

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 first and second quarters of Fiscal Year (FY) 2023. 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 website, <http://www.dhs.gov/privacy>.

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

The Honorable Chris Murphy

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

The Honorable Katie Britt

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

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 Dick Durbin

Chair, U.S. Senate Committee on the Judiciary

The Honorable Lindsey Graham

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

The Honorable Dave Joyce

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

The Honorable Henry Cuellar

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

The Honorable Mark E. Green
Chairman, U.S. House Committee on Homeland Security

The Honorable Bennie G. Thompson
Ranking Member, U.S. House Committee on Homeland Security

The Honorable Michael Turner
Chairman, U.S. House Permanent Select Committee on Intelligence

The Honorable Jim Himes
Ranking Member, U.S. House Permanent Select Committee on Intelligence

The Honorable Jim Jordan
Chairman, U.S. House Committee on the Judiciary

The Honorable Jerrold Nadler
Ranking Member, U.S. House Committee on the Judiciary

The Honorable James Comer
Chairman, U.S. House Committee on Oversight and Accountability

The Honorable Jamie Raskin
Ranking Member, U.S. House Committee on Oversight and Accountability

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 DHS Office of Legislative Affairs at 202-447-5890.

Yours very truly,



Shoba Sivaprasad Wadhia
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), during the first and second quarters of FY 2023. This Report includes information on CRCL's investigative work during this time period.

The majority of complaints investigations opened by CRCL during this time period involved allegations made against U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE). Although the largest portion of complaints opened concerned alleged inadequate medical and/or mental health care for detainees in ICE custody, CRCL also opened several complaints related to disability discrimination, excessive force, sexual abuse or assault, language access, and conditions of confinement in ICE immigration detention facilities. Regarding CBP, CRCL opened complaints concerning allegations of discrimination/profiling at checkpoints and ports of entry, due process issues related to unaccompanied minors in CBP custody, and medical and/or mental health care in holding facilities.



DHS Office for Civil Rights and Civil Liberties FY 2023 First and Second Quarter Report

Table of Contents

I.	Statutory Authority for Semiannual Report	6
II.	Civil Rights and Civil Liberties Impact Assessments.....	9
III.	Investigations Data and Analysis.....	10
IV.	Appendix: Acronyms.....	19

I. Statutory Authority for Semiannual Report

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, sec. 803, 121 Stat. 266, 360-362, 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 1 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 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.

II. Civil Rights and Civil Liberties Impact Assessments

As part of its statutory requirement to advise Department leadership on constitutional, statutory, regulatory, policy, and other requirements relating to civil rights and civil liberties (*see* 6 U.S.C. § 345), CRCL reviews Department programs, policies, and activities to determine whether they have an impact on the civil rights or civil liberties of those affected and provides suggestions for improvements to those programs. CRCL did not conduct an impact assessment in the first or second quarters of FY 2023.

III. Investigations Data and Analysis

CRCL reviews complaints concerning:

- alleged abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion by employees or officials of the Department, 6 U.S.C. § 345(a)(1);
- compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights or civil liberties of individuals affected by the programs and activities of the Department, 6 U.S.C. § 345(a)(4);
- possible abuses of civil rights or civil liberties, unless the DHS Office of Inspector General determines that any such complaint or information should be investigated by the Inspector General, 6 U.S.C. § 345(a)(6); and
- 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 civil liberties in its actions, 42 U.S.C. § 2000ee-1(a)(2) and (a)(3).

In addition to complaints alleging violations of civil rights and civil liberties arising from the Department's activities, CRCL has delegated authority from the Secretary to ensure the federally assisted programs or activities of the Department comply with, among other things, Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972, as amended; the Rehabilitation Act of 1973, as amended; and the Age Discrimination Act of 1972. CRCL's Programs Branch carries out a compliance and enforcement program that includes, but is not limited to complaints, compliance reviews, data collection, and monitoring. The Programs Branch opened one Title VI complaint during the reporting period. No complaints were resolved during this timeframe.

Under these authorities, CRCL reviews and assesses civil rights and human rights complaints from members of the public. These matters arise in a variety of contexts — labeled “situations” in the tables below—and concern one or more issues. The tables below identify investigations by the primary situation and issue involved.

