME WHO CONDUCTED AUTOPSY (DATE) November 4, 2004	RESULTS Natural: Acute and Chronic Pancreatis			
PROPERTY DISPOSITION N/A				

REPORTING OFFICER'S NAME [REDACTED]	RADIO NO. [REDACTED]	BADGE NO. [REDACTED]	DISTRICT POB	GRID 1167	DISPATCHED BY, DATE & TIME [REDACTED]
114.01-275	4/92				

32041044



INVESTIGATIONS
MIAMI-DADE COUNTY
MEDICAL EXAMINER DEPARTMENT
Number One on Bob Hope Road
Miami, FL 33136
Phone (305) 545-2400 Fax (305) 545-2418
INVESTIGATION REPORT

M.E. Case #: 2004-02449

DATE: 11/4/2004

Type: ME

D.O.B. 2/7/1923

DANTICA, Joseph N

81 Years

Black

Male

18201 SW 12th ST, Miami, FL

PLACE OF DEATH: Jackson Memorial Hospital

TIME OF DEATH: 3-Nov-2004 8:46 PM

INVESTIGATING AGENCY: Miami-Dade Police Department

585312c

INCIDENT LOCATION:

INCIDENT DATE / TIME:

SCENE DR.:

TERMINAL EVENT: The decedent arrived in the U.S. on October 3, 2004 and was being held at the Krome Detent on Center for processing due to an illegal alien status. On November 2, 2004 he had two episodes of vomiting and complained abdominal pain. Fire-rescue transported him to Jackson Memorial Hospital - Ward "D". He was admitted with diagnosis of history of Laryngeal Cancer and Hypertension. His condition continued to deteriorate and on November 3, 2004 he was pronounced.

MEDICAL HISTORY: The deceased was being treated in his country of Haiti for Laryngeal Cancer, Hypertension and Prostate problems. He was also given medication for the same, however, according to his son, these medications were discontinued at the Krome Detention Center.

MEDICATIONS: None

SOCIAL HISTORY: The deceased and his son were both detainees of the Krome Detention Center. According to his son, the deceased did not smoke cigarettes or consume alcohol.

IDENTIFICATION:

METHOD: Visual

BY: U.S. Immigration Employee

RELATIONSHIP: Law Enforcement

CAUSE OF DEATH: Acute and Chronic Pancreatitis

DUE TO:

DUE TO:

DUE TO:

CONTRIBUTORY CAUSE:

MANNER: Natural

Autopsy

MORTUARY: EMMANUEL-VILLA

11/4/2004 12:20 PM

DOCTOR:

INVESTIGATOR:

MEMPHIS POLICE DEPARTMENT
 PRELIMINARY POLICE DEATH INVESTIGATION REPORT
 FOR THE MEDICAL EXAMINER
 FOR IDENTIFICATION

Police Agency 58531ac
 Police Case Number MPD N

Name of Deceased Davita

First Joseph

Age 81 Race B

Sex M DOB M D Y

Social Security N/A

Address 18201 SW 12 St Miami

Occupation In Custody Investigator/Employee

Next of Kin Notified: Yes No

Name: _____

Relationship: _____

Address: _____

Telephone: _____

Place of Death (Hospital, House Address, Etc.): WARD D, JMH

Place of Injury (Address, Location): _____

Injury Occurred: M D Y Time _____

TIME OF DEATH: M _____ D _____ Y _____ Time _____

Occurred: M _____ D _____ Y _____ Time _____

Found: M _____ D _____ Y _____ Time _____

Pronounced: M 11/3/04 Y _____ Time 8:40 PM

Name and Telephone of Doctors and/or Hospitals That Attended Deceased During Life: _____

Identified By: U.S. Family Justice
 Address: 18201 SW 12 St Miami
 Phone: _____

Physical Examination of the Body (Position/Location of Body):

Lividity: No Yes

Trauma: No Yes

Describe Trauma: _____

Surprise - hospitalized Sunday

Body Heat: Warm Full

Rigor Mortis: None

Decomposition: Slight Advanced

Cool Cold

Partial Raging

Disposition of Valuables: _____

Disposition of Clothing: _____

Special Instructions: Rape Kit Do not wash Do not finger-/palm print

Do not undress Take body Temp

Other: _____

Medication to M.E.: No Yes

Possible Contagious Disease: Unknown No Yes

Type of Disease: _____

Viewed by Investigator: 11/3/04 11:15 PM

MIAMI-DADE COUNTY
PRELIMINARY POLICE DEATH INVESTIGATION REPORT
FOR THE MEDICAL EXAMINER

Police Case No. 585312C

Name of Deceased Nautica, Joseph

Continuation Sheet

Medical Examiner at Scene? Yes No

Time Medical Examiner Requested _____ M

Time Medical Examiner Arrived _____ M

The Lead Investigator is _____ M

This report prepared by _____ M

Body Removal Requested _____

Body Removal Transport Arrived _____

Telephone Number _____

Investigator to be present at Autopsy? No Yes

PLEASE NOTE WHERE APPLICABLE: Use second sheet if needed—Scene Information to Follow: What happened just prior to death? Terminal Event—Medical/Social Information—Medications.

① arrived in U.S. on 10/30/04 & was held at Krome Detention etc due to illegal alien status. After processing he was found to be ill and sent to Ward D on 11/04/04. He deteriorated & expired. ② had Cancer of Larynx and irregular Blood pressure.

③ allegedly has family in states which were notified by Krome. Unknown who works at present time.

Exhibit 27



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On December 10, 2004, the Office of Inspector General (OIG) interviewed [REDACTED] Medical Doctor, Medical Examiner, Miami-Dade County Medical Examiner Department, 1 Bob Hope Road, Miami, FL, telephone: [REDACTED], regarding [REDACTED] examination of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] performed an autopsy on Dantica on November 4, 2004. [REDACTED] stated that [REDACTED] determined Dantica's death to be of natural causes: specifically, due to Acute and Chronic Pancreatitis (inflammation of the pancreas). [REDACTED] stated that it is highly unlikely that the Krome Service Processing Center's (KSPC) decision to withhold Dantica's Hydrea (Hydroxyurea) and Valium medications would have caused or contributed to his Acute Pancreatitis. Further, [REDACTED] stated that it is also highly unlikely that the Enalapril and Naproxen that were prescribed to Dantica while he was detained at KSPC would have caused or contributed to his Acute Pancreatitis.

Name, Title, Signature, and Date: Special Agent [REDACTED] 12-10-04	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED] 12/10/04
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Exhibit 28



Type of Activity: Records Review (Certificate of Death)

Case Number: I05-BICE-MIA-01646

Case Title: Joseph Dantica

On February 4, 2005, the Office of Inspector General (OIG) received a copy of the Certificate of Death in reference to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died in ICE custody on November 3, 2004.

Attachment

Name, Title, Signature, and Date: Special Agent [Redacted] 2-7-05	Reviewing Official Name Donald J. Balberchak Special Agent in Charge [Redacted] 1/8/05
<p style="text-align: center;">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>	

OFFICE of VITAL STATISTICS
CERTIFIED COPY

CERTIFICATE OF DEATH

1. DECEASED'S NAME (Last, First, Middle)
JOSEPH DANITICA MALE

3. DATE OF DEATH (Month, Day, Year) November 3, 2004
4. SOCIAL SECURITY NUMBER UNAVAILABLE
5a. AGE Last Birthday (Years) 81
5b. UNDER 1 YEAR Months Days
5c. UNDER 1 Day Hours Minutes

6. DATE OF BIRTH (Month, Day, Year) FEBRUARY 9, 1923
7. BIRTHPLACE (City and State or Foreign Country) LEGGANE, ILLINOIS
8. WAS DECEASED EVER IN U.S. ARMY OR NAVY? NO

9. MANNER OF DEATH (Check only one box. Indicate in other words)
 Natural ERO (Environment) DOD OTHER (Nursing Home, Residential, Public Facility)

10. FACILITY NAME (If not institution, give street and number) Jackson Memorial Hospital
11. CITY, TOWN, OR LOCATION OF DEATH MIAMI
12. COUNTY OF DEATH MIAMI DADE

13. DECEASED'S OCCUPATION (If none, check BUSINESS, INDUSTRY, or SERVICE) CHURCH
14. MARRITAL STATUS (At time of death) WIDOWED
15. SEX (At time of death) MALE

16. RESIDENCE (City and County) FLORIDA MIAMI DADE
17. CITY, TOWN, OR LOCATION MIAMI
18. STREET AND NUMBER 203 NORTH EAST 44th STREET

