



First and Second Quarters, FY 2017 (October 1, 2016 – March 31, 2017)



**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 first and second quarters of Fiscal Year (FY) 2017. 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 Michael R. Pence
President of the Senate

The Honorable Thad Cochran
Chairwoman, U.S. Senate Committee on Appropriations

The Honorable Patrick Leahy
Vice Chairman, U.S. Senate Committee on Appropriations

The Honorable Ron Johnson
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Claire McCaskill
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Richard Burr
Chairman, U.S. Senate Select Committee on Intelligence

The Honorable Mark Warner
Vice Chairman, U.S. Senate Select Committee on Intelligence

The Honorable Charles Grassley
Chairman, U.S. Senate Committee on the Judiciary

The Honorable Patrick J. Leahy
Ranking Member, U.S. Senate Committee on the Judiciary

The Honorable Paul D. Ryan
Speaker of the House, U.S. House of Representatives

The Honorable Rodney P. Frelinghuysen
Chairman, U.S. House of Representatives Committee on Appropriations

The Honorable Nita M. Lowey
Ranking Member, U.S. House of Representatives Committee on Appropriations

The Honorable Michael McCaul
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 Devin Nunes
Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Adam Schiff
Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Bob Goodlatte
Chairman, U.S. House of Representatives Committee on the Judiciary

The Honorable John Conyers, Jr.
Ranking Member, U.S. House of Representatives Committee on the Judiciary

The Honorable Jason Chaffetz
Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings
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, are available at www.dhs.gov/crcl. Please direct inquiries regarding this Report to the Office for Civil Rights and Civil Liberties at 866-644-8360 (TTY 866-644-8361) or crcl@dhs.gov.

Yours very truly,



Veronica Venture
Acting 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). This Report includes information on CRCL’s investigative work during the first and second quarters of FY 2017.

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 received concerned ICE’s alleged inadequate medical and/or mental health care for detainees being held in ICE custody (outlined in the table below). CRCL utilizes contract 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.

Table 1: ICE Investigations Opened

Component	Issue	Situation	Total 1Q and 2Q
ICE	Conditions of detention	Immigration detention	14
ICE	Sexual assault/abuse	Immigration detention	2
ICE	Medical/mental health care	Immigration detention	133



DHS Office for Civil Rights and Civil Liberties FY 2017 First and Second Quarter Report

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I. Legislative Language

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, the Office for Civil Rights and Civil Liberties (CRCL) conducts in-depth examinations of the civil rights and civil liberties implications and effects of selected Department of Homeland Security (DHS) programs, and provides suggestions for improvements to those programs. There was no activity concerning impact assessments in the first and second quarters.

III. Investigations Data and Analysis

CRCL investigates complaints concerning:

- abuses of civil rights, civil liberties, and racial, ethnic, or religious profiling, 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 the 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).

Under these authorities, CRCL reviews and assesses civil rights and human rights complaints. These matters arise in a variety of contexts, which we designate in the tables that follow as “situations,” and raise one or more issues. The tables set forth here identify investigations by the primary situation and issue involved.

CRCL initiates investigations based on complaints received from the general public and non-governmental organizations by U.S. mail, email, fax, and the CRCL telephone hotline, as well as through the DHS Traveler Redress Inquiry Program (DHS TRIP). Incidents that might merit investigation are also forwarded to CRCL from other offices at DHS and other government agencies. **Table 2** indicates investigations opened during the first and second quarters 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 matters involving the conduct of DHS employees to the DHS Office of Inspector General (OIG).¹ OIG then determines whether or not it will investigate the case. In this report, cases OIG decides to investigate are designated *OIG retained*. If OIG declines to investigate the complaint, it is referred back to CRCL for appropriate action, at which point CRCL determines whether the case should be retained for CRCL’s own investigation (*CRCL retained*) or referred to the relevant DHS Component(s) to conduct the factual investigation (*CRCL referred*). Retained cases may be subject to a *full investigation* or *short-form* resolution.²

¹ Under the former ICE Secure Communities initiative, and under its successor the Priority Enforcement Program (PEP), complaints involving the activities of state or local law enforcement agencies, acting under state law, that come to CRCL may not initially be referred to OIG if they do not involve allegations regarding the conduct of DHS employees. In those cases, CRCL would notify the Department of Justice, which has jurisdiction to investigate certain violations of civil rights by state and local officers.

