



# U.S. Department of Homeland Security

## Office for Civil Rights and Civil Liberties

### Fiscal Year 2022 Annual Report to Congress

*November 17, 2023*



Homeland  
Security

## Foreword

Pursuant to Congressional requirements 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) presents this Fiscal Year (FY) 2022 Annual Report to the following Members of Congress:

**The Honorable Kamala D. Harris**

President of the Senate

**The Honorable Patty Murray**

Chair, U.S. Senate Committee on Appropriations

**The Honorable Susan Collins**

Vice Chair, U.S. Senate Committee on Appropriations

**The Honorable Gary C. Peters**

Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Rand Paul**

Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Mark Warner**

Chairman, U.S. Senate Select Committee on Intelligence

**The Honorable Marco Rubio**

Vice Chairman, U.S. Senate Select Committee on Intelligence

**The Honorable Richard J. Durbin**

Chair, U.S. Senate Committee on the Judiciary

**The Honorable Lindsey Graham**

Ranking Member, U.S. Senate Committee on the Judiciary

**The Honorable Mike Johnson**

Speaker of the House of Representatives

**The Honorable Kay Granger**

Chairwoman, U.S. House of Representatives Committee on Appropriations

**The Honorable Rosa L. DeLauro**

Ranking Member, U.S. House of Representatives Committee on Appropriations

**The Honorable Mark E. Green**

Chairman, U.S. House of Representatives Committee on Homeland Security

**The Honorable Bennie G. Thompson**

Ranking Member, U.S. House of Representatives Committee on Homeland Security

**The Honorable Michael Turner**

Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

**The Honorable Jim Himes**

Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

**The Honorable Jim Jordan**

Chairman, U.S. House of Representatives Committee on the Judiciary

**The Honorable Jerrold Nadler**

Ranking Member, U.S. House of Representatives Committee on the Judiciary

**The Honorable James Comer**

Chairman, U.S. House of Representatives Committee on Oversight and Accountability

**The Honorable Jamie Raskin**

Ranking Member, U.S. House of Representatives Committee on Oversight and Accountability

Please direct inquiries regarding this report to CRCL at 866-644-8360 or [crcl@hq.dhs.gov](mailto:crcl@hq.dhs.gov). This report and other information about CRCL are available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

## Message from Officer Shoba Sivaprasad Wadhia



I am honored to serve as the Department's Officer for Civil Rights and Civil Liberties. In this role, it is a privilege to lead CRCL's dedicated staff and to work with communities across the country to advance the homeland security mission while preserving individual liberty, fairness, and equality under the law.

CRCL's piece of this mission is to ensure that civil rights and civil liberties are not diminished as DHS carries out its programs and activities. In this work, CRCL partners with every DHS entity to protect the Nation while integrating constitutional and civil rights and liberties protections in every aspect of the Department.

I am pleased to present our FY 2022 Annual Report to Congress, which outlines CRCL's priorities and activities focused on supporting the Department's efforts to: prevent terrorism and enhance security; secure and manage our borders; enforce and administer our immigration laws; safeguard and secure cyberspace; and ensure resilience to disasters. This reporting year, considering the evolving COVID-19 global pandemic, we began to transition from virtual operations to hybrid engagements to better serve our partners and stakeholders. I am proud of the resilience of our staff, who continue to maintain an unprecedented level of excellence carrying out our critical civil rights and civil liberties programs and initiatives. Our staff's dedication and work ethic truly embody the DHS mission to safeguard the American people, our homeland, and our values with honor and integrity.

We value feedback from our many stakeholders and partners; if you have questions or comments about our FY 2022 Annual Report, or would like more information about CRCL, please contact us at [CRCL@hq.dhs.gov](mailto:CRCL@hq.dhs.gov) or visit our website at [www.dhs.gov/CRCL](http://www.dhs.gov/CRCL) for more information.

Respectfully submitted,

Shoba Sivaprasad Wadhia  
Officer for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security



## Executive Summary

Created by the Homeland Security Act of 2002, CRCL has a statutory mission “to ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland.” CRCL resides within the Office of the Secretary and provides proactive policy advice to the Secretary and other leaders across the Department to integrate civil rights and civil liberties protections into all DHS activities.

As an office of more than 100 people, in a Department with over 260,000 employees, CRCL supports DHS as it secures the Nation while preserving individual liberty, fairness, and equality under the law. Every day, CRCL staff administer the Department’s diversity and equal employment opportunity programs; receive and investigate complaints from the public; and participate in policy creation, oversight, and outreach to individuals and communities impacted by the DHS policies, programs, and activities.

In response to Congressional requirements, this Annual Report details CRCL’s priorities and activities in FY 2022 covering the period from October 1, 2021, through September 30, 2022. Significant updates to content that postdate this period will be provided in subsequent Annual Reports. A few of our key accomplishments, listed below, are described in further detail throughout this Report:

- ***Intelligence Product Review and Training:*** Since FY 2009, CRCL has worked with the DHS Office of Intelligence and Analysis (I&A) to review classified and unclassified intelligence products. CRCL’s product review function is an ongoing real-time operational service for the Department, requiring 365-day per year response to requests for review of intelligence products drafted to respond to immediate threats and planned intelligence requirements. CRCL worked to ensure intelligence delivered to state, local, Tribal, and territorial partners, on topics ranging from domestic terrorism to malign foreign interference, was appropriately sensitive to and protective of civil rights and civil liberties. CRCL reviewed approximately 800 unclassified finished intelligence products in FY 2022. In FY 2022, CRCL also developed and administered CRCL 101 trainings to provide personnel onboarding to I&A with a better understanding of CRCL’s mission activities and the CRCL Principles.
- ***Conditions of Detention:*** CRCL worked with U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) to design and implement policies, procedures, and trainings to protect the civil and human rights of individuals in DHS custody. CRCL has significant expertise and knowledge of ICE’s and CBP’s detention policies and Department regulations under the 2003 Prison Rape Elimination Act (PREA), which includes requirements for ICE and CBP related to the prevention, detection, and response to sexual abuse and assault while in DHS custody. Based on these regulatory requirements, CRCL performed ongoing reviews of ICE and CBP responses to allegations that could give rise to PREA concerns. CRCL also delivered training sessions for contract auditors who conduct sexual abuse prevention audits required under PREA. CRCL also engaged with CBP, ICE, U.S. Citizenship and

Immigration Services (USCIS), DHS facilities, and other organizations about design plans for joint processing centers to process noncitizens encountered by CBP. CRCL worked to ensure design plans adhered to applicable civil rights and civil liberties standards, such as adequate outdoor recreation space, appropriate accommodations for families and children, access to counsel, and language access.

- ***Faith-Based Community Engagement:*** CRCL worked to address challenges faced by faith-based communities in FY 2022, hosting engagements in response to increased threats and targeted violence. In January 2022, CRCL activated the Incident Community Coordination Team (ICCT) national conference call following the hostage incident at Congregation Beth Israel in Colleyville, Texas (see more detailed information in the Community Engagement section below). In April 2022, Secretary Alejandro Mayorkas participated in a Ramadan engagement co-hosted by CRCL and the Dar Alnoor Islamic Community Center in Manassas, Virginia. The event was the first in-person engagement hosted by CRCL since the COVID-19 pandemic. CRCL partnered with Dar Alnoor due to their instrumental role in supporting Operation Allies Welcome (OAW) and their ongoing support for local Afghan resettlement efforts. Secretary Mayorkas affirmed his commitment to address all allegations of racial and religious profiling by DHS personnel, shared updates on the Department’s ongoing efforts to advance equity for underserved communities, and highlighted increased funding for the FY 2023 Non-Profit Security Grant Program to protect houses of worship and other non-profits. In addition to these focused events, CRCL continued to engage with diverse faith leaders throughout the year to share information on DHS protection resources and discuss concerns.
- ***DHS Civil Rights Evaluation Tool:*** In FY 2022, CRCL and the Federal Emergency Management Agency (FEMA) staff continued to review and provide feedback on DHS grantees’ submission of the DHS Civil Rights Evaluation Tool, which provides technical assistance to grantees on understanding and meeting civil rights requirements. Recipients are required to complete and submit the tool within 30 days of receipt of their notice of award. The tool reports on multiple areas, including:
  - Complaints or lawsuits alleging discrimination on the basis of race, color, national origin, sex, age, disability, religion, or alleging retaliation; and whether staff has been designated to carry out compliance with civil rights laws; and
  - Whether an appropriate nondiscrimination policy and complaints process is in place for public-facing programs and services; and whether there are policies and procedures to ensure nondiscrimination for persons with disabilities and meaningful access to programs and services for individuals with limited English proficiency (LEP).

CRCL also conducted monthly civil rights webinars to educate grantees on the tool requirement, disseminated a quarterly civil rights resources email to grantees, released updated FAQs on the tool, and released an updated sample to assist grantees in developing or improving their own public-facing nondiscrimination notice and policy statement. In September, CRCL delivered a series of targeted training events for grantees on service animals and Section 504 of the Rehabilitation Act, and improving access to public websites for LEP individuals.

- DHS Gender Policy Working Group:*** CRCL led the DHS Gender Policy Working Group to implement Executive Order 14020, *Establishment of the White House Gender Policy Council*. Through this effort, the working group developed the *DHS Agency Action Plan* which outlined key strategic priorities of the *National Strategy on Gender Equity and Equality*, primarily focusing on implementing DHS gender initiatives to address two of the Strategy's priorities, *Eliminate Gender-Based Violence* and *Promote Gender Equity and Fairness in Immigration and Justice Systems*. The working group also coordinated a Department-wide response to the *U.S. National Plan to End Gender-Based Violence: Strategies for Action*, which detailed all related policies, programs, and activities and identified DHS representation on three of seven Gender Policy Council working groups to support development of the plan, to include the *Trauma-Informed Support, Responsive and Accountable Legal and Justice Systems*, and *Emergency Preparedness and Crisis Response* working groups. As co-chairs of the Council for Combating Gender-Based Violence, CRCL reviewed the document and provided comments and suggested edits also contributing to the revised *United States Strategy to Prevent and Respond to Gender-Based Violence Globally 2022*.
- United Nations Committee on the Elimination of Racial Discrimination:*** In August 2022, then-CRCL Senior Official Peter Mina, along with CBP and ICE senior leaders, represented DHS as part of the U.S. delegation to the United Nations Committee on the Elimination of Racial Discrimination (CERD) in Geneva, Switzerland. In Geneva, the U.S. delegation presented its comprehensive 2021 report—which combined the tenth, eleventh, and twelfth periodic reports—on implementation of obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, a core international human rights treaty that requires State Parties to pursue policies that eliminate and prohibit racial discrimination in the areas of voting rights, housing, employment, medical care, and education. Senior Official Mina gave the opening statement on behalf of DHS, noting Department efforts to pursue equality and equity in its work. Prior to the presentation, the U.S. delegation participated in a civil society consultation in Geneva, hosted by the U.S. Department of State. The U.S. also held a series of four virtual consultations with civil society groups and reviewed detailed reports submitted to the CERD Committee. CRCL leads on complying with the Department's human rights treaty reporting obligations under Executive Order 13107, *Implementation of Human Rights Treaties*. The U.S. takes human rights and its treaty obligations seriously and intends to take the CERD Committee's observations and recommendations into consideration in its ongoing work to combat racial discrimination.
- Engagement with Historically Black Colleges and Universities (HBCUs):*** CRCL, in collaboration with FEMA, continued its work with the HBCU Emergency Management Workforce Consortium to increase participation of HBCUs in DHS-sponsored programs and activities, such as integrating FEMA's Emergency Management Institute curriculum into that of HBCUs and establishing Community Emergency Response teams on HBCU campuses. CRCL also led Department participation in the White House Initiative on HBCU's 2022 National HBCU Week Conference. CRCL coordinated a conference session and panel focused on the effects of recent bomb threats at HBCUs and the anxiety felt across these campuses, along with efforts to secure mental health services and

protection resources for HBCU students, faculty, and staff. CRCL also partnered with the DHS Office for State and Local Law Enforcement (OSLLE), the White House Initiative, and Louisiana State University to develop and deliver an in-depth training course on prevention, response, and recovery for campus emergencies. This training was customized to address the bomb threats at HBCUs and other active threat scenarios. The five regional training events were delivered at host HBCUs across the country. Participants included state, local, and campus law enforcement from more than 60 different HBCUs and supporting law enforcement agencies.

- ***Compliance with Language Access Legal and Policy Requirements:*** In FY 2022, CRCL and DHS Components took additional steps to strengthen access to DHS programs and activities for LEP individuals. Pursuant to Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency*, CRCL consulted with Components without language access plans to draft plans in consultation with CRCL by the end of FY 2022. CRCL also requested Components with existing language access plans review and update their plans to include details on implementation, steps to ensure policies and practices consider the needs of Indigenous and rare language speakers, and mechanisms to augment language capacity in a surge or sudden change in demographics of the LEP population served or encountered. CRCL also convened a subcommittee of the DHS Language Access Working Group to strengthen access for Indigenous migrants in DHS programs. CRCL and subcommittee members solicited individual input from Indigenous migrant leaders on effective practices for their communities. CRCL continued to provide guidance and support across the Department on meaningful access to LEP persons in public messaging for the National Terrorism Advisory System, and equal access and limits to immigration enforcement in emergencies.
- ***Case Management Pilot Program***  
CRCL played a key role in coordinating the Case Management Pilot Program (CMPP). This Congressionally created program will provide case management and other services to individuals enrolled in ICE's Alternatives to Detention program. The program is managed and overseen by a national board of qualified non-governmental organizations and chaired by the CRCL Officer. CRCL assisted in developing criteria for National Board membership, developing National Board governing policies, and facilitating outreach to potential CMPP local service providers. Additionally, in June 2022, CRCL developed the Notice of Funding Opportunity for the program, outlining key programmatic elements, goals, and performance measures. CRCL also worked across the Department to identify and leverage internal and external evaluation resources to develop and design process and outcome program evaluation plans.





# **DHS Office for Civil Rights and Civil Liberties FY 2022 Annual Report to Congress**

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# I. Legislative Language

## **6 U.S.C. § 345. Establishment of Officer for Civil Rights and Civil Liberties.**

*Homeland Security Act of 2002* (HSA), Pub. L. No. 107-296, § 705, 116 Stat. 2135, 2219-20, *as amended by the Intelligence Reform and Terrorism Prevention Act of 2004*, Pub. L. No. 108-458, 8303, 118 Stat. 3638, 3867 (amending § 705(a) of the HSA).

(a) In general. The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—

- (1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;
- (2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer;
- (3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;
- (4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;
- (5) coordinate with the Privacy Officer to ensure that—
  - (A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and
  - (B) Congress receives appropriate reports regarding such programs, policies, and procedures; and
- (6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.

### **(b) Report**

The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) of this section and any actions taken by the Department in response to such allegations.

## **42 U.S.C. § 2000ee-1. Privacy and Civil Liberties Officers.**

*Implementing Recommendations of the 9/11 Commission Act of 2007*, Pub. L. No. 110-53, § 803, 121 Stat. 266, 360-362 (amending § 1062 of the National Security Intelligence Reform

Act of 2004, Pub. L. No. 108-458, 118 Stat. 3688), as amended by the *Intelligence Authorization Act for Fiscal Year 2014*, Pub. L. No. 113-126, title III, § 329(b)(4), 128 Stat. 1390, 1406.

**(a) Designation and functions**

... [T]he Secretary of Homeland Security... shall designate not less than one senior officer to serve as the principal advisor to—

- (1)** assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;
- (2)** periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;
- (3)** ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and
- (4)** in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—
  - (A)** that the need for the power is balanced with the need to protect privacy and civil liberties;
  - (B)** that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and
  - (C)** that there are adequate guidelines and oversight to properly confine its use.

**(b) Exception to designation authority**

...

**(2) Civil liberties officers**

In any department, agency, or element referred to in subsection (a) [of this section]...which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) of this section with respect to civil liberties.

**(c) Supervision and coordination**

Each privacy officer and civil liberties officer described in subsection (a) or (b) of this section shall—

- (1)** report to the head of the department...; and
- (2)** coordinate their activities with the Inspector General of such department...to avoid duplication of effort.

**(d) Agency cooperation**

The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—



- (1) has the information, material, and resources necessary to fulfill the functions of such officer;
- (2) is advised of proposed policy changes;
- (3) is consulted by decision makers; and
- (4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

...

**(f) Periodic reports**

**(1) In general**

The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) of this section shall periodically, but not less than semiannually, submit a report on the activities of such officers—

**(A) (i)** to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

**(ii)** to the head of such department, agency, or element; and

**(iii)** to the Privacy and Civil Liberties Oversight Board; and

**(B)** which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

**(2) Contents**

Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

**(A)** information on the number and types of reviews undertaken;

**(B)** the type of advice provided, and the response given to such advice;

**(C)** the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

**(D)** a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

**(g) Informing the public**

Each privacy officer and civil liberties officer shall—

**(1)** make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

**(h) Savings clause**

Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

## II. Background

### A. Mission

The Office for Civil Rights and Civil Liberties supports the Department of Homeland Security as it secures the Nation while preserving individual liberty, fairness, and equality under the law.

CRCL integrates civil rights and civil liberties into all of the Department's activities by:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners;
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns;
- Investigating civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and
- Leading the Department's equal employment opportunity (EEO) programs and promoting workforce diversity and merit system principles.

### B. Authorities

Authorities under which CRCL supports the Department are embodied in a variety of legal sources, including statutes passed by Congress, regulations issued by the Department, Executive Orders signed by the President, and delegations and directives issued by the Secretary of Homeland Security. Some of those authorities are listed in Appendix A of this Report, and others are posted at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### C. Leadership

**Shoba Sivaprasad Wadhia** joined the Department as the Officer for Civil Rights and Civil Liberties in April 2023. Prior to joining DHS, Wadhia was the associate dean for diversity, equity, and inclusion; the Samuel Weiss Faculty Scholar; and clinical professor of law at Penn State Law at University Park. Her research focuses on the role of prosecutorial discretion in immigration law and the intersections of race, national security, and immigration. Her work has been published in numerous law journals and cited by several federal circuit courts.

Ms. Sivaprasad Wadhia also previously served as deputy director for legal affairs at the National Immigration Forum, where she provided legal and policy expertise on multiple legislative efforts, including forming the Department of Homeland Security. Wadhia was an associate with an immigration law firm, where she represented individuals and families on a wide range of immigration matters. She received numerous awards including the 2019 Elmer Fried Excellence in Teaching Award by the American Immigration Lawyers Association and most recently, the 2023 W. LaMarr Kopp International Faculty Achievement Award from Penn State University. Ms. Sivaprasad Wadhia was elected to the American Law Institute in 2021. She holds a Juris

Doctor from Georgetown University Law Center and a Bachelor of Arts degree from Indiana University Bloomington. Read her full bio here: [Shoba Sivaprasad Wadhia](#).

During the FY 2022 reporting period (from January 2022 to April 2023), **Peter Mina** served as the Senior Official Performing the Duties of the Officer for Civil Rights and Civil Liberties (while the CRCL Officer, Ms. Culliton-González, was on detail). Prior to this, and during the reporting period, Mr. Mina also served as Deputy Officer for CRCL's Programs and Compliance Division. Before joining CRCL, Mr. Mina served as Chief of the Labor and Employment Law Division in the Office of the Principal Legal Advisor for ICE. Before entering federal service with ICE in 2011, Mr. Mina spent nearly six years in private practice representing federal employees in disciplinary actions, EEO complaints, and claims of whistleblower reprisal. Mr. Mina has experience practicing before the U.S. Equal Employment Opportunity Commission (EEOC), Merit Systems Protection Board, and in federal courts. In addition, he has published articles on whistleblower law and the rights of federal contractors. Mr. Mina holds a B.A. degree from the University of Virginia and a J.D. degree from Boston College Law School.

From January 2021 to September 2022, **Katherine Culliton-González** served the Department as the Officer for Civil Rights and Civil Liberties. Ms. Culliton-González is a nationally recognized expert on civil rights in the context of changing demographics. Prior to her appointment, she served as chair of the Civil Rights Committee of the Hispanic National Bar Association. Ms. Culliton-González graduated as valedictorian of her law class at American University and was a Fulbright Scholar, where she taught human rights law in Spanish in Chile during their transition to democracy.

**Veronica Venture** serves as Deputy Officer for Civil Rights and Civil Liberties and the Director for Equal Employment Opportunity and Diversity at the Department. She brings significant expertise on the federal EEO process and diversity initiatives to DHS—particularly as it relates to law enforcement, having served as EEO Director for the Federal Bureau of Investigation for nine years before joining DHS. Ms. Venture began her career with the EEOC where she held positions as trial attorney, administrative judge, acting director for the San Diego Field Office, special assistant to the Chair, and finally, as EEO Director. Ms. Venture holds a B.A. degree from Connecticut College and a J.D. degree from the Washington College of Law at American University.

## D. Organization

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the Officer for Civil Rights and Civil Liberties reports directly to the Secretary. The Officer is supported by two deputies: the Deputy Officer for Programs and Compliance and a Deputy Officer for EEO and Diversity. CRCL's staff is organized into the Programs and Compliance Division (further subdivided into two Branches, one for Programs and one for Compliance); the EEO and Diversity Division; and the Office of Accessible Systems and Technology, a joint endeavor with the DHS Office of the Chief Information Officer.

At the close of FY 2022, CRCL employed 122 full-time employees and 17 contractors. Table 1 details CRCL's operating budget and staff for the past five fiscal years.



**Table 1: CRCL Operating Budget and Staffing, FY 2018–FY 2022**

<b>Fiscal Year</b>	<b>Operating Budget<sup>1</sup></b>	<b>Federal Staff</b>	<b>Contract Staff</b>
2018	\$23,421,000	89	12
2019	\$25,312,000	91	15
2020	\$28,824,000	93	18
2021	\$33,505,000	103	16
2022	\$42,160,000	122	17

The following pages provide an overview of major accomplishments in FY 2022, followed by detailed information about each CRCL functional unit’s activities during the year.

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<sup>1</sup> Operating budget totals are based on the enacted, or revised enacted (where applicable), appropriated funding levels and payroll reimbursement funding from other government entities.

## III. Programs Branch: Policy Advice, Training, and Outreach

The Programs Branch provides policy advice to the Department on civil rights and civil liberties issues, conducts training of DHS personnel and state and local law enforcement partners, and coordinates engagement with communities whose civil rights and civil liberties are affected by DHS programs.

The Programs Branch is comprised of four sections:

1. Security, Intelligence, and Information Policy
2. Antidiscrimination Group
3. Community Engagement
4. Immigration

The following pages discuss the structure of these sections and accomplishments in FY 2022.

### A. Security, Intelligence, and Information Policy Section

The Security, Intelligence, and Information Policy Section (SIIP) provides guidance and oversight designed to preserve civil rights and civil liberties during execution of homeland security programs and activities. SIIP works with DHS Components and offices to ensure appropriate protections and safeguards are incorporated into the Department's screening and vetting programs, information sharing and safeguarding activities, cybersecurity efforts, security technologies, law enforcement policies and practices, and intelligence programs and products.

#### Accomplishments in FY 2022

##### *National Vetting Center*

The National Vetting Center (NVC) is a collaborative interagency effort, based on White House Executive Orders and National Security Presidential Memorandum 9, to provide a clearer picture of threats to national security, border security, homeland security, or public safety that may be posed by individuals seeking to transit our borders or exploit our immigration system. The NVC strengthens, simplifies, and streamlines the complex way intelligence, law enforcement, and other information is used to inform operational decisions. The NVC enables departments and agencies to contribute their unique information, while ensuring compliance with applicable laws and policies and maintaining robust privacy, civil rights, and civil liberties protections.

The CRCL Officer serves as co-chair of the Privacy, Civil Rights, and Civil Liberties Working Group of the National Vetting Governance Board, leading efforts to integrate civil rights and civil liberties safeguards into both operational and proposed NVC program activities.

In FY 2022, CRCL contributed to a significant increase in the NVC's sponsored vetting support programs, expanding from the Electronic System for Travel Authorization Vetting Program to

include two new permanent vetting programs—the United States Refugee Admissions Program (USRAP) and the Non-Immigrant Visa vetting programs—and two exigent vetting programs—Operation Allies Refuge and Uniting for Ukraine vetting programs in support of humanitarian crises in Afghanistan and Ukraine. Both exigent vetting initiatives demanded timely development and implementation of oversight and compliance documentation to safeguard vulnerable populations. In the case of Operation Allies Refuge, program extensions were required to enable recurrent vetting of parolees as part of Operation Allies Welcome. For each new vetting program, CRCL provided constructive civil rights and civil liberties advice in its review of vetting program proposals, concepts of operations, vetting support proposals, and in support of privacy risk assessment documents (e.g., privacy threshold analysis and privacy impact assessment addenda).

CRCL monitored all NVC vetting program activities in FY 2022. In addition to its ongoing reviews of the NVC’s internal compliance reviews for each vetting program, CRCL reviewed several vetting activities embedded in NVC vetting programs. This includes a National Security Council-led proposal to incorporate pre-travel vetting of Afghan nationals into the USRAP vetting process and use of advanced travel authorization vetting for Ukrainian nationals requesting authorization to travel to the U.S. to seek a discretionary grant of parole. CRCL continues to monitor Uniting for Ukraine’s use of travel authorization vetting and proposals to expand vetting to other populations. CRCL also regularly coordinated on civil rights and civil liberties issues with the NVC’s privacy and civil liberties officer, other DHS Components and offices, and other Federal vetting support agencies, and led the proposal for community engagements before deployment of the USRAP vetting program.

In FY 2022, CRCL also participated in deep-dive discussions of the USCIS Asylum Program vetting proposal, a NVC vetting program that was delayed as a result of the prioritization of refugee and exigent vetting initiatives in FY 2021. CRCL recognizes the unique characteristics of asylum vetting which it will consider when reviewing the forthcoming risk assessment documents in FY 2023.

### ***Support, Communication, and Collaboration the National Network of Fusion Centers***

State and major urban area fusion centers serve as focal points for the receipt, analysis, gathering, and sharing of threat-related information among the Federal Government and state, local, tribal, territorial, and private sector partners. CRCL leads the collaborative effort among the DHS I&A and the DHS Privacy Office (PRIV) to provide civil rights, civil liberties, privacy training, and related technical support and resources to personnel at these centers, in fulfillment of the Department’s obligation under the Implementing Recommendations of the 9/11 Commission Act of 2007.

In FY 2022, SIIP and the Privacy/Civil Rights and Civil Liberties Sub-Committee of the National Fusion Center Association rolled out the new Fusion Center Civil Liberties and Privacy Officers Community of Interest for fusion center civil liberties and privacy officers, located on the Homeland Security Information Network. This community of interest facilitates open communication, collaboration, information, and material sharing among fusion center personnel by providing model policies, training material, best practices, and advice pertaining to privacy,

civil rights, and civil liberties protections and practices. This effort assists the Department in meeting statutory requirements to provide this information to fusion center personnel.

CRCL continues to interact regularly with fusion center personnel from across the country to further the Department's mission. During FY 2022, SIIP continued to attend and assist in the facilitation of bi-weekly meetings between CRCL, DHS PRIV, and the National Fusion Center Association's Privacy and Civil Rights/Civil Liberties Sub-Committee. Additionally, SIIP assisted fusion center civil liberties and privacy officers with requests for information, materials, and subject matter expert guidance from DHS Components and Offices relevant to privacy and civil liberty issues.

### ***Countering Terrorism and Targeted Violence***

CRCL was at the forefront of crafting solutions to complex issues involved in meeting the Department's renewed emphasis on combating domestic terrorism. Much of this work was initiative-specific and detail oriented as DHS implemented the Department's *Strategic Framework for Countering Terrorism and Targeted Violence* and the *National Strategy for Countering Domestic Terrorism* (June 2021).

CRCL conducted an extensive review of terrorism and targeted violence prevention projects, materials, training, grant funding, and external messaging. Through direct interaction with the DHS Center for Prevention Programs and Partnerships (CP3) and department working groups, such as the Counterterrorism and Targeted Violence Action Group, CRCL routinely contributed to public-facing efforts in the Domestic Violent Extremism (DVE) mission space.