19. DECEASED'S RACE (Specify) BLACK
20. DECEASED'S ETHNIC ORIGIN (Specify) HAITIAN

21. DECEASED'S NAME (Last, First, Middle) LORVANA SAINTILOR

22. MOTHER'S NAME (Last, First, Middle) LORVANA SAINTILOR

23. PLACE OF BIRTH (City and State or Foreign Country) 203 RALPH AVENUE BROOKLYN NEW YORK

24. PLACE OF DISPOSITION (Name of Institution) CHARLES SHILL'S CEMETERY
25. CITY, TOWN, OR LOCATION OF DISPOSITION BROOKLYN NEW YORK

26. NAME OF NURSING PHYSICIAN (Other than Deceaser) EMANUEL FERRERAL HOME
27. LICENSE NUMBER (of License) 4300 WEST DUNCAN WAY MIAMI FLORIDA

28. NAME AND ADDRESS OF FACILITY (If none, check HOME) EMANUEL FERRERAL HOME
29. CITY, TOWN, OR LOCATION OF FACILITY MIAMI FLORIDA

30. HOUR OF DEATH
31. DATE (Month, Day, Year) November 4, 2004

32. NAME OF ATTENDING PHYSICIAN (Other than Deceaser) DR. MEDICAL EXAMINER DEPARTMENT
33. MEDICAL EXAMINER'S SIGNATURE AND TITLE

34. ADDRESS OF DECEASED (If different from residence) 3505 N. W. 10th St. MIAMI FLORIDA

35. MEDICAL EXAMINER'S SIGNATURE AND TITLE
36. DATE (Month, Day, Year) NOV 4 2004

DECEDENT

PARENTS

DISPOSITION

CERTIFIER

VOID IF ALTERED OR ERASED



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HEALTH

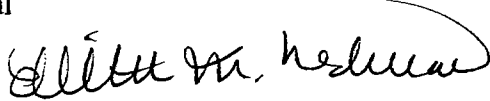
July 18, 2005 Memorandum and Exhibits



Homeland Security

JUL 18 2005

MEMORANDUM FOR: Richard L. Skinner
Acting Inspector General

FROM: Elizabeth M. Redman 
Assistant Inspector General for Investigations

SUBJECT: Response to Recent Press Reports in re Death of Joseph Dantica
OIG case number: I05-BICE-MIA-01646

This is to respond to your request that we address a number of issues raised in recent press reports and associated correspondence regarding the death of Joseph Nozius Dantica, who died in U.S. Immigration and Customs Enforcement (ICE) custody on November 3, 2004. Many of these issues were addressed in the Report of Investigation (ROI) that we forwarded to ICE, Office of Professional Responsibility (OPR) on March 31, 2005. This ROI documented our investigative findings that Dantica's death was attributable to acute and chronic Pancreatitis and not the result of any improper actions by ICE or other Department of Homeland Security personnel. However, our previous investigation and resulting ROI did not specifically address several issues raised in recent press reports because they were either outside the scope of our investigation or were not raised by any of the records we reviewed or the witnesses whom we interviewed. What follows are our responses to eight issues and questions raised by the press concerning the circumstances of Mr. Dantica's detention by ICE.

(1) **Question:** Why was Mr. Dantica separated from his son while in detention, even though he was old and frail?

Joseph Dantica was separated from his son, Maxo Osnac, while in ICE custody because Osnac was a convicted felon and had previously been deported from the United States, whereas Dantica had no criminal record and was eligible for an asylum (credible fear) hearing.

Established ICE policy dictates that convicted felons who are detained for immigration-related purposes be housed separately from other detainees who have no previous felony convictions. Specifically, Krome Service Processing Center (KSPC) policy titled, "Detainee Classification System" states, in part, "Non-criminal aliens and those detainees with minimum criminal history must be afforded an environment that is free from harassment and fear. They must be housed separately, when and where existing space allows, from career and dangerous criminal aliens." (Exhibit 1)

Moreover, Dantica and Osnac arrived in the United States together and both requested political asylum based on a fear of persecution.

In accordance with the Immigration and Nationality Act (immigration law), they were both taken into ICE custody to await a credible fear interview. When ICE employees checked Osnac's records, they found that he had a criminal record [REDACTED]

[REDACTED] Because he had a criminal record and had previously been removed from the United States, Osnac was housed with other detainees with criminal records and placed in removal proceedings pending the outcome of his asylum case.

Because Dantica was diagnosed with high blood pressure during the medical screening portion of his initial intake at the immigration-processing center, he was housed in a special housing unit for those with special medical needs.

(2) **Question:** Was Mr. Dantica chained to the bed while he was a patient at Jackson Memorial Hospital in Miami, Florida?

At no time was Dantica ever chained to a bed, or otherwise physically restrained, while he was a patient at Jackson Memorial Hospital.

Our review of KSPC policies determined that the officers assigned to safeguard those detainees hospitalized for medical treatment are required to ensure that proper restraints are available, to include at least one pair of handcuffs and one leg shackle for each detainee. KSPC policies further state that the leg shackles shall be applied to a detainee if he/she is allowed to walk around the room, and that detainees will be secured at all times in their rooms, unless injury and/or medical conditions warrant otherwise.

Our inquiry found that the proper restraints (handcuffs and leg shackles) were available in Dantica's room at Jackson Memorial Hospital as required. However, according to all of the ICE personnel interviewed that were assigned to Dantica while he was housed at Jackson Memorial Hospital, none of these restraints were ever applied to Dantica during his stay in the hospital because of his medical condition. (Exhibits 2, 3 and 4)

(3) **Question:** Why were Dantica's attorney, son, and [REDACTED] denied permission to visit Mr. Dantica both before and after his death, reportedly for "security reasons?"

Our inquiry did not substantiate reports that ICE officials denied Dantica's son's or [REDACTED] requests to visit Dantica, either before or after his death. To the contrary, none of the ICE employees we interviewed reported advising Dantica's attorney (Pratt), son or [REDACTED] that they could not visit Dantica because of security "reasons" or concerns.

When interviewed by the OIG, [REDACTED] stated that Pratt (Dantica's immigration attorney) told [REDACTED] that no one, including his counsel, could visit Dantica at Jackson Memorial Hospital for "security concerns."

[Agent's Note: This is also addressed in the ROI, page 11, paragraph 2 (Exhibit 20), which is the KSPC policy addressing the issues of visitation with detainees in a community hospital.] (Exhibit 5)

When we interviewed Dantica's attorney, John Pratt, he said that he contacted Deputy Officer in Charge (Deputy OIC) [REDACTED] on November 2, 2004, to ask what would be required to make arrangements for Dantica's family members to visit him (Dantica) in the hospital. Pratt reported that [REDACTED] told him that [REDACTED] could not answer the question, and transferred him to a male Lieutenant, whose name Pratt could not recall. According to Pratt, this Lieutenant informed him that due to security concerns, no visitations were allowed at Jackson Memorial Hospital. (Exhibit 6)

Review of an affidavit written by Pratt and submitted to the OIG on June 30, 2005, by Cheryl Little, Maxo Osnac-Dantica's immigration attorney, disclosed that [REDACTED] reportedly transferred Pratt's telephone call to Supervisory Immigration Enforcement Agent [REDACTED] (Exhibit 7)

During an interview with the OIG, [REDACTED] stated that [REDACTED] could not recall the name of the officer assigned to the Detention office who accepted the call [REDACTED] transferred from Pratt. (Exhibit 8)

When interviewed by the OIG, [REDACTED] stated that on November 2, 2004, [REDACTED] transferred a telephone call from John Pratt, Dantica's immigration attorney, to [REDACTED]. [REDACTED] said that during this telephone call, Pratt asked [REDACTED] several questions about the visitation policy at Jackson Memorial Hospital. [REDACTED] said that [REDACTED] told Pratt that he would be able to visit Dantica because of their attorney-client relationship. When Pratt asked [REDACTED] whether Dantica's family and friends would be able to visit Dantica at the hospital, [REDACTED] put Pratt on hold and inquired with [REDACTED]. [REDACTED] informed [REDACTED] that family and friends would be allowed to visit with Dantica at the hospital as long as the Immigration Enforcement Agents at Jackson Memorial Hospital were notified of the visit and the visit took place during the hospital's normal visitation hours. [REDACTED], in turn, relayed this information to Pratt. [REDACTED] stated that this was [REDACTED] only conversation with Pratt, and said that [REDACTED] never told Pratt, or anyone else, that visitors were not allowed at Jackson Memorial Hospital due to security reasons. (Exhibit 9)

According to all of the ICE personnel interviewed that were assigned to guard Dantica while he was housed at Jackson Memorial Hospital, their supervisors, and the custody log book maintained by ICE, no one attempted to visit Dantica prior to his death. Two individuals, who failed to identify themselves, telephonically contacted ICE personnel after Dantica's death and requested to view the body. When these individuals were directed to contact the Officer in Charge (OIC) of the immigration-processing center responsible for Dantica's care in accordance with established ICE policy, they declined to do so. Osnac informed the OIG that he was unaware that his father had been transferred to Jackson Memorial Hospital until after his death. (Exhibits 4 and 10)

[Note: Osnac informed the OIG that [REDACTED]; and [REDACTED], all attempted to contact Joseph Dantica prior to his death.