² 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.

A small number of cases are subject to a *joint investigation*, combining CRCL's investigative resources with those of the relevant Component(s). Investigations at any other stage are noted as *in process*.³ **Table 3** describes all investigations, including those initiated prior to FY 2017, in process as of the last day of the quarter, under these categories. In cases where the OIG retains a complaint, once the OIG investigation is complete, the matter is returned to CRCL for consideration. CRCL may then close the matter or retain it for our own investigation.

If a case is referred to a Component for investigation, the Component issues a Report of Investigation to CRCL at the completion of the investigation, which is reviewed by CRCL. If the case is retained, CRCL conducts its own investigation and drafts an investigative report. When the investigation is complete, whether conducted by CRCL or the Component(s) involved, CRCL typically *closes* the matter and provides senior leadership of the relevant Component(s) with its conclusions and any recommendations for improving policies, practices, or training. At that time, we also notify the complainant of actions being taken as a result of our investigation. **Table 4** provides investigations closed during the first and second quarters, by issue, situation, and Component principally involved.

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.

³ The *in process* categories include multiple cases where Reports of Investigation (ROIs) have been received from Components and are currently under review within CRCL. For CRCL's purposes, these investigations remain in process until we have completed our review and response to the ROIs.

Table 2. Investigations opened, 1Q and 2Q 2017 (as of March 31, 2017)

<i>Total by issue</i>	Component						Total
	CBP	DHS*	ICE	TSA	USCIS	USSS	
<i>Subtotal by situation</i>							
<i>Abuse of authority/misuse of official position</i>	5	3	2				10
Federal government building or area		3					3
Immigration detention			2				2
Port of entry/CBP checkpoint	4						4
Unaccompanied minor	1						1
<i>Conditions of detention</i>	12		14				26
CBP detention or CBP deferred inspection	1						1
Immigration detention			14				14
Port of entry/CBP checkpoint	8						8
Unaccompanied minor	3						3
<i>Disability accommodation (Section 504)</i>		4	1		8		13
DHS supported activity (not 287(g))		2			6		8
Federal government building or area		1			1		2
ICE 287(g) program					1		1
Immigration detention		1	1				2
<i>Discrimination/Profiling</i>	25			1	1		27
DHS law enforcement activity	3						3
Immigration detention					1		1
Port of entry/CBP checkpoint	22						22
Watchlist aviation security				1			1
<i>Due Process</i>	40		20		3		63
CBP detention or CBP deferred inspection	4						4
DHS law enforcement activity			6				6
DHS regulatory rule processing					1		1
DHS supported activity (not 287(g))	1						1
Immigration benefit application processing			1		1		2
Immigration detention	1		12		1		14
Port of entry/CBP checkpoint	17		1				18
Unaccompanied minor	17						17
<i>Excessive force or inappropriate use of force</i>	8	1	7				16
CBP detention or CBP deferred inspection	1						1
DHS law enforcement activity	1		1				2
Federal government building or area		1					1
Immigration detention			6				6
Port of entry/CBP checkpoint	6						6

*Multi-Component or DHS Headquarters unit

Table 2 continued, Investigations opened 1Q and 2Q 2017 (as of March 31, 2017)

