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CONGRESSMAN KENDRICK B. MEEK

December 9, 2005

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The Honorable Richard L. Skinner, Acting Inspector General
Office of the Inspector General
US Department of Homeland Security
Washington, DC 20528

Dear Inspector General Skinner:

I commend to your attention the enclosed letter from Cheryl Little, the Executive Director of the Florida Immigrant Advocacy Center, regarding the case of the Reverend Joseph Dantica who died in November 2004 while in Immigration and Customs Enforcement custody.

Ms. Little's letter provides details regarding the Dantica case which conflict with the Inspector General's Report on Investigation. I ask that you review and evaluate the claims raised in the letter and either re-open your investigation or make whatever changes or corrections may be warranted.

Additionally, National Public Radio aired a segment on Monday, December 5, 2005 that suggested, based upon evidence, the existence of a "pattern of medical neglect in [the Department of] Homeland Security's detention centers." From our previous meetings, I understand that your office is conducting a wider review of DHS detention centers, and I ask that you also include the cases raised by this news report in your investigation.

These matters are of great concern to me, and I would appreciate your response to them. I would also appreciate an update on the status of the larger report of DHS facilities of which you spoke. Thank you for your kind attention to this matter.

Sincerely,

A handwritten signature in black ink that reads "Kendrick B. Meek".

KENDRICK B. MEEK
Member of Congress

FLORIDA IMMIGRANT ADVOCACY CENTER, INC.

A non-profit organization dedicated to protecting and promoting
the basic human rights of immigrants of all nationalities in Florida



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November 23, 2005

The Honorable Richard L. Skinner
Inspector General
United States Department of Homeland Security
Attn: Office of Inspector General
Washington, DC 20528

Re: In re: Death of Reverend Joseph Dantica -- Objections to Findings Set Forth in OIG Documents: *Report of Investigation* (March 21, 2005) and *Response to Recent Press Reports* (July 18, 2005) -- OIG Case No. 105-BICE-MIA-01646

Dear Inspector General Skinner:

On November 3, 2004, Reverend Joseph Nozius Dantica -- devoted father, uncle, and public servant -- died while in U.S. Immigration and Customs Enforcement (ICE) custody. On that day, Reverend Dantica's family, friends, and parishioners suffered a profound loss from which they have yet to recover. Nevertheless, on November 18, 2004, their spirits were buoyed by the announcement that the Office of the Inspector General (OIG) was initiating an investigation into the circumstances surrounding Reverend Dantica's death. Reverend Dantica's loved ones placed their faith in your office's pledge to conduct a thorough investigation that would report the facts regarding Reverend Dantica's inhumane treatment at Krome Service Processing Center (Krome) and Jackson Memorial Hospital (JMH).

After reviewing the findings contained in your *Report of Investigation*, dated March 21, 2005, and your *Response to Recent Press Reports*, dated July 18, 2005, Reverend Dantica's family, friends, and parishioners are deeply saddened that, in far too many instances, the findings in these reports are either based upon alarmingly insufficient evidence or are clearly erroneous.

In particular, we unequivocally object to the following findings contained in OIG's *Report of Investigation* and *Response to Recent Press Reports*:

I. **Errors Contained in the *Report of Investigation***

A. OIG's *Report* is so Vague and Imprecise that it Fails to Address the Critical Question Which Prompted the Investigation

OIG correctly stated that its “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.” (Report p. 1). Nevertheless, for thirteen out of the fifteen pages of *OIG’s Report*, OIG simply regurgitated the testimony of all of the persons contacted during the investigation without any attempt to analyze the evidence or to make findings of fact.

The only conclusion OIG reached in its entire report is that “[t]here was no evidence of mistreatment or malfeasance by any CPB [*sic*] or JMH employees.” (Report p. 2). Even though OIG stated that it was commissioned to investigate whether Reverend Dantica’s death was “the result of any improper actions by *ICE or other personnel*,” it apparently restricted its conclusion to the actions of employees of U.S. Customs and Border Protection (CBP) and JMH. OIG’s language is important, as the majority of employees at Krome are employed by U.S. Immigration and Customs Enforcement (ICE) and not CBP.