However, Osnac did not know whether these three individuals contacted the Krome Service Processing Center, or staff at the Jackson Memorial Hospital. Further, Osnac refused to provide the OIG with contact information for these individuals and stated that he would contact them and request that they contact the OIG to provide statements.]

(4) Question: Why wasn't Mr. Dantica released on humanitarian parole?

Mr. Dantica died before his attorney's request for a credible fear asylum or a humanitarian parole could be adjudicated.

In order to receive a humanitarian parole from ICE custody, a detainee must meet at least one of two requirements: a legitimate law enforcement purpose or exigent medical circumstances. When Dantica encountered immigration upon his arrival he did not meet either of those two requirements. (Exhibit 11)

On November 1, 2004, Dantica's attorney's senior partner, Ira Kurzban, telephoned the office of KSPC Field Office Director [REDACTED] and verbally requested humanitarian parole for Dantica. According to KSPC Office in Charge (OIC) [REDACTED], [REDACTED] called [REDACTED] that morning and asked [REDACTED] to do what [REDACTED] could, within KSPC policy, to expedite Dantica's release from the KSPC. [REDACTED] hand walked Dantica's Alien File over to the Asylum Pre-Screening Office (APSO) and was told that they could hold Dantica's credible fear hearing that same day if he (Dantica) requested. Kurzban's office was contacted to determine whether they wished to hold the credible fear hearing that day; however, Kurzban's office declined the offer, saying that the previously scheduled credible fear hearing date on November 2, 2004, was preferred. Once Dantica's health began to rapidly decline on November 2, 2004, he had to be placed in the hospital and died on November 3, 2004, before he could be adjudicated for a humanitarian parole. (Exhibits 6, 11 and 12)

(5) Question: Was Mr. Dantica's medical treatment timely and adequate?

We found no evidence to suggest that the medical treatment Dantica received was not timely and adequate.

Dantica was screened by a physician upon admittance to the KSPC, diagnosed with arthritis and hypertension (high blood pressure) and given medication to reduce the pain and swelling of his arthritis and reduce his high blood pressure. Dantica was housed in the Short Stay Unit (the medical housing unit of the Public Health Service at the KSPC) where he received constant medical care. When Dantica became violently ill during his credible fear hearing, he was treated by two members of the KSPC medical staff and taken to the on-site clinic for further care. While at the clinic, Dantica was seen by a physician and two nurses, who provided treatment and monitored his condition until his vital signs began to deteriorate and he was transferred to Jackson Memorial Hospital. Dantica received further medical treatment at Jackson Memorial Hospital and was being actively treated by a physician when he died.

The Miami-Dade County Police Department's Homicide Division and the Miami-Dade County Medical Examiner Department officially determined Dantica's death to be "natural" and due to "Acute and Chronic Pancreatitis." (Exhibit 13)

(6) Question: Do we have all of the medical records associated with Dantica's treatment at the Jackson Memorial Hospital?

Our review of the Krome Service Processing Center's "log of medical records" identified approximately 14 hours for which there was no documentation regarding the care and treatment Dantica was receiving at the Jackson Memorial Hospital. However, our investigation revealed that Krome's "log of medical records" for Dantica on November 2, 2004, consisted of updates provided by his primary care physician at Jackson Memorial Hospital to the Clinical Director of the Public Health Service (the medical personnel) at the KPSC.

The OIG was initially unable to obtain Jackson Memorial Hospital's medical records because the hospital's staff refused to release any medical records without the consent of Dantica's immediate family members. When Dantica's son, Osnac, was presented with the OIG INV Form 05, Release of Medical Information, in an attempt to obtain the necessary permission to gather his father's medical records from the Jackson Memorial Hospital, he refused to sign the form upon the advice of his legal representation. (Exhibit 10)

In [redacted] interview with the OIG, [redacted], said that [redacted] had copies of the medical records associated with Dantica's stay at Jackson Memorial Hospital. [redacted] said that [redacted] would be willing to provide the OIG with copies of these medical records through [redacted] attorney, Cheryl Little. On June 30, 2005, the OIG received copies of the medical records associated with Dantica's stay at Jackson Memorial Hospital via mail from Little. (Exhibits 5 and 14)

(7) Question: Why wasn't Mr. Dantica released into the custody of [redacted]?

Dantica was never determined to be eligible to be released into the custody of [redacted] or anyone else.

Once Dantica was placed in ICE custody in accordance to the Immigration and Nationality Act (immigration law), due to his own request for political asylum, he could not be released into anyone's custody without meeting the requirements for an authorized release. Moreover, Dantica did not meet the requirements for a humanitarian parole (discussed above) and did not complete the interview required for release based on a credible fear due to the rapid decline in his health resulting in his hospitalization. Therefore, he could not be released.

(8) Question: Why did ICE officials confiscate Mr. Dantica's folk medicine?

As noted in the OIG's Report of Investigation, KSPC policies require ICE employees to confiscate any medications possessed by detainees, whether they are prescribed or not. According to our inquiry, none of the ICE employees knew that Dantica was in possession of an item that he considered to be folk medicine. (Exhibit 15)

When Dantica passed through CBP inspections at Miami International Airport, CBP did not detect that Dantica was in possession of any 'herbal,' 'folk,' or otherwise unrecognizable medication(s). Further, CBP did not seize any medications from Dantica's possession. (Exhibit 16)

There is no indication that Dantica told any ICE employees that he was in possession of "folk medicine," or that his "folk medicine" had been confiscated. Upon his admission to the immigration-processing center, Dantica was in possession of two prescription medications. In accordance with established ICE policy, these medications were placed into his personal property inventory and removed from Dantica's access.

During an interview with the OIG, [REDACTED], Office of Public Affairs, ICE, stated that [REDACTED] recalled releasing a statement that Dantica was in possession of "voodoo" medicine that was confiscated upon his arrival in the United States. However, [REDACTED] stated that [REDACTED] had no recollection of how [REDACTED] obtained the information that [REDACTED] released in [REDACTED] statement to the press. (Exhibit 17)

Conclusion:

In conclusion, the OIG investigation determined that Dantica's death was the result of an illness that likely pre-existed his entry into the United States five days earlier. The OIG did not address the issues relating to Mr. Dantica's medical care at JMH because they were considered outside the scope of the OIG's review. All investigative leads in this matter have been concluded. No further investigative activity is warranted and this investigation is closed.

Please call me if you have any questions or require further information.

Exhibits

1. Memorandum of Activity, Review of U.S. Immigration and Customs Enforcement (ICE), Krome Service Processing Center (KSPC) policy titled, "Detainee Classification System."
2. U.S. Immigration and Customs Enforcement, Krome Service Processing Center, Hospital Detail, Specific Post Orders.
3. Memorandum of Activity, Interview of [REDACTED], dated May 11, 2005.
4. Memorandum of Activity, Interview of [REDACTED], dated June 6, 2005.
5. Memorandum of Activity, Interview of [REDACTED], dated June 24, 2005.
6. Memorandum of Activity, Interview of John Pratt, dated May 26, 2005.
7. Memorandum of Activity, Records Review, John Pratt's affidavit, dated January 14, 2005.
8. Memorandum of Activity, Interview of [REDACTED], dated June 6, 2005.
9. Memorandum of Activity, Interview of [REDACTED], dated July 1, 2005.
10. Memorandum of Activity, Interview of Maxo Osnac, dated June 7, 2005.
11. Memorandum of Activity, Interview of [REDACTED], dated May 26, 2005.
12. Memorandum of Activity, Interview of [REDACTED], dated May 27, 2005.
13. Miami-Dade County Medical Examiner Department, Autopsy Report, dated December 15, 2004.
14. Memorandum of Activity, Records Review: Jackson Memorial Hospital records concerning Joseph N. Dantica, dated June 30, 2005.
15. Memorandum of Activity, Records Review: KSPC Pharmacy Policy, dated November 22, 2004, with attachment.
16. Memorandum of Activity, Interview of [REDACTED], dated June 8, 2005.
17. Memorandum of Activity, Interview of [REDACTED], dated June 8, 2005.

