



Department of Homeland Security Office for Civil Rights and Civil Liberties

Semiannual Report to Congress

Third and Fourth Quarters, FY 2020 (April 1, 2020 – September 30, 2020)

August 13, 2021



Homeland
Security

Foreword



I am pleased to present this Semiannual Report on the activities of the Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL), as required by Section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, 42 U.S.C. § 2000ee-1(f).

This Report includes information on the third and fourth quarters of Fiscal Year (FY) 2020. The DHS Chief Privacy Officer provides separate quarterly reports under the 9/11 Commission Act concerning privacy advice and complaints, available at the Privacy Office's web site, <http://www.dhs.gov/privacy>.

Pursuant to congressional requirements, this Report is being provided to the following Members of Congress:

The Honorable Chris Murphy

Chairman, U.S. Senate Subcommittee on Homeland Security Appropriations

The Honorable Shelly Moore Capito

Ranking Member, U.S. Senate Subcommittee on Homeland Security Appropriations

The Honorable Gary C. Peters

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

The Honorable Rob Portman

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 Dick Durbin

Chairman, U.S. Senate Committee on the Judiciary

The Honorable Chuck Grassley

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

The Honorable Lucille Roybal-Allard

Chairwoman, U.S. House of Representatives Subcommittee on Homeland Security Appropriations

The Honorable Chuck Fleischmann

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

The Honorable Bennie G. Thompson

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

The Honorable John Katko

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

The Honorable Adam Schiff

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

The Honorable Devin Nunes

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

The Honorable Jerry Nadler

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

The Honorable Jim Jordan

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

The Honorable Carolyn Maloney

Chairwoman, U.S. House of Representatives Committee on Oversight and
Government Reform

The Honorable James Comer

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

Additional information, including our prior semiannual and annual reports and our civil rights
complaint contact information, is available at: www.dhs.gov/crcl. Please direct inquiries
regarding this Report to the Office of Legislative Affairs at 202-447-5890.

Yours very truly,



Katherine Culliton-González
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

Executive Summary

This Semiannual Report details CRCL's complaints activities, as required by section 803 of the *Implementing Recommendations of the 9/11 Commission Act of 2007*, 42 U.S.C. § 2000ee-1(f). It includes information on CRCL's investigative work during the third and fourth quarters of FY 2020.

The majority of complaint investigations opened during this time period focused on allegations made against U.S. Immigration and Customs Enforcement (ICE). A significant portion of complaints, 324 of the 488 received, concerned ICE's alleged inadequate medical and/or mental health care for detainees in ICE custody. CRCL contracts with subject matter experts in areas including general corrections, medical and mental health, suicide prevention, environmental health and safety, and law enforcement practices to evaluate these claims and make recommendations.



DHS Office for Civil Rights and Civil Liberties FY 2020 Third and Fourth Quarter Report

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(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 Government 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.

Table 3 summarizes all complaints, including those initiated prior to FY 2020, in process as of the last day of the quarter.² If a complaint is referred to a Component for investigation, the Component issues a Report of Investigation to CRCL, which is reviewed by CRCL. If the case is retained by CRCL, or short-formed,³ CRCL conducts its own investigation of the matter.

When an investigation is complete, whether conducted by CRCL or the Component(s) involved, CRCL may close the complaint or provide senior leadership of the relevant Component(s) with any recommendations or advice for improving policies, practices, or training as appropriate. CRCL notifies complainants of the result of investigations, including any actions being taken in response.

Table 4 includes data about investigations closed during the third and fourth quarters, by issue, situation, and Component principally involved.

² The “in process” categories include multiple cases in which Reports of Investigation (ROIs) have been received from Components and are currently under review within CRCL. Pursuant to CRCL practice, these investigations remain officially “in process” until CRCL has completed its review and response to the ROIs.

³ CRCL has implemented “short-form” complaint processing procedures to facilitate swift 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. Cases that subsequently require additional work are converted to standard investigations.

Table 3. Investigations in process 3Q and 4Q 2020 (as of September 30, 2020)

	Grand Total	Under Review ⁵	OIG Retained	CRCL Retained		Joint Investigation	CRCL Referred
				Full Investigation	Short Form		
<i>By issue</i>							
Abuse of authority/misuse of official position	20	2		5	9		4
Conditions of detention	68	14	3	23	20		8
Disability discrimination	17	2			15		
Discrimination/profiling	30	2		4	19		5
Due process	89	16	2	28	37		6
Excessive force or inappropriate use of force	33	7	8	5	10		3
First Amendment (free speech/association)	10	3	4	1	2		
Fourth Amendment (search and seizure)	10	1	1	1	7		
Human rights	24				24		
Inappropriate questioning/inspection conditions	6	1			4		1
Inappropriate touch/search of person (non-TSA)	1		1				
Intimidation/threat/improper coercion	2						2
Language access	2		1		1		
Legal access	4	1		1	2		
Medical/mental health care	271	75	9	41	140		6
Privacy	4	3			1		
Retaliation	1			1			
Sexual assault/abuse	16	4	1	2	7		2
TSA AIT and TSA pat-downs	1				1		
Total by issue	609	131	30	112	299	0	37

⁵ The data in this column cover investigations opened that were not yet categorized in CRCL's database as Retained, Referred, Short Form, or Joint Investigations, or those which CRCL was awaiting a decision from the OIG on whether or not they will retain.

Table 4 continued, Investigations closed 3Q and 4Q 2020 (as of September 30, 2020)

Total by issue	Component							
Subtotal by situation	CBP	DHS*	FEMA	ICE	TSA	USCIS	USSS	Total
<i>Sexual assault/abuse</i>	3			7				10
CBP detention	3							3
DHS law enforcement activity				1				1
Immigration detention				6				6
<i>TSA AIT and TSA pat-downs</i>					1			1
Screening (non-watch list)					1			1
Grand Total	90	32	3	371	1	8	1	506

*Multi-Component or DHS Headquarters unit

IV. Appendix: Acronyms

CBP	U.S. Customs and Border Protection
CRCL	DHS Office for Civil Rights and Civil Liberties
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
ICE	U.S. Immigration and Customs Enforcement
OIG	DHS Office of Inspector General
PEP	Priority Enforcement Program
ROI	Report of Investigation
TSA	Transportation Security Administration
USBP	U.S. Border Patrol
USCIS	U.S. Citizenship and Immigration Services
USCG	U.S. Coast Guard
USSS	U.S. Secret Service