The conclusion reached in OIG’s *Report* may only be explained in one of two ways: either the language used in describing those employees under whose care Reverend Dantica was placed was alarmingly imprecise and actually intended to encompass “ICE [and] other personnel,” or OIG’s conclusion deliberately sought to exclude ICE, PHS, KSPC, and other personnel from its finding of no mistreatment or malfeasance. Perhaps OIG’s focus on CBP personnel was simple carelessness (OIG even misspelled CBP as “CPB”) (Report p. 2). Conversely, given the ample record evidence of mistreatment and malfeasance on the part of various DHS employees, it is also possible that OIG knowingly excluded all non-CBP employees from its finding of no malfeasance.

In either case, no reasonable reader of OIG’s *Report* can help but be troubled by OIG’s cavalier response to the mistreatment that Reverend Dantica experienced at the hands of DHS employees prior to his death. By failing to precisely answer the key question it plainly admits it was commissioned to investigate -- whether Reverend Dantica’s death “was the result of any improper actions by ICE or other personnel” -- OIG’s report trivialized the loss suffered by Reverend Dantica’s loved ones and squandered an important opportunity to instill a process whereby DHS employees are required to account for their improper actions.

The remainder of this letter operates under the assumption that OIG intended to include all DHS, KSPC, PHS, and other personnel in its conclusion that “there was no evidence of mistreatment or malfeasance by any CBP or JMH employees.”

B. OIG’s Report Erroneously Concluded that “There was *no* Evidence of Mistreatment or Malfeasance by any CBP Employees.” (Report p. 2)

1. OIG’s Report Ignored Substantial Record Evidence that Several Public Health Service (PHS) Employees Incorrectly and Insensitively Stated that Reverend Dantica was Deliberately not Cooperating with PHS Employees and Suggested that He was Faking His Illness.

Around 9:00 am on November 2, 2004, Reverend Dantica was taken to Krome’s Asylum Office for his “credible fear” interview. (Report p. 1). Shortly after the interview began, the

telephonically contracted interpreter had trouble hearing Reverend Dantica and “asked him to come closer to the phone to improve reception.” (Report Ex. 9) When Reverend Dantica leaned forward he became critically ill and began vomiting severely. *Id.* Despite this unmistakable indicia of severe illness, several PHS employees at Krome accused Reverend Dantica of failing to cooperate with medical staff and, even more distressingly, of faking his own illness. Nevertheless, OIG ignored the plain record evidence before the agency and concluded that there was *no* evidence of mistreatment or malfeasance.

Specifically, OIG ignored testimony from three Krome officials that, even as Reverend Dantica leaned back in his wheelchair nearly unconscious and completely covered in his own vomit, “PHS employees made reference to the fact that Dantica was not being cooperative.” (Report Exs. 10, 15, 16). For example, the physician’s assistant called to respond to Reverend Dantica’s illness “informed Pratt [Reverend Dantica’s attorney] that [s/he] felt that Dantica could have been more cooperative with the PHS response team.” (Report Ex. 16). Pratt, who works at the law firm of Kurzban, Kurzban, Weinger and Tetzeli, himself stated that a PHS employee told him that Reverend Dantica was “not cooperating.” (Report p. 6).

Additionally, Reverend Dantica’s son Maxo testified that a PHS employee informed him “that he felt that Dantica was faking his illness.” (Report p. 7). Maxo’s testimony is confirmed by Reverend Dantica’s Asylum Pre-Screening Officer’s testimony that “PHS employees . . . interacted with Pratt and discussed the *validity and severity* of Dantica’s illness.” (Report Ex. 9).

OIG’s *Report* also failed to give appropriate weight to the critical fact that Reverend Dantica could not respond to PHS employees because “[Reverend] Dantica’s own vomit had rendered [his] electronic voice box inoperable.” (Report p. 6). Only after Reverend Dantica was taken to the PHS Urgent Response Unit did PHS officials finally attempt to clean Reverend Dantica and change his Krome uniform “because it was soiled with vomit.” (Report Ex. 18).

OIG was aware as well that a Security Officer in the Asylum Office had to be asked on two separate occasions to call for help from PHS. (Report p. 5 and Ex. 9). Reverend Dantica’s attorney stated that he and an Asylum Officer “insisted that a medic immediately attend to Reverend Dantica. (Response Ex. 7). After begging security to contact medical assistance, a security officer informed Pratt that “we are on a lockdown,” and a doctor could not be summoned at that time. (Report p. 6 and Ex. 11). Pratt subsequently demanded that a stretcher be brought to move Reverend Dantica to the medical unit because his client “looked almost comatose to me at the time [and] seemed somewhat unconscious and couldn’t move.” (Response Ex. 7).