Exhibit 1

Attachments to Exhibit 1 were referred to DHS Component for Review and processing



Type of Activity: Records Review (KSPC Detainee Classification)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On June 30, 2005, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center (KSPC) policy titled, Detainee Classification System. The policy, as it relates to U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody states:

“Non-criminal aliens and those detainees with minimum criminal history must be afforded an environment that is free from harassment and fear. They must be housed separately, when and where existing space allows, from career and dangerous criminal aliens.” (page 1)

Attachment

Name, Title, Signature, and Date: Special Agent [Redacted]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [Redacted]
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Exhibit 2

Exhibit 2 was referred to DHS Component for review and processing

Exhibit 3



Type of Activity: Personal Interview [REDACTED]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On May 11, 2005, the Office of Inspector General (OIG), interviewed [REDACTED], Deputy Officer in Charge - Detention, Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, Florida 33194, telephone: [REDACTED] regarding policies and procedures relating to the medical treatment of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] asked Immigration Enforcement Agent [REDACTED] specifically if Dantica was handcuffed or chained to the hospital bed at Jackson Memorial Hospital. According to [REDACTED], [REDACTED] stated that Dantica was not.

Name, Title, Signature, and Date: Catherine Finley, Assistant Special Agent in Charge May 11, 2005	Reviewing Official Donald J. Balberc Special Agent in C	[REDACTED] 7/31/05
<p align="center">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>		

Exhibit 4



U.S. Department of Homeland Security

Office of Inspector General – Investigations

MEMORANDUM OF ACTIVITY

Type of Activity: Telephone Contact [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On June 6, 2005, the Office of Inspector General (OIG) re-interviewed [REDACTED] Immigration Enforcement Agent (IEA), GS-7, U.S. Immigration and Customs Enforcement (ICE), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL, regarding contact with ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that Dantica was transported to the Jackson Memorial Hospital with only leg restraints. Further, [REDACTED] stated that Dantica was not restrained in any way while he was housed at the Jackson Memorial Hospital in Ward D.

Name, Title, Signature, and Date: Stephen R. Furr Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge
<p align="center">IMPORTANT NOTICE</p> <p>This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.</p>	

Exhibit 5



U.S. Department of Homeland Security
Office of Inspector General – Investigations

MEMORANDUM OF ACTIVITY

Type of Activity: Personal Interview [redacted]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On June 24, 2005, the Office of Inspector General (OIG) interviewed [redacted] regarding contact [redacted] had with [redacted] U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, while in custody at the Krome Service Processing Center (KSPC). [redacted] requested Cheryl Little, Executive Director, Florida Immigrant Advocacy Center, to provide [redacted] with legal representation during the interview. [redacted] provided the following information:

[redacted] stated [redacted] received a voicemail message from an unidentified Department of Homeland Security employee at approximately 1:30 a.m. on October 30, 2004, informing [redacted] that Dantica, and his son, Maxo Osnac-Dantica, Haitian National, Alien Number [redacted], had been detained at Miami International Airport (MIA) for immigration purposes. [redacted] stated that [redacted] called "immigration" at MIA and an unidentified employee informed [redacted] that Dantica was being transported to the KSPC. [redacted] stated that [redacted] was not permitted to speak with Dantica at that time. [redacted] stated that Dantica called [redacted] from the KSPC at approximately 1:30 p.m. on October 30, 2004, and asked [redacted] to retain legal counsel.

[redacted] stated that [redacted] called the KSPC on Saturday, October 30, 2004, in an attempt to visit Dantica. [redacted] stated that [redacted] was unable to visit with Dantica because an unidentified employee informed [redacted] that visitations needed to be scheduled in advance and were only scheduled for Saturdays.

[redacted] stated that Dantica called [redacted] from the KSPC during the evening of November 1, 2004, and informed [redacted] that he had an "immigration interview" the next day.

[redacted] stated that Dantica's immigration attorney, John Pratt, telephoned [redacted] on November 2, 2004, and informed [redacted] that Dantica had become ill during an immigration interview. [redacted] stated that Pratt informed [redacted] that no one could visit with Dantica because of security concerns.

[redacted] stated that [redacted] was not sure when or how [redacted] discovered that Dantica had been transported to the Jackson Memorial Hospital (JMH). However, [redacted] stated that when [redacted] was informed that Dantica had been transferred to the JMH on November 2, 2004, [redacted] called the hospital to inquire about visitation procedures. [redacted] stated that [redacted] spoke with an unidentified JMH employee in Ward D and was told that [redacted] needed to contact "immigration" to inquire about visitations. [redacted] stated that [redacted] asked this unidentified employee if [redacted] could speak with Dantica and was denied permission. Further, [redacted] stated that [redacted] asked the same employee about the condition of Dantica's health and was denied further information.

Name, Title, Signature, and Date: Special Agent [redacted] 6-24-05	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [redacted] 6/24/05
---	--

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MEMORANDUM OF ACTIVITY

██████████ stated that ██████████ contacted Pratt and inquired about visitation with Dantica at JMH.

██████████ stated that Pratt informed ██████████ that no one, including his counsel, could visit him at JMH due to security concerns.

██████████ stated that when Dantica died, Osnac-Dantica was notified as his next-of-kin. ██████████ stated that Osnac-Dantica notified a friend, who then contacted ██████████ and informed ██████████ that Dantica had died. ██████████ stated that ██████████ called the JMH to verify Dantica's condition and was informed by an unidentified employee that no information could be provided.

██████████ stated that ██████████ had possession of Dantica's medical records from the JMH. ██████████ agreed to mail the medical records to the OIG via Little's office.

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Exhibit 6



Type of Activity: Personal Interview (John Pratt)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On May 26, 2005, the Office of Inspector General (OIG) telephonically interviewed John Pratt, Attorney, Kurzban, Kurzban, Weinger and Tetzeli, 2650 SW 27th Avenue, Miami, FL, telephone: (305) 444-0060, extension: [REDACTED], regarding contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. Pratt provided the following information:

Pratt stated that on November 2, 2004, he telephoned the Krome Service Processing Center (KSPC) and spoke with [REDACTED] Deputy Officer in Charge (DOIC), KSPC, Miami, Florida. Pratt stated that he asked [REDACTED] what was required to make arrangements for Dantica's family members to visit with him [Dantica] at Jackson Memorial Hospital (JMH). Pratt stated that [REDACTED] informed him that [REDACTED] could not answer the question and, as a result, transferred Pratt to a superior officer. Pratt stated that he spoke with the officer, a [REDACTED] Lieutenant, whose name he could not recall, and asked [REDACTED] the same question. Pratt stated that the unidentified Lieutenant informed him that, due to security concerns, no visitations were allowed at JMH.

[Agent's note: [REDACTED] Officer in Charge (OIC), KSPC, Miami, Florida, informed the OIG that if [REDACTED] received a telephone call requesting information about Detention and Removal procedures, according to protocol [REDACTED] would refer the call to someone at the KSPC assigned to Detention and Removal.]

Pratt stated that after Dantica passed away, he telephonically contacted an unidentified individual at JMH in an attempt to inquire about the circumstances surrounding Dantica's death. Pratt stated that he was told that no information could be released over the telephone. Pratt stated that he could not recall if he spoke with a JMH employee or an ICE employee.

Pratt stated that Ira Kurzban contacted [REDACTED], Field Office Director (FOD), ICE, Miami, Florida, prior to November 2, 2004, and requested a humanitarian parole for Dantica. Pratt stated that [REDACTED] informed Kurzban that Dantica would need to meet the requirements for a 'credible fear' through the credible fear interview process prior to his [Dantica's] release.

Pratt stated that Dantica became his client as a result of a telephone call from [REDACTED] on November 1, 2004. Moreover, Pratt stated that [REDACTED] called Kurzban and requested that his firm look at the case.

Pratt stated that he requested that a credible fear interview be scheduled for November 1, 2004, and that he was told that the interview would have to take place on November 2, 2004. Moreover, Pratt

Name, Title, Signature, and Date: Special Agent [REDACTED] 5/27/05	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED] 5/27/05
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MEMORANDUM OF ACTIVITY

denied canceling any previously scheduled credible fear interview on November 1, 2004.