### ***Information Sharing***

CRCL supports the Department's commitment to sharing timely, accurate, and complete information internally and externally with federal, state, local, tribal, territorial, private sector, and international partners ensuring information sharing agreements further DHS's core mission of securing the homeland while also preserving civil rights and civil liberties. In FY 2022, CRCL actively worked through the Data Access Review Council to incorporate civil rights and civil liberties protections into the Department's information sharing and safeguarding policies, agreements, and programs. As a member of the Council, CRCL drafted and negotiated appropriate safeguards for interagency information sharing agreements involving bulk data transfers of personally identifiable information, U.S. person information, and confidential and special protected class information, such as refugee/asylee and Section 1367 data. Through the Council, CRCL helped update the overarching memorandum of agreement for all data shared between DHS and the National Counterterrorism Center and began updating the agreement's addenda that establishes use cases for each data element. Using the agreement as a template, in FY 2022 the Council began discussions with other agencies to update their respective information sharing agreements. CRCL also continued to establish letters of intent to enable information sharing to assist Intelligence Community partners and exigent vetting activities.

CRCL also reviewed computer matching agreements as a member of the Data Integrity Board. CRCL removed dehumanizing terms in the immigration mission space from DHS agreements.



### ***Nationwide Suspicious Activity Reporting Initiative***

CRCL continued its oversight activities with the Nationwide Suspicious Activity Reporting Initiative. In FY 2022, SIIP supported development of the National Threat Evaluation and Reporting Program Master Trainer Program, Threat Evaluation and Reporting Course, and Threat Evaluation and Reporting Overview. This program built upon the initiative to assist state, local, tribal, and territorial partners to recognize, evaluate, assess, and share threat/suspicious behavior information received within their areas of responsibility that is indicative of individual(s) planning targeted violence or a mass attack. SIIP ensured CRCL equities were appropriately captured in multiple training materials and bulletins. Other work in this area included ensuring the Department's updated "See Something Say Something" campaign material mitigated potential civil rights concerns and continued support of the Department's Soft Target – Crowded Places Executive Steering Committee addressing safety for schools, places of worship, and other venues.

### ***Insider Threat Program Oversight***

CRCL participates in the Department's Insider Threat Oversight Group, ensuring activities designed to detect and prevent insider threats comply with Department policy and do not constitute retaliation against whistleblowers or others who have filed employee grievances or EEO complaints. In FY 2022, CRCL continued its oversight activities under Department directives, reviewing and approving use of new tools and techniques by the Insider Threat Program and assisting with its planned operational expansion to cover the entire DHS workforce and additional mission areas, such as workplace violence and DVE. As part of these expansion efforts, the Insider Threat Oversight Group set the groundwork for the build out of DHS Component oversight groups. CRCL also worked with the Insider Threat Program on the first holistic compliance review of the DHS Insider Threat Operations Center. CRCL also continued oversight and participation in a Departmental wide Domestic Violent Extremism Internal Review Implementation Working Group to ensure that CRCL equities were appropriately addressed in Departmental process to assess and address DVE threats to the Department. This working group is tasked with implementing the 15 recommendations from the March 11, 2022 *Report to the Secretary of Homeland Security Domestic Violent Extremism Internal Review*, which reflect the Working Group's collective findings and represent a combination of short- and long-term opportunities that would enhance the Department's ability to prevent, detect, and respond to violent extremist activity or behaviors that may be indicators of domestic violent extremism.

### ***Automated Targeting System Rules***

CRCL, in coordination with DHS PRIV and the DHS Office of the General Counsel (OGC), continued to conduct quarterly reviews of CBP's and the Transportation Security Administration's (TSA) risk-based targeting rules run by the Automated Targeting System to ensure civil rights, civil liberties, and privacy protections are in place. The system is an intranet-based decision support tool to improve collection, use, analysis, and dissemination of information used to facilitate legitimate trade and travel while managing shared threats to the homeland posed by individuals and cargo requiring additional scrutiny prior to entering or exiting the U.S. These reviews are conducted pursuant to the Federal Aviation Administration Reauthorization Act of 2018, Public Law 115-254.

### ***Watchlisting Guidance***

CRCL is an active participant in terrorist watchlisting governance and provides civil rights and civil liberties-focused expertise in interagency discussion on watchlisting activities, including during periodic review of Watchlisting Guidance, which provides an overall framework for interagency watchlisting and screening processes. In FY 2022, CRCL participated in multiple meetings and discussions to finalize Watchlisting Guidance document updates.

In addition, CRCL supports the Federal Government's ongoing development of policies and procedures for transnational organized crime watchlisting. In FY 2022, CRCL continued working with DHS and interagency partners to revise the concept of operations to include robust civil rights and civil liberties protections. These efforts included exploring nominations and handling guidance for Special Protected Classes and ensuring a robust and effective redress process. CRCL worked with DHS and interagency partners to build an archival transition period for records affected by policy or guidance changes. This transition process allowed for records enhancement or removal, resulting in greater quality controls. CRCL ensured civil rights and civil liberties protections were at the forefront of the pilot program's updated concept of operations.

### ***Unmanned Aircraft Systems***

CRCL continued to serve as a member of the Counter-Unmanned Aircraft Systems (UAS) Executive Steering Committee, which oversees the Department's implementation of its counter-UAS authorities. In FY 2022, CRCL participated in multiple briefings and engagements related to the White House's Domestic Counter Unmanned Aircraft Systems National Action Plan. Separately, CRCL and DHS PRIV conducted reviews of UAS policies and procedures of State, local, and tribal FEMA grant applicants for purchase of UAS technology to ensure compliance with the 2015 Presidential Memorandum, Promoting Economic Competitiveness While Safeguarding Privacy, Civil Rights, and Civil Liberties in Domestic Use of Unmanned Aircraft Systems. DHS remains engaged with interagency partners to ensure UAS and counter-UAS activities and operations are conducted in a manner consistent with Constitutional and civil rights protections and Departmental policies regarding use of individual characteristics.

### ***Biometrics***

CRCL remains engaged in the Department's uses of biometrics to ensure related policies incorporate and protect civil rights and civil liberties. CRCL's efforts include review of use of face recognition technologies and incorporation of body-worn cameras, consistent with Section 13 of Executive Order 14074 *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* to advance effective policing and enhance public safety.

### ***Artificial Intelligence***

CRCL engaged in interagency artificial intelligence policy development and was actively working within the Department to ensure effective implementation of safeguards outlined in Executive Order 13960, *Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government*. CRCL also participated in the Equity and Artificial Intelligence sub-Interagency Policy Council, working on development of a Blueprint for an Artificial Intelligence Bill of Rights published by the White House Office of Science and Technology Policy. The Blueprint

provides for use of both well-tested and novel ways to protect individual rights where artificial intelligence effects individuals.

## **B. Antidiscrimination Group**

The Antidiscrimination Group (ADG) engages in policy and compliance work to ensure fair and equitable treatment of individuals and guards against discrimination based on race, color, national origin (including language proficiency), disability, sex (including sexual orientation and gender identity), age, and religion in DHS programs and activities. ADG's work includes:

- Providing technical assistance to DHS Components and recipients of DHS financial assistance on meeting their obligations under federal civil rights laws;
- Coordinating with federal partners, including reporting to and collaborating with the U.S. Department of Justice's (DOJ) Civil Rights Division pursuant to Executive Order 12250, *Leadership and Coordination of Nondiscrimination Laws*, to ensure consistent and robust implementation of these laws; and
- Engaging with community stakeholders, especially in connection with disasters, to ensure protection of individuals with disabilities, diverse racial and ethnic communities, and individuals with LEP.

## **Accomplishments in FY 2022**

### ***Compliance with Disability Access Legal and Policy Requirements***

In FY 2022, CRCL convened four quarterly meetings of the DHS Disability Access working group to exchange best practices and advance implementation of DHS Directive 065-01, *Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment)* and compliance with Section 504 of the Rehabilitation Act. Between working group meetings, CRCL provided technical assistance to Components on a variety of topics, including guidance on DOJ's review of draft civil rights policies under Executive Order 12250, *Coordination of Grant-Related Civil Rights Statutes*. CRCL developed and delivered virtual disability access training for DHS Components and grantees on service animal policy under federal law. CRCL provided technical assistance to FEMA's National Exercise Division on inclusive exercise planning for individuals with disabilities and represented DHS in deliberations of the President's Committee on People with Intellectual Disabilities. CRCL also regularly engaged with disability organizations to learn about and address concerns about civil rights compliance in response to COVID-19, natural disasters, and other emergencies. Lastly, CRCL coordinated with interagency partners to support the needs of Afghan evacuees with disabilities in connection with Operation Allies Welcome.

### ***Environmental Justice and Climate Action***

In FY 2022, CRCL co-led efforts with the DHS Office of Chief Readiness Support Officer to implement the DHS Environmental Justice Strategy for Fiscal Years 2021-2025. The new strategy reflects the Department's renewed commitment to upholding the principles of environmental justice and established new goals and objectives to support resilient communities, including strengthening outreach to communities and stakeholders through public engagement. As part of these efforts, CRCL ensured environmental justice and gender and racial equity

principles and priorities were integrated and addressed in the DHS Strategic Framework for Addressing Climate Change and the DHS Climate Action Plan. CRCL also represented the Department at the National Environmental Justice Conference in October 2021 and March 2022, presenting on the Department's civil rights responsibilities and efforts related to advancing environmental justice in DHS federally-assisted programs. Lastly, CRCL continued to address civil rights complaints alleging discrimination in DHS federally-assisted programs, including those that affect human health or the environment.

### ***U.S. Interagency Council on Homelessness***

During FY 2022, CRCL represented DHS on the U.S. Interagency Council on Homelessness. ADG's work included coordinating the Department's review of the draft Federal Strategic Plan to Prevent and End Homelessness and participating in quarterly staff-level interagency meetings on implementation of the draft plan. CRCL also participated in several working groups led by the Council, including a joint working group with the White House Domestic Policy Council to develop an initiative to reduce unsheltered homelessness. CRCL coordinated across the Department to gather data on DHS programs and activities that may impact or involve populations experiencing homelessness or those at risk for homelessness. ADG's participation highlighted the needs of underserved communities as defined in Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.

## **C. Community Engagement Section**

Public engagement with diverse communities across the United States remains a top priority for CRCL as it supports the Department's mission. CRCL's Community Engagement Section responds to community concerns and provides information regarding DHS programs and activities by building trust and establishing a routine process for communication and coordination with diverse community leaders and organizations. CRCL facilitates a range of engagements that include interagency roundtables, community meetings, civil society stakeholder listening sessions, and public townhalls – all of which are designed to promote inclusive, policy-oriented, and solution-focused dialogue with diverse communities who feel their civil rights or civil liberties may be affected by DHS activities. These engagements regularly involve American Arab; Asian/Asian American, Native Hawaiian, and Pacific Islander (AANHPI); Black; Indigenous; Jewish; Latino; Middle Eastern; Muslim; Sikh; South Asian; Somali; and other diverse faith-based, racial, and ethnic communities. The Community Engagement Section aims to:

- Serve as a credible source for sharing timely, relevant information about federal programs and policies including redress and compliance processes with stakeholders;
- Receive feedback about community concerns and the perceived impacts of DHS policies and programs on communities in order to facilitate discussions, mutual understanding, and resolution;
- Incorporate community input relating to civil rights and civil liberties into the policymaking process;



- Assist Department leadership and the CRCL Officer in making informed policy decisions that ensure the protection of civil rights and civil liberties in all DHS policies and programs; and,
- Contribute to the homeland security mission of building resilient communities by deepening trusted channels of communication and an understanding of federal policies, programs, and resources between communities, regional DHS and federal leadership, state and local governments, and public officials.

## Accomplishments in FY 2022

### *Engagements Across the Country*

CRCL's engagement with diverse communities across the country provides stakeholders an opportunity to routinely and directly interface with CRCL on issues most important to them.

In light of the ongoing COVID-19 global pandemic, Community Engagement continued to host virtual engagements during much of FY 2022, while also transitioning to some in-person or hybrid events toward the end of the year. Virtual engagements took place with community leaders and government officials in multiple cities including Atlanta, Chicago, Columbus, Denver, El Paso, Houston, Los Angeles, Miami, Minneapolis, New York City, Phoenix, the Rio Grande Valley, San Diego, Seattle, Tucson, and Yuma.

Ultimately, CRCL coordinated and participated in more than 56 engagement events in FY 2022, which included stakeholder meetings, small group discussions, issue-specific listening sessions and town-halls, and roundtables. These events, driven by local stakeholder interests and concerns and Department-wide priorities, enabled CRCL to share information on its activities and initiatives and mitigate challenges at the local level, often avoiding further escalation or misperceptions, and informing changes in DHS policies.

During FY 2022, topics of discussion at these engagements included humanitarian concerns with the Migrant Protection Protocols program, the Centers for Disease Control and Prevention's (CDC) Title 42 public health Order ("Title 42"), Deferred Action for Childhood Arrivals, redress regarding CBP search and custodial actions, access to medical care and legal access in ICE detention centers, protection resources for communities threatened by targeted violence, language access, and credible fear screening at the Southwest border.

### *Facilitating Engagements for Department and Federal Leadership*

In FY 2022, Secretary Mayorkas, Former Deputy Secretary John K. Tien, and other Department-wide senior leaders participated virtually in at least 15 engagements. These events addressed emerging and ongoing issues affecting diverse communities impacted by department policies and programs.

In furtherance of CRCL's work to protect civil and human rights under the Department's implementation of Executive Orders (listed in Appendix B) and recent executive actions, including Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (please see a full listing of these related Executive Orders in Appendix A), the CRCL Officer hosted an engagement with Latino

Communities in October 2021 on DHS resources to prevent targeted violence and threats. Senior leadership from CP3, FEMA, Cybersecurity and Infrastructure Security Agency (CISA), and USCIS spoke on keeping communities safe and shared information on associated policies and programs.

CRCL supports the White House's commitment for federal agencies to counter transnational repression, or actions by which foreign governments reach across national borders to silence dissent among diaspora and exile communities, via diverse interagency policy initiatives. In March 2022, CRCL convened an engagement with DHS partners and diaspora community stakeholders to highlight federal resources to protect vulnerable communities from transnational repression threats and respond to specific community concerns. Then-Senior Official Peter Mina welcomed participants and discussed CRCL's role in protecting communities from transnational repression. The National Security Council Coordinator for Democracy and Human Rights provided opening remarks to highlight the White House's prioritization of addressing transnational repression globally, including against diaspora communities in the U.S. and their family members overseas. Senior leaders from DHS OSLLE, CBP, USCIS, ICE Homeland Security Investigations (HSI) and CISA shared information on resources to protect communities. More than 30 interagency federal partners and over 100 community members and organizations participated. Following the engagement, CRCL compiled and shared a list of relevant DHS resources to help address their needs and concerns.

On June 15, 2022, CRCL convened a national town hall conference call in response to stakeholders' identified needs for information on immigration flexibilities and mental health resources for the Uvalde, Texas community following the tragic mass shooting at Robb Elementary School on May 24, 2022. DHS representatives from USCIS, CBP, CISA, FEMA, CP3, as well as experts from Victim Services Division, Federal Bureau of Investigation; Office of Elementary and Secondary Education, U.S. Department of Education; and the Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services shared responsive information with approximately 200 participants. As part of its commitment to provide meaningful access to LEP individuals, CRCL arranged for Spanish-language interpretation throughout the town hall. Following the engagement, CRCL compiled and shared a list of relevant DHS resources and provided copies in Spanish and English to all participants.

### ***Incident Community Coordination Team***

The Incident Community Coordination Team is a conference call mechanism for rapid communication with national community leaders when a homeland security incident calls for immediate engagement. ICCT calls are used to inform leaders of the Department's position and actions and to receive feedback regarding civil rights and civil liberties concerns of impacted communities. In FY 2022, CRCL activated the ICCT in response to the following incidents:

- **January 15, 2022 - Response to the hostage incident at the Congregation Beth Israel in Colleyville, Texas:** DHS Former Deputy Secretary John Tien and DOJ Assistant Attorney General for Civil Rights Kristen Clarke were among 14 federal and community partners to share information on resources to keep houses of worship and faith communities safe with the more than 1,400 participants on the call.

- **May 16, 2022 - Response to the May 14, 2022, mass shooting at a grocery store in a predominantly Black neighborhood in Buffalo, New York:** DHS Secretary Alejandro Mayorkas provided opening remarks during the call with community leaders and other stakeholders, during which he reaffirmed the Department's commitment to combating domestic violent extremism, including racially or ethnically motivated violent extremism, which continues to pose one of the most significant terrorism-related threats to the homeland. He also discussed available DHS grants to help keep communities safe. DOJ Assistant Attorney General for Civil Rights Kristen Clarke shared information on DOJ's swift response to the incident, along with nine additional federal and community partners who presented information on efforts to keep communities safe to the more than 1,200 participants on the call.
- **Ongoing – Response to Texas Incidents:** CRCL continued to lead interagency community responses with the ICCT mechanism following additional tragedies that garnered national attention including: the mass shooting in Uvalde, TX on May 24, 2022 and the deaths of migrants in San Antonio, TX found in a tractor trailer on June 27, 2022.

## D. Immigration Section

Civil rights and civil liberties issues often arise as the Department carries out its dual mission to foster lawful international travel, commerce, and immigration while preventing unlawful immigration and enforcing immigration laws. CRCL's Immigration Section works with DHS Components to ensure civil rights and civil liberties are considered in, and incorporated into, immigration, asylum, and border policies and programs. The Immigration Section also:

- Communicates with the public and civil society community on civil rights and civil liberties issues in the Department's immigration activities;
- Provides training on civil rights and civil liberties to DHS Components;
- Drafts, edits, and provides proactive policy advice on regulations, guidance, testimony, speeches, issue papers, and legislative proposals; and
- Supports the CRCL Officer, who is the Department's chief human rights officer under Executive Order 13107, *Implementation of Human Rights Treaties*, by coordinating the Department's activities under international and regional human rights mechanisms.

The Immigration Section also works closely with the CRCL Compliance Branch providing subject matter expertise on complaints raising immigration and asylum issues and advancing policy development in DHS Components. In FY 2022, the Immigration Section reviewed more than 700 tasks from the Executive Secretariat and more than 44 tasks from OGC, providing expert comments to address civil rights and civil liberties protections in Department regulations.

## Accomplishments in FY 2022

### ***Promoting Family Reunification***

The Immigration Section supported the CRCL Officer in her role as a member of the Family Reunification Task Force, which was created at the direction of President Biden in Executive Order 14011, *Establishment of Interagency Task Force on the Reunification of Families*. The Immigration Section reviewed and edited all documents developed by the Task Force. CRCL

continued work to ensure the Department considered the principle of family unity into account in its decisions on processing pathways and custody decisions for those encountered at the Southern Border. CRCL also provided case examples and policy advice to encourage the Department to adopt a broad principle of family unity that includes extended family members who are critical to the well-being of the group's most vulnerable members.

### ***Messaging on Immigration Enforcement During Emergency Events***

CRCL continued to facilitate the Department's timely and accessible messaging to remind the public that during a natural disaster or other emergency, ICE and CBP generally do not conduct enforcement activities at protected areas, such as along evacuation routes, sites used for sheltering or the distribution of emergency supplies, food or water, or registration sites for disaster-related assistance or the reunification of families and loved ones. These messages, which may be issued as press releases or posts on social media, reflect DHS's commitment to ensuring that every individual who seeks shelter, aid, or other assistance as a result of a natural disaster or other emergency is able to do so regardless of their immigration status. In FY 2022, on five occasions, the Department issued statements that ICE and CBP do not conduct immigration enforcement activities at protected areas during a natural disaster:

- December 21, 2021, [DHS statement](#) in response to severe weather and tornadoes in Kentucky and throughout the South and Midwest;
- January 6, 2022, [DHS statement](#) in response to wildfires in Colorado;
- April 28, 2022, [DHS statement](#) in response to wildfires in New Mexico, Nebraska, and throughout the Southwest and Midwest;
- September 2, 2022, [DHS statement](#) in response to wildfires in California and the water crisis in Mississippi; and
- September 28, 2022, [DHS statement](#) in response to Hurricane Ian.

### ***Enhancing Protections for Stateless Persons***

In FY 2022, the Immigration Section worked to support the Department's commitment to adopt a definition of statelessness for immigration purposes, enhance protections for stateless individuals living in the United States and build a process for making statelessness determinations (see [DHS announcement](#)). To this end, CRCL participated in the interagency working group on statelessness designed to enhance protections for stateless persons.

CRCL focused on incorporating statelessness protections into its human rights work and achieved substantive edits in a March 2022, UN Human Rights Council Minorities Resolution and in the April 2022, International Migration Review Forum Declaration on the Global Migration Compact. In addition, in FY 2022, CRCL leadership met with the UN Special Rapporteur on Minority Issues, which included a discussion of DHS efforts to protect stateless persons.

### ***Interior Immigration Enforcement Oversight***

In FY 2022, CRCL continued to provide oversight and monitoring of the 287(g) program, which permits ICE to delegate authority to state or local law enforcement partners to conduct certain immigration enforcement activities within their jails and correctional facilities. CRCL re-established monthly check-in calls with ICE Enforcement and Removal Operations 287(g) headquarters staff to allow for frequent communication. CRCL also conducted site visits and

liaised with the DOJ Civil Rights Division and the ICE Office of Professional Responsibility (OPR) as part of its monitoring of the 287(g) program. CRCL coordinated with ICE OPR to provide quarterly reports to Congress pursuant to the FY 2022 Consolidated Appropriations Act.

CRCL issues proactive policy advice to the Department on the implementation of the 287(g) program and reviews and investigates civil rights and civil liberties allegations regarding the 287(g) program. CRCL is the only DHS office outside of ICE that has a vote in the 287(g) Program Advisory Board, which reviews applications by state and local law enforcement agencies to enter into the Jail Enforcement Model 287(g) memoranda of agreement. DHS placed a hold on onboarding new partners into the 287(g) program in January 2021. As such, no new 287(g) agreements have been signed with either state or local law enforcement entities since December 2020.

### ***Migrant Protection Protocols, Title 42, and Processing***

CRCL worked to connect attorneys and cases to the UN High Commissioner for Refugees to facilitate the termination of the Migrant Protection Protocols (MPP) program. When the Department was ordered to implement in good faith the MPP program per court order (*Texas v. Biden*, No. 2:21-cv-67), CRCL advocated for and implemented improvements to operational policies related to vulnerable populations excepted from the MPP program. CRCL also conducted site visits to the Southern Border to observe MPP processing conditions for MPP participants in Mexico.

Regarding CBP suspending entries at the border per the CDC's public health order under Title 42 of the U.S. Code, CRCL raised concerns regarding access to asylum, particularly for vulnerable individuals, and the need for written guidance on determining humanitarian exceptions to expulsion of migrants under Title 42. CRCL reviewed or played a role in 247 requests for a favorable exercise of discretion by individuals or families impacted by DHS enforcement programs or policies, the majority of which involved noncitizens seeking exception from Title 42 who had concerns about risk of harm in their home countries. Of the 240 cases, CRCL elevated 59 cases, of which nine resulted in favorable outcomes. Based on its review of these cases, CRCL urged the Department to adopt written guidance for CBP on adjudicating humanitarian exceptions to expulsion of migrants under the CDC's Title 42 order. CBP adopted such guidance in April 2022.

CRCL also continued to provide input on regulatory initiatives tied to Executive Order 14010, *Creating a Comprehensive Regional Framework to Address the Causes of Migration, to Manage Migration Throughout North and Central America, and to Provide Safe and Orderly Processing of Asylum Seekers at the United States Border*, addressing migration and facilitating the safe and orderly processing of migrants at the Southern Border. CRCL's input on these initiatives led to changes that enhanced civil rights and civil liberties protections for migrants at the Southern Border and particularly increased due process protections for migrants seeking Withholding of Removal or relief under the Convention Against Torture.

### ***Combatting Gender-Based Violence***

In FY 2022, CRCL engaged in an extensive effort to reestablish and broaden the scope of the former Council on Combatting Violence Against Women. This effort included updating the

Department's Directive and Instruction to reflect increased scope and develop consistent policies to combat all forms of gender-based violence leading to a new name, the Council on Combatting Gender-Based Violence (CCGBV). The CRCL Officer is a permanent co-chair of the Council, along with two co-chairs appointed by the Secretary (the Chief of USCIS Office of Policy and Strategy and the DHS Assistant Secretary for Partnership and Engagement).

Since its inaugural meeting in February 2022, the Council developed a Department-wide policy to counter gender-based violence; worked with Components to comply with DHS requirements to adopt a victim-centered approach; coordinated input on the DHS Gender-Based Violence National Action Plan in partnership with the White House Gender Policy Council; coordinated Component input for the White House Gender Policy Council and Domestic Policy Council on actions to combat transgender violence and discrimination; supported high level efforts to combat online harassment and abuse; and developed training for the aviation industry to identify and address gender-based violence in partnership with the DHS Blue Campaign, including developing a pamphlet translated into 11 languages.

### ***Countering Female Genital Mutilation/Cutting***

Throughout FY 2022, CRCL worked to combat the practice of female genital mutilation/cutting (FGM/C), which is a human rights violation and a crime under federal law and in 40 states. CRCL led the issuance of a joint DHS statement of support for International Day of Zero Tolerance for Female Genital Mutilation (February 6). In July 2022, CRCL developed and delivered a virtual training to ICE HSI Special Agents engaged in Operation Limelight, which provides information on FGM/C prevention to travelers at certain airports. CRCL's training aimed to ensure that HSI Special Agents utilize best practices to avoid the appearance of bias and incorporate a victim-centered, trauma-informed and culturally sensitive approach during interactions involving Operation Limelight. Through the CCGBV, CRCL coordinated a listening session with FGM/C survivors, impacted communities, and advocates.

### ***Combatting Human Trafficking***

In FY 2022, CRCL provided representatives to the DHS Center for Countering Human Trafficking, which leads coordination of the Department's mission to combat human trafficking and importation of goods produced with forced labor. By co-locating and augmenting existing DHS functions in a single, state-of-the-art center, the Center provides a whole of government approach to combating these crimes. CRCL is one of 16 DHS Components and Headquarters offices who staff the Center, including special agents, victim support specialists, intelligence research specialists, and other experts focused on disrupting and dismantling human trafficking and supporting and protecting victims.

In FY 2022, CRCL worked closely with the Center and the Blue Campaign continuing support for Department-wide efforts to implement the *DHS Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation* and the White House [\*National Action Plan to Combat Human Trafficking\*](#). CRCL focused on supporting the adoption of human trafficking screening protocols and a victim-centered approach across the Department.



### ***Strengthening and Protecting Confidentiality of Victims***

In FY 2022 CRCL, in partnership with the CCGBV, continued to lead an ongoing Department-wide effort to implement the confidentiality and information use provisions of 8 U.S.C. § 1367 - Penalties for Disclosure of Information. These provisions are designed to ensure that abusers, including human traffickers, are not able to gain access to protected DHS information and to ensure that information provided by an abuser is not the sole source of evidence used to support taking an adverse immigration action against an individual protected by these provisions. Subject to certain limited exceptions, the provisions prohibit disclosure to a third-party of any information relating to an individual who is eligible for or is an applicant/petitioner for Continued Presence, T nonimmigrant status, U nonimmigrant status, or relief under Violence Against Women Act (VAWA).

The CRCL Officer has delegated authority to implement the mandates of 8 U.S.C. § 1367 throughout the Department. In FY 2022, CRCL led several implementation efforts, including finalizing the CCGBV's FY 2020 Annual Report, which presents relevant data on Component-specific policies implementing 8 U.S.C. § 1367; Component completion rates for required training; and any violations or requested exceptions of 8 U.S.C. § 1367 or enforcement actions taken at sensitive locations.

In FY 2022, CRCL received and tracked notifications from across the Department for privacy incidents involving potential breaches of 8 U.S.C. § 1367 information and played an important role in helping the Department to address and rectify violations. CRCL also worked with ICE to adopt a new internal policy to ensure its officers uphold the Department's 8 U.S.C. § 1367 obligations.