CRCL initiates investigations based on allegations received from the general public, other federal agencies, non-governmental organizations, and Congress. These allegations may be based on media reports or other sources. Incidents that might merit investigation are also forwarded to CRCL from other offices at DHS and other government agencies. Allegations may be submitted via U.S. mail, email, fax, the CRCL telephone hotline, or the [CRCL online complaints portal](#) launched in March 2023. The new online portal, available in ten languages, is a one-stop shop where individuals may submit allegations of violations of civil rights, civil liberties, or human rights by DHS programs, activities, or personnel. Through the portal, individuals can conveniently submit information about their allegations directly to CRCL and receive a confirmation message and reference number. The portal also provides easy access for mobile device and tablet users.

Table 1 summarizes investigations opened during the first and second quarters of FY 2023 by the primary civil rights *issue* raised, the *situation* in which the investigation arose, and the DHS

Component that was the primary subject of the investigation.

Pursuant to 6 U.S.C. § 345(a)(6) and internal DHS policies, CRCL begins the investigation process by referring all complaints to the DHS Office of Inspector General (OIG). OIG then determines whether or not it will investigate the complaint. In the tables below, complaints kept by the OIG for investigation are designated “OIG retained.” If the OIG declines to investigate a complaint, the complaint is referred back to CRCL for investigation.

Table 2 summarizes all complaints, including those initiated prior to FY 2023, in process as of the last day of the quarter (March 31, 2023).¹ If CRCL refers a complaint to a Component for investigation, the Component issues a Report of Investigation to CRCL, which is reviewed by CRCL. If the complaint is not referred to a Component, it is retained by CRCL for investigation. CRCL issues retention memoranda for investigations that are larger in scope or complexity. CRCL uses its “short form” process to expedite investigations of narrowly focused allegations. 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 retained investigations. 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 certain allegations and make recommendations.

When an investigation is complete, whether conducted by CRCL or the Component(s) involved, CRCL may close the complaint and/or provide senior leadership of the relevant Component(s) with any recommendations or advice for improving policies, practices, or training. CRCL notifies complainants of the results of investigations, including any actions taken in response. CRCL’s recommendations are reviewed by DHS Components, who in turn concur or non-concur on each CRCL recommendation. For concurred-upon recommendations, the Component provides an action plan, and CRCL monitors the implementation of those recommendations.

CRCL strives to maintain transparency in its civil rights investigations processes and posts investigations-related work products on the DHS public website at <https://www.dhs.gov/transparency-civil-rights-investigations>.

Table 3 includes data about investigations closed during the first and second quarters of FY 2023, by issue, situation, and principal Component involved.

¹ 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’s practice, these investigations remain officially “in process” until CRCL has completed its review and response to the ROIs.

Table 1. Investigations opened, 1Q and 2Q 2023 (as of March 31, 2023)

<i>Total by Issue</i>	Component						
Subtotal by Situation	CBP	DHS	FEMA	ICE	USCIS	Multi-Component	Total
<i>Abuse of authority/misuse of official position</i>	6			5			11
CBP OFO port of entry or USBP checkpoint	5						5
DHS law enforcement activity				1			1
Immigration detention				4			4
Unaccompanied minor	1						1
<i>Conditions of detention/holding</i>	5			13	1		19
CBP holding	1						1
CBP OFO port of entry or USBP checkpoint	1						1
Immigration detention				12	1		13
Protection screening				1			1
Unaccompanied minor	3						3
<i>Disability discrimination</i>	5			11	1		17
CBP OFO port of entry or USBP checkpoint	3						3
DHS program or initiative					1		1
DHS supported activity	1						1
Federal government building or area	1						1
Immigration detention				11			11
<i>Discrimination/profiling</i>	11			1	3		15
CBP OFO port of entry or USBP checkpoint	9						9
DHS program or initiative	1						1
DHS supported activity				1			1
Immigration benefit application processing					3		3
Unaccompanied minor	1						1
<i>Due process</i>	16			5	2	3	26
CBP holding	2						2
CBP OFO port of entry or USBP checkpoint	5			1			6
DHS law enforcement activity	1					1	2
DHS program or initiative	1					2	3
DHS regulatory/rule processing	1						1
Immigration benefit application processing					1		1
Immigration detention				4	1		5
Unaccompanied minor	6						6
<i>Excessive force or inappropriate use of force</i>	11			11		2	24
CBP OFO port of entry or USBP checkpoint	3					1	4
DHS law enforcement activity	3						3
Immigration detention				11		1	12
Unaccompanied minor	5						5
<i>First Amendment (free speech/association)</i>		1					1
Federal government building or area		1					1