Pratt stated that after Dantica became ill on November 2, 2004, he telephonically contacted [REDACTED] and [REDACTED] and left voicemail messages requesting that Dantica's humanitarian parole be granted without a credible fear interview. Pratt stated that [REDACTED] called him back and informed him that Dantica would be released on a humanitarian parole but that he was being treated at JMH for medical conditions.

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Exhibit 7

Declaration of John P. Pratt, Esq.

On November 1, 2004, officials from the Department of Homeland Security (DHS) indicated to Mr. Kurzban that unless Reverend Dantica successfully passed a credible fear interview and demonstrated a credible basis for seeking asylum in the United States he would not be released from detention. Mr. Kurzban requested release on humanitarian grounds but DHS refused unless he successfully completed the credible fear interview process.

Based on those facts, on November 1, 2004, Ira Kurzban, a founding partner in the law firm of Kurzban, Kurzban, Weinger & Tetzeli, P.A., asked me to go to the Krome Detention Center to meet with Reverend Joseph Dantica (A 27-041-999) in order to attempt to obtain his release from detention.

At approximately 1:00 pm on November 1, 2004, I met with Reverend Dantica at Krome, had him sign a G-28 (Notice of Representation) and began preparing him for his "credible fear" asylum interview. Given Reverend Dantica's age, 81, I attempted to obtain a credible fear interview for him that same day but was unable to do so. I was told that the first available interview appointment was for the following day and that it would be scheduled for November 2, 2004 at 9:00 am.

Before leaving Krome on November 1, 2004, I explained to both Reverend Dantica and his son, Maxo, who was also detained at Krome, the nature of the asylum interview and they explained to me the events leading up to their escape from Haiti. The meeting with them lasted several hours.

On November 2, 2004, shortly before Reverend Dantica's scheduled asylum interview, while waiting in the lobby/reception area of the Asylum Unit at Krome, Reverend Dantica mentioned to another Haitian detainee and me that "they" (officers at Krome) had taken his medicines away from him. At that time it didn't appear to me that Reverend Dantica looked ill.

At approximately 9:00 am that same morning, Reverend Dantica and I were informed by Asylum Officer [REDACTED] that the asylum interview was about to begin. A few minutes (about 2-3) into the interview, Reverend Dantica leaned forward and started to vomit. He looked seriously ill. There was vomit all over his face and clothes. He sort of looked like he might be having a seizure.

Asylum Officer [REDACTED] and I insisted that a medic immediately attend to Reverend Dantica. Initially, the Krome guards said that Krome was in lockdown and that a doctor could not be summoned. Officer [REDACTED] insisted that someone from the medical unit be summoned to examine Reverend Dantica and so a medic (someone in a green uniform) eventually arrived. The medic arrived 10-15 minutes after Reverend Dantica became seriously ill.

Officer [REDACTED] and I informed the medic that shortly before he fell seriously ill, Reverend Dantica had said that his medicines had been taken away when he was taken to Krome. The medic said they had taken away Reverend Dantica's medicines when he arrived at Krome but that they had given him substitute medications.

Additionally, when the medic arrived at the asylum unit, Reverend Dantica was sitting on the chair where the detainees sit when being interviewed by the Asylum Officer (i.e., the asylum officer's office). Approximately 5-10 minutes after the arrival of the medic, Krome officers and/or other detainees moved Reverend Dantica to a wheelchair, which was next to the office door. Reverend Dantica looked almost comatose to me at that time. He seemed somewhat unconscious and couldn't move. I demanded that a stretcher be brought in to move him to the medical unit.

Furthermore, I demanded that Reverend Dantica's son, Maxo, be summoned to provide us information about his father's medical condition before Reverend Dantica was placed on the wheelchair. I believed this was necessary because after vomiting while in the Asylum Office, Reverend Dantica dropped his voice box and was unable to speak. Reverend Dantica had a hole in his larynx and spoke with the aid of a voice box. It was approximately 5-10 minutes before Maxo arrived. Reverend Dantica was in the wheelchair when Maxo arrived.

While we were still in the Asylum Unit, the medic indicated, after Maxo's arrival, while Reverend Dantica was in the wheelchair, that Reverend Dantica was "not cooperating" because his eyes were open and that he was not completely unconscious. The medic was very insensitive. [REDACTED] attitude seemed very inappropriate, given the seriousness of the situation. The medic also said Maxo should be taken away because he was not saying what, if anything, was wrong with his father. Maxo was upset that they didn't want him to stay with his father because he was worried about him.

During the entire time the medic and other Krome officials were in the Asylum Unit, when I was there, no medical treatment at all was provided to Reverend Dantica. No one checked his vital signs or did anything at all to determine the state of his medical condition. No one ever wiped the vomit off his face and clothes. Eventually, about 25-30 minutes after he suffered the attack, an the medic, officer and/or other detainees brought a stretcher and moved Reverend Dantica from the asylum unit to the medical facility.

I was not allowed to accompany him to the medical unit. I was told that he was being taken to Krome's medical unit. I waited for several hours at Krome to see if Reverend Dantica could be stabilized. I was hoping to conclude the credible fear interview and obtain his immediate release. Also, I placed several calls to Officer [REDACTED], Krome's Officer-In-Charge and [REDACTED], who is in the downtown Miami office, explaining Reverend Dantica's situation and requesting his immediate release pursuant to humanitarian parole.

At around noon on November 2, 2004, as I was leaving Krome, Officer [REDACTED] called me on my mobile number and indicated that Officer [REDACTED] had made a decision to release Reverend Dantica pursuant to humanitarian parole (without the need to conduct a credible fear interview). Officer [REDACTED] also indicated that Reverend Dantica was going to be taken to Miami's Jackson Memorial Hospital for observation. Finally, Officer [REDACTED] indicated that as soon as Reverend Dantica was stabilized, he would contact me so I could make arrangements for his family to pick him up at Krome, since he would be released. I asked Officer [REDACTED] if Reverend Dantica's family could visit him at the hospital. Officer [REDACTED] stated that that decision would have to be made by [REDACTED]. Upon speaking to [REDACTED], I was informed that no one could visit Reverend Dantica at the hospital for "security reasons," not even me, his lawyer. Later that day Officer [REDACTED] indicated that Reverend Dantica would be at the hospital overnight for observation to be safe. I was told to call back the next day to make arrangements for his release.

On November 3, 2004, I spoke to Officer [REDACTED] again. This time Officer [REDACTED] indicated that Reverend Dantica would be kept another day at the hospital because they were waiting for some test results and were keeping him for observation. Once again, I requested permission for the family to visit Reverend Dantica at the hospital, but I was told that that was not a possibility due to security reasons. I repeatedly explained that having family members around him would be reassuring for Reverend Dantica, especially if his condition was serious. Later that night, I spoke to [REDACTED] [REDACTED], who informed me that [REDACTED] had received information that Reverend Dantica had passed away. I tried calling the hospital and Krome to clarify this, but the officers refused to give me any information.

On the morning of November 4, 2004, Officer [REDACTED] informed me that Reverend Dantica had indeed passed away. Following Ira Kurzban's request, Officer [REDACTED] after consultation with other officers, called me to say that Maxo would be released under humanitarian parole due to events surrounding his father's death.

I hereby swear under penalty of perjury that the foregoing
[REDACTED] of my knowledge on this 14th

John Pratt, Esq.

Notary

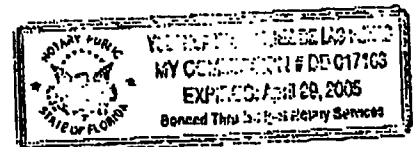
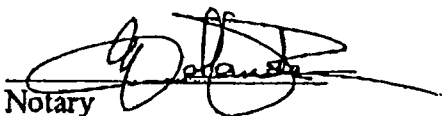


Exhibit 8



Type of Activity: Telephone Contact [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
---------------------------------	----------------------------

On June 6, 2005, the Office of Inspector General (OIG) interviewed [REDACTED], Deputy Officer in Charge - Removal, Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding the death in custody of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that John Pratt, Dantica's immigration attorney, telephoned [REDACTED] on several occasions prior to Dantica's death requesting a humanitarian parole for Dantica. [REDACTED] stated that once Dantica became sick during his credible fear interview, [REDACTED] Officer in Charge, KSPC, approved a humanitarian parole for Dantica. However, [REDACTED] stated that Dantica was transported to the Jackson Memorial Hospital (JMH) before the parole could be granted.