### ***International Human Rights Treaties***

The CRCL Officer serves as the Department's Chief Human Rights Officer and designated "single contact officer" under Executive Order 13107, *Implementation of Human Rights Treaties*. In support of this role, CRCL coordinates the Department's activities and outreach involving reporting information to international human rights mechanisms relevant to the Department's function and mission. Such entities include the U.N. General Assembly; the U.N. Special Procedures (e.g., Special Rapporteurs and Working Groups) and the Universal Periodic Review of the U.N. Human Rights Council; the Office of the High Commissioner of Human Rights; and the U.N. human rights treaty bodies, as well as the Inter-American Commission on Human Rights, a regional human rights body applicable to the U.S.

In FY 2022, CRCL's Immigration Section coordinated the Department's response to more than 45 inquiries from international human rights mechanisms. CRCL also coordinated the Department's participation in several high-profile events, such as: a working meeting on family separation; a hearing on the operation of the CDC's Title 42 public health order and treatment of Haitians at the border; a working meeting on detention conditions at the Northwest ICE Processing Center in Tacoma, Washington; a meeting between the CRCL Officer and the Special Rapporteur on Minority Issues; and the CRCL Officer's two inter-agency meetings with the Assistant Secretary of the Office of the High Commissioner for Human Rights, which focused on racial equality and immigration policy. CRCL leadership also took part in the U.S. delegation to

the UN Committee on the Elimination of Racial Discrimination in Geneva, Switzerland (read more details in the Executive Summary, above).

## IV. Compliance Branch: Public Complaints

The Compliance Branch investigates complaints from the public alleging violations of civil rights or civil liberties by DHS personnel, programs, or activities. Such complaints may include allegations about:

- Racial, ethnic, or religious profiling;
- Disability discrimination prohibited by Section 504 of the Rehabilitation Act of 1973;
- Discrimination based on race, ethnicity, national origin, religion, sex, sexual orientation, or gender identity;
- Inappropriate use of force by DHS officers or agents;
- Inadequate conditions of detention;
- Violation of the right to due process, such as the right to timely notice of charges or access to a lawyer;
- Violation of the protections of 8 U.S.C. § 1367, relating to VAWA, T non-immigrant status, and U non-immigrant status; or
- Any other civil rights or civil liberties violation related to a Department program or activity, including human rights violations.

In FY 2022, CRCL received 2,400 allegations that were considered for investigation as a complaint. During the fiscal year, CRCL opened 829 complaint investigations and closed 747 open complaint investigations.<sup>2</sup> Tables 2 and 3 summarize complaints CRCL opened and closed in FY 2022.

Of the 829 complaints CRCL opened, the DHS Office of Inspector General (OIG) retained 15 for its own investigation. Appendix B includes data tables detailing complaints retained by the OIG and complaints investigated by the OIG and returned to CRCL for their action following completion of the OIG's work.

Additionally, CRCL added all incoming allegations within its jurisdiction, but that were not opened as complaints, to its information layer.<sup>3</sup> Information about the 1,761 matters CRCL added to its information layer in FY 2022 are noted in Table 4.

### Accomplishments in FY 2022

In FY 2022, Compliance productivity reached an unprecedented high point, including its largest number of both Recommendation (17) and Expert Recommendation (21) Memoranda. Compliance's Recommendation Memoranda increased by 70 percent from FY 2021, and its Expert Recommendation Memoranda increased by 75 percent from FY 2021. This increase is, in

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<sup>2</sup> Closed complaint investigations may have been opened during a previous fiscal year.

<sup>3</sup> The information layer, a subset of the Compliance Branch system of record, is used to track issues and identify potential patterns of civil rights or civil liberties allegations that may result in CRCL review. CRCL may ultimately investigate matters entered into its information layer and open them as part of a complaint investigation if they are subsequently identified as relevant to a pattern or emerging civil rights or civil liberties issue.

part, a result of new investigation types, including targeted and spot check investigations, which were developed to provide advice on an expedited timeframe to raise alerts about serious health and safety concerns. Compliance also concluded 24 investigations alleging disability discrimination in violation of Section 504, issuing 14 informal resolutions (a 100 percent increase from FY 2021) and ten determination letters (a 233 percent increase from FY 2021). Finally, Compliance issued Informal Advice to Components related to 57 complaint investigations, including 32 to ICE, 18 to CBP, four to USCIS, one to FEMA, and two that involved multiple Components.

### ***MPP Review Process and Audit***

At the request of DHS leadership, Compliance conducted an audit of the Department's reimplementing of the MPP program to ensure protection of vulnerable individuals engaging with the program. Compliance reviewed denied requests for disenrollment from MPP, as well as audited initial MPP enrollment decisions generally, to ensure enrollments in MPP were consistent with Department policy guidance and civil rights and civil liberties obligations, including regarding vulnerability and screenings for fear while ensuring equity in enrollment determinations. In May 2022, Compliance provided DHS leadership with the first MPP Audit Quarterly Report, providing nine areas of advice for the Department, CBP, and USCIS, noting concerns related to protecting the most vulnerable, including individuals with medical and mental health needs; Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ+) individuals; and individuals with disabilities. Through its audit, Compliance also flagged vulnerable individuals enrolled in MPP who were consequently disenrolled from MPP and placed into other processing pathways, showing a real-time impact for individuals interacting with the Department.

### ***Use of Force Work***

In FY 2022, Compliance saw increased complaint activity related to use of force across the Department. Compliance issued two Recommendation Memoranda to CBP related to use of force, including one on vehicular pursuits resulting in death and serious bodily injury and another discussing the relationship between Local and National Use of Force Review Boards. Compliance also completed a spot check investigation and a targeted onsite investigation focused on use of force at two separate ICE detention facilities. To support the increase in complaint investigations relating to use of force, Compliance created an internal group with substantial use of force expertise. As a result, in FY 2023, Compliance will review the issuance of no-knock warrants issued by the Department, will attend CBP's National Use of Force Review Board, and will participate in the new Federal Protective Service (FPS) use of force review board.

### ***Increase in Civil Liberties Investigations***

Over the last few years, Compliance observed a significant increase in civil liberties complaints, and in FY 2022, Compliance made substantial progress investigating such complaints. Compliance completed an extensive investigation into F-1 visa-related complaints, issuing a draft Recommendation Memorandum to CBP. The F-1 visa authorizes a noncitizen to apply for admission to the United States as a full-time student at an accredited college, university, seminary, conservatory, academic high school, elementary school, other academic institution, or language training program. Compliance also initiated an investigation of CBP's Tactical Terrorism Response Team, including conducting two onsite investigations at Dulles International

Airport and Boston Logan Internal Airport where Compliance staff interviewed CBP personnel and observed training. Compliance also completed investigations related to DNA collection, unmanned aircraft systems usage in law enforcement work, and sharing geolocation data.

### ***Racial Equity Investigations***

Throughout FY 2022, Compliance conducted wide-ranging investigations involving allegations of racial bias, inequity, and discrimination. In September 2021, following a rapid surge of thousands of migrants, a majority of whom were Haitian, Compliance traveled to Del Rio, Texas to observe U.S. Border Patrol (USBP) operations and conditions under the Del Río-Ciudad Acuña International Bridge where migrants were gathered within USBP-fenced areas. Compliance investigated allegations of disparate treatment of Black migrants and discrimination against Haitian migrants.

Compliance also initiated a large-scale onsite investigation of ICE's oversight and interaction with facilities in the New Orleans Area of Responsibility, including Jackson Parish Correctional Center, Allen Parish Public Safety Complex, South Louisiana ICE Processing Center, and Adams County Correctional Center. Compliance reviewed allegations of inadequate medical care, use of force, treatment of hunger strikers, use of solitary confinement, racially discriminatory treatment of Black detainees, use of excessive bonds, and unsanitary conditions. Compliance issued numerous recommendations to ICE concerning these facilities.

Additionally, Compliance concluded a targeted onsite investigation of retaliation and discriminatory treatment of Black detainees at the Pine Prairie ICE Processing Center. The investigation revealed concerns about language access that CRCL will further address in Compliance's periodic review of language access in immigration detention in FY 2023.

### ***COVID-19 Response***

In FY 2022, Compliance continued its work reviewing the Department's response to COVID-19. Compliance issued a Recommendation Memorandum related to expiring grants from voluntary departures resulting in issuance of final orders of removal for certain detained individuals during the COVID-19 pandemic. Compliance also issued three instances of Informal Advice to ICE regarding timely access to off-site specialty care, adherence to CDC guidance regarding use of disposable masks, and documenting COVID-19 test results prior to release or removal from detention to facilitate safe re-entry.

### ***Review of Operation Allies Welcome***

In FY 2022, Compliance conducted an onsite visit to a military base housing Afghan guests who resettled in the U.S. as part of OAW to observe operations. Compliance also investigated complaints alleging that OAW leadership did not provide adequate safety and security to Afghan guests and issued two instances of Informal Advice to OAW leadership to ensure integration of civil rights and civil liberties protections into OAW operations. Specifically, in June 2022, CRCL issued informal advice relating to protection and security of Afghan guests at the National Conference Center. CRCL advised OAW leadership to notify Afghan guests of appropriate channels to report misconduct (not rising to the level of a crime) by OAW staff, contractors, or onsite volunteers. CRCL also advised OAW leadership to document and track concerns raised to the Federal Lead Protection Officer at the National Conference Center or other entities, as well

as to establish written documentation of the Federal Lead Protection Officer's broad responsibilities. CRCL also advised OAW leadership to notify their supervisors and staff of prohibitions against reprisal for reporting misconduct or civil rights or civil liberties concerns. Lastly, CRCL suggested OAW clarify the mission and purpose of uniformed law enforcement officers present at the National Conference Center with the objective of acclimatizing Afghan guests to the law enforcement officers' role in the United States. Second, in August 2022, after finding practices that could stifle potential reporting of violations, CRCL again requested OAW leadership notify supervisors and staff about prohibitions against reprisal for reporting concerns to CRCL or to the DHS Office of Inspector General.

## **Investigative Enhancements**

### ***Periodic Reviews***

Compliance successfully piloted a program to periodically review Department policies, ensuring civil rights and civil liberties are appropriately incorporated into Department programs and activities. In FY 2022, Compliance completed two periodic reviews. First, Compliance reviewed the implementation of ICE's Sexual Abuse and Assault Prevention and Intervention (SAAPI) program under DHS PREA standards. With the assistance of a subject-matter expert, in February 2022, Compliance sent ICE an Expert Recommendation Memorandum with 79 recommendations, including 18 related to sexual abuse investigations review and 61 related to PREA. Compliance also sent ICE a Recommendation Memorandum with 25 systemic recommendations related to ICE's SAAPI program. Second, Compliance reviewed ICE's use of segregation and, in September 2022, sent ICE a Recommendation Memorandum with 31 recommendations. At the end of FY 2022, Compliance initiated a third periodic review of language access in ICE detention and will continue that review in FY 2023.

### ***Expedited Investigations: Spot Checks and Targeted Investigations***

In FY 2022, Compliance piloted spot check investigations, a new investigation type that allows Compliance to triage and quickly be onsite to investigate serious allegations that require immediate action. In FY 2022, Compliance conducted five spot checks to assess concerns raised at ICE detention facilities, including conditions at Torrance County Detention Facility; alleged retaliation, inadequate medical care, and discriminatory treatment at Baker County Detention Center; conditions of detention and medical care at Orange County Jail; conditions of detention at Plymouth County Correctional Facility; and alleged use of force and PREA concerns at Moshannon Valley Processing Center. In these instances, Compliance quickly issued recommendations for ICE to act swiftly and assess whether more in-depth investigations were needed following the spot checks.

Compliance also piloted targeted investigations to allow for onsite investigations with narrow scope and an abbreviated timeline for recommendations. In FY 2022, Compliance conducted two targeted investigations and completed a third initiated in FY 2021. Compliance reviewed use of force allegations at the Clay County Jail and PREA concerns at the El Paso Service Processing Center. Compliance also completed its targeted investigation of alleged retaliation, racial discrimination, and use of force at the Pine Prairie ICE Processing Center, which was conducted in FY 2021. In each instance, Compliance's review focused on a specific issue or



allegation and issued findings and recommendations to ICE within 30 days of completing the onsite investigation.

### ***Implementation Reviews***

Compliance initiated a novel process to review implementation of select prior CRCL recommendations to Components. This new process allows Compliance to assess whether Components completed work they agreed to in their CRCL recommendation response. Creation of this process also responds to Congress's interest in CRCL taking steps to ensure implementation of CRCL's recommendations. In FY 2022, CRCL conducted four implementation reviews involving prior recommendations to ICE. In June 2022, CRCL issued its first Implementation Review Memorandum, assessing ICE's implementation of five mental health care recommendations at the Etowah County Detention Center. CRCL conducted three additional implementation reviews in FY 2022, assessing ICE's implementation of four mental health care recommendations at the St. Clair County Jail, 11 medical care recommendations at the Pine Prairie ICE Processing Center, and four sexual assault and abuse protection recommendations in the New Orleans Area of Responsibility.

### ***Reconsideration and Appeal Process***

Compliance developed a novel process to request that a Component reconsider its response to certain recommendations issued by CRCL and, if necessary, appeal the Component's response to the Deputy Secretary of Homeland Security. This new process solidifies Compliance's ability to address significant non-concurrences from Components. In March 2022, Compliance issued its first Reconsideration Memorandum, requesting CBP reconsider its three non-concurrences to recommendations related to USBP verification of claims of U.S. citizenship by individuals in USBP custody. In September 2022, Compliance issued a second Reconsideration Memorandum related to CBP's response to two recommendations regarding alleged nationality and place of birth discrimination at the Blaine Port of Entry.

### ***Rapid Response Team***

In FY 2021, Compliance created a Rapid Response Team consisting of a cadre of policy advisors who travel on short notice to locations requiring immediate presence, providing prompt initial written observations to DHS leadership. In FY 2022, Compliance successfully deployed the team in multiple instances to monitor concerns related to reimplementing of MPP and its impact on asylum seekers. In March 2022, Compliance visited the Paso del Norte, Stanton, and San Ysidro Ports of Entry; the Chula Vista Border Patrol Station; and the El Paso Sector Central Processing Center. These visits informed ongoing complaint investigations and led to Compliance issuing Informal Advice to CBP regarding the handling of noncitizen property in April 2022.

### **Increased Public Access**

#### ***Transparency Initiative***

Compliance continued its successful initiative to expand transparency by posting work products on CRCL's public web site. In FY 2022, Compliance increased the number of documents posted to its online transparency library by 150 percent and added several new categories of documents. Compliance also improved internal tracking of work products, added special

resources to ensure that documents posted are accessible and compliant with Section 508 of the Rehabilitation Act, and upgraded its online document library.<sup>4</sup>

### ***Complaint Portal***

In FY 2022, Compliance made significant progress towards the launch of a new online, public complaint portal. Compliance completed planning, design, and development of a prototype portal, ensuring its integration with Compliance's existing complaint management system. In FY 2023, Compliance is scheduled to complete testing and obtain final approval to make the portal publicly available. Once implemented, the portal will enhance and expand access to the Compliance complaint process for all members of the public.

## **A. FY 2022 Investigations**

Compliance reviews allegations and information regarding issues and incidents that may merit investigation from a variety of sources, including the general public, members of Congress, non-governmental organizations, DHS Components and offices, DHS OIG, and other government agencies.

Pursuant to 6 U.S.C. § 345(a)(6) and internal DHS policies, Compliance begins the investigation process by referring all allegations it receives to the OIG, which then determines whether it will investigate the matter. If the OIG declines to investigate the matter, it is returned to Compliance, which then determines whether to open its own complaint investigation. If Compliance opens a complaint investigation, it has the option to conduct the investigation itself or refer the matter to the relevant DHS Component(s) for investigation.<sup>5</sup> If Compliance keeps the complaint for investigation, Compliance requests information from the Component and conducts its own factual investigation. If a complaint is referred to a Component, the Component issues a Report of Investigation (ROI) to Compliance at the completion of its factual investigation. Compliance reviews the ROI and determines whether additional investigation is warranted and whether recommendations should be issued to the Component. Recommendations issued to the affected Component as a result of investigations are protected as part of the Department's deliberative process until the Component takes any final agency action in response to the recommendations, at which point more information can be released to the public about this process. Compliance also notifies complainants of the results of an investigation whenever possible and provides summaries of its investigative work in CRCL's annual report.<sup>6</sup>

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<sup>4</sup> See <https://www.dhs.gov/transparency-civil-rights-investigations>.

<sup>5</sup> Investigations conducted by Compliance may be a fully retained investigation or a short form investigation. Compliance's short form complaint processing procedures facilitate swifter action on urgent complaints and expeditious resolution of allegations that are narrowly focused and require limited investigation. The short form process makes it easier to open and close complaints, allowing speedier resolution. Short form matters that subsequently require additional work are converted for more extensive investigations.

<sup>6</sup> CRCL posts certain final redacted investigative memos on its website. CRCL removes personally identifiable information, as well as other material protected under various privileges or protections, prior to posting.

## B. Investigative Processes

***Complaints Closed without Recommendations:*** Of the complaints closed in FY 2022, Compliance closed approximately 84 percent without issuing any form of advice or recommendations. This typically occurs when allegations are unsubstantiated; when allegations do not warrant a recommendation because existing policy, procedures, and training are found to be sufficient; or when the Component has already addressed the concerns that Compliance identified.

***Complaints Closed with Recommendations:*** For complaints in which Compliance determines that policy-driven or operational recommendations should be issued to Components, Compliance issues formal recommendations to the Component. This may be done through a Recommendation Memorandum or an Expert Recommendation Memorandum, depending on the type of investigation completed. Of the 747 complaints closed in FY 2022, Compliance closed approximately 5 percent by issuing recommendations to a Component.

***Recommendation Memoranda:*** Compliance issues Recommendation Memoranda to address civil rights and civil liberties issues throughout the Department. These memoranda recommend broad, systemic changes, such as the creation or revision of policies, alteration to practices and procedures, and modifications to training. Compliance initially sends a draft version of a Recommendation Memorandum to a Component for review and comment on the accuracy and operational feasibility of its analysis and recommendations. After receiving comments, Compliance attempts to resolve areas of disagreement prior to finalizing the memorandum and issuing final recommendations. Providing the opportunity for Components to review and give feedback also allows Components to inform Compliance of steps taken to address concerns noted or to implement recommendations. This information may be incorporated into the Recommendation Memorandum that is sent to Component leadership.

Following review of Component comments to a draft memorandum, Compliance adjudicates comments and issues the Recommendation Memorandum, which is signed by CRCL and OGC leadership and sent to Component leadership. These recommendations are considered pre-decisional until Component leadership provides a final response and concurrence. Summaries of the 17 investigations for which Compliance submitted a Recommendation Memorandum to a Component in FY 2022 are provided in Section C.

***Expert Recommendation Memoranda:*** To assist with complaint investigations, Compliance may utilize contract experts in areas such as medical care, mental health care, conditions of detention, suicide prevention, use of force, and environmental health and safety. Compliance typically uses contract experts when conducting onsite investigations at Component facilities or when specialized expertise is necessary to review an allegation. Following an investigation utilizing a contract expert, Compliance reviews the expert's report and recommendations and formulates an Expert Recommendation Memorandum to the Component. Summaries of the 21 investigations for which Compliance submitted an Expert Recommendation Memorandum to a Component in FY 2022 are provided in Section D.

***Component Responses to Recommendation Memoranda and Expert Recommendation***

***Memoranda:*** Compliance requests that Components respond to Recommendation and Expert Recommendation Memoranda within 120 days of receipt, either concurring with the recommendations and offering an implementation plan(s), or non-concurring with the recommendations and providing a rationale. Summaries of investigations for which Compliance submitted either a Recommendation or an Expert Recommendation Memoranda in FY 2022 and received a Component response in the same fiscal year are included in Sections C and D, respectively. Summaries of investigations for which Compliance submitted either a Recommendation or an Expert Recommendation Memoranda prior to FY 2022 and received a Component response in FY 2022 are provided in Section E.

***Complaints Closed with Informal Advice:*** Compliance may also conclude a complaint investigation by issuance of Informal Advice rather than a formal recommendation. Informal Advice is appropriate for a narrow concern or request that is best addressed operationally by communication directly from Compliance to a Component. These communications explain the issue or concern found by Compliance and may offer suggested actions, but they remain outside the formal recommendation process. After issuing Informal Advice, Compliance closes the relevant complaint(s). Of the 747 complaints closed in FY 2022, Compliance closed approximately 8 percent by issuing Informal Advice to a Component. Summaries of the 57 instances for which Compliance issues Informal Advice to a Component in FY 2022 are listed in Section F.

**TABLE 2: COMPLAINTS OPENED FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 190			DHS 3			FEMA 3			ICE 569			TSA 5			USCIS 35			Multi- Component 24			Sub-Totals 829			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	5	2	8							3	2	7			1				1			9	4	16	29
Conditions of detention			11						1	3	12	48										3	12	60	75
Disability discrimination			18			1			1		1	14					1	13			2		2	49	51
Discrimination/profiling		2	14							2	4	6	1		1	2	1	3	1	1		6	8	24	38
Due process	1	1	49							2	1	28					3	3			5	3	5	85	93
Excessive or inappropriate use of force		1	17	1						5	9	22						1			2	6	10	42	58
First Amendment (free speech/association)												1									2			3	3
Fourth Amendment (search and seizure)			6									1							1			1		7	8
Human rights			7			1						1				1					2		1	11	12
Inappropriate questioning/inspection conditions (non-TSA)		1	3																			1	3		4
Inappropriate touch/ search of person (non-TSA)			1								1												1	1	2
Intimidation/ threat/ improper coercion										2	2	2										2	2	2	6
Language access	1		1						1			3					5			2	3	1	7	8	16
Legal access											5	5									1		5	6	11
Medical/mental health care	1	8	24							3	24	305										4	32	329	365
Privacy			2									1						2						5	5
Religious accommodation			2									6												8	8
Retaliation										2	1	6										2	1	6	9
Sexual assault/abuse	1		3							1	5	23									1	2	5	27	34
TSA AIT and TSA pat-downs															2									2	2
<b>Total</b>	<b>9</b>	<b>15</b>	<b>166</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>23</b>	<b>67</b>	<b>479</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>2</b>	<b>11</b>	<b>22</b>	<b>3</b>	<b>3</b>	<b>18</b>	<b>39</b>	<b>96</b>	<b>694</b>	<b>829</b>

**TABLE 3: COMPLAINTS CLOSED FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 178			DHS 4			FEMA 5			ICE 516			TSA 3			USCIS 23			USSS 2			Multi- Component 16			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	3		10	1						3	2	5			1										7	2	16	25
Conditions of detention	2	1	8							7	38	38												1	9	39	47	95
Disability discrimination			6			1			2			11						13									33	33
Discrimination/profiling	2		14						1		1	4				2		4							4	1	23	28
Due process		10	50						1	2	1	28						3						4	2	11	86	99
Excessive or inappropriate use of force	2	1	15	1						4	9	12								1				2	7	10	30	47
First Amendment (free speech/association)			1																	1				3			5	5
Fourth Amendment (search and seizure)			5									1											1			1	6	7
Hate Speech			1																								1	1
Human rights			5			1																	1				7	7
Inappropriate questioning/inspection conditions (non-TSA)			3																								3	3
Intimidation / threat / improper coercion			1							1	4														1	4	1	6
Language access									1		1	5											1		1	7	8	
Legal access											7	4											1		7	5	12	
Medical/mental health care		13	15								40	246											1		53	262	315	
Privacy			1									1						1									3	3
Religious accommodation			1									5															6	6
Retaliation												4															4	4
Sexual assault/abuse	1		7							1	8	23												1	2	8	31	41
TSA AIT and TSA pat-downs															2												2	2
Total	10	25	143	2	0	2	0	0	5	18	111	387	0	0	3	2	0	21	0	0	2	0	1	15	32	137	578	747



**TABLE 4: FY 2022: INFORMATION LAYER - PRIMARY ALLEGATION**

Primary Allegation	Total
Abuse of authority/misuse of official position	139
Conditions of detention	266
Disability discrimination	17
Discrimination/profiling	171
Due process	547
Excessive or inappropriate use of force	71
First Amendment (free speech/association)	1
Fourth Amendment (search and seizure)	46
Human rights	15
Inappropriate questioning/inspection conditions	40
Inappropriate touch/search of person (non-TSA)	6
Intimidation/threat/improper coercion	31
Language access	15
Legal access	11
Medical/mental health care	307
Privacy	9
Religious accommodation	8
Retaliation	3
Sexual assault/abuse	46
TSA AIT and TSA pat-downs	12
<b>Total</b>	<b>1761</b>

## C. Recommendation Memoranda

The following 17 summaries describe investigations in which CRCL issued a Recommendation Memorandum to a DHS Component in FY 2022. If the Component responded to the Recommendation Memorandum in FY 2022, CRCL detailed Component responses in the summary.<sup>7</sup>

### CBP

#### *Mental Health Concerns at Preclearance Inspection*

CRCL investigated a complaint alleging that CBP denied preclearance to a traveler because of his mental health during preclearance inspection at the Montreal Trudeau International Airport. CRCL found CBP properly determined the individual was inadmissible, but also identified concerns about the interaction between CBP officers and the traveler. In August 2022, CRCL sent CBP a Recommendation Memorandum with three recommendations, including that CBP issue guidance and increase training related to interacting with travelers with mental health conditions.

#### *Local Use of Force Review Board*

CRCL investigated a CBP report involving the drowning death of a Haitian national off the coast of West Palm Beach, Florida. While CRCL found the CBP Local Use of Force Review Board properly reviewed the incident, CRCL also found that a letter from the Board to CBP employees misrepresented the principal objective of the board to review less than lethal uses of force. In September 2022, CRCL sent CBP a Recommendation Memorandum with three recommendations, including that CBP evaluate directives and guidance related to these boards and update as necessary.

#### *Vehicular Pursuits*

CRCL investigated 11 representative reports of the death or serious bodily injury of non-employees during vehicular pursuits by CBP employees to assess systemic issues with CBP's vehicular pursuit policy. CRCL found that CBP had insufficient policies related to such pursuits leading to concerning practices and procedures. In September 2022, CRCL sent CBP a Recommendation Memorandum with 21 recommendations, including that CBP review its policies and practices regarding vehicle pursuits, update how pursuits involving death or serious bodily injury are reviewed, and discontinue certain driving practices.

#### *Monitoring Unaccompanied Children in Custody*

CRCL investigated several complaints alleging that Border Patrol Agents (BPA) took various disciplinary acts against unaccompanied children in CBP custody. CRCL did not substantiate the allegations, but found that CBP did not have any policy, guidance, or training that addresses behavior management practices for unaccompanied children in CBP custody. In September 2022, CRCL sent CBP a Recommendation Memorandum with three recommendations. CRCL recommended CBP remind personnel about existing policies and procedures relating to

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<sup>7</sup> If no Component response is indicated in the summary, then the Component did not respond to the Recommendation Memorandum in FY 2022. Although the Component may have responded by the date of publication of this report, only FY 2022 responses are noted.

monitoring unaccompanied children in CBP custody; develop additional policy, guidance, and training about behavior management of unaccompanied children in CBP custody; and conduct training on the new guidance.

### ***Removal of Mobility Aid***

CRCL investigated a complaint alleging USBP took away a crutch from an unaccompanied minor with a mobility impairment following apprehension. CRCL found CBP violated Section 504 of the Rehabilitation Act when it removed the crutch and neither provided the unaccompanied minor an alternative assistive device nor engaged in an interactive process to determine limitations and needs.<sup>8</sup> In September 2022, CRCL sent CBP a Recommendation Memorandum with one recommendation related to training USBP personnel about accommodating individuals with mobility impairments.