Rather than assigning appropriate weight to the testimony of four of DHS’ own employees, Mr. Pratt, and Maxo, OIG simply ignored their recollection of the November 2nd events and unequivocally concluded that there was “*no* evidence of mistreatment or malfeasance.” Had OIG chosen to conclude that there was some dispute as to a finding of no mistreatment or malfeasance, one might conclude that OIG made a conscientious judgment in this regard. OIG’s conclusion, however, of no wrongdoing whatsoever, failed to give *any*

credence to the compelling evidence cited above. Accordingly, OIG should vacate this finding as it is clearly erroneous and not based upon the record evidence before the agency.

2. OIG Erroneously Concluded that, When Summoned to Aid his Father to Communicate with PHS Employees, Maxo “was visibly upset and was not cooperating with the PHS employees to provide translation services.” (Report p. 5)

OIG’s conclusion completely ignored the record testimony of PHS employees, Mr. Pratt, and Maxo. (Report p. 7). Krome’s own medical records stated that “when his son arrived he started communicating [with Reverend Dantica] and finally we established communication [with] them.” (Krome Chronological Record of Medical Care – Emergency Note 11/2/04). Additionally, a PHS physician’s assistant testified that “once Osnac (Maxo) arrived, Dantica responded to him and pointed to his stomach as a source of pain.” (Report Ex. 16). Additionally, Pratt told the OIG that Maxo was helpful in trying to assist Reverend Dantica to communicate with PHS employees, but that communication was hindered because Maxo was not allowed to clean the vomit off of his father’s face and, thus, his father’s voice box was rendered non-operational. (Report p. 6, 7) Maxo said that his efforts to communicate with his father were also hindered because his father was unable to hold the voicebox to his larynx. (Report p. 7). Pratt stated that Maxo was escorted out of the Asylum Office because PHS employees said he was not cooperating. (Report Ex. 11). According to Maxo, this was the last time he saw his father. (Report p. 7).

Accusations by officials at Krome that Maxo was “visibly upset” and therefore failed to cooperate also incomprehensibly fail to take into account how traumatic it must have been for Maxo to suddenly see his father listless and utterly helpless, in a wheelchair and “covered in vomit.” (Report pp. 5, 9). This was especially so since PHS officials “would not allow [Maxo] to wash Dantica’s face.” (Report p. 7). Pratt pointed out that “Maxo was upset that [officials] didn’t want him to stay with his father **because he was worried about him.**” (Response Ex. 7). The OIG report itself notes that Maxo said “he pleaded [with authorities] to remain with [Reverend] Dantica.” (Report p. 7).

It is worth noting that Mr. Pratt was the one who insisted that Maxo be summoned to communicate with his father and to provide information about his father’s medical history. (Response Ex. 7). Another Haitian detainee had initially been brought to the Asylum Office to attempt to communicate with Reverend Dantica because Krome Officers hadn’t been able to locate Maxo, who had been attending a Krome program he had signed up for.

By erroneously stating that Maxo did not cooperate with PHS employees to provide translation services, OIG neglected to consider substantial testimony from several eyewitnesses stating otherwise. OIG’s conclusion demeans the value of Maxo’s corroborated testimony and displays an appalling lack of sensitivity to his loss. By concluding that Maxo was not cooperative in aiding DHS officials to save his own father, OIG concluded that Maxo saw his father dying and nonetheless chose not to cooperate. This conclusion, like the conclusion that Reverend Dantica himself seemed uncooperative, unfairly blames the victim. It is not credible and should immediately be retracted by your office.

3. OIG Incorrectly Stated that “Dantica received medical attention in the asylum office and was transferred to the Public Health Service (PHS) unit at [the Krome Service Processing Center] where he was placed under the care of a physician.” (Report p. 1).

This finding squarely conflicts with the testimony of Reverend Dantica’s attorney. Specifically, Mr. Pratt declared that:

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, the medic, officer and/or other detainees brought a stretcher and moved Reverend Dantica from the asylum unit to the medical facility. (Response Ex. 7).