Table 1 continued, Investigations opened 1Q and 2Q 2023 (as of March 31, 2023)

Total by Issue	Component						
	CBP	DHS	FEMA	ICE	USCIS	Multi-Component	Total
Subtotal by Situation							
Fourth Amendment (search and seizure)						1	1
CBP OFO port of entry or USBP checkpoint						1	1
Human rights	2					1	3
DHS program or initiative	1					1	2
Immigration detention	1						1
Inappropriate questioning/inspection conditions	1						1
CBP OFO port of entry or USBP checkpoint	1						1
Inappropriate touch/search of person	1						1
Unaccompanied minor	1						1
Intimidation/threat/improper coercion	1			1		1	3
CBP OFO port of entry or USBP checkpoint	1					1	2
Immigration detention				1			1
Language access	2	1	1	4	1		9
CBP OFO port of entry or USBP checkpoint	2						2
DHS public messaging/website			1				1
Federal government building or area		1		1			2
Immigration benefit application processing					1		1
Immigration detention				3			3
Legal access				8			8
Immigration detention				8			8
Medical/mental health care	11			118		2	131
CBP holding	5						5
CBP OFO port of entry or USBP checkpoint	2						2
DHS law enforcement activity	3					1	4
Immigration detention	1			118		1	120
Privacy²	1			3			4
DHS public messaging/website	1						1
DHS supported activity				2			2
Immigration detention				1			1
Religious accommodation	1			2			3
CBP holding	1						1
Immigration detention				2			2
Retaliation				5			5
Immigration detention				5			5
Sexual assault/abuse	2			11			13
CBP OFO port of entry or USBP checkpoint	2						2
Immigration detention				11			11
Grand Total	76	2	1	198	8	10	295

² This category involves claims about the unauthorized disclosure of private information and will generally arise in the context of unauthorized sharing of medical and mental health information and breaches of confidentiality of information.

Table 2. Investigations in process, 1Q and 2Q 2023 (as of March 31, 2023)

	OIG Retained	CRCL Retained		CRCL Referred	Total
		Retention Memo	Short Form		
<i>By issue</i>					
Abuse of authority/misuse of official position	1	3	19	14	37
Conditions of detention	3	14	48	5	70
Disability discrimination		2	29		31
Discrimination/profiling	1	18	39	3	61
Due process	2	9	71	6	88
Excessive force or inappropriate use of force	5	7	34	6	52
First Amendment (free speech/association)	1	1	5		7
Fourth Amendment (search and seizure)	1	1	10	1	13
Human rights		2	9		11
Inappropriate questioning/inspection conditions		1	3		4
Inappropriate touch/search of person		1	1		2
Intimidation/threat/improper coercion		2	2	3	7
Language access		7	14	1	22
Legal access		2	11	2	15
Medical/mental health care	12	37	250	10	309
Privacy			10		10
Religious accommodation		3	6		9
Retaliation	3		8	1	12
Sexual assault/abuse	3	2	19	8	32
TSA AIT and TSA pat-downs			1		1
Total by issue	32	112	589	60	793

Table 2 continued, Investigations in process 1Q and 2Q 2023 (as of March 31, 2023)

	OIG Retained	CRCL Retained		CRCL Referred	Total
		Retention Memo	Short Form		
By situation					
CBP holding		2	19	3	24
CBP OFO port of entry or USBP Checkpoint	7	21	79	10	117
DHS law enforcement activity	4	2	26	4	36
DHS program or initiative	1	2	17	1	21
DHS public messaging/websites			2		2
DHS regulatory/rule processing			3		3
DHS supported activity		2	9		11
Federal government building or area			5	1	6
Immigration benefit application processing		6	11	2	19
Immigration detention	20	72	386	31	509
Political demonstration/rally			1		1
Protection screening		5	1	1	7
Screening (non-watch list)			3		3
Unaccompanied minor			26	7	33
Watchlist/aviation security list			1		1
Total by situation	32	112	589	60	793
By component					
CBP	9	25	152	21	207
DHS			1		1
FEMA			4		4
ICE	23	70	399	34	526
TSA			2		2
USCIS		11	11	2	24
Multi-Component		6	20	3	29
Total by component	32	112	589	60	793

