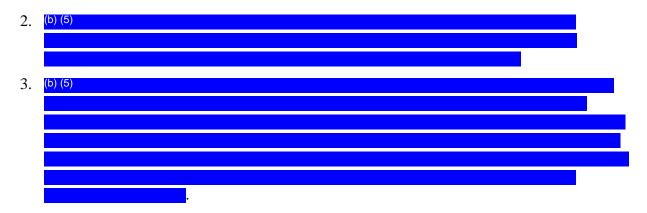


September 28, 2022

MEMORANDUM FOR:	Chris Magnus Commissioner U.S. Customs and Border Protection
	Scott K. Falk Chief Counsel U.S. Customs and Border Protection (b) (6)
FROM:	Dana Salvano-Dunn Director, Compliance Branch Office for Civil Rights and Civil Liberties
	Susan Mathias /s/ Assistant General Counsel, Legal Counsel Division Office of the General Counsel
SUBJECT:	Reconsideration Memorandum Regarding Alleged Nationality and Place of Birth Discrimination at the Blaine Port of Entry
This memorandum requests that U.S. Customs and Border Protection (CBP) reconsiders its response to two recommendations issued by the Office for Civil Rights and Civil Liberties (CRCL) regarding the CBP nondiscrimination policy.	
Background	
On July 16, 2021, CRCL issued a Recommendation Memorandum following an investigation of alleged nationality and place of birth discrimination at the Blaine Port of Entry. (b) (5)	
	, CRCL issued CBP the following three
recommendations:	
1. (b) (5)	

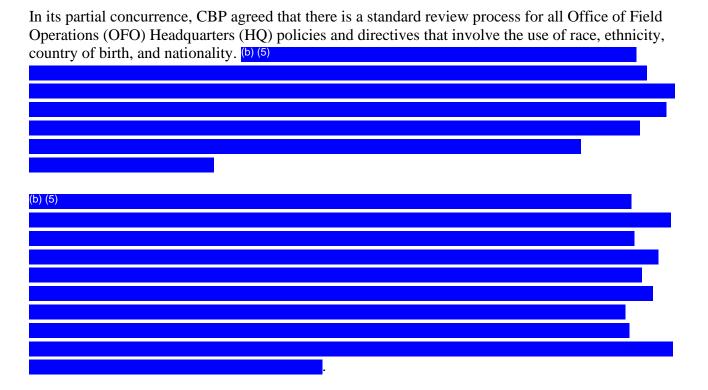


On November 19, 2021, CBP responded to CRCL's Recommendation Memorandum, partially concurring with recommendation 1 and concurring with recommendations 2 and 3.

Analysis

CRCL acknowledges CBP's consideration of CRCL's three recommendations and recognizes that CBP has initiated steps to implement parts of these recommendations. In particular, CRCL appreciates that CBP concurred with recommendation 2, agreeing to provide additional guidance to personnel in the Seattle Field Office regarding DHS and CBP nondiscrimination policy. This training will help prevent discrimination against arriving travelers while continuing to allow CBP to meet its mission. Nonetheless, CRCL maintains several concerns with CBP's response to recommendations 1 and 3.

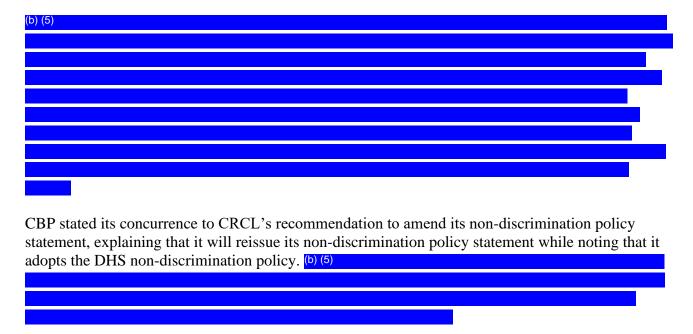
Review process for local operations (Recommendation 1)



Amend CBP's nondiscrimination policy statement (Recommendation 3)

In its concurrence, CBP states that "CBP follows the DHS policy standards" and then quotes CBP's current non-discrimination policy. CRCL disagrees that CBP policy is following the DHS policy standards outlined in the 2013 DHS nondiscrimination memo.

In the memorandum, CRCL identified several sources for CBP's nondiscrimination policy, including a February 6, 2014, CBP memo titled "Nondiscriminatory Law Enforcement and Screening Activities" and a January 27, 2020, email from the CBP OFO Executive Assistant Commissioner that reiterated information from that memo.



While CRCL recognizes that the global DHS non-discrimination policy is pending revision, that effort should not impede CBP from amending its policy to align with the current version of the DHS non-discrimination policy. Additional amendments can be made later but will likely incorporate this change as it merely brings CBP policy in line with DHS policy. CRCL also is confident that CBP can develop a robust review process on the use of protected characteristics in local operations in a manner that will not impact operational requirements for expediency and can update the CBP nondiscrimination policy to conform with DHS policy. CRCL remains available to provide technical assistance regarding these recommendations.

Conclusion

Copy to:

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Executive Assistant Commissioner
Office of Field Operations
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)

Jacob B. Mayer Chief of Staff Office of Field Operations U.S. Customs and Border Protection (b) (6), (b) (7)(C)

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