Mr. Pratt is a well-respected immigration attorney who has been practicing in Florida for nearly ten years. As an immigration attorney, it is critical that Mr. Pratt maintain a positive working relationship with DHS as the fate of his clients often depends upon the exercise of discretion by DHS employees. Accordingly, Mr. Pratt has absolutely no incentive to make statements that cast ICE officials in a negative light. Nevertheless, OIG completely ignored Mr. Pratt’s unbiased account of the events surrounding Reverend Dantica’s asylum interview and failed to note the discrepancy as to whether Reverend Dantica received adequate medical attention at the Asylum Office. We request that OIG issue a statement noting this fact.

4. OIG’s Report Concluded that “Dantica’s death was the result of an illness that likely pre-existed his entry into the United States five days earlier.” (Report p. 2). This Conclusion Conflicts with Evidence that Reverend Dantica’s Medical Examination at Krome did not Reveal any Pre-Existing Conditions Associated with Acute and Chronic Pancreatitis.

OIG’s conclusion that Reverend Dantica died from a pre-existing condition of acute and chronic pancreatitis is inconsistent with evidence submitted to OIG during its investigation. Specifically, OIG received a November 4, 2004 memo from a DHS employee stating that, upon Reverend Dantica’s arrival at the Miami International Airport, “I did not see any reason to be concerned about his health. In fact, one of the Officers present when he was being interviewed said he was cheerful and seemed to be joking around.” Reverend Dantica also informed DHS officials at the Miami airport that his health was “not bad.” (Report p. 3).

Further, on October 29, 2004, Reverend Dantica was provided with a medical screening upon admission to Krome. Reverend Dantica’s physical examination form listed him as being in “normal” condition with the exception of having hypertension, arthritis, and an enlarged prostate. The “screening did not indicate that Reverend Dantica was suffering from pancreatitis” or any symptoms commonly associated with pancreatitis. (Report p. 4). Nothing in Reverend Dantica’s medical history as noted by medical officials at Krome indicated that he had ever suffered from

pancreatitis in the past, that he had symptoms suggestive of pancreatitis, such as recurrent abdominal pain, or that his personal habits indicated risk factors for pancreatitis such as excessive alcoholic consumption.

Accordingly, either Krome's physicians and DHS employees failed to detect and diagnose Reverend Dantica's pancreatitis or OIG's report is erroneous. If the former is correct, Reverend Dantica's family are owed an explanation as to whether Krome's physicians should have diagnosed his pancreatitis earlier and whether it was possible to have intervened to prevent Reverend Dantica's death. If the latter is correct, OIG's report must be vacated and amended to correct this erroneous conclusion. Regardless, OIG's failure to address this critical inconsistency in its report has resulted in unnecessary and disheartening confusion with regard to the preventability and cause of Reverend Dantica's death.

5. OIG Cavalierly Concluded that "there was no evidence of mistreatment or malfeasance by any JMH employees" without Conducting a Good-Faith Investigation as to the Veracity of this Conclusion.

By concluding that there was no evidence of mistreatment or malfeasance by any JMH employees, OIG's report ran afoul of its own characterization as to the scope of its investigation. In OIG's *Response to Recent Press Reports*, OIG explicitly stated that "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*." (Response p. 6).

If Mr. Dantica's medical care at JMH was considered "outside the scope" of OIG's review, how can OIG ethically justify its conclusion that there was no evidence of mistreatment or malfeasance by any JMH employees? It is axiomatic that one cannot find evidence of medical wrongdoing if one does not investigate treatment at the site where wrongdoing is alleged to have occurred. Accordingly, OIG must retract its conclusion that there was no evidence of mistreatment or malfeasance by any JMH employees since, by its own admission, it made no good-faith attempt to investigate any mistreatment or malfeasance by JMH employees.

Moreover, because Reverend Dantica was in DHS custody while being treated at JMH, OIG had a duty to investigate the treatment Reverend Dantica received there. As DHS documents make clear, when detainees are taken to outside facilities for medical care, "ICE retains the authority to make administrative decisions affecting the detainee (visitors, movement, authorizing/limiting services, etc)." (Report Ex. 20). Given that JMH served as DHS' agent by treating Reverend Dantica in the emergency room and in Ward D of its facility, OIG was required to conduct a comprehensive investigation as to whether JMH's medical staff could have acted to save Reverend Dantica's life.