## **FEMA**

### ***Language Access for Applicants***

CRCL investigated a complaint regarding FEMA's housing inspection contractors' interactions with LEP applicants. CRCL found FEMA's inspection guidelines did not provide required language access services for LEP applicants and were inconsistent with the goals of Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* and the DHS Language Access Plan. CRCL also found that housing inspection contractor guidelines and training materials allow inspectors to rely on informal interpretation services through family members, friends, or translation services, like Google Translate. In February 2022, CRCL sent FEMA a Recommendation Memorandum with five recommendations. In April 2022, FEMA concurred with one recommendation. FEMA agreed to develop and implement specific guidance on using official interpretation services and limiting use of family members, friends, and mechanical translation services like Google Translate. In July 2022, FEMA concurred with three other recommendations, including agreeing to work with contractors to update, modify, and bolster its training curriculum for inspectors to address language access concerns and to collaborate with FEMA's Individual Assistance Program to review guidance.

## **ICE**

### ***Periodic Review of ICE's SAAPI Program***

CRCL conducted a periodic review of ICE's implementation of its SAAPI program and requirements from DHS's regulation under PREA. CRCL evaluated how ICE Headquarters and field offices have implemented ICE's regulatory and policy requirements to prevent, detect, and respond to sexual abuse in ICE custody. In February 2022, CRCL sent ICE a Recommendation Memorandum with 25 systemic recommendations and an Expert Recommendation Memorandum with 79 recommendations addressing specific program-level findings. Between the two memoranda, CRCL recommended that ICE enhance implementation of PREA/SAAPI by acquiring and dedicating additional resources to the program, enhancing training for all personnel performing PREA/SAAPI-related responsibilities, and strengthening ICE's

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<sup>8</sup> CRCL also issued a Section 504 determination letter in this investigation. A summary of that letter is found in Section G below.

investigations into sexual abuse allegations through enhancing oversight mechanisms, issuing additional policies and procedures, strengthening training, and developing quality assurance programs.<sup>9</sup>

### ***Labor Exploitation Operations***

CRCL investigated several complaints alleging that ICE violated human rights guidelines and harmed vulnerable populations – including parents of infants and small children and breastfeeding mothers – during labor exploitation enforcement operations in August 2019.<sup>10</sup> CRCL found that ICE did not follow policies and procedures to identify and process individuals who potentially had humanitarian needs during the action. CRCL also found concerns regarding ICE’s planning and execution of its operations. In April 2022, CRCL sent ICE a Recommendation Memorandum with 13 recommendations, including that ICE should follow relevant policies and procedures in labor exploitation operations resulting in the apprehension of 25 or more people, document certain information about the operation in the operational plan, and comply with language access policies and a directive on the apprehension of individuals who are pregnant or breastfeeding.

### ***Critical Services During Medical Isolation and Quarantine***

CRCL investigated several complaints concerning ICE’s management of its medical isolation and quarantine processes, including noncitizens’ access to court hearings, legal counsel, the law library, and visitation. CRCL found that ICE did not plan to address how individuals in medical isolation and quarantine would receive the same access to programs and services as detained individuals in the general population as required. In May 2022, CRCL sent ICE a Recommendation Memorandum with four recommendations, including that ICE ensure its policies and procedures provide equal access to services for individuals in medical isolation or quarantine.

### ***Erroneous Removal***

CRCL investigated a news article alleging that an individual detained at River Correctional Center was removed to Guatemala before an Immigration Judge issued a final removal order. CRCL confirmed that ICE mistakenly removed the individual prior to the detainee’s asylum hearing. CRCL also found deficiencies with ICE’s redress process for erroneously removed individuals, including that ICE does not track erroneous removals. In June 2022, CRCL issued ICE a Recommendation Memorandum with four recommendations, including that ICE facilitate the return of this detainee, develop erroneous removal policies and guidance, and track erroneous removals.

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<sup>9</sup> This summary is repeated in Section D below, because this periodic review includes both a Recommendation Memorandum and an Expert Recommendation Memorandum.

<sup>10</sup> Per ICE, “HSI labor exploitation investigations focus on protecting our nation's critical infrastructures, reducing illegal employment and protecting employment opportunities for the country's lawful workforce. Labor exploitation cases target employers involved in criminal activity and worker exploitation, and often entail other forms of criminal activity such as noncitizen smuggling, document fraud, human rights abuses or other violations linked to the employment of unauthorized workers.” <https://www.ice.gov/investigations/labor-exploitations>.

### ***Housing Classification***

CRCL investigated a complaint alleging that ICE reclassified a detainee to a higher security level without new evidence or information to alleviate a housing shortage for female detainees at Clay County Jail. CRCL found that ICE improperly reclassified the detainee, resulting in the detainee being housed with multiple individuals with significant criminal histories, including acts of violence, for more than a month. In August 2022, CRCL issued ICE a Recommendation Memorandum with eight recommendations, including that ICE actively oversee housing classifications at the facility, provide additional training on housing classification for all ICE facilities, and regularly review housing classifications during facility reviews and inspections.

### ***Concerns at the Irwin County Detention Center***

CRCL received numerous allegations involving conditions of detention, environmental health and safety, medical care, and mental health care at the Irwin County Detention Center. In May 2021, it was announced that the facility would no longer house ICE detainees; however, CRCL had already completed a review of the facility's policies and procedures. Accordingly, CRCL provided recommendations to ICE, because LaSalle Corrections, which contracts with other ICE facilities, operates the Irwin facility. Concerns included conditions of detention, environmental health and safety, medical care, and mental health care. In September 2022, CRCL sent ICE a Recommendation Memorandum with two recommendations, including that ICE notify CRCL if it ever resumes operations at the Irwin facility and that ICE consider applicability of experts' findings at the Irwin facility to other detention facilities operated by LaSalle Corrections.

### ***Notification of Detainee Hospitalization to Family Members and Counsel***

CRCL investigated two complaints alleging that ICE and Glades County Detention Center delayed notifying family and legal counsel of the hospitalization of two ICE detainees. CRCL found that ICE withheld medical information from families and counsel of hospitalized detainees. In September 2022, CRCL sent ICE a Recommendation Memorandum with three recommendations. CRCL recommended that ICE issue a directive regarding notification to families, counsel, and other representatives when a detainee is hospitalized; provide related training; and ensure proper documentation.

### ***Periodic Review of ICE Oversight and Use of Segregation***

CRCL conducted a systemic periodic review of ICE's oversight and use of segregated housing. The periodic review evaluated how ICE Headquarters and ICE field offices implemented requirements of ICE Directive 11065.1, Review of the Use of Segregation for ICE Detainees, as well as related policies and procedures. CRCL found additional steps ICE can take to strengthen its oversight of segregation and to limit use of segregation for individuals in ICE custody. In September 2022, CRCL sent ICE a Recommendation Memorandum with 31 recommendations, including that ICE enhance oversight, identify systemic trends, limit the use of segregation for vulnerable populations, and ensure segregation in ICE custody does not result in conditions commonly associated with solitary confinement.

### ***Access to Facial Images***

CRCL investigated an allegation that ICE accessed a Maryland database with driver's license photographs to run facial-recognition searches for undocumented noncitizens. CRCL found that ICE did not have sufficient standards and requirements for accessing facial images in the

database, and inadequate oversight existed to provide accountability for ICE Enforcement and Removal Operations (ERO) officers accessing the system. In September 2022, CRCL sent ICE a Recommendation Memorandum with three recommendations. CRCL recommended ICE develop standard operating procedures and requirements to access third-party databases containing facial images, ensure oversight for accessing the databases, and train relevant staff.

## USCIS

### *USCIS Did Not Provide a Sign Language Interpreter*

CRCL investigated a complaint alleging USCIS did not accommodate an individual's request for an American Sign Language (ASL) interpreter for her adjustment of status interview. CRCL found that USCIS violated Section 504 when it did not respond to the applicant's request, causing an unnecessary delay in her application when her interview needed to be rescheduled.<sup>11</sup> In July 2022, CRCL sent USCIS a Recommendation Memorandum with two recommendations. CRCL recommended that USCIS revise the automated response systems at the USCIS Contact Center and on the USCIS website and update the template language on interview cancellation notices.

## Multi-Component

### *U Visa Petition Withdrawal Process*

CRCL investigated a complaint alleging that ICE coerced an individual to sign documentation to withdraw her pending U visa application with USCIS, did not translate the document into Spanish, and did not inform the complainant's counsel of the withdrawal. CRCL found that ICE neither translated the document nor notified counsel but did not substantiate the allegation of coercion. In May 2022, CRCL sent a Recommendation Memorandum with four recommendations to ICE and an additional four to USCIS. In July 2022, USCIS concurred with all four recommendations, including the recommendation to create a U visa withdrawal form to support the U-visa withdrawal process and to train employees on the use of this form. In August 2022, ICE partially concurred with three recommendations and non-concurred with one. ICE agreed to train officers about the importance of notifying an attorney of record when a detainee is discussing or requesting a legal action or relief, to utilize resources for interpretative services available to detainees, and to re-train officers on the importance of proper documentation. ICE did not agree with a recommendation about recordkeeping.

## D. Expert Recommendation Memoranda

An "Expert Recommendation Memo" is the document CRCL issues to convey recommendations made in investigations using the assistance of contract subject matter experts. CRCL uses contract subject matter experts to assist with investigating medical care, mental health care, conditions of detention, suicide prevention, use of force, environmental health and safety, and policing practices. Expert Recommendation Memos are issued from Compliance management to the head of the Component's operational units. The following 21 summaries describe

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<sup>11</sup> CRCL also issued a Section 504 determination letter in this investigation. A summary of that letter is found in Section G below.



investigations in which CRCL issued an Expert Recommendation Memorandum in FY 2022 to a DHS Component. If the Component responded to the Expert Recommendation Memorandum in FY 2022, CRCL has indicated the Component's response.<sup>12</sup>

Expert recommendations related to onsite investigations aim to improve conditions of detention for individuals in DHS custody and to enhance compliance with applicable laws, standards, and other relevant policies, procedures, or guiding principles at the facilities involved in the complaints.<sup>13</sup> When CRCL issues expert recommendations following an onsite investigation, it provides Components with a memorandum detailing the recommendations.

## **CBP**

### ***Onsite Investigation in the Tucson Sector***

In August 2021, CRCL conducted an onsite investigation in the USBP Tucson Sector, including the Tucson Coordination Center and the Brian A. Terry and Nogales Border Patrol Stations. In December 2021, CRCL sent CBP an Expert Recommendation Memorandum with 12 recommendations regarding conditions of detention and medical care. In April 2022, CBP responded, concurring with seven recommendations, partially concurring with three, and non-concurring with two. Highlights of recommendations CBP agreed to implement include documenting telephone usage by unaccompanied children, expediting hiring of medical staff, remodeling or building appropriate medical space, securing confidentiality of medical interviews and exams, utilizing its language access information and resources, and securing personal property in a secure area with limited access. Topic areas of recommendations that CBP did not concur with include electronic documentation of the delivery of hygiene items and uniform medical standards.

## **ICE**

### ***Onsite Investigation at the Port Isabel Detention Center***

In August 2021, CRCL conducted an onsite investigation at the Port Isabel Detention Center. In November 2021, CRCL sent ICE an Expert Recommendation Memorandum with 18 recommendations in the areas of medical care and conditions of detention. In June 2022, ICE responded, concurring with three recommendations, partially concurring with two, and non-concurring with thirteen. Highlights of recommendations that ICE agreed to implement include the inspection of legal mail, discontinuing the use of prohibited restraint techniques, and incorporating the appropriate management when assembling the use of force after-action review team. Examples of topic areas of recommendations that ICE did not concur with include language access, law library access, emergency plans, and vaccination administration.

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<sup>12</sup> If no Component response is indicated in the summary, then the Component did not respond to the Expert Recommendation Memorandum in FY 2022. Although the Component may have responded by the date of publication of this report, only FY 2022 responses are noted.

<sup>13</sup> CRCL may find that certain allegations that prompted an onsite investigation are not substantiated or do not rise to the level of requiring a recommendation. Accordingly, some allegations that lead to an onsite investigation may not result in an accompanying recommendation.

### ***Onsite Investigation at the Winn Correctional Center***

In July 2021, CRCL conducted a virtual onsite investigation at the Winn Correctional Center and an in-person follow-up in August 2021. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. CRCL also investigated allegations of racial and sexual orientation discrimination and a COVID-19 death. In November 2021, CRCL sent ICE an Expert Recommendation Memorandum with 88 recommendations addressing issues including medical care and administration, COVID-19 protocols, suicide prevention, transgender care, language access, mental health care, use of force, language access, emergency response, COVID-19 protocols, PREA/SAAPI, disciplinary hearings, segregation, recreation, religious programs, grievances, transportation, and environmental health and safety.

### ***Onsite Investigation at the Bluebonnet Detention Center***

In September 2021, CRCL conducted an onsite investigation at Bluebonnet Detention Center. In January 2022, CRCL sent ICE an Expert Recommendation Memorandum with 16 recommendations regarding medical and mental health care, conditions of detention, and environmental health and safety. On August 5, 2022, ICE responded, concurring with 15 recommendations and partially concurring with one. Highlights of recommendations include that ICE agreed to increase direct staff supervision in detainee housing units and language access by making facility signage and tablet-based information available in multiple languages. ICE also agreed to enhance security camera features for privacy and to improve investigations of assault/sexual assault allegations.

### ***Onsite Investigation at the Jackson Parish Correctional Center***

In December 2021, CRCL conducted an onsite investigation at the Jackson Parish Correctional Center. In March 2022, CRCL sent ICE an Expert Recommendation Memorandum with 49 recommendations. On August 17, 2022, ICE responded, concurring with 31 recommendations, partially concurring with one, and non-concurring with 17. Highlights include that ICE agreed to a quality improvement initiative for medical records, to conduct additional training to reeducate medical staff on blood pressure parameters and continuation of care, to implement an electronic healthcare record, to conduct specialized training for calculated use of force incidents, and to ensure special menus are completed as needed based on different medical needs. Examples of topic areas of recommendations that ICE did not concur with include clinical services, mental health services, grievance processes, and language access.

### ***Onsite Investigation at the Baker County Detention Center***

In November 2021, CRCL conducted an onsite investigation at the Baker County Detention Center. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. CRCL also investigated allegations related to unwarranted and excessive use of force. In April 2022, CRCL sent ICE an Expert Recommendation Memorandum with 51 recommendations addressing issues including medical care (COVID-19 and medications); mental health care (staffing, suicide watch, and electronic records); conditions of detention (use of force, language access, legal access, segregation, disciplinary process, and grievances); and environmental health and safety (food temperature,

chemical control and inventory cleaning supplies, barber services, laundry, and COVID-19 protocols).

***Onsite Investigation at the Adelanto ICE Processing Center***

In July 2021, CRCL conducted an onsite investigation at the Adelanto ICE Processing Center. In May 2022, CRCL sent ICE an Expert Recommendation Memorandum with 36 recommendations regarding medical care, mental health care, conditions of detention, and environmental health and safety. On September 12, 2022, ICE responded, concurring with 17 recommendations, partially concurring with two, and non-concurring with 17. Highlights of accepted recommendations include exploring dedicated housing for detainees identified by ICE as sexual predators to ensure separation from vulnerable detainees, improving after-action reviews for use of force incidents involving facility and/or ICE officers, ensuring detainee encounters with facility mental health staff are documented, increasing frequency of cleaning in housing units, and incorporating detainee requests for menu changes where feasible. There were several significant topic areas of recommendations where ICE did not concur including segregation, use of force, medical and mental health care, COVID-19 policies and procedures, religious services accommodation, and language access.

***Onsite Investigation at the South Louisiana ICE Processing Center***

In March 2022, CRCL conducted a virtual onsite investigation at the South Louisiana ICE Processing Center. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. In June 2022, CRCL sent ICE an Expert Report Memorandum with 47 recommendations, addressing issues including medical care (language access and COVID-19 pandemic response); mental health care (staffing, tracking mental health services, suicide prevention and intervention, and treatment planning); conditions of detention (staff-detainee communication, training, use of force, and grievances); and environmental health and safety (food services and personal hygiene).

***Onsite Investigation at the Krome North ICE Processing Center***

In December 2021, CRCL conducted an onsite investigation at the Krome North ICE Processing Center. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. In July 2022, CRCL sent ICE an Expert Recommendation Memorandum with 33 recommendations addressing issues including medical care (timeliness of care, medication administration, and chronic illnesses); mental health care (psychiatric recordkeeping, physical space and equipment, and suicide prevention and intervention); conditions of detention (use of force, PREA, staffing, and grievances); and environmental health and safety (facility hygiene and food service).

***Onsite Investigation at the Adams County Correctional Center***

In May 2022, CRCL conducted a virtual onsite investigation at the Adams County Correctional Center. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. CRCL also investigated allegations related to racial discrimination. In July 2022, CRCL sent ICE an Expert Report Memorandum with 17 recommendations including medical care (COVID-19 practices and release medication policy); mental health care (access to mental health services and suicide prevention and intervention);

conditions of detention (disciplinary system); and environmental health and safety (chemical control and chemical usage).

***Onsite Investigation at the Allen Parish Public Safety Complex***

In January 2022, CRCL conducted an onsite investigation at the Allen Parish Public Safety Complex. CRCL reviewed general allegations, as well as allegations related to use of force, treatment of hunger strikers, use of segregation, and racially discriminatory treatment of Black detainees. In August 2022, CRCL sent ICE an Expert Recommendation Memorandum with 52 recommendations addressing issues including medical care (specialty care and COVID-19 practices); mental health care (psychiatric care, therapeutic services, sick call, mental health documentation, and suicide prevention and intervention); conditions of detention (language access, sexual abuse and assault prevention, use of force, law library and legal services, religious services, and grievances); and environmental health and safety (food service, laundry services, hazardous material safety, and fire and emergency safety).

***Onsite Investigation at the Imperial Regional Detention Facility***

In May 2022, CRCL conducted an onsite investigation at the Imperial Regional Detention Facility. CRCL reviewed allegations related to medical care, conditions of detention, and environmental health and safety. CRCL also investigated allegations related to retaliation. In September 2022, CRCL sent ICE an Expert Recommendation Memorandum with 38 recommendations addressing issues including medical care (sick call, medical records, and emergency care); conditions of detention (PREA, language access, and retaliation for grievances); and environmental health and safety (cleanliness and sanitation of the facility).

***Onsite Investigation at the Torrance County Detention Facility***

In June 2022, CRCL conducted an onsite investigation at the Torrance County Detention Facility. CRCL reviewed allegations related to conditions of detention, environmental health and safety, medical care, and mental health care. CRCL also investigated allegations related to access to legal services and interpretation. In September 2022, CRCL sent ICE an Expert Recommendation Memorandum with 42 recommendations addressing issues including medical care (triaging of sick call requests, language access, and nursing assessments for sick call requests); mental health care (quality monitoring, adequacy of care, and recordkeeping); conditions of detention (legal services, language access, and detainee grievances); and environmental health and safety (plumbing in housing units, food preparation, and chemical control).

***Onsite Investigation at the Henderson Detention Center***

In March 2022, CRCL conducted an onsite investigation at the Henderson Detention Center. CRCL reviewed allegations related to medical care, mental health care, conditions of detention, and environmental health and safety. CRCL also investigated allegations related to discrimination against ICE detainees by facility staff. In September 2022, CRCL sent ICE an Expert Recommendation Memorandum with 49 recommendations addressing issues including conditions of detention (recreation, visitation, segregation, use of force, PREA, language access, and legal access); mental health care (privacy, mental health evaluations, therapeutic interventions, discharge planning, suicide prevention, and continuous quality improvement);

medical care (chronic care, sick calls, and medication storage); and environmental health and safety (undergarments, housekeeping, and dietary needs).

### ***Onsite Investigations at the Plymouth County Correctional Facility***

CRCL conducted three separate reviews of the Plymouth County Correctional Facility between November 2021 and May 2022. In November 2021, CRCL initiated its investigation reviewing allegations related to discrimination, use of force, language access, medical care, and mental health care. Subsequently, in February 2022, CRCL conducted a broader investigation covering medical care, mental health care, conditions of detention, and environmental health and safety. Finally, in May 2022, CRCL completed its review of the facility. In September 2022, CRCL sent ICE an Expert Recommendation Memorandum with 70 recommendations addressing issues including medical care (specialty care, medical records, medication administration, and sick calls), mental health care (suicide prevention and mental health records); conditions of detention (use of force, grievances, staff conduct, retaliation, communication, legal access, language access, religious programs, telephone access, recreation, detainee handbook, security and control, and COVID-19 protocols); and environmental health and safety (food services, religious meals, clothing access, personal hygiene, facility hygiene, and heating, ventilation, and air conditioning).

### **Targeted Onsite Investigations**

Targeted onsite investigations focus on a narrow set of issues and have a faster timeline due to their streamlined set-up. Expert recommendations from targeted investigations provide expedited feedback on a specific issue set or similar group of allegations. With a targeted onsite investigation, there is no accompanying expert report because of the accelerated nature of the review. CRCL provides expert recommendations only in the summary Expert Recommendation Memorandum.

## **ICE**

### ***Targeted Onsite Investigation at the Pine Prairie ICE Processing Center***

In September 2021, CRCL conducted a targeted virtual onsite investigation at the Pine Prairie ICE Processing Center focused on retaliation and discrimination based on race. CRCL identified issues related to the facility's language access program which created an appearance of discrimination against Black detainees who did not speak English or Spanish. In June 2022, CRCL sent ICE an Expert Recommendation Memorandum with four recommendations addressing language access.

### ***Targeted Onsite Investigation at the Clay County Jail***

In August 2022, CRCL conducted a targeted onsite investigation at the Clay County Jail focused on allegations related to use of force. In September 2022, CRCL sent ICE an Expert Recommendation Memorandum with 12 recommendations addressing use of force policies, equipment, and After-Action Reviews.

### ***Targeted Onsite Investigation at the El Paso Service Processing Center***

In August 2022, CRCL conducted a targeted virtual onsite investigation at the El Paso Service Processing Center focused on PREA protections. In September 2022, CRCL sent ICE an Expert

Recommendation Memorandum with 13 recommendations addressing PREA-related issues, including camera surveillance, privacy, administrative segregation, language access, grievances, and training.

### **Spot Check Investigations**

A spot check investigation occurs when CRCL investigates serious allegations that require immediate action. Expert recommendations related to spot check investigations include expedited feedback and address immediate concerns while also assessing if follow-up, such as a multidisciplinary onsite investigation, is needed. When CRCL issues expert recommendations following a spot check investigation, there is no accompanying expert report because of the accelerated nature of the review. Instead, expert recommendations are only provided in the summary Expert Recommendation Memorandum.

## **ICE**

### ***Spot Check at the Torrance County Detention Facility***

In April 2022, CRCL conducted a spot check investigation at the Torrance County Detention Facility. CRCL had an urgent concern about allegations related to unsanitary facility conditions, including access to clean drinking water. In May 2022, CRCL sent ICE a Spot Check Expert Recommendation Memorandum with seven recommendations related to conditions of detention. In July 2022, ICE responded, concurring with six recommendations and partially concurring with one. Highlights of accepted recommendations include repairing nonfunctioning intercoms, identifying better means of communicating with non-English and non-Spanish detainees, ensuring privacy for detainees' conversations with attorneys, and repairing broken sinks that posed a safety concern.

### ***Spot Check at the Orange County Jail***

In May 2022, CRCL conducted a spot check investigation at the Orange County Jail reviewing allegations related to conditions of detention and medical care. CRCL had an urgent concern about allegations related to mental health evaluations and treatment plans, suicide risk assessments, segregation screening, pharmacological treatment, and language access. In August 2022, CRCL sent ICE a Spot Check Expert Recommendation Memorandum with 16 recommendations addressing issues including staff-detainee communication, language access, treatment for chronic care conditions, COVID-19 screening, triaging of sick call requests, and medication storage practices.

### **Periodic Review**

A periodic review provides a broad, systemic assessment of specific Department policies and procedures over time to address potential gaps and to strengthen civil rights and civil liberties protections. In addition to a Recommendation Memorandum, CRCL may also issue expert recommendations related to periodic reviews.

## **ICE**



### ***Periodic Review of ICE's SAAPI Program***

CRCL conducted a periodic review of ICE's implementation of its SAAPI program and requirements from DHS's regulation under PREA. CRCL evaluated how ICE Headquarters and field offices implemented ICE's regulatory and policy requirements to prevent, detect, and respond to sexual abuse in ICE custody. In February 2022, CRCL sent ICE a Recommendation Memorandum with 25 systemic recommendations and an Expert Recommendation Memorandum with 79 recommendations addressing specific program-level findings. Between the two memoranda, CRCL recommended ICE enhance implementation of PREA/SAAPI by acquiring and dedicating additional resources to the program, enhancing training for all personnel performing PREA/SAAPI-related responsibilities, and strengthening ICE's investigations into sexual abuse allegations through enhancing oversight mechanisms, issuing additional policies and procedures, strengthening training, and developing quality assurance programs.<sup>14</sup>

## **E. Component Responses to Memoranda**

The following 19 summaries describe investigations in which CRCL received a Component response in FY 2022 to a Recommendation or Expert Recommendation Memorandum issued by CRCL prior to FY 2022. A Component response includes a written concurrence or nonconcurrence for each of CRCL's formal recommendations, as well as an action plan to implement the CRCL recommendations with which the Component concurs. Summaries of investigations for which CRCL received a Component response in FY 2022, to a Recommendation or Expert Recommendation Memorandum issued by CRCL in FY 2022, are in Sections C and D of this report.

### **CBP**

#### ***Discrimination at the Blaine Port of Entry***

CRCL investigated numerous complaints alleging that CBP held as many as 150 individuals, particularly Iranian Americans and Iranian permanent residents, at the Blaine Port of Entry between January 4-6, 2020, and questioned them due to their national origin or place of birth. In July 2021, CRCL sent CBP a Recommendation Memorandum with three recommendations. In November 2021, CBP concurred with two recommendations and partially concurred with one. CBP agreed to provide additional guidance to personnel in the Seattle Field Office regarding DHS and CBP nondiscrimination policy.

#### ***Medical Care and Humanitarian Protections Under Title 42***

CRCL investigated several complaints regarding CBP's provision of medical care and humanitarian protections to undocumented individuals subjected to expulsion under Title 42 during the COVID-19 public health emergency. In August 2021, CRCL sent CBP a Recommendation Memorandum with five recommendations. In December 2021, CBP concurred with three recommendations and partially concurred with two. CBP agreed to document when noncitizens being processed under the CDC's Title 42 public health order express a fear and

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<sup>14</sup> This summary is repeated in Section C above because this periodic review includes both a Recommendation Memorandum and an Expert Recommendation Memorandum.

refer those claims to USCIS; to issue guidance advising agents to consider emergent medical conditions and particular vulnerabilities (e.g., sexual orientation, gender identity, age, significant physical or mental health concerns, and late-term and high-risk pregnancies) when exercising its discretion on Title 42 exceptions; to assign and provide an identifying reference number to persons expelled under Title 42; to refer individuals who make a torture claim to USCIS; and to provide initial health interviews to individuals who CBP apprehends and transports to a station and are under the age of 18 or otherwise identified with injury, illness, or other medical issues.

### ***Return of Property***

CRCL investigated several complaints regarding the return of personal property by individuals held in USBP custody. In September 2021, CRCL sent CBP a Recommendation Memorandum with six recommendations. In February 2022, CBP concurred with two recommendations and partially concurred with four. CBP agreed to issue a reminder to BPAs about their obligations to properly store, transfer, and return property and to issue a reminder that migrants can retrieve their property using their name and date of birth when a property receipt is not available. CBP also agreed to ensure that BPAs do not discard or destroy property until there has been a meaningful opportunity for individuals or a third-party designee to retrieve the property.

### ***Onsite Investigation in the Rio Grande Valley Sector***

In August 2020, CRCL conducted a virtual onsite investigation in the USBP Rio Grande Valley Sector, including at the RGV Central Processing Center and the McAllen, Rio Grande City, and Harlingen Border Patrol Stations. In July 2021, CRCL sent CBP an Expert Recommendation Memorandum with 33 recommendations in the areas of conditions of detention and medical care. In February 2022, CBP responded, concurring with nine recommendations, partially concurring with eight, and non-concurring with sixteen. Highlights of accepted recommendations include adding additional computer terminals for processing, implementing a new food service contract, and installing privacy curtains to cover medical whiteboards to enhance protection of medical information. Several significant topic areas of recommendations CBP did not concur with include enhancing privacy, documentation, and thoroughness of medical screenings; administration of medication in a timely and safe manner; and documentation of medication onto a signed Medication Administration Record and increasing the frequency of cleaning hold rooms.