[REDACTED] stated that [REDACTED] recalled Pratt contacting [REDACTED] in reference to visitation requests for JMH. [REDACTED] stated that since [REDACTED] is responsible for removal operations at the KSPC, [REDACTED] transferred the call to an officer from the detention operations at the KSPC. [REDACTED] stated that [REDACTED] could not recall the name of the officer that accepted the call [REDACTED] transferred from Pratt.

Name, Title, Signature, and Date: Special Agent [REDACTED]	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge
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Exhibit 9



Type of Activity: Telephone Contact [REDACTED]

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
---------------------------------	----------------------------

On July 1, 2005, the Office of Inspector General (OIG) interviewed [REDACTED], Supervisory Immigration Enforcement Agent (SIEA), Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED], regarding the death in custody of U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that on November 2, 2004, [REDACTED], Deputy Officer in Charge – Removal, KSPC, transferred a telephone call from John Pratt, Dantica’s immigration attorney. [REDACTED] stated that Pratt had several questions about the visitation policy at Jackson Memorial Hospital (JMH). [REDACTED] stated that [REDACTED] informed Pratt that he [Pratt] could visit Dantica because of their attorney-client relationship. However, [REDACTED] stated that when Pratt inquired about the possibility of family and friends visiting Dantica, [REDACTED] placed Pratt on hold and inquired with [REDACTED]. [REDACTED] stated that [REDACTED] informed [REDACTED] that family and friends would be allowed to visit with Dantica at JMH, as long as the Immigration Enforcement Agents (IEA) at JMH were notified of the visit and the visit took place during JMH’s regular visitation hours. [REDACTED] stated that [REDACTED] relayed this information to Pratt.

[REDACTED] stated that [REDACTED] only spoke with Pratt on that one occasion. Further, [REDACTED] denied ever telling Pratt, or anyone else, that visitors were not allowed at JMH due to security reasons.

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent [REDACTED]	[REDACTED] 7-1-05	Donald J. Balberchak	[REDACTED] 7/1/05
		Special Agent in Charge	
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Exhibit 10



Type of Activity: Personal Interview (Maxo Osnac-Dantica)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On June 7, 2005, the Office of Inspector General (OIG) interviewed Maxo Osnac-Dantica, Haitian National, A#: [REDACTED], telephone: [REDACTED], regarding contact he had with his father, U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, while in custody at the Krome Service Processing Center (KSPC). Osnac-Dantica requested Cheryl Little, Executive Director, Florida Immigrant Advocacy Center, to provide him with legal representation during the interview. Osnac-Dantica provided the following information:

Osnac-Dantica stated he did not attempt to contact his father while he [Joseph Dantica] was being treated at the Jackson Memorial Hospital (JMH) because he did not know that his father had been taken there until after his death. Osnac-Dantica stated that [REDACTED] informed him that [REDACTED] attempted to contact Joseph Dantica prior to his death. However, Osnac-Dantica stated that he did not know whether [REDACTED] contacted the KSPC, or staff at the JMH. Osnac-Dantica refused to provide the OIG with [REDACTED] contact information and stated that he would contact [REDACTED] and request that [REDACTED] contact the OIG to provide a statement.

Osnac-Dantica stated that [REDACTED] also attempted to contact Joseph Dantica prior to his death. However, Osnac-Dantica stated that he did not know whether [REDACTED] contacted the KSPC, or staff at the JMH. Osnac-Dantica refused to provide the OIG with [REDACTED] contact information and stated that he would contact [REDACTED] and request that [REDACTED] contact the OIG to provide a statement.

Osnac-Dantica stated that [REDACTED] also attempted to contact Joseph Dantica prior to his death. However, Osnac-Dantica stated that he did not know whether [REDACTED] contacted the KSPC, or staff at the JMH. Osnac-Dantica refused to provide the OIG with [REDACTED] contact information and stated that he would contact [REDACTED] and request that [REDACTED] contact the OIG to provide a statement.

Osnac-Dantica was presented with the OIG INV Form 05, Release of Medical Information, in an attempt to obtain the necessary permission to obtain his father's medical records from the JMH. At the advice of Little, Osnac-Dantica refused to sign the form.

Name, Title, Signature, and Date: Special Agent [REDACTED] 6-8-05	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak [REDACTED] Special Agent in Charge 6/8/05
---	--

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Exhibit 11



Type of Activity: Personal Interview [redacted]

Case Number: I05-BICE-MIA-01646 Case Title: Joseph Dantica

On May 26, 2005, the Office of Inspector General (OIG) interviewed [redacted], U.S. Immigration and Customs Enforcement (ICE), Miami, Florida, regarding ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [redacted] provided the following information:

[redacted] stated that Ira Kurzban, Attorney, telephoned [redacted] office prior to November 2, 2004 and verbally requested a humanitarian parole for Dantica. [redacted] stated that [redacted] did not recall actually speaking with Kurzban. Instead, [redacted] stated that his receptionist probably collected identifying information from Kurzban and forwarded the information to [redacted] Krome Service Processing Center (KSPC), Miami, Florida. [redacted] stated that, to the best of [redacted] knowledge, Kurzban's firm never submitted a written request for a humanitarian parole for Dantica.

[redacted] stated that the request for the humanitarian parole for Dantica was originally denied because it did not meet one of the two requirements: a legitimate law enforcement purpose, or an exigent medical circumstance. Therefore, [redacted] stated that Kurzban was informed that Dantica would need to meet the requirements to prove a credible fear through a credible fear asylum interview.

[Agent's note: according to [redacted], Kurzban's original request for a humanitarian parole for Dantica preceded the dramatic decline in his health on November 2, 2004.]

[redacted] stated that the KSPC offered Kurzban's law firm the option to provide Dantica with an expedited credible fear asylum interview on November 1, 2004. Moreover, [redacted] stated that Kurzban's firm was informed that Dantica had the option of waiving the requirement that 48 hours pass after a claim of credible fear is made before an asylum interview is conducted. However, [redacted] stated that Kurzban's firm wanted to keep the interview that had been previously scheduled for November 2, 2004.

[redacted] stated that the Department of Homeland Security never adjudicated Kurzban's request for a humanitarian parole or a credible fear asylum due to Dantica's death while in custody. Further, [redacted] stated that there are no immigration laws that pertain specifically to Haitians.

[redacted] stated that, to the best of [redacted] knowledge, Dantica was housed at the Short Stay Unit (SSU), a medical treatment facility, for the entire duration of his detention at the KSPC.

[redacted] stated that there was internal discussion that Dantica would be eligible to receive a

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent [redacted]	[redacted] 5/27/05	Donald J. Balberchak	[redacted] 5/27/05
		Special Agent in Charge	

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MEMORANDUM OF ACTIVITY

humanitarian parole after he became sick and was transported to the Jackson Memorial Hospital (JMH). However, [REDACTED] stated that the parole was never granted because Dantica died while receiving medical attention.

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Exhibit 12



Type of Activity: Personal Interview [redacted]

Case Number: I05-BICE-MIA-016464	Case Title: Joseph Dantica
----------------------------------	----------------------------

On May 27, 2005, the Office of Inspector General (OIG) interviewed [redacted], Krome Service Processing Center (KSPC), 18201 SW 12th Street, Miami, FL 33194, telephone: [redacted], extension: 219, regarding U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [redacted] provided the following information:

[redacted] stated that, to the best of [redacted] knowledge, Ira Kurzban, Attorney, called the office of [redacted], ICE, Miami, Florida, on the morning of November 1, 2004, to request a humanitarian parole for Dantica. [redacted] stated that [redacted] then called [redacted] office and asked [redacted] to do what [redacted] could, within policy, to expedite Dantica's release from the KSPC. [redacted] stated that [redacted] then personally walked Dantica's Alien File over to the Asylum Pre-Screening Office (APSO) at the KSPC. [redacted] stated that the APSO informed [redacted] that Dantica's credible fear interview could be held on that day [November 1, 2004], if he so requested. [redacted] stated that someone from Kurzban's office was contacted and informed of this option. However, [redacted] stated that someone from Kurzban's office informed the APSO that the preferred date for the credible fear interview was November 2, 2004.

[redacted] stated that Dantica was never housed with criminal aliens while he was detained at the KSPC. [redacted] stated that Dantica might have been inadvertently exposed to a criminal alien(s) during his initial processing or while housed at the Short Stay Unit (SSU) at the KSPC.