Additionally, there is ample evidence that, given Reverend Dantica's symptoms, JMH staff failed to perform appropriate tests upon his admission that would have rapidly detected the alleged cause of his death (Acute and Chronic Pancreatitis) and given JMH physicians an opportunity to save Reverend Dantica's life. If indeed Reverend Dantica suffered from pancreatitis, JMH staff clearly missed this important diagnosis which could have – and should

have – been quickly and easily made. It was the Medical Examiner who made the diagnosis as to the apparent cause of Reverend Dantica’s death.

The overwhelming evidence before the OIG also indicates that no medical staffperson was checking Reverend Dantica’s vital signs on a regular basis, despite the fact that he was admitted to JMH on an emergency basis. Earlier in the day of Reverend Dantica’s death, a DHS guard had advised OIG that Reverend Dantica was “noticeably uncomfortable,” so he notified a nurse and Reverend Dantica’s vital signs were then checked. (Report p. 11). And it was a DHS guard who upon returning from his break noticed that Reverend Dantica was “unresponsive” and immediately notified medical staff of Reverend Dantica’s condition. Unfortunately, JMH attempts at that point to provide emergency resuscitation failed and Reverend Dantica was pronounced dead at 8:46 pm on November 3, 2004. (Report p. 11 and Ex. 22). Rather than constantly monitoring Reverend Dantica’s rapidly deteriorating health in an intensive care setting, DHS and JMH left Reverend Dantica under the watch of a guard who was on a scheduled break during the most critical moments of Reverend Dantica’s hospitalization at JMH.

Rather than conducting a thorough investigation into these incidents, OIG simply concluded that there was no malfeasance at JMH based upon an admitted lack of record evidence to support this conclusion. Therefore, this conclusion must immediately be retracted by the agency.

II. Errors Contained in the Response to Recent Press Reports

A. OIG Erroneously Concluded that “our inquiry did not substantiate reports that ICE officials denied Dantica’s son’s or niece’s requests to visit Dantica, either before or after his death.” (Response p.2).

OIG concluded that visitation was not denied to Reverend Dantica’s family members because “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.” (Response p. 3). This conclusion completely ignores the fundamental fact that no one attempted to visit Reverend Dantica because they were specifically told that they were not allowed to visit him.

According to Mr. Pratt, he “asked Officer Mead if Reverend Dantica’s family could visit him at the hospital. Officer Mead stated that the decision would have to be made by Lt. Morris. Upon speaking to Lt. Morris, [he] was informed that no one could visit Reverend Dantica at the hospital for ‘security reasons,’ not even me, his lawyer.” (Response Ex. 7). Moreover, Pratt stated that he “repeatedly explained that having family members around him would be reassuring for Reverend Dantica, especially if his condition was serious.” *Id.* Nevertheless, he was told that visitation “was not a possibility due to security reasons.” *Id.*

Additionally, during the entirety of November 2, 2004, Mr. Pratt was not even able to confirm that Reverend Dantica was being treated at JMH. He was simply told that Reverend Dantica was being treated in the Miami area and was being held overnight for “observation.” *Id.* Finally, OIG

ignored record evidence that Krome's official policy is that "Friends, family and civilian visitation is not allowed unless authorized by the OIC of Krome SPC." (Report Ex. 6).

Given Mr. Pratt's statement and Krome's clear visitation rules, OIG had no basis for concluding that it could not substantiate reports that Reverend Dantica's relatives were denied visitation during the final stages of his life. Despite Mr. Pratt's unbiased testimony and the testimony given by several of Reverend Dantica's family members -- including his niece Edwidge Danticat -- OIG's report erroneously concluded that Reverend Dantica could have been visited by his family members had they simply chosen to notify hospital officials of their intent to visit.

This conclusion is completely demeaning to the members of Reverend Dantica's family who pleaded for the right to visit him prior to his death, and to his attorney who vigorously fought to secure visitation rights for Reverend Dantica's family. OIG must immediately retract this erroneous conclusion as it is based upon the utterly offensive premise that no relatives sought to visit Reverend Dantica during the final days of his life.