Table 3. Investigations closed, 1Q and 2Q 2023 (as of March 31, 2023)

<i>Total by Issue</i>	Components						Total
	CBP	DHS	ICE	TSA	USCIS	Multi-Component	
<i>Subtotal by Situation</i>							
<i>Abuse of authority/misuse of official position</i>	4		3			1	8
CBP OFO port of entry or USBP checkpoint	1						1
DHS program or initiative	2						2
Federal government building or area	1						1
Immigration benefit application processing						1	1
Immigration detention			3				3
<i>Conditions of detention/holding</i>	6		19		1		26
CBP holding	1						1
CBP OFO port of entry or USBP checkpoint	1						1
Immigration detention			17		1		18
Unaccompanied minor	4		2				6
<i>Disability discrimination</i>	14		3		3	2	22
CBP holding	1						1
CBP OFO port of entry or USBP checkpoint	12						12
DHS program or initiative	1				1		2
Federal government building or area						2	2
Immigration benefit application processing					1		1
Immigration detention			3				3
Non-immigrant visa processing					1		1
<i>Discrimination/profiling</i>	3		2	1	3	1	10
CBP OFO port of entry or USBP checkpoint	2						2
DHS program or initiative	1						1
DHS supported activity					2		2
Federal government building or area						1	1
Immigration benefit application processing					1		1
Immigration detention			2				2
Screening (non-watchlist)				1			1
<i>Due process</i>	19		11			3	33
CBP holding	1					1	2
CBP OFO port of entry or USBP checkpoint	5					1	6
DHS law enforcement activity	1		1				2
DHS program or initiative	4						4
Immigration benefit application processing	1						1
Immigration detention			9				9
Unaccompanied minor	7		1			1	9
<i>Excessive force or inappropriate use of force</i>	12		9			2	23
CBP OFO port of entry or USBP checkpoint	9						9
DHS law enforcement activity	1						1
Immigration detention			9				9
Political demonstration/rally						2	2
Unaccompanied minor	2						2

Table 3 continued, Investigations closed 1Q and 2Q 2023 (as of March 31, 2023)

Total by Issue	Components						
Subtotal by Situation	CBP	DHS	ICE	TSA	USCIS	Multi-Component	Total
<i>First Amendment (free speech/association)</i>		1	1			2	4
DHS law enforcement activity						1	1
Federal government building or area		1					1
Immigration detention			1				1
Political demonstration/rally						1	1
<i>Fourth Amendment (search and seizure)</i>						1	1
CBP OFO port of entry or USBP checkpoint						1	1
<i>Human rights</i>	3					1	4
DHS program or initiative	3					1	4
<i>Inappropriate questioning/inspection conditions</i>	1						1
CBP OFO port of entry or USBP checkpoint	1						1
<i>Inappropriate touch/search of person</i>	1						1
Unaccompanied minor	1						1
<i>Language access</i>			1			1	2
Immigration detention			1			1	2
<i>Legal access</i>			1				1
Immigration detention			1				1
<i>Medical/mental health</i>	14		133				147
CBP holding	6						6
CBP OFO port of entry or USBP checkpoint	2						2
DHS law enforcement activity	4						4
DHS program or initiative	2						2
Immigration detention			133				133
<i>Privacy</i>	2						2
DHS public messaging/website	2						2
<i>Religious accommodation</i>			1				1
Immigration detention			1				1
<i>Retaliation</i>			3				3
Immigration detention			3				3
<i>Sexual assault/abuse</i>			7				7
Immigration detention			7				7
Grand Total	79	1	194	1	7	14	296

IV. Appendix: Acronyms

AIT	TSA Advanced Imaging Technology
CBP	U.S. Customs and Border Protection
CISA	Cybersecurity and Infrastructure Security Agency
CRCL	DHS Office for Civil Rights and Civil Liberties
DHS	Department of Homeland Security
FEMA	Federal Emergency Management Agency
FY	Fiscal Year
ICE	U.S. Immigration and Customs Enforcement
OFO	CBP Office of Field Operations
OIG	DHS Office of Inspector General
ROI	Reports of Investigation
TSA	Transportation Security Administration
USBP	U.S. Border Patrol
USCIS	U.S. Citizenship and Immigration Services