[Agent's note: The APSO at the KSPC informed the OIG that credible fear interviews are not video or audio taped. Further, the APSO does not accept direct requests for humanitarian paroles.]

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent	[redacted] 5/27/05	Donald J. Balberchak	[redacted] 5/27/05
		Special Agent in Charge	
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Exhibit 13

11/13/2005 FRI 15:02



Medical Examiner Records

002/007



MIAMI-DADE COUNTY
MEDICAL EXAMINER DEPARTMENT

Number One on Bob Hope Road
Miami, FL 33136

Phone (305) 545-2400 Fax (305) 545-2418

INVESTIGATION REPORT

M.E. Case #: 2004-02449

DATE: 11/4/2004

Type: ME

DANTICA, Joseph N

81 Years

Black

Male

D.O.B. 2/7/1923

18201 SW 12th ST, Miami, FL

PLACE OF DEATH: Jackson Memorial Hospital

TIME OF DEATH: 3-Nov-2004 8:46 PM

INVESTIGATING AGENCY: Miami-Dade Police Department

585312c

Det.

INCIDENT LOCATION:

INCIDENT DATE / TIME:

SCENE DR.:

TERMINAL EVENT: The decedent arrived in the U.S. on October 3, 2004 and was being held at the Krome Detention Center for processing due to an illegal alien status. On November 2, 2004 he had two episodes of vomiting and complained abdominal pain. Fire-rescue transported him to Jackson Memorial Hospital - Ward "D". He was admitted with diagnosis of history of aryngal Cancer and Hypertension. His condition continued to deteriorate and on November 3, 2004 he was pronounced.

MEDICAL HISTORY: The deceased was being treated in his country of Haiti for Laryngeal Cancer, Hypertension and Prostate problems. He was also given medication for the same, however, according to his son, these medications were discontinued at the Krome Detention Center.

MEDICATIONS: None

SOCIAL HISTORY: The deceased and his son were both detainees of the Krome Detention Center. According to his son, the deceased did not smoke cigarettes or consume alcohol.

IDENTIFICATION:

METHOD: Visual

BY: U.S. Immigration Employee

RELATIONSHIP: Law Enforcement

CAUSE OF DEATH: Acute and Chronic Pancreatitis

DUE TO:

DUE TO:

DUE TO:

CONTRIBUTORY CAUSE:

MANNER: Natural

Autopsy

11/4/2004 12:20 PM

DOCTOR: MD

MORTUARY: EMMANUEL-VILLA

INVESTIGATOR:

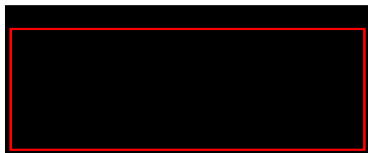


THE MIAMI-DADE COUNTY MEDICAL EXAMINER DEPARTMENT, MIAMI, FLORIDA

Name...DANTICA, Joseph N...November 4, 2004...11:00 AM...Case No. 04-2449

CAUSE OF DEATH:

Acute and Chronic Pancreatitis



Associate Medical Examiner



Associate Medical Examiner

Date 12-15-04

/medi:100/jb



MIAMI-DADE COUNTY
MEDICAL EXAMINER DEPARTMENT
Number One on Bob Hope Road
Miami, Florida 33136-1133

TOXICOLOGY REPORT

DANTICA, JOSEPH N.

M.B. CASE NO.: 2004-2449

SUBSTANCE

SPECIMEN

RESULT

VOLATILES

ILIAC VEIN BLOOD

UNDETECTED



Associate Medical Examiner

Date 1/24/05

H.24

THE MIAMI-DADE COUNTY MEDICAL EXAMINER DEPARTMENT, MIAMI, FLORIDA

Name...DANTICA, Joseph N...November 4, 2004...11:00 AM...Case No. 04-2449

EXTERNAL EXAMINATION:

This is the body of a 5 foot, 6 inch, 165 pound, adult, black male who appears younger than the stated age of 81 years.

The scalp has short, gray, curly hair. The irides are brown with arcus senilis. The conjunctivae are free of petechiae. The conjunctivae and sclerae are hyperemic. The nasal septum is intact. The external auditory canals are free of injury. The face is unshaven.

A tracheostomy site is in the middle of the anterior neck. The open defect is 1.5 centimeters in diameter. The skin margins around the defect are healed, focally fibrosed and free of hemorrhage or exudates. A 9.0 centimeter, healed scar is on the right side of the neck.

The chest is symmetric. A 2.0 centimeter, brown-red discoloration is on the mid-upper chest. The abdomen is distended and tense. A 1.5 centimeter, healed scar and a 1.2 centimeter, healed scar are on the left lower quadrant of the abdomen. The penis is not circumcised.

The upper extremities are free of tattoos, edema or injury.

The anterior aspect of the right lower leg has multiple dry, linear abrasions ranging from 4.0 to 10.0 centimeters in length. The anterior mid-aspect of the left thigh has prominent superficial veins. A 1.5 centimeter, healed scar is over the left knee. The left lower leg has a 1.0 centimeter, black macule. The back of the legs are unremarkable. The lower extremities are free of tattoos or edema.

The back is free of injury, tattoo or edema. Multiple dark brown macules are over the buttocks.

The left ankle has a blue identification band with the inscription "27660."

EVIDENCE OF MEDICAL INTERVENTION:

Multiple adhesive electrocardiogram leads are on both arms and both sides of the chest. An identification bracelet is around the right wrist. A dry puncture mark is on the back of the right hand. A recent puncture is on the left antecubital fossa. Tape is over the puncture. A piece of tape is on the anterior aspect of the left forearm.

INTERNAL EXAMINATION:

The anterior chest and abdominal wall are free of injury. The muscles of the chest and abdomen are red-brown, well-hydrated and free of injury. The clavicles, sternum and ribs are free of fracture. The abdominal cavity contains 350 cubic centimeters of serosanguinous fluid. The abdominal organs are in the normal anatomic position. The pleural cavities have a glistening, smooth lining. The pleural cavities are free of fluid. The intact pericardial sac contains an estimated 3 cubic centimeters of straw-colored fluid.

The 430 gram heart has a brown, smooth, epicardial surface with a scant amount of subepicardial adipose tissue. The posterior aspects of the left ventricle and left atrium have multiple petechial

THE MIAMI-DADE COUNTY MEDICAL EXAMINER DEPARTMENT, MIAMI, FLORIDA

Name...DANTICA, Joseph N...November 4, 2004...11:00 AM...Case No. 04-2449

hemorrhages. The coronary arteries arise from the aorta in the normal fashion. The coronary arteries have tan, smooth, intimal surfaces and are patent. The posterior interventricular septum receives its blood supply via the right coronary artery. The myocardium is brown and firm. The endocardium is brown, smooth and glistening. The valve cusps and leaflets are thin, translucent and free of injury or vegetation. The tricuspid valve is 12.6 centimeters in circumference. The mitral valve is 11.5 centimeters in circumference. The pulmonary valve is 9.6 centimeters in circumference. The aortic valve is 8.5 centimeters in circumference. The ventricular septal wall is 1.4 centimeters thick. The left ventricular wall is 1.8 centimeters thick. The right ventricular wall is 0.6 centimeter thick. The superior and inferior vena cavae have gray, smooth, intimal surfaces. The aorta has minimal calcified atherosclerosis, most prominent infrarenally. The aorta is free of injury.

The right and left lungs are 500 grams and 400 grams, respectively. The pleural surfaces are dark red with diffuse black pigment deposition. The pulmonary parenchyma is dark red and congested. The perihilar lymph nodes are inconspicuous. Both lungs are adherent to the diaphragm. The trachea, bronchi and bronchial branches have a tan, mucosal surface. The branches of the pulmonary artery are intact and free of thromboemboli.

The tracheostomy site is in continuity with the mid-trachea. The larynx, epiglottis, thyroid cartilage, right lobe of thyroid gland, right sternocleidomastoid muscle, and right strap muscles of the neck are absent. The skin is adherent to the underlying vessels and muscles of the neck. The left strap muscles and sternocleidomastoid are red-brown and well-hydrated. The left lobe of thyroid gland has a red-brown, homogeneous parenchyma.

