



Office for Civil Rights and Civil Liberties

Summary of CRCL Recommendation Memorandum and CBP's Response *U.S. Citizenship Verification*

On January 30, 2023, U.S Customs and Border Protection (CBP) responded to a recommendation by the Office for Civil Rights and Civil Liberties (CRCL) to provide written guidance to memorialize a procedure to verify U.S. citizenship when an individual in its custody claims to be a U.S. citizen.

Background

In December 2016, CRCL received a complaint regarding a 15-year-old girl apprehended by U.S. Border Patrol (USBP). The minor, who did not possess a passport, claimed to USBP that she was a U.S. citizen. She explained that she was born in the United States and provided USBP a copy of her Social Security card. After two days of custody, USBP was not able to verify her citizenship and transferred her to the custody of U.S. Health and Human Services, Office of Refugee Resettlement, which later verified her U.S. citizenship and released her to family members.

Investigation

CRCL reviewed records related to the minor's USBP custody and interviewed the Supervisory Border Patrol Agent on duty during the time of her processing. CRCL also requested that CBP provide policies and procedures that Border Patrol Agents follow to verify claims of U.S. citizenship. CBP informed CRCL that it did not have any policies or procedures instructing agents on verifying U.S. citizenship status other than instructions to conduct standard database checks when processing any noncitizen. CRCL was concerned with the lack of guidance provided for agents, as it could result in inconsistent citizenship determinations and lead to improper and prolonged custody of U.S. citizens.

Recommendations

On May 1, 2020, CRCL issued a *Recommendation Memorandum* to CBP providing three recommendations related to enhancing CBP's U.S. citizenship verification. On August 13, 2020, CBP non-concurred with all three recommendations. On March 4, 2022, CRCL issued a *Reconsideration Memorandum*, requesting that CBP reconsider its non-concurrences due to CRCL's concerns about potential due process violations and issues with extended custody of U.S. citizens. In response to the reconsideration request, USBP and CRCL met to discuss the recommendations and CBP's procedures for handling claims of U.S. citizenship. On October 5, 2022, CBP emailed CRCL reaffirming its non-concurrences.

Despite the non-concurrence, on January 30, 2023, CBP issued a nationwide memorandum with written guidance for Border Patrol Agents to follow when assessing whether an individual is a U.S. citizen. This action was responsive to CRCL's recommendation to create written guidance for U.S. citizenship verification.

CRCL provides the public with documents related to complaint investigations. After it has been prepared and reviewed, CRCL will post a redacted version of this Recommendation Memorandum on our [website](#) that will contain additional information about the complaint investigation and CRCL's findings and recommendations.

April 24, 2023