Total by issue	Component						
Subtotal by situation	CBP	DHS*	ICE	TSA	USCIS	USSS	Total
Fourth Amendment (search and seizure)	5		2			1	8
DHS law enforcement activity	1		2			1	4
Port of entry/CBP checkpoint	1						1
Unaccompanied minor	3						3
Human rights	2						2
Port of entry/CBP checkpoint	2						2
Inappropriate touch/search of person (non-TSA)	1						1
Port of entry/CBP checkpoint	1						1
Intimidation/Threat/Improper coercion	5						5
Port of entry/CBP checkpoint	5						5
Language access					2		2
DHS supported activity (not 287(g))					2		2
Legal access			2				2
Immigration detention			2				2
Medical/mental health care	14	1	133				148
CBP detention or CBP deferred inspection	4						4
DHS law enforcement activity	1						1
Immigration detention		1	133				134
Port of entry/CBP checkpoint	9						9
Privacy	1						1
Port of entry/CBP checkpoint	1						1
Religious accommodation	1		3				4
Immigration detention			3				3
Port of entry/CBP checkpoint	1						1
Retaliation	1		1				2
Immigration detention			1				1
Port of entry/CBP checkpoint	1						1
Sexual assault/abuse	3		2				5
Immigration detention			2				2
Port of entry/CBP checkpoint	3						3
TSA AIT and TSA pat-downs				3			3
Screening (non-watch list)				3			3
Grand Total	123	9	187	4	14	1	338

*Multi-Component or DHS Headquarters unit

Investigation in process 1Q and 2Q 2017 (as of March 31, 2017)

Table 3.

	Grand Total	Under Review ¹	OIG Retained	CRCL Retained		Joint Investigation	CRCL Referred
				Full Investigation	Short Form		
<i>By issue</i>							
Abuse of authority/misuse of official position	22	4	2	1	9		6
Conditions of detention	75	9	1	28	32		5
Disability accommodation (Section 504 ²)	18	3			15		
Discrimination/profiling	58	22	3	11	16		6
Due process	102	19	3	44	33		3
Excessive force or inappropriate use of force	50	5	11	4	24		6
Fourth Amendment (search and seizure)	19	6	1	1	9		2
First Amendment (free speech/association)	1						1
Human rights	7	2	1	1	3		
Inappropriate questioning/inspection conditions	7				3		4
Inappropriate touch/search of person (non TSA)	6	3	2				1
Intimidation/threat/improper coercion	15	2		8	3		2
Language access	9	1		2	6		
Legal access	9	3		4	1		1
Medical/mental health care	127	24	19	31	49		4
Privacy	7	1			6		
Religious accommodation	9	3		2	2		2
Retaliation	4	3			1		
Sexual assault/abuse	14	2	1	2	8		1
Total by issue	559	112	44	139	220	0	44

¹ The data in this column cover investigations opened that have not yet been categorized in CRCL's database as Retained, Referred, Short Form, or Joint Investigations, or those which we are awaiting decision from the OIG on whether or not they will retain.

² Section 504 of the Rehabilitation Act of 1973 provides that no person shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subject to discrimination under any program or activity conducted by the federal government.

Table 3 continued, Investigations in process Q1 and Q2 2017 (as of March 31, 2017)

	Grand Total	Under Review	OIG Retained	CRCL Retained		Joint Investigation	CRCL Referred
				Full Investigation	Short Form		
By situation							
CBP detention/hold room/CBP deferred inspection site	20	5	1	8	5		1
DHS law enforcement activity	46	10	6	9	17		4
DHS-supported activity (not 287(g) ³)	16	1		2	12		1
Federal government building or area	14	2	2	2	8		
Immigration benefit application processing	9	1			7		1
Immigration detention	235	37	15	79	92		12
Political demonstration/rally	3		1		1		1
Port of entry/CBP checkpoint	144	41	16	17	54		16
Screening (non-watchlist)	2	1	1				
Unaccompanied minor	59	5	1	22	23		8
Visa processing	1				1		
Watchlist/aviation security	1	1					
Total by situation	550	104	43	139	220	0	44
By Component							
DHS (multi-Component or Headquarters unit)	37	6	2	13	14		2
CBP	232	56	19	40	91		26
FEMA	1				1		
ICE	260	40	20	85	101		14
TSA	2		1		1		
USCG	1						1
USCIS	16	2		1	12		1
USSS	1		1				
Total by Component	550	104	43	139	220	0	44

³ The 287(g) program, one of ICE's top partnership initiatives, allows a state and local law enforcement entity to enter into a partnership with ICE, under a joint Memorandum of Agreement, in order to receive delegated authority for immigration enforcement within their jurisdictions.