### ***Suicide Prevention***

CRCL investigated numerous complaints related to attempted suicide and suicide deaths by individuals in CBP custody. CRCL found several deficiencies with CBP's policies and procedures regarding suicide prevention. Following a 2018 investigation into this issue, CRCL continued to investigate numerous additional complaints involving suicide attempts by individuals in CBP custody and determined prior recommendations needed to be amended and reissued.<sup>15</sup> In September 2021, CRCL sent CBP an Expert Recommendation Memo with 16 recommendations that were updated and enhanced versions of recommendations previously issued by CRCL in February 2018. In March 2022, CBP responded, concurring with eight recommendations, partially concurring with seven, and non-concurring with one

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<sup>15</sup> In February 2018, CRCL sent CBP an Expert Recommendation Memo with eight recommendations. In March 2018, CBP responded, concurring with four recommendations and non-concurring with four.

recommendation. Highlights of accepted recommendations include development of training materials to help personnel recognize behavioral health issues and potential suicidal behaviors and to develop a morbidity-mortality review of completed and serious suicide attempts. CBP did not agree with a recommendation to create a new policy regarding suicide attempts.

### ***Response to COVID-19***

CRCL investigated several complaints related to CBP's response to the COVID-19 pandemic. CRCL found that CBP had not implemented a comprehensive COVID-19 infectious disease response plan. CRCL also found CBP required a more structured Medical Quality Management program at the national level. In September 2021, CRCL sent CBP an Expert Recommendation Memorandum with ten recommendations. In March 2022, CBP concurred with seven recommendations and non-concurred with three. Highlights of accepted recommendations include agreement that a comprehensive COVID-19 infectious disease response plan for managing persons in CBP custody is important and must be developed in coordination with the CBP Office of Chief Medical Officer and public health experts. CBP also agreed that COVID-19 contact tracing guidance and direction to CBP personnel for those who are exposed to COVID-19 must be reviewed and updated regularly and a comprehensive COVID-19 infectious disease response plan should include guidance on the provision of face masks to persons in CBP custody. CBP did not agree with recommendations related to the CBP Management Inspections Division.

## **ICE**

### ***IHSC Medical and Mental Health Care Oversight***

CRCL investigated numerous complaints related to medical and mental health care and oversight provided to 17 ICE detainees who allegedly have serious health conditions. CRCL reviewed systemic concerns related to medical and mental health care provided by ICE Health Service Corps (IHSC) at IHSC-staffed detention facilities and IHSC's oversight of detainee medical and mental health care at all ICE detention facilities. In April 2021, CRCL sent ICE an Expert Recommendation Memorandum with 15 recommendations. In October 2021, ICE concurred with ten, partially concurred with four, and non-concurred with one. Highlights of recommendations that ICE agreed to implement include conducting an analysis to better understand current utilization and management of the list used to track and maintain noncitizens with significant mental illnesses; training all physicians on appropriate use of emergency forced medications and proper documentation of de-escalation techniques utilized prior to use of emergency forced medications; training all staff (including facility medical and clinical leadership) to better understand and utilize subject matter expertise of the mental health team at the facility and headquarters level; and utilizing a cloud-based repository to document IHSC's data collection process for noncitizen deaths to monitor and re-evaluate corrective action plans to determine whether corrective measures have achieved sustained and desired results.

### ***Onsite Investigations at Richwood Correctional Center***

In February 2020, CRCL conducted an in-person onsite investigation at the Richwood Correctional Center. In September 2020, CRCL sent ICE an Expert Recommendation Memorandum with 83 recommendations regarding medical care, mental health care, conditions of detention, and environmental health and safety. In December 2021, ICE responded,

concurring with 53 recommendations, partially concurring with 17, and non-concurring with 13. Highlights of recommendations ICE agreed to implement include, updating the suicide watch policy to include distinct definitions and implications, training facility staff on signs and symptoms of mental health distress, implementing a corrective action plan to ensure compliance with use of force standards, and training facility staff on language access policies. A significant topic area of recommendations that ICE did not concur with related to suicide watch housing and mental health referrals.

In September and October 2020, CRCL conducted a targeted virtual onsite investigation at the Richwood Correctional Center specifically focused on the facility's response to COVID-19. In January 2021, CRCL sent ICE an Expert Recommendation Memorandum with 55 recommendations in the areas of medical care, conditions of detention, and environmental health and safety. In October 2021, ICE responded, concurring with 51 recommendations and non-concurring with four. Highlights of recommendations that ICE agreed to implement include providing training to staff regarding COVID-19 prevention and response, ensuring legal access to noncitizens in medical isolation, adhering to CDC guidelines on the movement of noncitizens in medical isolation, and barring Louisiana Department of Corrections inmates from entering the housing units designated for ICE.

#### ***Fire Safety at the Joe Corley ICE Processing Center***

CRCL investigated several reports about a fire that occurred in July 2020 at the Joe Corley ICE Processing Center that raised concerns regarding fire safety and emergency planning at the facility. In September 2021, CRCL sent ICE an Expert Recommendation Memorandum with seven recommendations. In January 2022, ICE concurred with six recommendations and non-concurred with one. ICE agreed with recommendations related to planning, implementing, and monitoring a comprehensive fire safety and emergency program that includes inspections, fire drills, training, and after-action reporting.

#### ***Age Determination***

CRCL investigated several complaints alleging that ICE improperly determined the ages of individuals in detention facilities who purported to be minors. CRCL found concerns with ICE's age determination procedures. In July 2021, CRCL sent ICE a Recommendation Memorandum with six recommendations. In February 2022, ICE responded, partially concurring with four recommendations and non-concurring with two. ICE agreed to provide training about its age determination procedures to relevant ICE personnel and to update its age determination policies and procedures with a clarification about verifying age claims and a reminder about using medical assessments as a last resort.

#### ***Use of Force in Commercial Removals***

CRCL investigated complaints alleging that ICE used excessive force during attempted removals of noncitizens on commercial flights. CRCL found ICE does not have a clearly enumerated policy regarding authority of deportation officers to terminate a commercial removal operation, that ICE does not have a policy related to the audio and video recording of commercial removals, and that ICE does not adequately track use of force statistics related to commercial removals. In September 2021, CRCL sent ICE a Recommendation Memorandum with five recommendations. In April 2022, ICE concurred with the five recommendations, including that ICE agree to amend

existing training, to reiterate existing policy pertaining to a deportation officer's authority to terminate a commercial removal, and to include CRCL as a voting member on ICE's Firearms and Use of Force Incident Review Committee. ICE also agreed to create policy or national guidance regarding the use of video recording during commercial removals upon consultation with appropriate federal entities, including the Federal Aviation Administration and TSA.

#### ***Onsite Investigation at the La Palma Correctional Center***

In February 2021, CRCL conducted a virtual onsite investigation at the La Palma Correctional Center. In August 2021, CRCL sent ICE an Expert Recommendation Memorandum with 31 recommendations in the areas of medical care, conditions of detention, and environmental health and safety. In March 2022, ICE responded, concurring with two recommendations, partially concurring with 11, and non-concurring with 18. Highlights of accepted recommendations include providing quarantined noncitizens exposed to COVID-19 with access to virtual court hearings and implementing a recreation schedule to account for seasonal changes. Several significant topic areas with which ICE did not concur included using chemical agents, specifically the chemical irritant oleoresin capsicum ("pepper spray") for crowd-control; documenting medical services; language access, and detainee health assessments.

#### ***Onsite Investigation at the Otay Mesa Detention Center***

In October 2020, CRCL conducted a virtual onsite investigation at the Otay Mesa Detention Center. In September 2021, CRCL sent ICE an Expert Recommendation Memorandum with 32 recommendations in the areas of medical care, mental health care, conditions of detention, and environmental health and safety. In March 2022, ICE responded, concurring with 16 recommendations, partially concurring with 12, and non-concurring with four. Highlights of recommendations that ICE agreed to implement include properly documenting medical symptoms in detainee health records, using and documenting language access resources, monitoring deportation officers' contacts with detainees at the scheduled times, and reviewing the internal procedures for approval of religious diets. Significant topic areas with which ICE did not concur included suicide prevention, designating beds for the mental health unit, joint facility and ICE review of detainee grievances, and sanitizing for visitation.

#### ***Onsite Investigation at the Stewart Detention Center***

In March 2021, CRCL conducted a virtual onsite investigation at the Stewart Detention Center. In July 2021, CRCL sent ICE an Expert Recommendation Memorandum with 31 recommendations. In April 2022, ICE responded, concurring with 18 recommendations, partially concurring with three, and non-concurring with ten. Highlights of accepted recommendations include revising the facility's Pandemic COVID-19 plan with the ICE ERO COVID-19 Pandemic Response Requirements, establishing a special needs committee to manage chronic care needs, developing a robust mental health quality improvement program with routine auditing and targeted initiatives, ensuring that written grievance responses are provided to LEP detainees in a language they understand, and conducting PREA screenings in a private and confidential area. ICE did not concur with recommendations related to COVID-19 testing, heating and cooling issues, and medical diet menus.

### ***Onsite Investigation at the Immigration Centers of America – Farmville***

In September and October 2020, CRCL conducted a virtual onsite investigation at the Immigration Centers of America - Farmville. In June 2021, CRCL sent ICE an Expert Recommendation Memorandum with 43 recommendations. In May 2022, ICE responded, concurring with the nine recommendations, partially concurring with seven, and non-concurring with 27. Highlights of recommendations ICE agreed to implement include ensuring required staff conduct use of force after-action reviews, responding to grievances submitted by LEP detainees in a language the detainee understands, and conducting comprehensive health assessment within the required 14 day period. ICE did not concur with recommendations related to face masks, medical care communication, and mental health treatment.

### ***Onsite Investigation at the Otero County Processing Center***

In November and December 2020, CRCL conducted a virtual onsite investigation at the Otero County Processing Center. In July 2021, CRCL sent ICE an Expert Recommendation Memorandum with 81 recommendations. In August 2022, ICE responded, concurring with 77 recommendations, partially concurring with three, and non-concurring with one. Highlights of recommendations ICE agreed to implement include ensuring frequent and regular supervision of the mental health program by the medical director, ensuring noncitizens receiving psychiatric medication are seen every 30 days, ensuring treatment plans are collaboratively developed and reviewed, implementing a plan to provide appropriate medical and mental health services for transgender detainees, confirming that noncitizens with severe medical conditions are not transferred without adequate medical support planned with the receiving facility, and using qualified interpreters and/or professionally translated informational postings and forms. One topic area of recommendations with which ICE did not concur relates to onsite psychiatric care.

## **FEMA**

### ***Civil Rights Complaint Process***

CRCL investigated a complaint alleging that FEMA's Office of Equal Rights was unresponsive to an individual's civil rights complaint and that the investigation was not sufficiently thorough. In September 2021, CRCL sent FEMA a Recommendation Memorandum with five recommendations related to its external complaint program. In November 2021, FEMA responded, concurring with three recommendations, partially concurring with one, and non-concurring with one. FEMA agreed to ensure that its external complaint process addresses all aspects of an investigative process, including intake, classification, investigation, resolution, and integration; establishing a centralized system for recording and tracking; and developing a memorandum of agreement between CRCL and FEMA to guarantee visibility into FEMA's civil rights complaint work.

## **USCIS**

### ***Disability Accommodation During the Naturalization Process***

CRCL investigated numerous complaints alleging that USCIS discriminated against individuals with disabilities during the naturalization process. CRCL found concerns related to adhering to policies and procedures for providing common disability accommodations, engaging in a timely interactive process, identifying in-person requests for accommodation, and interacting



appropriately with individuals with disabilities. In July 2021, CRCL sent USCIS a Recommendation Memorandum with 13 recommendations. In March 2022, USCIS responded, concurring with 11 and non-concurring with two. USCIS agreed to develop and implement training for staff about identifying and responding to common accommodation requests, update language on the USCIS website to reflect accurate information on requesting accommodations, update internal and external documents to ensure consistency with handling accommodation requests, train public facing staff about responding to requests for accommodation, and create step-by-step standard operating procedures for receiving and processing requests for accommodation. USCIS did not agree with CRCL's recommendations that accommodations apply during the application stage and to the Biometrics Processing Unit.

## F. Informal Advice

The following 57 summaries describe investigations in which CRCL issued Informal Advice in FY 2022 to a DHS Component. CRCL may, when appropriate, conclude its investigation through the issuance of Informal Advice rather than a formal recommendation. Informal Advice is a written communication that notifies the relevant Component of a narrow civil rights or civil liberties concern that is best addressed operationally. The Informal Advice explains the background, civil rights or civil liberties concerns, or issues found, and proposes actions for the DHS Component to address those concerns. Complaints are typically closed following the issuance of Informal Advice.

### CBP

#### *Improper Personal Search*

CRCL investigated a complaint alleging a CBP officer at Las Vegas International Airport sexually assaulted a traveler while conducting a personal search. CRCL did not find the officer sexually assaulted the traveler but did find the officer conducted an improper personal search. In December 2021, CRCL suggested CBP require the officer to undergo retraining on the proper personal search policy.

#### *Identifying Agent Names in Records*

CRCL investigated a complaint alleging a BPA hit an unaccompanied child on the chin during apprehension. CRCL was unable to investigate the allegation because the Form I-213, Record of Deportable/Inadmissible Alien, did not provide the names of any BPAs involved in the apprehension. Further inquiry revealed USBP regularly omits BPA names on Form I-213, impeding oversight as investigations cannot proceed without the BPA's identity. In January 2022, CRCL requested that CBP include employee names on Forms I-213 as required by the form, update training to make clear this is not optional, and conduct reminder training to reinforce this practice.

#### *Family Unity and Discretionary Title 42 Exceptions*

CRCL investigated a complaint alleging CBP separated a four-month-old child from his grandmother, transferred the child to the custody of the Office of Refugee Resettlement and expelled the child's grandmother, under the CDC's public health Title 42 Order. CRCL found the separation complied with CBP policy, because the grandmother is not the child's legal

guardian, and thus, under the TVPRA, CBP could not legally release the child to his grandmother. In February 2022, CRCL notified CBP that they should have exercised discretion in this case based on the tender age of the child. CRCL suggested CBP should consider maintaining family unity, particularly in cases involving vulnerable individuals, as a factor when exercising discretion in making Title 42 exceptions.

### ***Restroom Access During Vehicle Transport***

CRCL investigated a complaint alleging that an individual who USBP was transporting urinated in a plastic bag after being denied an opportunity to use the restroom. CRCL found USBP does not have policy or guidance for providing the opportunity to use restrooms during transportation, often for long distances. In April 2022, CRCL suggested USBP issue a muster reminding personnel that restroom access is permitted during transport and encouraged USBP to identify best practices for restroom access during transport.

### ***Restroom Access***

CRCL investigated separate complaints alleging CBP officers did not provide restroom access to travelers at Washington Dulles International Airport and New Orleans International Airport. CRCL found the officers' actions violated the National Standards on Transport, Escort, Detention, and Search and CBP Directive 3340-030B, *Secure Detention, Transport, and Escort Procedures at Ports of Entry*. In July 2022, CRCL requested that CBP remind their workforce at those two airports of relevant policies and procedures related to restroom access in CBP inspection areas.

### ***Personal Property***

CRCL investigated several complaints alleging USBP mishandled noncitizens' property at the El Paso Central Processing Center. During an onsite investigation at the facility in March 2022, CRCL staff observed the improper handling of personal property, including discarding unsoiled clothing, improper recordkeeping of personal property, and not returning personal items upon transfer or release. CRCL also found concerns with the facility's practice of discarding property it deemed nonvaluable. In April 2022, CRCL advised that CBP issue guidance that property should only be discarded when legitimate health or safety concerns exist and ensure proper recording and return of personal property.

### ***Wake-Up Measures for Unaccompanied Children***

CRCL investigated several complaints alleging that CBP personnel woke up unaccompanied children in CBP custody by using concerning tactics. CRCL was not able to fully investigate many of the allegations because of insufficient evidence. However, given the prevalence and nature of the allegations and the particular vulnerability of unaccompanied children, a conditions of detention subject matter expert provided CRCL with best practices for waking up minors. In April 2022, CRCL provided this information to CBP and requested CBP incorporate them into current practice.

### ***8 U.S.C. § 1367 Protections***

CRCL investigated a complaint alleging CBP violated the 8 U.S.C. § 1367(a)(2) confidentiality provisions by sharing information about a complainant's immigration status with an alleged abuser. While CRCL substantiated this allegation, it was not found to be a "willful" violation.

In May 2022, CRCL suggested that CBP circulate information to CBPOs specific to the Department's responsibilities related to protecting information of individuals covered by 8 U.S.C. § 1367.

### ***Behavior Concerns of Unaccompanied Children***

CRCL investigated a complaint alleging that an unaccompanied child in custody at the Donna Processing Center was hit by two other unaccompanied children before staff intervened. CRCL substantiated the allegation and found that hourly welfare checks were not being conducted. In July 2022, CRCL advised that CBP issue training on requirements regarding conducting welfare checks, as well as separating unaccompanied children in incidents of bullying.

### ***Inappropriate Questioning of Native Americans***

CRCL investigated a complaint alleging a CBP officer inappropriately treated, racially profiled, and discriminated against a person with a Native American status card and Canadian passport. The complainant alleged a CBP officer inappropriately questioned her about her tribal blood and her parents' marital status at birth before allowing her to enter the U.S. CRCL found the officer's inquiries were permissible as both were made to determine her admissibility into the U.S. pursuant to Section 289 of the Immigration and Nationality Act and her claim for U.S. citizenship without a passport. However, CRCL also found travelers may not understand the basis for these questions, which likely seem intrusive and offensive. In July 2022, CRCL suggested CBP issue a bulletin explaining to travelers the potential need to inquire about the importance of blood and parental marriage status at birth in this context.

### ***Holds on Household Good Shipment***

CRCL investigated a complaint by a U.S. citizen alleging a international outbound shipment of his household goods was unnecessarily placed on hold for further inspection. CRCL found there was sufficient legal authority to place the hold but CBP did not consider mitigating information and/or explanatory information in its determination to place the hold. In July 2022, CRCL requested CBP send a reminder to National Targeting Center Cargo Division personnel to consider mitigating factors when placing holds on outbound personal goods.

### ***Forcible Fingerprinting***

CRCL investigated a complaint alleging CBP officers injured an individual when they forcibly fingerprinted him during secondary inspection at the Gateway to the Americas Bridge in Laredo, Texas. CRCL found that forcibly fingerprinting travelers who are found inadmissible upon inspection at ports of entry is inconsistent with CBP's previously stated policy of avoiding forcible fingerprinting, and that legal authorities related to inspection do not appear to mandate fingerprinting under these circumstances. In August 2022, CRCL advised CBP to adopt a written policy of avoiding forcible fingerprinting of inadmissible travelers at ports of entry who refuse to comply with fingerprint requests.

### ***Aviation Support to Federal, State, and Local Law Enforcement***

CRCL investigated a complaint alleging CBP Air and Marine Operations resources were used to surveil individuals engaged in First Amendment-protected protests. CRCL found that, while CBP recognized and addressed these concerns through issuance of its June 2021 *Interim Guidance Regarding CBP Support to State, Local, Tribal and Territorial Law Enforcement*

*Entities Related to First Amendment Protest Activities*, the guidance was limited to non-federal law enforcement entities. CRCL suggested CBP extend guidance to all requests for support including from DHS Component and federal partners.

#### ***Recordkeeping for Family Separation Determinations***

CRCL investigated a complaint alleging CBP separated a father and minor child due to CBP's determination that the father posed a danger to the child. CRCL found family separation determination was proper and consistent with relevant requirements, but CBP erroneously recorded the reason for separation as "unfit parent." In September 2022, CRCL requested CBP correct the record to reflect the reason for family separation and ensure future separations be accurately recorded.

#### ***Escorted Hospital Visit***

CRCL investigated a complaint regarding a married couple apprehended by CBP. The complaint alleged USBP did not allow the wife to visit the hospital when the husband began to experience medical distress from which he soon died. CRCL found CBP's hospital visitation policy does not allow for spousal visits when loss of life appears imminent. In September 2022, CRCL suggested CBP create an updated policy allowing for a known spouse in DHS custody to visit an immediate family member, also in DHS custody, when CBP is aware the individual is near death.

#### ***Medical Care for Unaccompanied Child***

CRCL investigated a complaint alleging USBP confiscated a 13-year-old boy's kidney medication resulting in emergency dialysis in the Pediatric Intensive Care Unit shortly after transfer to ORR custody. The complaint raised extremely serious concerns about child care while in CBP custody, as hospitalization was undisputed. In September 2022, CRCL requested CBP review the matter and determine if the medical assessment and associated records met CBP standards for care of an unaccompanied child. CRCL also requested CBP re-train BPAs to ensure medical forms are fully and accurately filled out.

#### ***FinCEN Form 105 Procedures***

CRCL investigated a complaint alleging a CBP officer at the San Ysidro Port of Entry used excessive force after a traveler refused to complete a FinCEN Form 105. CRCL did not substantiate an excessive use of force allegation; however, CRCL found CBP's policy was unclear whether a FinCEN Form 105 should be completed when a traveler states they have less than \$10,000. In September 2022, CRCL suggested CBP clarify FinCEN Form 105 procedures, remind officers not to complete or amend FinCEN Forms 105 on behalf of travelers, and remind officers any FinCEN Forms 105 completed by a traveler with a declaration under \$10,000 be shredded to avoid unnecessary data collection of a traveler's information.

#### ***Vehicle Occupancy Limits and Seat Belt Use***

CRCL investigated a complaint concerning a vehicle rollover accident in which a tractor trailer collided with a CBP vehicle causing serious injury to the CBP transport agent and passengers. CRCL found that the CBP vehicle exceeded occupancy limits and neither the driver nor occupants were wearing seat belts at the time. In September 2022, CRCL advised CBP to consider adopting CRCL's previously issued Informal Advice from September 2020, requesting

CBP consider a policy that prohibits exceeding manufacturer specifications for occupancy limits, except in documented extenuating circumstances. CRCL also suggested that as part of CBP's annual seat belt safety reminder, that CBP place permanent decals - an example of which was provided by CRCL - inside every CBP vehicle informing drivers that seat belts must be worn and highlighting risks of noncompliance.

## **ICE**

### ***PREA Documentation***

CRCL investigated a complaint alleging an officer at the Adelanto ICE Processing Center sexually assaulted a noncitizen. CRCL did not substantiate the allegation but determined documentation for the facility's investigation was non-compliant with the PREA. In January 2022, CRCL suggested ICE ensure all allegations of staff-on-detainee sexual assault or sexual abuse be properly designated and documented, in accordance with relevant PREA regulations. CRCL also suggested all PREA investigators at the facility undergo a specialized PREA investigator training and the investigator in this case should undergo refresher training before being permitted to conduct any future PREA investigations.

### ***Concern with ICE OPR Investigation into Allegations of Excessive Use of Force***

CRCL found an ICE OPR investigation into allegations that two officers at the Glades County Detention Center used excessive force on a noncitizen was insufficient. CRCL determined ICE OPR did not conduct the investigation as required and, instead, relied on an internal After-Action Review that found the actions were within ICE policy. CRCL also found a discrepancy in the report that referenced a review of video, which ICE then informed CRCL did not exist when it requested the video for independent review by CRCL. In March 2022, CRCL advised that ICE review why ICE OPR did not conduct an investigation, and why there was no concern raised regarding the discrepancy of the existence of video evidence.

### ***Body Worn Camera During Commercial Removal***

CRCL investigated a complaint alleging excessive force during a removal on a commercial flight. CRCL could not make findings regarding excessive use of force allegations because of a lack of video footage. In March 2022, CRCL reminded ICE of prior recommendations from CRCL's September 2021 Recommendation Memorandum regarding ICE's use of force in commercial removals and reiterated that ICE needs to video record commercial removals to ensure procedures are followed and to protect officers against false claims of excessive force.

### ***Review of PREA Allegations***

CRCL investigated a complaint alleging a detainee at the Bluebonnet Detention Facility sexually harassed another noncitizen. CRCL found several concerns with how ICE and the facility reviewed the PREA allegations, including that ICE improperly determined the allegation was not PREA-related, circumventing required reporting, response, and investigative procedures. In March 2022, CRCL advised that ICE review the status of required training, consider adding specialized investigator training for relevant personnel, and emphasize to facility personnel that PREA allegations must be correctly classified.

### ***PREA Allegations at the Caroline Detention Facility***

CRCL investigated a complaint alleging a detainee at the Caroline Detention Facility sexually harassed his cellmate. CRCL did not substantiate the allegations but found concerns related to the facility co-housing detainees with a PREA-related allegation against each other.

Additionally, CRCL found staff members have numerous delinquent trainings. In March 2022, CRCL requested ICE remind the facility not to house alleged victims and an alleged perpetrator in the same cell and to ensure staff member training is current.

### ***Conditions of Detention at the Glades County Detention Center***

CRCL investigated a complaint alleging concerns about conditions of detention at the Glades County Detention Center, including discriminatory treatment of Black detainees, excessive use of force, and an occurrence of accidental carbon monoxide poisoning. A March 2022 onsite investigation at the facility resulted in CRCL recommending ICE immediately transfer or release noncitizens with chronic medical and mental health needs. CRCL provided additional advice in March 2022, reiterating that ICE implement CRCL's request to terminate its contract at the facility or discontinue the practice of a minimum bed capacity at the facility.

### ***Language Access***

CRCL investigated a complaint alleging that the medical provider at the LaSalle ICE Processing Center did not use an interpreter during a physical exam of a detainee. CRCL found that no interpreter was provided during the examination. In March 2022, CRCL suggested that ICE communicate with the facility's medical provider to ensure that professional language services are utilized and documented in accordance with detention standards. CRCL also suggested that ICE provide refresher training to facility staff on language access responsibilities.

### ***Documentation of Communication***

CRCL investigated a complaint involving the apprehension of a noncitizen by local law enforcement for misdemeanor assault and his transfer to ICE custody pursuant to an agreement under Section 287(g) of the Immigration and Nationality Act. The complainant alleged that his eight-year-old son was left unattended following the complainant's apprehension and that the complainant reported his concerns to ICE. CRCL found that ICE did not document what it did with the information it received about the complainant's son in the briefing. In March 2022, CRCL suggested that ICE document in its internal database all aspects of 287(g) encounters, including any potential repercussions to minors. CRCL also suggested that ICE document that it communicated such concerns to the law enforcement entity with jurisdiction over the noncitizen.

### ***Mental Health Care and Conditions of Detention at Orange County Jail***

CRCL investigated a complaint alleging that Orange County Jail offered inadequate mental health care to a detainee with a significant history of mental illness and suicide attempts and did not consistently provide him with information in Spanish. CRCL found that the facility did not comply with relevant detention standards. In March 2022, CRCL advised ICE to transfer the detainee to a facility with a higher level of mental health care. Further, CRCL suggested that ICE consider whether the actions agreed to in its response to CRCL's 2018 recommendations were implemented, particularly as they relate to language access.



### ***Family Separation***

CRCL investigated a complaint alleging that ICE arrested, detained, and planned to remove a mother without allowing her to make formal guardianship or travel arrangements for her minor daughter, who was reportedly living with her mother at the time of the arrest. CRCL found ICE did not identify the complainant as the parent of a minor prior to arranging for her removal and did not provide her an opportunity to make alternative care or travel arrangements for her daughter to return to their country of citizenship upon the mother's removal. In April 2022, CRCL advised that ICE update the ICE Detained Parents Directive to include a requirement that ICE personnel inquire about and document parent and/or caretaker status at significant stages of the immigration enforcement process. Additionally, CRCL suggested ICE detention and deportation officers and supervisors receive mandatory training on the requirements of ICE policy and guidance related to parental interests.