Furthermore, it is both incorrect and demeaning to Reverend Dantica's family that OIG's *Response* suggested that the family was uncooperative with the investigation. (Response p. 4). OIG first attempted to contact Maxo by having an inspector leave his card at his cousin Edwidge Danticat's house in Miami. Edwidge was in New York at the time, attending Reverend Dantica's funeral. When considering the trauma attendant to Maxo's loss, and the necessity of obtaining counsel and a translator to assist him in meeting with OIG, Maxo cooperated as diligently as possible with OIG's investigation. Moreover, Maxo met not once, but twice with OIG officials. The second appointment was scheduled soon after Maxo's return from his uncle's funeral in New York. Additionally, the OIG did not request to meet with Edwidge until late May, 2005. At the time this request was made of Cheryl Little, Edwidge was in New York for her own father's funeral. Shortly upon her return to Miami, on June 5, she met with the OIG.

OIG's conclusion that Maxo refused to provide contact information regarding family members who attempted to visit his father at JMHS is terribly misleading. During his second interview with the OIG, Maxo provided the names of relatives he believed had done so and when asked for their contact information he replied that it was increasingly difficult for his family to discuss his father's death, but that he would do what he could. He then showed OIG officials pictures of his father in Haiti and reiterated how painful it was for him to go forward with his second interview with the OIG. It should also be noted that the OIG says Maxo "refused" to sign a release form so that OIG could get Reverend Dantica's medical records from JMHS. When this request was made, Maxo actually indicated he wanted to so but his attorney advised him to delay giving his permission until other family members were contacted. Soon thereafter, Little provided the OIG with the JMHS records she had only recently received. The family's request that OIG provide them a copy of the Krome medical records which OIG had received was denied on the basis that the OIG did not have the authority to do so.

B. OIG Selectively Concluded that "at no time was Dantica ever chained to a bed, or otherwise physically restrained, while he was a patient at Jackson Memorial

Hospital,” and Ignored Testimony from DHS Employees that Reverend Dantica was Shackled while Inside of the Ambulance on his way to Jackson Memorial Hospital.

In concluding that “at no time was Dantica ever chained to a bed, or otherwise physically restrained, while he was a patient at Jackson Memorial Hospital,” (Response p.2), OIG ignored unequivocal testimony from an Immigration Enforcement Agent that Reverend Dantica, a gravely ill 81-year old man with no criminal history, was “transported to the Jackson Memorial Hospital with . . . *leg restraints*.” (Response Ex. 4). There was no reason for DHS to place leg shackles on a critically ill elderly Reverend posing absolutely no threat to officers or medical personnel.

Moreover, OIG admitted that Reverend Dantica was placed in Ward D at Jackson Memorial Hospital. Ward D houses Miami-Dade County inmates who are serving criminal sentences and KROME’S policies make clear that officers assigned to Krome detainees hospitalized for medical care are required to ensure that “at least one pair of handcuffs and one leg shackle” is available for each detainee. KROME’S policies further state that “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 their use.” (Response p. 2). It is reasonable to infer that Reverend Dantica was restrained during his detention *in* Ward D, given that he was restrained while being transferred *to* Ward D and in light of DHS’ pattern and practice of restraining patients housed in Ward D. OIG must revise its report to include these essential facts. Persons in Reverend Dantica’s position must not be robbed of their basic human dignity during the final moments of their life by being shackled when they pose absolutely no security risk.

C. OIG Incorrectly Found “No Evidence to Suggest that the Medical Care that Dantica Received was Not Timely and Adequate. (Response p. 4).

The OIG states that while at JMH, Dantica “was being actively treated by a physician when he died.” (Response p. 4). In fact, JMH records indicate that Reverend Dantica was not seen by a JMH physician until November 3, 2004, a full 24 hours after his admission, despite his being admitted on an emergency basis. Given Reverend Dantica’s symptoms, an evaluation by an attending physician should have been done shortly after his arrival at JMH. Additionally, Reverend Dantica’s JMH medical records indicate that the history of his illness did not address such important factors as the location of the pain, quality of symptoms or duration of symptoms. The severity of nausea and vomiting also were not noted and there was no repeat of abnormal admission labs. Concerns in this regard are outlined in more detail in Section I (5) of this response, *infra*.