The tongue is free of injury. The esophagus is intact and patent. The esophageal mucosa is gray and smooth and free of dilated varices. The gastric serosal wall is tan, smooth and glistening. The gastric mucosa is tan with focal hyperemic foci; no ulcerations or masses are in the gastric wall. One hundred cubic centimeters of brown liquid with no particular aromatic odor is within the stomach. The duodenal mucosa is bile-stained. The ampulla of Vater is of average size and not obstructed. The small intestine has a smooth, glistening, red, dusky serosal surface and has not strictures or obstructions. The small intestinal mesentery is hyperemic. The large intestine is not dilated or obstructed. The large intestine has normal haustral markings. The appendix is normal. The rectal mucosa is brown and smooth. The fat surrounding the cecum is hyperemic. The pancreas is diffusely hemorrhagic. The pancreatic parenchyma is firm and friable. Saponification is throughout the entire pancreas. The surrounding mesenteric adipose tissue is hyperemic.

The 1220 gram liver has a smooth, brown surface. The anterior margin is sharp. The hepatic parenchyma is brown and soft. The hepatic parenchyma is free of neoplasm, granulomas or injury. The portal vein and the hepatic artery are intact and free of injury. The gallbladder contains 20 cubic centimeters of green, viscid bile. The gallbladder is free of calculi. The common bile duct is patent and intact.

The 70 gram spleen has a smooth, gray surface. The splenic pulp is dark red.

The adrenal glands have light yellow cortical surfaces. The medullae are brown. The pituitary gland is tan-pink and of average size.

THE MIAMI-DADE COUNTY MEDICAL EXAMINER DEPARTMENT, MIAMI, FLORIDA**Name...DANTICA, Joseph N...November 4, 2004...11:00 AM...Case No. 04-2449**

The right and left kidneys are 100 grams each. The renal capsules are brown and smooth. The renal parenchyma is brown-red. The corticomedullary junctions are well-demarcated. The pelvicalyceal systems are intact. The ureters are normal in course and caliber to the urinary bladder. The urinary bladder has a prominent trabecular wall. The mucosal surface is tan and focally hyperemic. The prostate gland is large and nodular. The testicles have tan, stringy parenchyma and are of average size.

The reflected scalp is free of injuries. The temporalis muscles are red-brown and well-hydrated. The calvarium and the dura mater are intact. The epidural and subdural spaces are free of blood. The 1440 gram brain has symmetric cerebral and cerebellar hemispheres. The leptomeninges are transparent. The gyri are not flattened and the sulci are not widened. The vessels of the circle of Willis are patent and intact. The cranial nerves are symmetric and intact. The cortical ribbon is tan and free of contusion foci. The white matter is free of injuries. The putamen, basal ganglia and thalami are tan and symmetric and free of injury. The substantia nigra and the locus ceruleus are normally pigmented. The ventricles are of average size and are filled with clear cerebrospinal fluid. The midbrain, pons, medulla oblongata, and proximal cervical spinal cord are free of injury.

The vertebrae and axial bones are free of fractures. The thoracic vertebrae have prominent osteophyte formation.

AUTOPSY FINDINGS:

1. Diffuse hemorrhagic pancreatitis
2. Bilateral pulmonary congestion
3. Pale adrenal cortices
4. Nodular, enlarged prostate gland
5. Status-post laryngectomy with permanent tracheostomy, remote
6. Status-post right neck dissection, remote
7. Mild atherosclerotic disease of the aorta

[REDACTED]
Associate Medical Examiner

[REDACTED]
Associate Medical Examiner

[REDACTED]medi:100

Exhibit 14

Attachments to Exhibit 14 were referred to DHS Component for Review and processing



Type of Activity: Records Review (JMH Medical Records/Pratt Memo)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On June 30, 2005, the Office of Inspector General (OIG) received a copy of the medical records pertaining to Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, from Jackson Memorial Hospital (JMH), Miami, Florida, via Cheryl Little, Immigration Attorney. Dantica died while in U.S. Immigration and Customs Enforcement (ICE) custody. In addition to the medical records, Little sent the OIG a copy of a sworn affidavit written by John Pratt, Immigration Attorney, dated January 14, 2005.

Attachment

Name, Title, Signature, and Date: Special Agent [Redacted] <i>G. B. / 05</i>	Reviewing Official Name, Title, Signature, and Date: Dwight J. Balberchak [Redacted] <i>05</i> Special Agent in Charge <i>6/30/05</i>
IMPORTANT NOTICE	
This report is intended solely for the official use of the Department of Homeland Security, or any entity receiving a copy directly from the Office of Inspector General. This report remains the property of the Office of Inspector General, and no secondary distribution may be made, in whole or in part, outside the Department of Homeland Security, without prior authorization by the Office of Inspector General. Public availability of the report will be determined by the Office of Inspector General under 5 U.S.C. 552. Unauthorized disclosure of this report may result in criminal, civil, or administrative penalties.	

Exhibit 15

Attachments to Exhibit 15 were referred to DHS Component for Review and processing



Type of Activity: Records Review (Krome SPC Pharmacy Policy)

Case Number: I05-BICE-MIA-01646	Case Title: Joseph Dantica
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On November 22, 2004, the Office of Inspector General (OIG) received a copy of the Krome Service Processing Center's (KSPC) Pharmacy Policy, from [REDACTED] Medical Doctor, [REDACTED] Public Health Services (PHS), KSPC, 18201 SW 12th Street, Miami, FL 33194, telephone: [REDACTED] [REDACTED]. The policy had a direct impact on U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999, who died while in ICE custody. In summary, the policy states:

Chapter 11, page 15, section 11.16, titled "Incoming Detainee Medications," is as follows:

"All medications brought into DIHS detention facilities by detainees must be turned over to the medical provider during medical screening. The provider will examine the medications, document them in the detainee record, and determine if they are still necessary and appropriate for the detainee. The medications will then be placed into the detainee's property (provided detainee does not have access to them) and medication stocked by the clinic pharmacy issued if there is still a valid need for this particular therapy. If the detainee arrives at a time when the pharmacy is closed, and the provider feels the detainee requires the medication, the medication should be placed on the "pill line" and administered on a dose-by-dose basis until the pharmacist can process the new prescription. If the medication is not stocked by the clinic pharmacy and if the provider feels that a comparable substitute is not available, the detainee's medication may be used. If additional non-formulary medication is needed, the Non-Formulary Medication Request Form (I.H.S.-177) will be filled out and forwarded to the DIHS Medical Director. Only medications that are properly labeled and bear clear markings on the tablet/capsule to indicate a legitimate manufacturer will be used. Detainees will not be allowed to keep inhalers and nitroglycerin that are in their possession."

Attachment

Name, Title, Signature, and Date: Special Agent [REDACTED] 11/23/04	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak Special Agent in Charge [REDACTED] 11/23/04
IMPORTANT NOTICE	
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Exhibit 16



Type of Activity: Telephone Contact [REDACTED]

Case Number: I05-BICE-MIA-016464	Case Title: Joseph Dantica
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On June 8, 2005, the Office of Inspector General (OIG), interviewed [REDACTED], Officer, U.S. Customs and Border Protection (CBP), Miami International Airport (MIA), Miami, Florida, telephone: [REDACTED], regarding [REDACTED] contact with U.S. Immigration and Customs Enforcement (ICE) detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that when Dantica passed through CBP inspections at MIA, CBP did not detect that he was in possession of any 'herbal,' 'folk,' or otherwise unrecognizable medication(s). Further, [REDACTED] stated that CBP did not seize any medications from Dantica's possession.

Name, Title, Signature, and Date: Special Agent [REDACTED] 6-8-05	Reviewing Official Name, Title, Signature, and Date: Donald J. Balberchak [REDACTED] Special Agent in Charge 6/8/05
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Exhibit 17



Type of Activity: Telephone Contact [REDACTED]

Case Number: I05-BICE-MIA-016464 Case Title: Joseph Dantica

On June 8, 2005, the Office of Inspector General (OIG) interviewed [REDACTED], Office of Public Affairs, U.S. Immigration and Customs Enforcement (ICE), Washington, DC, telephone: [REDACTED], regarding comments [REDACTED] made concerning the treatment of ICE detainee Joseph Nosius Dantica, Haitian National, Alien Number: 27 041 999. [REDACTED] provided the following information:

[REDACTED] stated that [REDACTED] recalled releasing a statement that Dantica was in possession of "voodoo" medicine that was confiscated upon his arrival in the United States. However, [REDACTED] stated that [REDACTED] had no recollection of how [REDACTED] obtained the information that [REDACTED] released in [REDACTED] statement to the press.

Name, Title, Signature, and Date:		Reviewing Official Name, Title, Signature, and Date:	
Special Agent	[REDACTED] 6-8-05	Donald J. Balberchak	[REDACTED] 6/8/05
		Special Agent in Charge	

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