### ***Translation of Documents***

CRCL investigated a complaint alleging that a Spanish-speaking detainee at the South Texas Detention Facility was presented with a Form I-286, Notice of Custody Determination, in English, and that an ICE officer, who reportedly has some fluency Spanish, translated the document. The complaint alleged the officer did not properly explain that the document provided an option to renounce his right to be seen by an Immigration Judge and be removed. CRCL found ICE did not follow proper language access procedures when the officer, who is not trained in interpretation and translation services, translated a document that carried serious immigration consequences. In April 2022, CRCL suggested that ICE should provide forms requiring a signature in a detainee's primary language in accordance with federal law, policy, and congressional requirements and use a certified translator when needed. CRCL also suggested that ICE should recirculate all applicable language access policy and guidance to officers at the South Texas Detention Facility.

### ***PREA Allegations at the Pulaski County Jail***

CRCL investigated two PREA complaints alleging detainee-on-detainee sexual abuse by the same alleged perpetrator at the Pulaski County Jail. CRCL found the facility's handling of the allegations was flawed, including not investigating one of the two complaints and not interviewing the alleged perpetrator. CRCL also determined that men and women were improperly housed together in the same unit. In May 2022, CRCL suggested that ICE review CRCL's expert recommendations related to PREA that are noted above in Section D and take appropriate steps relating to reporting, tracking, investigating, and training for alleged PREA incidents.

### ***PREA Allegations at the Houston Contract Detention Facility***

CRCL investigated two PREA complaints alleging detainee-on-detainee sexual assault and abuse by the same alleged perpetrator at the Houston Contract Detention Facility. CRCL found the facility's handling of the allegations was flawed, including not investigating one complainant's allegations and not conducting a thorough investigation of the other complaint. In May 2022, CRCL suggested ICE review CRCL's expert recommendations related to PREA noted in Section D and take appropriate steps relating to reporting, tracking, investigating, and training for alleged PREA incidents.

### ***PREA Allegations at the Pine Prairie ICE Processing Center***

CRCL investigated a complaint alleging staff-on-detainee sexual abuse and retaliation at the Pine Prairie ICE Processing Center. CRCL substantiated the PREA allegation and found the detainee was improperly kept in segregation for a month after reporting his allegations. CRCL also found the facility did not follow several PREA protocols. In May 2022, CRCL requested that ICE review CRCL's expert recommendations related to PREA noted in Section D and take appropriate steps relating to reporting, tracking, investigating, and training for alleged PREA incidents. CRCL also advised that ICE engage with the facility warden regarding how the detainee was treated as a perpetrator rather than a victim.

### ***Release from Detention with COVID-19***

CRCL investigated a complaint alleging ICE released an individual from custody who had a documented COVID-19 positive test. CRCL found that ICE released the noncitizen pursuant to a judicial bond and that the individual tested positive for COVID-19 on the day of his release. CRCL also found that ICE substantially complied with the applicable requirements for safe release of noncitizens who are positive with COVID-19, but did not notify state, local, tribal, and/or territorial public health departments. In August 2022, CRCL suggested that ICE document test results prior to release or removal and notify state, local, tribal, and/or territorial public health departments when a COVID-19 positive individual is released.

### ***Commissary for Hunger Striking Detainees***

CRCL investigated a complaint from a detainee at Yuba County Jail who alleged ICE retaliated against hunger striking detainees by not distributing commissary slips to them. CRCL found the hunger striking detainees were denied commissary slips on the day they initiated a hunger strike, violating facility policy by preventing them access to non-food items. In August 2022, CRCL suggested ICE remind facility staff about commissary policy which provides that non-food commissary items are not restricted for hunger striking detainees.

### ***PREA Allegations at Krome North Service Processing Center***

CRCL investigated a complaint alleging that a detainee at the Krome North Service Processing Center had been subjected to sexual harassment by staff when a nurse insisted on testing his insulin while he was taking a shower. CRCL did not substantiate a PREA violation; however, the nurse did require the complainant to stick his hand through the shower flap so she could administer an insulin test. CRCL suggested that ICE instruct all relevant facility staff that non-emergency medical care should not be administered to detainees who are showering.

### ***PREA Allegations at Laredo Processing Center***

CRCL investigated a complaint alleging an individual in ICE custody at the Laredo Processing Center was subjected to unwanted sexual advances by another noncitizen, denied mental health services, and had a PREA complaint ignored. CRCL found that the PREA allegations could not be substantiated, but based on documents produced by ICE, CRCL found that a supervisor had made a statement to the complainant that could be seen as potentially retaliatory. CRCL also found numerous inaccuracies with the facility's mental health documentation. On September 2022, CRCL suggested ICE require the facility to reiterate to staff that PREA complainants should not be subjected to retaliation. CRCL also suggested ICE require the facility to ensure all staff are fully trained on proper and accurate documentation.

### ***Length of Stay at Short-Term Facility***

CRCL investigated a complaint alleging that ICE detained a noncitizen at the Alexandria Staging Facility, a short-term facility, beyond the 72-hour limit. The complaint also alleged that ICE did not allow the noncitizen to communicate with his family or receive a hot meal or shower while at the facility because the facility has reduced services due to its short-term status. CRCL found that ICE held the noncitizen for 13 days. In 2021, CRCL issued Informal Advice regarding using the facility beyond 72 hours. In September 2022, CRCL reiterated the prior advice, as well as similar recommendations made in 2017. CRCL also requested that ICE audit the length of stays at the facility and track the transfer all noncitizens at the facility for over 72 hours.

### ***ICE Did Not Timely File Notice to Appear with Immigration Court***

CRCL investigated a complaint alleging that ICE had detained an individual at Stewart Detention Center for over two months without filing a Notice to Appear (NTA) resulting in extended time in custody. CRCL found that ICE did not file the NTA until two months after he was taken into custody. Additionally, when the NTA was filed, it was filed with incorrect information, resulting in another delay. In September 2022, CRCL requested that ICE provide refresher training and reminders to deportation officers to follow their case dockets closely to ensure proper docket management and avoid unnecessary delays when filing NTAs.

### ***Training and Staffing Plans for Disturbances***

CRCL investigated a complaint alleging that numerous officers at the Moshannon Valley Processing Center did not intervene when observing detainees attacking another detainee. CRCL found that it took staff 36 minutes for staff to respond to the fight. CRCL also found that the facility did not have the required number of trained staff available at the time of the fight and did not ensure that staff had the requisite training to deescalate disturbances. In September 2022, CRCL suggested that ICE create or update policy that ensures timely responses to disturbances, develop a staffing plan that ensures sufficient personnel are present during every shift, establish minimum training requirements, provide sufficient training, and develop a plan to conduct contraband searches.

### ***Phone Access***

CRCL investigated a complaint alleging individuals detained at the El Paso Service Processing Center and Otero County Processing Center had difficulty making phone calls. The complaint further alleged that the messages that alert individuals about calls are not translated into the detained person's native language and that the written scheduling process is inaccessible to people who are illiterate. CRCL found that the facilities' policies and procedures do not require staff to explain how to use the tablets to people who have limited English proficiency or who are illiterate. In September 2022, CRCL suggested ICE ensure that oral interpretation of tablet instructions is provided to LEP detainees or video instructions are provided to those who are illiterate and that standard operating procedures are updated accordingly.

## **FEMA**

### ***Documentation of Homeownership***

CRCL investigated a complaint alleging that FEMA denied disaster relief to Black applicants in the South at a disproportionately higher rate due to a FEMA requirement that disaster survivors

provide formal proof of homeownership, which does not capture about one third of Black-owned property in the South. CRCL found that FEMA had updated its policy to allow applicants to provide a self-declarative statement of ownership where the state, tribe, or territory recognizes heirship laws, which was lauded by CRCL. To ensure proper implementation, in August 2022, CRCL advised FEMA to monitor denials based on ownership. Specifically, CRCL recommended that FEMA review the denials to determine if they relate to heirship and conduct outreach in traditionally underserved communities to ensure the new documentation requirements are communicated to disaster survivors.

## **USCIS**

### ***Processing Requests to Expedite Naturalization Applications***

CRCL investigated a complaint alleging that USCIS did not expedite a naturalization application made by an individual whose Social Security Disability Insurance and Medicaid benefits would expire without action by USCIS. CRCL found concerns regarding the processing and communication related to the request. In April 2022, CRCL suggested that USCIS develop and implement new methods to accurately capture requests to expedite during the naturalization application intake process and issue a reminder regarding the potential loss of benefits.

### ***Naturalization Application Processing Delays***

CRCL investigated a complaint alleging that USCIS delayed the processing of the complainant's naturalization application by almost two years. Based on information provided by USCIS, CRCL found that USCIS had not informed the complainant and other applicants of processing delays impacting the naturalization application process. In May 2022, CRCL advised USCIS to issue a notice to the complainant and other stakeholders informing them of application processing delays.

### ***Interview Language Guidance***

CRCL investigated a complaint alleging that a noncitizen was not notified that his U.S. citizen spouse was required to attend an I-751, Petition to Remove Conditions on Residence, interview with him, resulting in the joint petition being denied. CRCL found that on multiple occasions, USCIS's I-751 interview notices for jointly filed I-751 petitions erroneously excluded instructions that both noncitizens and their U.S. citizen spouses must attend the I-751 interview at the USCIS field office. In July 2022, CRCL suggested that USCIS provide field offices national guidance on notifying impacted individuals and establish a process to notify stakeholders of any missing information on interview notices.

### ***Home Visits***

CRCL investigated a complaint alleging that USCIS placed home visits on hold for approximately a year and a half during the COVID-19 pandemic, leading to long delays for individuals with disabilities or medical conditions requiring home visits to process pending immigration benefit applications. CRCL found that USCIS had, in fact, implemented several measures to offer modifications to such individuals, but also found a significant delay and lack of consistency across field offices. In September 2022, CRCL suggested that USCIS develop formal policy and create a uniform plan to address continuity of home visits in the event of future public health emergencies.

## **OAW**

### ***Security and Protection of Afghan Guests***

CRCL investigated a complaint alleging that DHS and the Federal Protective Service had not coordinated with local law enforcement regarding security at the National Conference Center, a site selected to house Afghan guests in connection with OAW. CRCL found that the coordination had occurred soon after the filing, but also found that certain complaint avenues were lacking for Afghan guests. In June 2022, CRCL suggested that OAW notify Afghan guests about the appropriate channel to report a concern related to misconduct by OAW staff, contractors, or volunteers onsite; develop a centralized system to document incoming concerns; establish a system for documenting and tracking concerns to assist OAW leadership in identifying trends or larger, systemic issues; develop and share with OAW leadership and staff information about the prohibition against reprisal to ensure that OAW staff, contractors, and volunteers understand they are permitted to raise concerns, including civil rights and civil liberties concerns; and clarify the purpose of the stated mission to acclimate the Afghan guests to uniformed law enforcement officers working at the site.

### ***Ability of OAW Staff to Report Concerns***

CRCL investigated a complaint alleging that OAW leadership at Holloman Airforce Base interfered with an OAW staff member's attempt to report an alleged sexual assault involving a minor. CRCL found concerns with clarifying deployed volunteer roles that resulted in confusion. In August 2022, CRCL suggested that information about the prohibition against reprisal should be developed and shared with OAW leadership and staff to ensure that OAW staff, contractors, and volunteers understand they are permitted and encouraged to raise concerns internally, to CRCL or to the DHS OIG, without being subjected to reprisal.

### **Informal Advice Issued Pursuant to the Medical Referral Process**

CRCL issued numerous instances of Informal Advice related to CRCL's medical referral process. This process is a collaborative effort between CRCL and ICE ERO and IHSC to refer, respond to, and address complaints related to the provision of medical, dental, and mental health care to individuals in ICE custody. Some of these complaints present life-threatening concerns that require immediate attention. Others are not as urgent but may indicate systemic problems with detainee health care. The following summaries represent the Informal Advice resulting from CRCL's medical referral process.

#### ***Medical Care at Etowah County Jail***

CRCL investigated a complaint alleging that medical providers at the Etowah County Jail failed to diagnose a detainee with scabies because the facility did not refer him to a dermatologist. In November 2021, CRCL requested that ICE identify a dermatologist within 60 miles of the facility and that IHSC review other reports of rashes at the facility to determine whether there was a pervasive problem.

#### ***Medical Care at Jackson Parish Correctional Center***

CRCL investigated a complaint alleging that medical providers at the Jackson Parish Correctional Center delayed providing medical care to a detainee who reportedly had a hernia. CRCL found that the delay in care caused preventable pain and discomfort to the detainee, who

required emergency laparoscopic surgery. In April 2022, CRCL requested that IHSC review the identified concerns and consider corrective action to ensure that detainees at the facility receive timely medical care.

#### ***Medical Care at Otay Mesa Detention Center***

CRCL investigated a complaint alleging that the Otay Mesa Detention Center had provided inadequate medical care to a detainee with multiple, potentially life-threatening, medical conditions. CRCL found deficiencies in the facility's medical documentation, delays in completing ordered lab work, and that the facility did not refer the complainant to outside specialists. In April 2022, CRCL requested that IHSC review the complainant's treatment and follow-up as appropriate to ensure the facility is providing adequate care to its current detainees.

#### ***Medical Care at Douglas County Corrections***

CRCL investigated a complaint alleging that a detainee had suffered from continuous medical neglect while detained at Douglas County Corrections. CRCL found the detainee was denied requests for an inhaler and a C-PAP machine, despite a history of asthma and multiple complaints of shortness of breath, chest heaviness, and frequently waking up choking and with chest pain. CRCL also found the detainee was never evaluated by a pulmonologist and the noncitizen's medical records were not accurate. In July 2022, CRCL requested that IHSC review these issues and consider corrective action to ensure detainees receive adequate medical care at Douglas County.

#### ***Mental Health Care at Otay Mesa Detention Center***

CRCL investigated a complaint alleging that a mental health provider at the Otay Mesa Detention Center provided multiple detainees with inadequate care and treated them in an unprofessional manner. CRCL was unable to substantiate the treatment-related allegations; however, CRCL found the facility did not comply with applicable standards regarding medication management for one detainee. In August 2022, CRCL requested that IHSC consider conducting a Continuous Quality Improvement to review medication management at the facility.

#### ***Medical Care at Winn Correctional Center***

CRCL investigated a complaint alleging a detainee at the Winn Correctional Center received inadequate medical care and monitoring for chronic health conditions. CRCL found there was a delay in the noncitizen receiving medication to treat a chronic health condition. In August 2022, CRCL requested that ICE assess recent intake medical screenings at the facility for accuracy, thoroughness, and timeliness including the provision of needed medication.

#### ***Medical Care at Stewart Detention Center***

CRCL investigated a complaint alleging medical providers at the Stewart Detention Center provided inadequate medical care to an individual with Chagas Disease and megacolon. CRCL found the facility did not comply with applicable standards governing the provision of medical care for detainees. In September 2022, CRCL requested that IHSC review the complainant's sequence of care and identify steps to prevent similar issues in identifying, evaluating, and treating serious medical conditions for individuals detained at the facility.



### ***Medical Care at Geauga County Jail***

CRCL investigated a complaint alleging that the Geauga County Jail provided inadequate medical care to a detainee with a finger injury. ICE's response to CRCL's request for information indicated that a search in the electronic health record system did not yield any results for medical encounters or visits for the complainant while at the facility. However, CRCL found information in another database that confirmed the individual had multiple medical encounters while at the facility. In September 2022, CRCL requested that IHSC search for the complainant's records again to determine whether the negative findings on the initial search was due to user error, or if there was a potential records management issue that required immediate attention.

### ***Medical Care at Clinton County Correctional Facility***

CRCL investigated a complaint alleging that the Clinton County Correctional Facility provided inadequate medical care to an individual with several chronic conditions, including heart disease, hypertension, and asthma. ICE substantiated an issue with the timeliness of chronic care follow-up; however, a corrective action plan was not indicated. In September 2022, CRCL requested that IHSC consider implementing a corrective action plan to comply with the detention standards governing chronic care.

### ***Medical Care at Otay Mesa Detention Facility***

CRCL investigated a complaint alleging that the Otay Mesa Detention Facility provided inadequate medical care to an individual who was reportedly diagnosed with a brain tumor shortly before arriving at the facility, causing him frequent headaches, panic attacks, and difficulty sleeping. CRCL found that the facility did not comply with applicable detention standards. In September 2022, CRCL encouraged IHSC to review the complainant's sequence of care and identify steps to prevent similar issues at the facility pertaining to appropriately triaging sick call complaints and referring individuals to a higher-level provider.

## **G. Section 504 Determinations and Informal Resolutions**

CRCL has authority to process, investigate, and resolve disability-related complaints alleging violations of Section 504 of the Rehabilitation Act of 1973, as amended, in accordance with the compliance procedures described in 6 CFR Part 15.70. The regulations allow CRCL to conclude a complaint investigation either through: a letter to the complainant containing findings of fact, conclusions of law, a description of a remedy for each violation found, and a notice of the right to appeal, or a written informal agreement provided to the complainant describing the subject matter of the complaint and any agreed upon corrective action.

### **Determination Letters**

In FY 2022, CRCL issued ten determination letters to complainants under the regulations implementing Section 504. The following summaries describe those complaints, indicate whether CRCL found a violation of Section 504, and explain the remedies ordered for any violations found.

## **CBP**

### ***Disparate Impact of Property Policy***

CRCL investigated a complaint alleging that CBP took an unaccompanied minor's orthopedic shoes used to assist with a mobility disability. CRCL reviewed whether the local operating procedures allowing for confiscation and disposition of property within USBP's El Paso Sector have a discriminatory effect on individuals with disabilities who have disability-related personal property items. In July 2022, CRCL issued a letter to the complainant finding that CBP violated Section 504. CRCL found that the El Paso Sector's property disposition policy has a disparate impact on individuals in CBP detention who use mobility or auxiliary aids. CRCL required CBP to update the El Paso Sector policy to include protocols ensuring that personal property items that serve a medical or disability purpose are not misidentified and erroneously discarded.

### ***Reasonable Accommodation When Standing in Line***

CRCL investigated a complaint alleging that CBP denied a traveler's request to use a lane for persons with disabilities at the San Ysidro Port of Entry. In September 2022, CRCL issued a letter to the complainant finding that CBP violated Section 504. CRCL found CBP was aware of the request to use a lane for individuals with disabilities, and CBP appropriately denied the request as no separate lane existed. However, CRCL found CBP did not engage in an interactive process to discuss a potential alternative accommodation. CRCL required CBP to provide the traveler a reasonable accommodation during future encounters at the San Ysidro Port of Entry that addresses the traveler's inability to stand in line for extended periods of time.

### ***Removal of Mobility Device without Interactive Process***

CRCL investigated a complaint alleging that CBP took away a crutch from an unaccompanied minor that he was using to assist with his mobility disability. In September 2022, CRCL issued a letter to the complainant finding that CBP violated Section 504. CRCL found that CBP did not attempt to clarify his needs or identify an alternative while in CBP custody. CRCL required CBP to provide training to all USBP personnel in the Rio Grande Valley Sector about engaging in an interactive process and providing reasonable modifications to individuals with disabilities who use mobility and/or medical devices.

## **ICE**

### ***Segregation of Individual with Mental Disability***

CRCL investigated a complaint alleging that ICE discriminated against an ICE detainee with a mental disability when it placed him in segregation. In June 2022, CRCL issued a letter to the complainant finding that ICE violated Section 504. CRCL found that ICE did not prescreen the detainee prior to placing him in the medical isolation unit when he returned from a hospitalization. CRCL did not require any remedy because the individual was no longer in ICE custody. However, CRCL notified ICE about the need to follow its policies and procedures to mitigate the potential harm that placement in any type of segregation may have on detainees with mental disabilities.

### ***Accommodating a Detained Noncitizen with Hearing Loss***

CRCL investigated a complaint alleging that ICE did not provide a detained noncitizen with properly working hearing aids when she was detained at the South Louisiana ICE Processing Center. In June 2022, CRCL issued a letter to the complainant finding that ICE violated Section 504. CRCL found ICE violated Section 504 by not providing the complainant with adequate hearing aids or other accommodations for her hearing loss. CRCL required ICE to develop, implement, and train relevant staff at the facility on compliance with the disability requirements contained in Performance-Based National Detention Standards 2011 Section 4.8 within 30 days.

### ***Request for Humanitarian Parole Due to Long COVID***

CRCL investigated a complaint alleging ICE discriminated against an individual with long COVID when it denied his request from release from Otay Mesa Detention Center. In August 2022, CRCL issued a letter to the complainant finding ICE did not violate Section 504. CRCL found ICE properly denied the request because ICE properly determined the complainant did not meet the criteria for humanitarian parole pursuant to the Immigration and Nationality Act and provided appropriate justification for denying the request.

### ***Administrative Segregation involving a Mental Health Disability***

CRCL investigated a complaint alleging ICE improperly placed an individual with a mental health disability in segregation at the Caroline Detention Facility. In September 2022, CRCL issued a letter to the complainant finding that ICE did not violate Section 504. CRCL found that ICE considered the individual's mental health at time of the placement in segregation and did not discriminate against the individual based on his disability.

## **USCIS**

### ***American Sign Language and Certified Deaf Interpreters***

CRCL investigated a complaint alleging USCIS did not respond to a naturalization applicant's request for an ASL interpreter at the complainant's biometrics appointment and a certified deaf interpreter (CDI) at their naturalization interview. In November 2021, CRCL issued a letter to the complainant finding USCIS violated Section 504. CRCL determined USCIS violated Section 504 when it did not provide an ASL interpreter at the applicant's biometrics appointment because it transferred the burden to the applicant to provide their own accommodation. CRCL also determined USCIS should have allowed a CDI at the naturalization interview, but USCIS's failure to provide one did not deny the applicant, who passed the exam without a CDI, meaningful access. CRCL required USCIS to reimburse the complainant for any verifiable costs of hiring an ASL interpreter.

### ***Accommodation at USCIS Biometrics Collection Appointment***

CRCL investigated a complaint alleging that USCIS did not provide effective communication during a biometrics collection appointment at an Application Support Center and harassed an individual on the basis of his hearing disability when the ASC employee grabbed his hand. CRCL determined that USCIS did not violate Section 504. In April 2022, CRCL issued a letter to the complainant finding that USCIS did not violate Section 504. CRCL found that USCIS provided effective communication because the individual was able to complete the biometrics collection process through hand gestures provided by USCIS. CRCL also found that the alleged

rude treatment by USCIS did not rise to the level of disability-based harassment, as fingerprint collection regularly involves the technician taking hold of and manipulating applicants' hands.

### ***Responding to Accommodation Requests Made on Form I-485***

CRCL investigated a complaint alleging that USCIS did not provide an individual with an ASL interpreter at her adjustment of status interview despite her requesting one on her Form I-485, Adjustment of Status. In July 2022, CRCL issued a letter to the complainant finding that USCIS violated Section 504. CRCL found that USCIS did not timely respond to the complainant's request for an ASL interpreter in advance of her interview despite the complainant's attempts to request an accommodation on the Form I-485, through the USCIS website, and via the USCIS Contact Center. CRCL required USCIS to develop, implement, and train staff on a process to capture, document, and respond to any request for a disability accommodation made on the Form I-485.

### **Section 504 Informal Resolutions**

During FY 2022, CRCL also completed 14 informal resolutions under the regulations implementing Section 504. The following summaries describe those complaints and the resolutions agreed upon by the complainant and Component.

## **CBP**

### ***Accommodations for Global Entry Interviews***

CRCL investigated a complaint alleging CBP did not arrange an ASL interpreter for the enrollment interview of a Global Entry applicant who is deaf. In February 2022, CBP agreed to informally resolve the complaint by agreeing to provide information on the Global Entry website that explains how to request reasonable modifications for Global Entry interviews, to provide advice to CBP staff assigned to Global Entry locations on how to address requests for reasonable modifications or auxiliary aids or services during the Global Entry interview process, and to update the Trusted Traveler Programs Consolidated Handbook to include information about how to address requests for reasonable modifications or auxiliary aids or services during Global Entry interviews.

### ***Interacting with Individuals with Disabilities at Newark International Airport***

CRCL investigated a complaint alleging that CBP discriminated against an individual with low vision during secondary inspection at the Newark International Airport. In June 2022, CBP agreed to informally resolve the complaint by providing a refresher training to CBP personnel at the airport about interacting with persons with vision impairments, including reading documents aloud and assisting with completing forms, if needed; verbally providing directions and/or instructions, as applicable, and contemporaneously explaining processes in as much detail as possible; and describing the physical surroundings in hold rooms.

### ***Interactions with Service Animals***

CRCL investigated a complaint alleging that a CBP officer inappropriately interacted with an individual's epilepsy-alert service dog by asking invasive questions regarding her illness and instructing her to pick up and carry her service dog. In October 2021, CBP agreed to informally resolve the complaint based on corrective actions CBP had already taken in response to the

alleged incident, which included a finding of unprofessional conduct resulting in disciplinary action and remedial training for the CBP officer.

## **FEMA**

### ***Inappropriate Comments by Home Inspector***

CRCL investigated a complaint alleging that a housing inspector insulted a disaster survivor, who is obese, about his weight during a home inspection. In December 2021, FEMA agreed to informally resolve the complaint by disciplining the inspector for his actions.

## **FPS**

### ***Security Screening for Individuals with Medical Devices***

CRCL investigated a complaint alleging FPS-contracted Protective Security Officers harassed an individual with a pacemaker on two separate occasions at the Long Island New York Field Office during the security screening process. The complaint also alleged that the individual was not provided with a reasonable modification and was forced to go through the metal detector. In September 2022, FPS agreed to informally resolve the complaint by providing additional training to all Protective Security Officers assigned to the Long Island New York Field Office on proper screening methods for individuals with medical devices, as well as training on the importance of professionalism and sensitivity when interacting with individuals with disabilities.

## **ICE**

### ***Access to Prescription Eyeglasses***

CRCL investigated a complaint alleging staff at the La Palma Correctional Facility did not provide an ICE detainee with eyeglasses. In January 2022, ICE agreed to informally resolve the complaint by providing additional training to Field Medical Coordinators on the process and procedure for reviewing reasonable modification requests, including requests for visual aids such as eyeglasses.

### ***Access to Physical Therapy for Detainees with Mobility Impairments***

CRCL investigated a complaint alleging staff at the Denver Contract Detention Facility did not provide an ICE detainee with appropriate access to physical therapy for his mobility impairment. In May 2022, ICE agreed to informally resolve the complaint by providing additional training to staff on the process and procedure for identifying detainees who require physical therapy evaluations.

### ***Accommodation for Accessible Housing and Shower Facilities***

CRCL investigated a complaint alleging staff at the Stewart Detention Center did not provide an ICE detainee, who has paraplegia and uses a wheelchair, with appropriate access to accessible shower facilities and sleeping accommodations. In July 2022, ICE agreed to informally resolve the complaint by providing additional training to facility staff on the formal and informal grievance processes and the reasonable accommodation/modification process. ICE further agreed to ensure at least one cell in the Special Management Unit can be easily and readily equipped with handrails when necessary.

## USCIS

### ***Assisted Listening Device at Naturalization Interview***

CRCL investigated a complaint alleging that an individual did not receive an assisted listening device at her naturalization interview. In February 2022, USCIS informally resolved the complaint after providing the complainant with an assisted listening device at a new interview.

### ***Review of Request for Disability Exception***

CRCL investigated a complaint alleging that USCIS did not adjudicate a naturalization applicant's Form N-648, Medical Certification for Disability Exceptions, which she submitted at the time of her naturalization exam at the Houston Field Office. In April 2022, USCIS agreed to informally resolve the complaint by counseling the officer who handled the complainant's case regarding USCIS policy that allows adjudication of Form N-648 at the time of interview, conducting an office-wide training on accommodation requests at the Houston Field Office and treating the complainant's second naturalization exam as her first attempt, which allowed her first failed examination not to count as one of her two opportunities to pass the exam.