D. OIG Falsely Stated that Reverend Dantica “did not meet the requirements for a humanitarian parole.” (Response p. 5).

OIG’s statement that Reverend Dantica did not meet the requirements for a humanitarian parole is patently false and is not based upon any established principle of immigration law. Ira Kurzban, one of the country’s most prominent immigration law experts, believed that even

before Reverend Dantica was hospitalized, he was eligible for humanitarian parole. Mr. Pratt stated that Mr. Kurzban attempted to secure Reverend Dantica's release on humanitarian parole on November 1, 2004, which was denied by DHS. (Response Ex. 12). By its own admission, DHS could have released Reverend Dantica on parole at this time, without his having to pass an Asylum Office interview, if it had found "exigent medical circumstances." (Response p. 4). Given that Reverend Dantica was an 81-year-old, non-criminal alien who arrived in the United States on a valid travel visa and upon his arrival at Krome was placed in the medical unit, it is disingenuous to claim that Reverend Dantica could not qualify for humanitarian parole. He was housed in Krome's medical unit because upon admission there he was diagnosed as having uncontrolled hypertension, prostate enlargement, and larynx cancer, which made it difficult for him to communicate.

Additionally, an ICE official told the OIG that DHS "never adjudicated Kurzban's request for a humanitarian parole or a credible fear asylum due to Dantica's death while in custody." (Response Ex. 11). However, the Deputy Officer-in-Charge of Removal at Krome indicated that once Reverend Dantica became sick during his credible fear interview, Krome's Officer-in-Charge approved his humanitarian parole. (Response Ex. 8). Pratt also told the OIG that on November 2, 2004 someone from DHS called him on his cell phone to inform him that a decision had been made to release Reverend Dantica on humanitarian parole, without the need to pass an Asylum Office interview, as soon as his condition stabilized. (Response Ex. 7).

Accordingly, OIG must retract its statement that Reverend Dantica was not released on parole because he did not meet the requirements. Reverend Dantica was not released on parole because DHS chose not to release him in a timely manner. OIG's implication that DHS' hands were somehow tied in this matter is not credible. In fact, Reverend Dantica could have been released before ever being taken to Krome. DHS could have admitted him as a tourist, since he arrived with a valid visa, and told him to later decide to apply for asylum. Ironically, had Reverend Dantica not advised CBP officials that he was concerned about returning to Haiti, he would not have been detained. [He was detained at MIA from approximately 3:30 pm on October 29, 2004 until approximately 12:00 pm on October 30, before being taken to Krome].

Most importantly, the OIG report notes that DHS offered Reverend Dantica's attorneys the option to waive the 48 hour delay in scheduling Reverend Dantica's Asylum Office interview and to provide him an expedited "credible fear" interview on November 1, but this offer was declined. (Exh. 11). Pratt, however, informed the OIG that he requested the interview be scheduled for November 1 and that DHS told him it would have to take place on the 2nd (Response Ex. 6). On the morning of November 1, attorney Ira Kurzban also contacted DHS to inquire how he could expedite Reverend Dantica's case (Response Ex. 12).

III. Conclusion

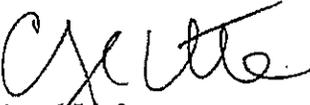
Reverend Dantica's family, friends, and parishioners deserve to be told the truth about what happened to him during November 2004. OIG's *Report* was not a thorough and objective inquiry into the facts of what occurred while Reverend Dantica was in DHS custody. Rather, it was a

cavalierly written report that highlighted evidence casting DHS in a positive light and ignored substantial evidence that Reverend Dantica was mistreated.

The OIG report included a KSPC document, "Detainee Classification System," which notes that "non-criminal aliens and those detainees with minor criminal history must be afforded an environment that is far from harassment and fear." Surely in the case of Reverend Dantica this was not done. The tragic irony is that Reverend Dantica came to the United States in order to save his life and ended up losing it after only about five days in DHS custody. Interestingly, DHS did not immediately request an OIG investigation into Reverend Dantica's death. They told the OIG they did not do so because Reverend Dantica died due to natural causes. (Report p.3). On November 18, 2004 the OIG received a letter from Congressman Kendrick Meek requesting the investigation. *Id.* The investigation was initiated on that date.

It is often said that a society's worth is measured by the way it treats those who cannot look after themselves. If we are ever to become the society that Reverend Dantica dreamed about as he entered the United States, it is incumbent upon OIG to protect the rights of those, like Reverend Dantica, who depended upon DHS to protect their basic human rights and provide basic life-saving medical treatment in their time of need. Accordingly, we respectfully request that OIG reopen its investigation as to the circumstances surrounding Reverend Dantica's unfortunate death while in ICE custody and retract the findings indicated in this letter.

Sincerely,



Cheryl Little
Executive Director

cc: Elizabeth Redman, Assistant Inspector General for Investigations

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