Table 4. Investigations closed, 1Q and 2Q 2016 (as of March 31, 2016)

<i>Total by issue</i>	Component						
	CBP	DHS *	ICE	TSA	USCIS	USCG	Total
<i>Subtotal by situation</i>							
<i>Abuse of authority/misuse of official position</i>	6	2	7				15
CBP Detention or CBP deferred inspection	1						1
DHS law enforcement activity	2		2				4
Federal government building or area		1					1
Immigration detention		1	5				6
Port of entry/CBP checkpoint	3						3
<i>Conditions of detention</i>	4	2	20				26
CBP Detention or CBP deferred inspection	1						1
Immigration detention			20				20
Unaccompanied minor	3	2					5
<i>Disability accommodation (Section 504)</i>	1	3	1	1	6		12
DHS supported activity (not 287(g))		2			5		7
Federal government building or area					1		1
Immigration detention		1	1				2
Screening (non-watch list)				1			1
Port of entry/CBP checkpoint	1						1
<i>Discrimination/Profiling</i>	8	1	4	1	2		16
DHS law enforcement activity	3		4				7
Immigration benefit application processing		1			2		3
Port of entry/CBP checkpoint	4						4
Screening (non-watch list)	1						1
Watchlist aviation security				1			1
<i>Due Process</i>	6		10		4		20
DHS law enforcement activity			2				2
DHS supported activity (not 287(g))					2		2
Immigration benefit application processing			1		2		3
Immigration detention			7				7
Port of entry/CBP checkpoint	4						4
Unaccompanied minor	2						2
<i>Excessive force or inappropriate Use of Force</i>	8	2	6				16
DHS law enforcement activity	1	1	1				3
Federal government building or area		1					1
Immigration detention			5				5
Port of entry/CBP checkpoint	4						4
Unaccompanied minor	3						3
<i>First Amendment (free speech/ association)</i>		1				1	2
Federal government building or area		1					1
Political demonstration/rally						1	1
<i>Fourth Amendment (search and seizure)</i>	1						1
Port of entry/CBP checkpoint	1						1
<i>Human Rights</i>		1					1
DHS supported activity (not 287(g))		1					1

*Multi-Component or DHS Headquarters unit

Table 4 continued, Investigations closed 1Q and 2Q 2017 (as of March 31, 2017)

Total by issue	Component						
	CBP	DHS *	ICE	TSA	USCIS	USCG	Total
Subtotal by situation							
<i>Inappropriate questioning/inspection conditions</i>	1						1
Unaccompanied minor	1						1
<i>Intimidation/threat/improper coercion</i>	3		2				5
DHS law enforcement activity			1				1
Federal government building or area			1				1
Port of entry/CBP checkpoint	1						1
Unaccompanied minor	2						2
<i>Language access</i>	1						1
Port of entry/CBP checkpoint	1						1
<i>Medical/mental health care</i>	3	1	145				149
CBP Detention or CBP deferred inspection		1					1
Immigration detention			145				145
Port of entry/CBP checkpoint	1						1
Unaccompanied minor	2						2
<i>Privacy</i>	1				1		2
CBP Detention or CBP deferred inspection	1						1
Immigration benefit application processing					1		1
<i>Religious accommodation</i>			4				4
Immigration detention			4				4
<i>Sexual assault/abuse</i>	1	1	2	1			5
CBP Detention or CBP deferred inspection	1						1
DHS law enforcement activity		1	1				2
Immigration detention			1				1
Screening (non-watch list)				1			1
<i>TSA AIT and TSA pat-downs</i>				3			3
Screening (non-watch list)				3			3
Grand Total	44	14	201	6	13	1	279

*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
DHS TRIP	Traveler Redress Inquiry Program
TSA	Transportation Security Administration
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
USSS	U.S. Secret Service