### ***Documenting Accommodation Requests***

CRCL investigated a complaint alleging that an officer at the USCIS New York Field Office did not permit a naturalization applicant with a visual impairment to use her magnifier during her naturalization interview, despite the individual previously having been granted the accommodation request. The complaint also alleged that the officer insisted the applicant complete the English and civics portions of the naturalization exam after USCIS deemed her Form N-648, Medical Certification for Disability Exceptions, insufficient. In April 2022, USCIS agreed to informally resolve the complaint by issuing a reminder to all officers who process accommodation requests about the importance of documenting approved requests in the appropriate systems of record and issuing a reminder to officers in the New York Field Office that applicants have the option of declining to complete the English and civics requirements when their Form N-648 is deemed insufficient.

### ***Reasonable Modifications for Naturalization Applicant***

CRCL investigated a complaint alleging that an officer at the USCIS Santa Ana Field Office denied requests from a naturalization applicant who was hard of hearing for the officer to speak louder or sit closer. CRCL determined USCIS approved the individual's naturalization application after the interview. In April 2022, USCIS agreed to informally resolve the complaint by acquiring a pocket talker for the office to assist other applicants who are hard of hearing. USCIS also agreed to acquire clear masks to use when speaking to applicants who prefer to communicate via lip reading.

### ***Recognizing Indicia of Mental Health Issues***

CRCL investigated a complaint alleging an asylum officer did not recognize indicia of an asylum seeker's mental health issues during her credible fear interview. The complaint further alleged USCIS did not provide a reasonable accommodation, which prevented the applicant from sharing relevant information in her interview. In May 2022, USCIS agreed to re-interview the applicant.



### ***Mental Health Concerns in Protection Screening Interviews***

CRCL investigated a complaint alleging that USCIS did not consider accommodation needs of an individual with a traumatic brain injury who received a negative determination after his reasonable fear screening interview by the Houston Asylum Office. In July 2022, the complaint was informally resolved when USCIS reconsidered the complainant's negative reasonable fear determination.

## V. Equal Employment Opportunity and Diversity Division

The Equal Employment Opportunity and Diversity Division (EEO) leads the Department's efforts to ensure that all employees and applicants are provided equal opportunity in all employment decisions and a workplace free from unlawful harassment by maintaining effective EEO and diversity programs under various federal laws, regulations, executive orders, and directives, including:

- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*;
- Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791 *et seq.*;
- Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*;
- Equal Pay Act of 1963, 29 U.S.C. § 206(d)(1);
- Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff *et seq.*;
- Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 (Pub. L. No. 107-174);
- Executive Order 11478, *Equal Employment Opportunity in the Federal Government* (as amended by Executive Order 13152) prohibiting discrimination based on status as a parent;
- 29 C.F.R. § 1614;
- EEOC Management Directive 110; and
- EEOC Management Directive 715.

EEO is responsible for adjudicating EEO complaints for all DHS Components; overseeing management of the EEO complaint process at Components; developing and monitoring EEO and diversity program policies, plans, and guidance; managing the Department's Alternative Dispute Resolution program; overseeing management of Component anti-harassment programs; and delivering training, conducting oversight, and administering EEO and diversity programs for DHS Headquarters and its 6,200 employees. In addition, the Division generates a variety of annual progress reports relating to the Department's diversity and EEO activities.

The Deputy Officer for EEO and Diversity also chairs the DHS EEO Directors Council, composed of Component EEO Directors and a human capital representative. The Council advances a unity of effort by providing leadership and coordination, sharing information, promoting best practices, preparing and implementing strategic plans, streamlining operations, and eliminating redundancies in the Department's EEO and diversity programs. In FY 2022, the Council was instrumental in guiding the Department's implementation of Executive Order 14043, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees*. Foreseeing an unprecedented volume of employee requests for exemptions from the vaccine mandate for medical or religious reasons, the Council collaborated across the Department to devise a vaccine exemption board process to handle a large number of reasonable accommodation requests that promoted an appropriate level of consistency for similarly situated employees, consistent with the Department's legal obligations. Although a nationwide temporary injunction barring the enforcement of Executive Order 14043 paused the work of the exemption boards in FY 2022, the

Council's efforts positioned the Department to effectively handle the sizeable number of pending exemption requests in the event the injunction was lifted.

The Council also convened a two-day offsite meeting on September 20-21, 2022, including representatives from each EEO section to develop an action plan in furtherance of the EEO Directors' Council Strategic Plan. Attendees participated in a tour of FLETC's training facilities, strengthening the Council's appreciation for the work of the Department's law enforcement professionals and reaffirming the commitment to unity of effort across the DHS EEO program.

In August 2022, CRCL convened a listening session with a wide range of community stakeholders from across the country to gather feedback on the inaugural DHS Equity Action Plan, which was released in January 2022. The Plan was developed in response to President Biden's Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. The plan identifies seven key program areas with the greatest potential for advancing equity in DHS operations and activities. Commitments detailed in the plan across these programs were developed following a 200-day assessment led by the DHS Equity Task Force, in consultation with the U.S. Office of Management and Budget, and with feedback from stakeholders representing underserved communities. Senior Official Peter Mina welcomed more than 240 participants, including representatives from community and advocacy groups and government partners, and introduced video remarks from DHS Former Deputy Secretary Tien. Stakeholder feedback will inform Department-wide efforts to implement the plan's commitments and advance equity going forward.

## **A. Complaints Management and Adjudication Section**

The Complaints Management and Adjudication Section (CMAS) leads administrative processing and adjudication of EEO complaints throughout the Department. CMAS prepares final actions on all formal EEO complaints filed by DHS employees, former employees, and applicants for employment who allege discrimination in violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Genetic Information Nondiscrimination Act of 2008, and/or executive orders prohibiting discrimination on the bases of parental status and sexual orientation. CMAS also prepares the following Departmental reports:

- Annual No FEAR Act of 2002 Report;
- Quarterly No FEAR Act data postings; and
- Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints

## **Accomplishments in FY 2022**

### ***Issuance of Final Agency Actions***

CMAS issued a total of 1,232 final merit-based actions including 23 findings of discrimination. Sixty-eight percent of the final actions were timely issued, and the case backlog was reduced

from 178 at the end of FY 2022 to three. CMAS also issued 129 procedural dismissal decisions and 22 settlement breach decisions.

### ***Report of Investigation Feedback Tool***

Throughout FY 2022, CMAS assessed Component's EEO Reports of Investigation through the ROI Feedback Tool. This feedback informs Components of investigative deficiencies and allows Components to make strategic decisions regarding future ROI contractual needs. New in FY 2022, CMAS also provided Components with monthly reports on cases coming due for action to ensure the CMAS received timely action requests. This significantly reduced the number of cases sent to CMAS after the expiration of the regulatory timeframe for taking final action.

### ***Collaboration with DHS Components and other Stakeholders***

Along with the EEO Directors' Council monthly meetings, CMAS led quarterly meetings with Component EEO Complaint Managers, providing opportunities for Components' input on agenda topics and encouraging and facilitating discussions. This regular collaboration between CMAS and Components was key in strengthening relationships and enabling managers within this community to share challenges and provide input on solutions and best practices.

The CMAS EEO compliance program monitors Components' implementation of remedial relief following findings of discrimination and reports compliance progress to the EEOC for EEOC-issued decisions in which discrimination was found. CMAS continued collaboration with the EEOC's compliance officer to effectively address the Department's oldest cases pending full implementation.

## **B. Diversity Management Section**

The Diversity Management Section (DMS) prepares EEO and diversity policy guidance for Department personnel, supports special emphasis programs that increase awareness of diversity issues throughout the Department, and conducts workforce trend analysis, including using Department-wide workforce data to identify anomalies that may be tied to EEO or diversity issues. On behalf of the Department, DMS also prepares and submits mandatory annual EEO and diversity reports to the EEOC and to the U.S. Department of Education's White House Initiative on Historically Black Colleges and Universities. DMS staff actively participate on various committees and working groups, which include:

- U.S. Office of Personnel Management's Applicant Flow Data Working Group;
- Securities Exchange Commission Multi-Agency Barrier Analysis Working Group;
- White House Initiative on HBCUs Federal Interagency Working Group;
- Intelligence Community's Equal Employment Opportunity Data Group;
- Interagency Women and Girls in STEM Working Group;
- Federal Exchange on Employment and Disability Working Group;
- Disability Policy Interagency Working Group; and
- National Council of Hispanic Employment Program Managers.

## Accomplishments in FY 2022

### ***Leadership, Guidance, and Technical Assistance***

DMS held quarterly meetings with DHS Components to review and discuss the EEOC Management Directive 715 (MD-715) reporting requirements, workforce data, Special Emphasis programs, the Disability Employment program, Minority Serving Institutions and HBCU initiatives, EEO training plans, and emerging issues. DMS staff worked with CRCL leadership and staff from the Performance Analysis and Evaluation Office to develop and implement a new DHS formal performance metric related to EEO barrier analysis activities. The results of these activities continue to increase compliance with EEOC MD-715 requirements from 92 percent in FY 2017 to 95 percent in FY 2022.

### ***Departmental Special Emphasis Programs***

Special emphasis programs are integral to the success of the Department's EEO and diversity efforts to identify, mitigate, and eliminate potential barriers for employees in historically underrepresented groups in certain occupations, grades, or organizations. The Department's programs include:

- LGBTQ+ employment program;
- Federal Women's program;
- Black/African American employment program;
- Hispanic employment program;
- American Indian/Alaska Native employment program;
- Asian American, Native Hawaiian and Pacific Islander employment program; and
- Disability employment program.

DMS managers regularly interfaced with Component special emphasis managers and continued to compile and disseminate a Department-wide observance and events calendar for each commemorative month. In light of bomb threats made to HBCUs, CRCL sponsored the Department's first HBCU Symposium, *A Path Forward: Campus Safety and Resilience*, focusing on programs, grants, and law enforcement-related resources available for the HBCU community.

### ***Observances***

DMS delivered special emphasis programming across the Department, which included the following commemorative events:

- National Disability Employment Awareness Month (October 2021), *America's Recovery, Powered by Inclusion*, with speakers from Fidos for Freedom and CRCL, focusing on service and emotional support animals in the workplace.
- National Women's History Month program (March 2022) featuring Rear Admiral Aisha K. Mix, Assistant Surgeon General, Chief Nurse Officer, Commissioned Corps, U.S. Public Health Service, who spoke on the national theme, *Women Providing Healing, Promoting Hope*.
- LGBTQ+ Pride Month program (June 2022) with DHS Pride and CBP on the theme, *(re) United Stronger: Stronger Today, Stronger Together*, featuring CBP Commissioner Chris Magnus as the keynote speaker. Former Deputy Secretary Tien gave opening remarks

and introduced Commissioner Magnus. Following the keynote, a moderated panel with past and present DHS employees from the LGBTQ+ community discussed generational differences.

- National Hispanic Heritage Month Program (October 2021) with DHS Adelante on the theme, *Unidos: Inclusivity for a Stronger Nation*, featuring María Luján, Director of Public Engagement, U.S. Office of Personnel Management.
- National Asian American, Native Hawaiian, and Pacific Islander Heritage Month Program (May 2022), *Building Legacy Together: Our Communities' Journey of Strength and Resilience*, led by the DHS Asian American Pacific Islander Network, featuring Executive Director Sharon M. Wong, DHS Strategic Talent Recruitment, Inclusive Diversity, and Engagement and keynote speaker DHS Former Deputy Secretary Tien.
- National Native American Heritage Month (November 2021), *Grounded in Tradition, Resilient in Spirit* with guest speaker Shawn Walker, Regional Coordinator, Federal Law Enforcement Training Center.

### ***Outreach to Minority Serving Institutions***

In FY 2022, DMS participated in events and activities sponsored by the Department of Education's White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity through Historically Black Colleges and Universities. DMS staff served as the central point of contact for all Initiative-related programs, activities, and reports. DMS ensured full DHS participation in the Competitiveness Clusters in Federal Contracting; Science, Technology, Engineering, and Math (STEM); and Campus Safety and Resilience (see Executive Summary for more details on this work).

### ***Disability Employment Program***

The Special Program Plan for the Recruitment, Hiring, and Advancement of Individuals with Disabilities continued to be a major effort in every DHS Component during FY 2022. The Department continued its recruitment initiatives for persons with disabilities and collaborated with the Office of the Chief Human Capital Officer Strategic Talent Recruitment, Inclusive Diversity and Engagement on the development of the FY 2022, DHS disability hiring goals. DMS also convened quarterly meetings with DHS disability employment program leaders to review policies and programs. DMS reviewed, analyzed, and disseminated quarterly Schedule A hires and conversions data to all Components to increase career and career conditional conversions after meeting the necessary requirements. DMS updated program fact sheets that outline the Department's commitment to disability employment and information on the final rule amending and clarifying federal sector affirmative action obligations under Title 29 C.F.R. § 1614, provision of Personal Assistance Service, and Schedule A hiring authority. These fact sheets serve as a resource tool for managers and employees.

DMS continued to provide resources and briefings on COVID-19 and related reasonable accommodation considerations, per EEOC guidance, to DHS managers and supervisors. DMS delivered 12 reasonable accommodation trainings across the Department, three disability training sessions covering mental health and cognitive limitations, working safely in a remote environment, and working effectively with neurodivergent individuals, and multiple disability etiquette and awareness trainings throughout the year to Headquarters employees and supervisors.



In FY 2022, the Department hired an additional 1,167 persons with disabilities for the workforce. In FY 2022, DHS hired 289 employees under the Schedule A Hiring Authority representing 4.16 percent of all new hires in non-law enforcement and non-transportation security officer positions and converted 313 eligible Schedule A employees from career conditional to career status.

### ***Reporting Requirements***

DMS prepared and submitted to the EEOC the DHS Management Directive 715 Equal Employment Opportunity Program Status Report, which provides policy guidance and standards for federal agencies to use in establishing and maintaining effective EEO programs. The report also provides a roadmap for creating effective EEO programs for all federal employees as required by Title VII of the Civil Rights Act and the Rehabilitation Act.

DMS compiled and submitted to the Initiative, the Department of Homeland Security Annual Historically Black Colleges and Universities Plan, which requires DHS to identify existing programs and activities in which HBCUs could participate along with DHS's Department-wide projected plans.

## **C. Alternative Dispute Resolution Program**

DHS is committed to effectively and efficiently resolving EEO complaints by providing civilian employees access to alternative dispute resolution (ADR) methods. As a model employer, DHS recognizes early resolution of EEO complaints through mediation provides faster, less expensive, and longer-lasting results in comparison to litigation. The DHS Headquarters ADR Program helps individuals resolve workplace disputes and provides an alternative to the traditional EEO complaint process through mediation.

The ADR program saw a significant increase in mediator requests from across the Department. The program received 532 requests from Components (an increase from 480 requests in FY 2021), and 52 requests from Headquarters (an increase from 45 requests received in FY 2021). The program also saw an increase (17 settlements in FY 2022 and 12 settlements in FY 2021) in the number of settlements obtained in mediation .

Mediators on the DHS Shared Neutrals<sup>16</sup> roster participated in two refresher training courses: the EEO process and drafting settlement agreements in mediation. DHS mediators also participated in week-long training courses offered by the Federal Mediation and Conciliation Service during Conflict Resolution Month in October.

Conflict Resolution Month was recognized across the Department through video vignettes, print media, and advertising promoting the use of ADR to address workplace conflict. Further, the program began a Departmental review of its ADR programs to identify best practices and areas of improvement, the results of which will be submitted to leadership in FY 2023.

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<sup>16</sup> The DHS Shared Neutrals Program is a roster of trained collateral duty mediators. In FY 2022, the DHS Shared Neutrals roster consisted of 106 mediators.

## D. Anti-Harassment Unit

The DHS Headquarters Anti-Harassment Unit (AHU) is responsible for conducting inquiries into reports of harassment brought by DHS Headquarters employees. The process is separate from the EEO complaint process. The AHU closed 76 complaints with an average processing time of 135 days, a significant improvement from the average processing time of 253 days in FY 2021.

The AHU conducted two joint training events with DHS Headquarters and CISA employee/labor relations to educate supervisors and managers on their role and responsibility when receiving a report of harassment, the AHU's process in conducting inquiries into reports of harassment, and the role employee relations plays in addressing reports of harassment. In addition, CRCL is responsible for ensuring that all DHS employees take mandatory annual training through the departmental learning management systems on preventing workplace harassment.

## E. Headquarters Equal Employment Opportunity Office

The DHS Headquarters EEO Office (HQ EEO) provided EEO services to more than 6,200 DHS Headquarters employees and program offices by enforcing compliance with EEO laws, regulations, and mandates; providing guidance to Headquarters management officials and employees on EEO and diversity; preventing and addressing unlawful employment discrimination; and ensuring that all Headquarters employees have a working environment that is free from unlawful discrimination, harassment, or reprisal and that will support them in the fulfilling the mission to protect the homeland.

### Accomplishments in FY 2022

#### *Complaint Processing*

In FY 2022, HQ EEO completed counseling on 100 complaints of employment discrimination at a timely completed counseling rate of 92 percent. After experiencing record high counseling volumes in FY 2020 (142 counselings) and FY 2021 (136 counselings), the number of counselings in FY 2022 (100 counselings) dropped by 30 percent in comparison to FY 2020.

HQ EEO conducted 77 EEO investigations, a record level high of completed investigations in a fiscal year. Of these, HQ EEO's timely completed investigation rate in FY 2022 was 62 percent. Several factors inhibited HQ EEO's ability to timely complete investigations including performance issues with the investigative contractor and staff departures. These issues were addressed and resolved, and HQ EEO will conduct recruitments to fill its vacant positions in FY 2023.

During FY 2022, the most commonly alleged bases (protected characteristics under EEO antidiscrimination laws) for Headquarters' complaints were reprisal, sex, race, and disability discrimination. The issues most frequently cited in Headquarters EEO complaints were non-sexual harassment (harassment based on a protected basis without a sexual connotation), disciplinary action (demotion, suspension, removal, reprimands, and warnings), and performance evaluation (constructive feedback, delay in conducting appraisal, negative evaluation, and

performance improvement plans). These top bases and issues were overall consistent with prior fiscal years.

### ***Educational Outreach and Proactive Engagement***

HQ EEO kept employees engaged and informed through regular training, which included:

- EEO briefings at New Employee Orientations for all incoming Headquarters employees and senior executives;
- EEO and reasonable accommodation trainings during the quarterly Human Resources Essentials training courses for new HQ supervisors;
- EEO and civil rights training for new Federal Protective Service supervisors;
- Upon request, provided EEO trainings and presentations, including to the DHS Science and Technology Directorate (S&T) on the topic of EEO and Dignity;
- Department-wide EEO Counselor and Refresher training for all EEO specialists; and
- Executive level briefings on EEO activities to multiple Headquarters program offices, including to the Human Resources Management and Services leadership.

HQ EEO also enhanced its Reasonable Accommodation program. In addition to handling daily contacts from employees and managers seeking advice and guidance on the process and disability rights and responsibilities, HQ EEO processed 181 reasonable accommodation requests made by Headquarters employees, applicants for employment, and contractors at Headquarters and at CISA. The program also engaged in an active training tempo, including providing the following: Disability Etiquette and Awareness Training DHS-wide and a specialized training for DHS I&A employees; Reasonable Accommodation Trainings for supervisors and managers, as well as for employees at several Headquarters programs including S&T, I&A, the Countering Weapons of Mass Destruction Office, and the Office of the Chief Human Capital Officer; Schedule A training for HRMS; and trainings on the application of the Rehabilitation Act to COVID-19 scenarios. Moreover, the Reasonable Accommodation program assisted in various activities that advance the disability programs at the Departmental level, including participation in the Department's Individuals with Disabilities/Individuals with Targeted Disabilities Barrier Analysis team meetings and contributing to the drafting, editing, and data analysis of documents.

## VI. Office of Accessible Systems and Technology

Section 508 of the Rehabilitation Act of 1973, as amended, requires federal agencies ensure that electronic and information technology procured, maintained, developed, and used is accessible for employees and customers with disabilities. This legislation affects the full range of technology including hardware, software, telecommunications systems, operating systems, kiosks, ATMs, copiers, facsimile machines, websites (both internet and intranet), and multimedia productions.

The Officer for Civil Rights and Civil Liberties and the DHS Chief Information Officer jointly established the Office of Accessible Systems and Technology (OAST). The mission of OAST is to provide strategic direction, governance, technical assistance, and training to ensure DHS employees and customers with disabilities have equal access to DHS information and data. OAST is located within the DHS Chief Data Officer Directorate reporting directly to the Chief Data Officer and is comprised of two divisions:

- ***Program Compliance*** is responsible for Section 508 compliance and governance activities including: Change and Configuration Management; Acquisition Review and Audit Operations; Web Accessibility and Remediation Program; Enterprise Architecture and Life Cycle Compliance; and Accessibility Compliance Center of Excellence. The Center is responsible for assessing Section 508 compliance of DHS IT Programs, conducting audits for Section 508 compliance during program reviews, and serving the end-user, DHS personnel, with advice and consultation on how to achieve Section 508 compliance in accordance with OAST guidance and authority.
- ***Program Services*** is responsible for DHS Accessibility Help Desk services and operations, IT Application Accessibility Testing and Remediation Services, Electronic Document Accessibility and Remediation Services, e-Learning and Multimedia Accessibility Services, Reasonable Accommodations Services, Classroom and Online Training development and delivery, Technical Support, and Outreach and Awareness.

### Accomplishments in FY 2022

#### ***Strategic Guidance***

In FY 2022, OAST matured its strategic guidance across DHS and Federal Government by enhancing accessibility related tools, collaborating on the development of a DHS-wide mandatory training, establishing Accessibility as a Service, and participating in several working groups. Key accomplishments included the following:

- During FY 2022, significant changes were implemented to better align several life cycles of software development and acquisitions. Enhancements were also applied to the user interface to increase customer engagement and improve the customer experience.
- In FY 2022, OAST successfully deployed Accessibility as a Service Delivery Model to meet Components' accessibility needs. This new initiative provided accessibility testing, remediation support, training, and consulting services for two major projects. The main

benefit of the model is it allows organizations to use a blanket purchase agreement to create a task order for obtaining dedicated accessibility resources.

- To accelerate product approvals that require Section 508 compliance reviews, OAST participated in working groups for acquisitions, data management, and web publishing to streamline processes and clarify customer responsibilities. As a result, most reviews were completed within 48 hours.
- OAST's Compliance Division continued to provide guidance on policy, acquisitions, and technical assistance. OAST also continued to support the DART 2.1 Section 508 contract language generation tool and provided guidance on use of collaborative platforms, such as Microsoft Teams, to ensure accessible virtual meetings for employees with and without disabilities.

### ***Technical Assistance***

In FY 2022, OAST expanded its scope of accessibility by placing a greater focus on usability and overall customer experience included the following:

- Provided technical guidance within DHS and for any external stakeholders interested in learning how to navigate and evaluate information and communication technology for conformance to Section 508 Standards.
- Revised the Section 508 Program Health website remediation process to provide repeatable, easy-to-understand recommendations that support mandatory reporting requirements and articulate measurable progress against goals.
- Targeted specific Component websites to help raise overall Section 508 scores to 75 percent compliance. OAST met with DHS Section 508 program managers and web developers to discuss remediation strategies and achieved compliance goals within the second half of FY 2022.
- Updated and increased usability of the Accessibility Compliance Reporting Tool, an open-source, browser-based application for recording accessibility test results. DHS certified trusted testers use the tool to record Section 508 test results, then exported results into easy-to-read formats provided to interested parties. OAST also created training videos to help users understand how to utilize the tool.
- Implemented 92 enhancements to the Accessibility Compliance Management System which included: modifications to support reasonable accommodations for COVID-19 medical and religious exemption requests, standard method to share data with other tenants as needed, user experience design concept for all enhancements, and identified issues from platform health scans.
- Supported several government-wide initiatives such as transition of the Federal Relay to Headquarters' Communication Access Services which ultimately created an effective centralized system to support video remote interpreting and real-time captioning services for all Headquarters employees.
- Performed a formal Section 508 review of the DHS S&T's virtual room and coordinated remediation efforts with the development team, which resulted in the first accessible virtual room in the Federal Government.

### ***DHS Accessibility Help Desk***

The Accessibility Help Desk serves as the Department's single point of contact for accessibility-related issues, particularly accommodation needs related to information and communications technology accessibility. During FY 2022, the help desk supported 57,926 customers, a significant increase from approximately 20,000 customers in FY 2021.

### ***Training Development and Delivery***

OAST training is available to anyone interested in learning how to develop and evaluate information and communication technology for conformance to Section 508 standards. Approximately 33,766 individuals across government and industry used the DHS Accessibility Training portal to learn about Section 508 and 1,240 users obtained DHS Trusted Tester certification. OAST trained 30,000 in FY 2022, compared to 21,000 in FY 2021, and accomplished the following:

- Enhanced Trusted Tester courses with 19 new videos to provide students with a simple alternative way to learn course content. OAST is currently focused on updating the Trusted Tester course content to include Web Content Accessibility Guidelines.
- Offered 12 instructor-led courses and on-demand trainings to increase technical awareness and skills for developing and testing content in Microsoft and Adobe products.
- Trained 69 students on the infrastructure change control board process.

### ***Outreach***

In FY 2022, OAST made considerable efforts to promote Section 508 awareness across the Department. These outreach efforts increased by 60 percent in comparison to the number of events held in FY 2021. The major outreach events conducted in FY 2022 included the following:

- Hosted the third annual DHS Accessibility Day in May 2022 to increase disability and accessibility awareness across the Department; more than 550 employees attended. The event, themed *Inclusion Through Accessible Technology*, included panel discussions and presentations from both DHS and external experts.
- Featured information on Section 508 during multiple employee sessions hosted by the Deputy Chief Information Officer and highlighted Section 508 requirements at a meeting hosted by the Office of the Chief Information Officer in recognition of the Americans with Disabilities Act anniversary.
- Hosted four help sessions to guide DHS procurement personnel on Section 508 contract language to support end-of-year spending.
- Participated on a panel at the Information Technology Acquisition Review Component Coordinators' Center of Excellence quarterly meeting to discuss OAST's approval process role.
- Provided technical expertise to the U.S. General Services Administration and U.S. Access Board's Baseline Standardized Guidance Workgroup.



- Presented on how to create accessible virtual meetings to the DHS Disability Access Working Group
- Provided the U.S. Air Force and the U.S. Defense Health agency lessons learned the Accessibility team documented in the development of the Accessibility Compliance Management System on the Service Now platform, supporting their goals of developing a similar management system to track agency's Section 508 efforts.
- Met with its Canadian government counterpart, Shared Services Canada, to explain the U.S. Government's efforts to strengthen Section 508 accessibility.

### ***Application and Document Testing***

OAST supports project teams within DHS Headquarters by testing IT applications for compliance based on Section 508 accessibility standards and best practices, which included:

- Web application accessibility testing services for 18 major applications
- 243 document review requests that included the remediation of 6,299 document pages, including:
  - Affirmative action metrics;
  - Monthly office newsletters;
  - Monthly program and event calendars;
  - Annual and semiannual reports to Congress;
  - Legal agreements; and
  - Office and program organizational charts.

### ***Information Technology Acquisition Review***

OAST reviewed and approved multiple DHS Information Technology Acquisition Requests, totaling over \$8 billion dollars. By conducting these reviews, OAST was able to address accessibility risk, when needed, and provide guidance on addressing accessibility concerns.

## VII. Conclusion

CRCL staff work with dedication and vigor each day to secure the country while protecting our freedoms, including core civil rights values of liberty, fairness, and equality under the law. For more information, including prior congressional reports, testimony, training materials, and additional information, please visit CRCL's website at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

# Appendix A: DHS Civil Rights and Civil Liberties Authorities

## Statutes:

- **6 U.S.C. § 111; Section 101, Homeland Security Act of 2002 (as amended)—DHS Mission.** Requires that the Department ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland.
- **6 U.S.C. § 113; Section 103, Homeland Security Act of 2002 (as amended)—Other Officers.** The Officer for Civil Rights and Civil Liberties is appointed by the President.
- **6 U.S.C. § 345; Section 705, Homeland Security Act of 2002 (as amended)—Establishment of Officer for Civil Rights and Civil Liberties.** Authorizes the CRCL Officer to investigate complaints, provide policy advice to Department leadership and Components on civil rights and civil liberties issues, and communicate with the public about CRCL and its activities. The statute also requires coordination with the DHS Chief Privacy Officer and Inspector General and directs submission of this annual Report to Congress.
- **42 U.S.C. § 2000ee-1; Section 803, Implementing Recommendations of the 9/11 Commission Act of 2007—Privacy and Civil Liberties Officers.** Provides additional authority to investigate complaints, review Department activities and programs for their civil liberties impact, and communicate with the public about CRCL and its activities. This statute also ensures CRCL's access to information and individuals needed to carry out its functions, forbids reprisal against complainants, requires general coordination with the Inspector General, and directs the Officer for Civil Rights and Civil Liberties to report, semi-annually, to Congress.
- **20 U.S.C. § 1681 et seq. ("Title IX"); Education Amendments Act of 1972—Nondiscrimination Based on Sex.** Under Delegation 19003 (see below), CRCL is responsible for ensuring all federally assisted and federally conducted programs or activities of the Department comply with Title IX.
- **29 U.S.C. § 794; ("Section 504") Rehabilitation Act of 1973 (as amended)—Nondiscrimination Under Federal Grants and Programs.** Prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance or under any program or activity conducted by DHS. Under Delegation 19003 (see below), CRCL is responsible for ensuring all federally assisted and federally conducted programs or activities of the Department comply with the Rehabilitation Act of 1973, as amended.
- **42 U.S.C. §§ 2000d to 2000d-7 ("Title VI"); Civil Rights Act of 1964—Prohibits against exclusion from, participation in, denial of benefits of, and discrimination under federally assisted programs on the grounds of race, color, or national origin.** Under Delegation 19003

(see below), CRCL is responsible for ensuring all federally assisted and federally conducted programs or activities of the Department comply with Title VI.

- **42 U.S.C. §§ S 6101-6107; (“Age Act”) Age Discrimination Act of 1975 (as amended)**— Prohibits discrimination in federally supported activities on the basis of age.

### **Regulations:**

- **6 C.F.R. pt. 15.** Forbids discrimination on the basis of disability in programs or activities conducted by the Department of Homeland Security. This regulation effectuates Section 504 of the Rehabilitation Act of 1973 (as amended), 29 U.S.C. § 794.
- **6 C.F.R. pt. 17.** Forbids discrimination on the basis of sex in education programs or activities receiving federal financial assistance. This regulation effectuates Title IX of the Education Amendments of 1972 (as amended), 20 U.S.C. § 1681 et seq.
- **6 C.F.R. pt. 19.** Affirms that faith-based organizations are able to seek and receive DHS financial assistance to administer social service programs on the same basis as other organizations and assures nondiscrimination against beneficiaries of those programs; complaints of violations may be considered by CRCL. This regulation effectuates Executive Orders 13279 and 13559.
- **6 C.F.R. pt. 21.** Forbids discrimination on the basis of race, color, or national origin (including limited English proficiency) in programs or activities receiving federal financial assistance from the Department of Homeland Security. This regulation effectuates the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.
- **6 C.F.R. pt. 115.** Sets forth standards to prevent, detect, and respond to sexual abuse in DHS immigration detention facilities and holding facilities. This regulation effectuates the Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601 et. seq.

### **Executive Orders:**

- **Executive Order 11478 (as amended by Executive Orders 11590, 12106, 13087, 13152, and 13672), *Equal Employment Opportunity in the Federal Government* (August 8, 1969).** Prohibits federal employment discrimination on the basis of race, color, religion, sex, national origin, handicap, age, sexual orientation, or status as a parent.
- **Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994).** Requires each federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the U.S.

- **Executive Order 13107, *Implementation of Human Rights Treaties* (December 10, 1998).** Requires the Secretary to designate a single official as the interagency point of contact for coordination of human rights treaties implementation; the Secretary has so designated the Officer for Civil Rights and Civil Liberties.
- **Executive Order 13145, *To Prohibit Discrimination in Federal Employment Based on Genetic Information* (February 10, 2000).** Prohibits federal employment discrimination on the basis of protected genetic information.
- **Executive Order 13160, *Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs* (June 23, 2000).** Holds the Federal Government to the same nondiscrimination principles relating to educational opportunities as those that apply to the education programs and activities of state and local governments, and to private institutions receiving federal financial assistance.
- **Executive Order 13163, *Increasing the Opportunity for Individuals with Disabilities to be Employed in the Federal Government* (July 28, 2000).** Promotes increasing opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and supports the goals articulated in section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791.
- **Executive Order 13164, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation* (July 26, 2000).** Requires federal agencies to establish procedures to facilitate the provision of reasonable accommodation, and to submit a plan to do so to EEOC within one year.
- **Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000).** Requires federal agencies to take reasonable steps to promote meaningful access to federally conducted and federally funded programs and activities for people with limited English proficiency.
- **Executive Order 13256, *President's Board of Advisors on Historically Black Colleges and Universities* (February 12, 2002).** Establishes Board of Advisors on Historically Black Colleges and Universities.
- **Executive Order 13270, *Tribal Colleges and Universities* (July 3, 2002).** Establishes Board of Advisors on Tribal Colleges and Universities and the White House Initiative on Tribal Colleges and Universities.
- **Executive Order 13279, *Equal Protection of the Laws for Faith-based and Community Organizations* (December 12, 2002).** Establishes baseline principles for participation of faith-based organizations in funded social service programs.

- **Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness* (July 26, 2004).** Promotes the safety and security of individuals with disabilities in emergency and disaster situations. The Executive order also created an Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, which is chaired by the Secretary of the Department of Homeland Security. The Officer for Civil Rights and Civil Liberties was designated by the Secretary to carry out these duties from 2004-2012. In January 2012, the Secretary transferred the leadership from CRCL to FEMA’s Administrator and designee, the Office of Disability and Integration Coordination.
- **Executive Order 13515, *Increasing Participation of Asian Americans and Pacific Islander in Federal Programs* (October 19, 2009).** Establishes an Advisory Commission as well as a White House Initiative on Asian Americans and Pacific Islanders, and requires participating agencies, including DHS, to prepare plans to increase those populations’ participation in federal programs where they may be underserved.
- **Executive Order 13559, *Fundamental Principles and Policymaking Criteria for Partnerships with Faith-based and Other Neighborhood Organizations* (November 17, 2010).** Amends Executive Order 13279, providing new religious liberty protections for beneficiaries of federally funded social service programs, while adding new protections for the ability of religious providers to compete for government funds on the same basis as any other private organization.
- **Executive Order 13636, *Improving Critical Infrastructure Cybersecurity* (February 12, 2013).** Directs Executive Branch efforts to enhance the security and resilience of the Nation’s critical infrastructure and to maintain a cyber environment that, among other things, incorporates strong civil liberties and privacy protections into every initiative to secure our critical infrastructure.
- **Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (January 20, 2021).** Requires agencies to pursue a comprehensive approach to advancing equity for all, including people of color and those who have historically been underserved, marginalized, and adversely affected by persistent poverty and inequality.
- **Executive Order 13988, *Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation* (January 20, 2021).** Establishes that the official policy of the Administration “to prevent and combat discrimination on the basis of gender identity or sexual orientation, and to fully enforce Title VII of the Civil Rights Act of 1964 and other laws that prohibit discrimination on the basis of gender identity or sexual orientation.”
- **Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science To Tackle the Climate Crisis* (January 20, 2021).** Directs agencies to review, and take action to address, Federal regulations that conflict with national objectives to improve public health and the environment; ensure access to clean air and water; limit exposure to dangerous chemicals and pesticides; hold polluters accountable, including those who



disproportionately harm communities of color and low-income communities; reduce greenhouse gas emissions; bolster resilience to the impacts of climate change; restore and expand our national treasures and monuments; and prioritize both environmental justice and employment.

- **Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (January 27, 2021).** Places the climate crisis at the forefront of foreign policy and national security planning. “The United States will work with other countries and partners, both bilaterally and multilaterally, to put the world on a sustainable climate pathway. The United States will also move quickly to build resilience, both at home and abroad, against the impacts of climate change that are already manifest and will continue to intensify according to current trajectories.”
- **Executive Order 14010, *Creating a Comprehensive Regional Framework to Address the Causes of Migration, To Manage Migration Throughout North and Central America, and To Provide Safe and Orderly Processing of Asylum Seekers at the United States Border* (February 2, 2021).** Implements a three-part plan for safe, lawful, and orderly migration across the Southern Border, as well as to review the Migrant Protection Protocols program. The order also directs a series of actions to restore the U.S. asylum system.
- **Executive Order 14011, *Establishment of Interagency Task Force on the Reunification of Families* (February 2, 2021).** Establishes an Interagency Task Force on the Reunification of Families to facilitate and enable the reunification of children who were separated from their families at the U.S.-Mexico border between January 20, 2017 and January 20, 2021.
- **Executive Order 14012, *Restoring Faith in Our Legal Immigration Systems and strengthening Integration and Inclusion Efforts for New Americans* (February 2, 2021).** Affirms that the Federal Government should develop welcoming strategies that promote integration and inclusion.
- **Executive Order 14015, *Establishment of the White House Office of Neighborhood Partnerships* (February 18, 2021).** Establishes a White House Office of Faith-Based and Neighborhood Partnerships to establish policies, priorities, and objectives for the federal government’s effort to enlist, equip, enable, empower, and expand the work of community-serving organizations.
- **Executive Order 14019, *Promoting Access to Voting* (March 7, 2021).** Requires agencies to expand access to, and education about, voter registration and election information, and to combat misinformation, in order to enable all eligible Americans to participate in our democracy.
- **Executive Order 14020, *Establishment of the Gender Policy Council* (March 8, 2021).** Requires agencies to advance equal rights and opportunities, regardless of gender or gender identity, by promoting workplace diversity, fairness, and inclusion across the federal workforce and military.

- **Executive Order 14031, *Advancing Equity, Justice, and Opportunity for Asian Americans, Native Hawaiians, and Pacific Islanders* (May 28, 2021).** Establishes a White House Initiative on Asian Americans, Native Hawaiians, and Pacific Islanders, as well as a Presidential Advisory Commission, both of which aim to advance equity, justice, and opportunity among these groups.
- **Executive Order 14041, *White House Initiative on Advancing Educational Equity, Excellence, and Economic Opportunity through Historically Black Colleges and Universities* (September 3, 2021).** Advances educational opportunities and reduces barriers to expand programming for Historically Black Colleges and Universities (HBCU), as well as strengthen capacity to participate in Federal programs.

### **Delegations and Directives:**

- **Management Directive 3500,** Operationalizes Roles of the Officer for Civil Rights and Civil Liberties and the Office of the Chief Counsel.
- **Management Directive 4010.2,** Establishes the DHS Section 508 Program Management Office within the DHS Office of the Chief Information Officer and establishes policy regarding Electronic and Information Technology accessibility.
- **Delegation 19000,** Delegation to the Deputy Officer for Equal Opportunity Programs.
- **Delegation 19001,** Delegation to the Deputy Officer for Civil Rights and Civil Liberties Programs and Compliance.
- **Delegation 19003,** Delegation to the Officer for CRCL for Matters Involving CRCL, Including EEO and Workplace Diversity.
- **Delegation 19004,** Delegates authority to provide DHS-wide guidance and oversight on the implementation of 8 United States Code (U.S.C.) Section 1367 confidentiality and prohibited source provisions (relating to applicants and petitioners for and beneficiaries of VAWA, T nonimmigration status, or U nonimmigration status protections) in accordance with 8 U.S.C. 1367(d) and Section 810 of the Violence Against Women Reauthorization Act of 2013.
- **Delegation 19005,** Delegation of Authority to Disclose Section 1367 Information to National Security Officials for National Security Purposes.
- **Directive 002-02,** Implementation of Section 1367 Information Provisions.
- **Directive 046-01,** Directive, Office for Civil Rights and Civil Liberties.
- **Directive 065-01,** Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment).

- **Directive 065-02**, Establishes the Department’s Special Emphasis Program policy and requirements.
- **Directive 065-04**, Establishes the Department’s Equal Employment Opportunity Alternative Dispute Resolution Program.
- **Directive 256-01**, Anti–Harassment Policy.
- **Directive 259-01**, Providing Reasonable Accommodations for Employees and Applicants with Disabilities.
- **Directive 262-01**, Effectuates a Data Integrity Board for the Department of Homeland Security, and provides policies for engaging in and approving Computer Matching Agreements that fall under the Privacy Act of 1974, as amended (5 U.S.C. § 552a).

## Appendix B: Public Complaints Tables

In FY 2021, CRCL opened 798 new complaints (compared to 900 opened in FY 2020, a decrease of 11 percent) and closed 734 complaints (compared to 761 closed in FY 2020, a decrease of four percent). Data tables B-1A and B-1B describe matters retained by the OIG during FY 2021, and complaints closed and returned to CRCL from the OIG during FY 2021, by quarter. Data tables B-2A through B-5B summarize complaints retained by CRCL and referred to DHS Components by quarter in FY 2021.

As of September 30, 2021, the Compliance Branch had 724 open complaints. Of those, 102 complaints were opened and retained by CRCL for investigation, and 528 were addressed using “short form” investigations to facilitate swift action on urgent complaints and to expedite resolution of allegations that are narrowly focused and therefore require a more limited investigation. Another 57 of the open complaints were referred to a DHS Component for investigation, and 37 were retained by OIG for investigations.

For a tally of all CRCL’s complaints by Component and primary allegation from FY 2003 to 2020, please visit: [www.dhs.gov/complaints](http://www.dhs.gov/complaints).

### Office of Inspector General

CRCL initially refers all complaints it opens to DHS OIG, which retains a relatively small number of those complaints for its own investigations (See 6 U.S.C. § 345(a)(6)). Of the 798 complaints opened in FY 2021, 16 complaints were retained by the OIG.

In FY 2021, CRCL closed ten complaints retained by the OIG, which completed OIG investigations and were returned to CRCL for follow-up on remaining civil rights and civil liberties issues. These matters included one matter retained by OIG in FY 2014, one matter retained in FY 2018, seven matters retained in FY 2019, and one matter retained in FY 2020. CRCL closed these complaints based upon either the conclusions reached in the OIG’s investigation or based on additional investigation by CRCL.

**TABLE B-1A: CRCL COMPLAINTS OPENED AND RETAINED BY THE OIG, FY 2022**

Primary Allegation	CBP 3				ICE 12				Sub-Totals 15				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	All
Abuse of authority							1				1		1
Conditions of detention							1				1		1
Due Process			1			1				1	1		2
Excessive or inappropriate use of force			1								1		1
Medical/mental health care		1			2	1		1	2	2		1	5
Retaliation							1	1			1	1	2
Sexual abuse or assault						2		1		2		1	3
<b>Total</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>2</b>	<b>5</b>	<b>5</b>	<b>3</b>	<b>15</b>

**TABLE B-1B: CRCL COMPLAINTS CLOSED BY THE OIG, FY 2022**

Primary Allegation	CBP 3				ICE 8				Multi-Component 1				Sub-Totals 12				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	All
Conditions of detention								1								1	1
Excessive or inappropriate use of force		1		2			1							1	1	2	4
First Amendment (free speech / association)												1				1	1
Language access							1								1		1
Medical/mental health care							1	3							1	3	4
Sexual abuse or assault								1								1	1
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>8</b>	<b>12</b>

## First Quarter FY 2022

**TABLE B-2A: COMPLAINTS OPENED Q1 FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 34			DHS 1			FEMA 1			ICE 116			USCIS 12			Multi- Component 1			Sub-Totals 165			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	1	1								1		3							2	1	3	6
Conditions of detention			3							3	9									3	12	15
Disability discrimination			4						1		6			5							16	16
Discrimination/profiling		1								2				1						3	1	4
Due process	1		5								4	1		1					1	1	10	12
Excessive force or inappropriate use of force		1	4	1						2	3			1					1	3	8	12
First Amendment (free speech/association)																	1				1	1
Fourth Amendment (search and seizure)			1																		1	1
Human rights			2																		2	2
Intimidation / threat/ improper coercion										1	1									1	1	2
Language access													3							3		3
Legal access										3	1									3	1	4
Medical/mental health care	1	1	5							11	59								1	12	64	77
Religious accommodation			1								1										2	2
Retaliation											2										2	2
Sexual assault/abuse			2							1	3									1	5	6
<b>Total</b>	<b>3</b>	<b>4</b>	<b>27</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>23</b>	<b>92</b>	<b>4</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>5</b>	<b>31</b>	<b>129</b>	<b>165</b>



**TABLE B-2B: COMPLAINTS CLOSED Q1 FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 23			FEMA 1			ICE 36			USCIS 2			Sub-Totals 62			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position			1												1	1
Conditions of detention			2					6	1					6	3	9
Disability discrimination			1			1						1			3	3
Discrimination/profiling												1			1	1
Due process		10	4				1		2				1	10	6	17
Intimidation/ threat/ improper coercion								1						1		1
Legal access								3						3		3
Medical/mental health care		3	1					5	15					8	16	24
Sexual assault/abuse			1						2						3	3
<b>Total</b>	<b>0</b>	<b>13</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>15</b>	<b>20</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>28</b>	<b>33</b>	<b>62</b>

## Second Quarter FY 2022

**TABLE B-3A: COMPLAINTS OPENED Q2 FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 58			DHS 1			ICE 155			TSA 2			Multi- Component 6			Sub-Totals 256			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	1	1	4					2	1							1	3	5	9
Conditions of detention			3				2	5	15							2	5	18	25
Disability discrimination			1			1			1									7	7
Discrimination/profiling			4						1			1	1			2		7	9
Due process			23				1		12							1		37	38
Excessive or inappropriate use of force			2				1	2	6							1	2	8	11
First Amendment (free speech/association)									1									1	1
Fourth Amendment (search and seizure)			1															1	1
Human rights																	1		1
Inappropriate questioning/ inspection conditions (non- TSA)		1															1		1
Inappropriate touch/ search of person (non-TSA)								1									1		1
Language access	1		1											2	1	1	3	2	6
Legal access									1						1			2	2
Medical/mental health care		4	7				1	6	107							1	10	114	125
Privacy			1															1	1
Religious accommodation			1															1	1
Retaliation								1	1								1	1	2
Sexual assault/abuse	1		1				1	1	9						1	2	1	11	14
TSA AIT and TSA pat-downs												1						1	1
<b>Total</b>	<b>3</b>	<b>6</b>	<b>49</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>6</b>	<b>18</b>	<b>155</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>11</b>	<b>28</b>	<b>217</b>	<b>256</b>

**TABLE B-3B: COMPLAINTS CLOSED Q2 FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 28			FEMA 2			ICE 104			TSA 1			USCIS 3			Multi- Component 3			Sub-Totals 141			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position			1				2	1	2										2	1	3	6
Conditions of detention			2				3	4	7										3	4	9	16
Disability discrimination			1			1			1						1						4	4
Discrimination/profiling	1		5												1				1		6	7
Due process			8			1			5						1			2			17	17
Excessive or inappropriate use of force			3					4	2											4	5	9
Fourth Amendment (search and seizure)			1																		1	1
Human rights			3																		3	3
Intimidation/threat/ improper coercion								1												1		1
Language access									2												2	2
Legal access									1												1	1
Medical/mental health care			1					9	49								1		9	51	60	60
Religious accommodation			1						1												2	2
Retaliation									1												1	1
Sexual assault/abuse			1				1	2	6										1	2	7	10
TSA AIT and TSA pat- downs												1									1	1
<b>Total</b>	<b>1</b>	<b>0</b>	<b>27</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>6</b>	<b>21</b>	<b>77</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>7</b>	<b>21</b>	<b>113</b>	<b>141</b>

### Third Quarter FY 2022

**TABLE B-4A: COMPLAINTS OPENED Q3 FY 2022: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 42			DHS 1			FEMA 1			ICE 128			TSA 2			USCIS 8			Multi- Component 5			Sub-Totals 187			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	2		2							1		3			1							3		6	9
Conditions of detention			4								3	16											3	20	23
Disability discrimination			3									3					1	3					1	9	10
Discrimination/profiling			3							1	1	3	1					1				2	1	7	10
Due process			6									4					2				2		2	12	14
Excessive or inappropriate use of force			7							2	2	9									1	2	2	17	21
Fourth Amendment (search and seizure)			2									1							1			1		3	4
Human rights			1			1						1												3	3
Inappropriate questioning / inspection conditions (non TSA)			2																					2	2
Intimidation / threat / improper coercion												1												1	1
Language access									1			1									1			3	3
Legal access											2	1											2	1	3
Medical/mental health care		3	6							1	1	62										1	4	68	73
Privacy			1									1						1						3	3
Religious accommodation												2											2	2	2
Retaliation										1												1			1
Sexual assault/abuse											1	4											1	4	5
<b>Total</b>	<b>2</b>	<b>3</b>	<b>37</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>6</b>	<b>10</b>	<b>112</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>5</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>10</b>	<b>16</b>	<b>161</b>	<b>187</b>

**TABLE B-4B: COMPLAINTS CLOSED Q3 FY 2022:  
PRIMARY ALLEGATION BY COMPONENT**

	CBP 35			DHS 3			ICE 136			USCIS 8			Sub-Totals 182			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	2		1						2				2		3	5
Conditions of detention							2	3	8				2	3	8	13
Disability discrimination			1						4			7			12	12
Discrimination/profiling			5						1						6	6
Due process			12			1		1	8			1		1	22	23
Excessive force or inappropriate use of force	1		2				2	1	5				3	1	7	11
Fourth Amendment (search and seizure)			4		1				1					1	5	6
Human rights			1												1	1
Inappropriate questioning/inspection conditions (non-TSA)			1												1	1
Intimidation/ threat/ improper coercion			1				1						1		1	2
Language access						1			2						3	3
Legal access									1						1	1
Medical/mental health care			3					4	78					4	81	85
Religious accommodation									1						1	1
Retaliation									1						1	1
Sexual assault/abuse			1					2	8					2	9	11
<b>Total</b>	<b>3</b>	<b>0</b>	<b>32</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>5</b>	<b>11</b>	<b>120</b>	<b>0</b>	<b>0</b>	<b>8</b>	<b>8</b>	<b>12</b>	<b>162</b>	<b>182</b>

## Fourth Quarter FY 2022

**TABLE B-5A: COMPLAINTS OPENED Q4 FY 2022 PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 56			FEMA 1			ICE 146			TSA 1			USCIS 5			Multi- Component 12			Sub-Totals 221			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	1		2				1									1			3		2	5
Conditions of detention			1			1	1	1	8										1	1	10	12
Disability discrimination			10					1	4						1			2		1	17	18
Discrimination/profiling		1	7				1	1	2				1	1			1		2	4	9	15
Due process		1	15				1	1	8									3	1	2	26	29
Excessive force or inappropriate use of force			4				2	3	4									1	2	3	9	14
First Amendment (free speech /association)																		1			1	1
Fourth Amendment (search and seizure)			2																		2	2
Human Rights			4															2			6	6
Inappropriate questioning/ inspection conditions			1																		1	1
Inappropriate touch/ search of person (non-TSA)			1																		1	1
Intimidation / threat/ improper coercion							2	1											2	1		3
Language access									2					1				1		1	3	4
Legal access									2												2	2
Medical/mental health care			6				1	6	77										1	6	83	90
Privacy															1						1	1
Religious accommodation									3												3	3
Retaliation							1		3										1		3	4
Sexual assault/abuse								2	7											2	7	9
TSA AIT and TSA pat-downs												1									1	1
<b>Total</b>	<b>1</b>	<b>2</b>	<b>53</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>10</b>	<b>16</b>	<b>120</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>10</b>	<b>13</b>	<b>21</b>	<b>187</b>	<b>221</b>



**TABLE B-5B: COMPLAINTS CLOSED Q4 FY 2021: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP 145			DHS 2			FEMA 2			ICE 206			USCIS 11			Multi- Component 28			Sub-Totals 394			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	All
Abuse of authority/ misuse of official position	2	1	6			1				1		3							3	1	10	14
Conditions of detention	1	6	1							3	11	11					2	1	4	19	13	36
Disability discrimination			4				1					3			6			1	1		14	15
Discrimination/profiling			10									2	1					1	1		13	14
Due process	1	9	28						1		2	19			3		5	15	1	16	66	83
Excessive or inappropriate use of force	1		4							3	1	4							4	1	8	13
First Amendment (free speech/association)		1	3			1												1		1	5	6
Fourth Amendment (search and seizure)			2														1			1	2	3
Human rights			15									1						1			17	17
Inappropriate questioning/ inspection conditions (non-TSA)	1		4																1		4	5
Inappropriate touch/ search of person (non-TSA)			2																		2	2
Intimidation/threat/ improper coercion												1									1	1
Language access											1	2								1	2	3
Legal access			1									2									3	3
Medical/mental health care	4	5	29							1	8	120							5	13	149	167
Privacy												1			1						2	2
Religious accommodation												1									1	1
Retaliation												1									1	1
Sexual assault/abuse	1		3							2		2							3		5	8
<b>Total</b>	<b>11</b>	<b>22</b>	<b>112</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>10</b>	<b>23</b>	<b>173</b>	<b>1</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>8</b>	<b>20</b>	<b>23</b>	<b>53</b>	<b>318</b>	<b>394</b>

## Appendix C: Acronyms

AANHPI	Asian American, Native Hawaiian, Pacific Islander
ADG	CRCL Antidiscrimination Group
ADR	Alternative Dispute Resolution
ASL	American Sign Language
BPA	Border Patrol Agent
AHU	DHS Headquarters Anti-Harassment Unit
CBP	U.S. Customs and Border Protection
CCGBV	DHS Council on Combatting Gender Based Violence
CDC	U.S. Centers for Disease Control and Prevention
CDI	Certified Deaf Interpreter
CERD	UN Committee on the Elimination of Racial Discrimination
CISA	Cybersecurity and Infrastructure Security Agency
CMAS	CRCL Complaints Management and Adjudication Section
CMPP	DHS Case Management Pilot Program
CP3	DHS Center for Prevention Programs and Partnerships
CRCL	DHS Office for Civil Rights and Civil Liberties
DHS	U.S. Department of Homeland Security
DMS	CRCL Diversity Management Section
DOJ	U.S. Department of Justice
DVE	Domestic Violent Extremism
EEO	Equal Employment Opportunity
EEOD	CRCL Equal Employment Opportunity and Diversity Division
EEOC	Equal Employment Opportunity Commission
ERO	ICE Enforcement and Removal Operations
FEMA	Federal Emergency Management Agency
FGM/C	Female Genital Mutilation/Cutting
FPS	DHS Federal Protective Service
FY	Fiscal Year
HBCU	Historically Black Colleges and Universities
HQ EEO	DHS Headquarters Equal Employment Opportunity Office
HAS	Homeland Security Act of 2002
HSI	ICE Homeland Security Investigations
I&A	DHS Office of Intelligence and Analysis
ICCT	CRCL Incident Communication Coordination Team
ICE	U.S. Immigration and Customs Enforcement
IHSC	ICE Health Service Corps
LEP	Limited English Proficiency
LGBTQ	Lesbian, Gay, Bisexual, Transgender, and Queer
MD-715	EEOC Management Directive 715 Report
MPP	Migrant Protection Protocols
No FEAR	Notification and Federal Employee Antidiscrimination and Retaliation Act
NTA	Notice to Appear
NVC	National Vetting Center
OAST	DHS Office of Accessible Systems and Technology

OAW	Operation Allies Welcome
OGC	DHS Office of the General Counsel
OIG	DHS Office of the Inspector General
OPR	ICE Office of Professional Responsibility
OSLLE	DHS Office for State and Local Law Enforcement
PREA	Prison Rape Elimination Act
PRIV	DHS Privacy Office
ROI	Report of Investigation
SAAPI	ICE Sexual Abuse and Assault Prevention and Intervention
S&T	DHS Science and Technology Directorate
SIIP	CRCL Security, Intelligence, and Information Policy Section
STEM	Science, Technology, Engineering, and Math
TSA	Transportation Security Administration
UAS	Unmanned Aircraft Systems
USBP	U.S. Border Patrol
U.S.C.	United States Code
USCIS	U.S. Citizenship and Immigration Services
USRAP	United States Refugee Admissions Program
USSS	U.S. Secret Service
VAWA	Violence Against Women Act