

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

8010.1 ADMINISTRATION AND MANAGEMENT OF INQUIRIES FROM THE OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

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1. **Purpose/Background.** The Office for Civil Rights and Civil Liberties (CRCL), a headquarters-level office of the Department of Homeland Security (DHS), supports the DHS mission to secure the nation while preserving individual liberty, fairness, and equality under the law. A part of that mission includes investigating and resolving civil rights and civil liberties complaints regarding DHS policies, activities, or actions taken by DHS personnel. This extends to DHS components and, therefore, includes investigating and resolving complaints regarding U.S. Immigration and Customs Enforcement (ICE) policies, activities, or actions taken by ICE personnel and ICE contractors. This Directive outlines ICE's process for managing CRCL inquiries and defines the roles and responsibilities of key ICE personnel. This Directive applies to the processing of CRCL inquiries, referred complaints, and requests, as defined below. This Directive applies to all ICE personnel.
2. **Policy.** To ensure ICE's interaction with CRCL operates as effectively and efficiently as possible, the Office of Professional Responsibility (OPR) and the Office of Diversity and Civil Rights (ODCR) will serve as ICE's primary points of contact for interaction with CRCL related to referred complaints, medical referrals, and recommendations. OPR will intake referred complaints from CRCL, and timely investigate complaints alleging violations of civil rights/civil liberties or assign them for investigation. ODCR will intake CRCL medical referrals and recommendations and coordinate ICE's timely responses to them. ICE is most capable of responding to referred complaints, medical referrals, and recommendations when CRCL submits them to ICE in a timely manner. CRCL requests for information and other assistance will be handled by the appropriate ICE program office or ODCR.
3. **Definitions.** The following definitions apply for purposes of this Directive only:
 - 3.1 **CRCL Inquiry.** A communication regarding a matter that CRCL is investigating to address a potential civil rights or civil liberties issue or complaint. Inquiries may include:

- 1) **Medical referral.** A complaint regarding medical or mental health care that is sent to ICE so the allegation is brought to ICE's attention for immediate action as necessary. With a medical referral, CRCL also asks specific questions about the allegations to obtain information to assist with resolving the complaint.
- 2) **Recommendation.** An action or actions that CRCL proposes to ICE that may enhance or augment current ICE policy, practice, or training in connection with a referred, retained, or short form complaint.
 - a. **Draft recommendation memorandum.** A memorandum shared with ICE before it is issued in final form so that ICE can provide CRCL with comments or other feedback about the findings or recommendations before they are formally issued by CRCL.
 - b. **Final recommendation memorandum.** A memorandum sent to ICE after the draft review process, where CRCL is seeking a formal response from ICE concurring or not concurring with each recommendation, and providing an action plan for implementation.
 - c. **Expert recommendation report.** A report by one of CRCL's medical, mental health, corrections, environmental health and safety, or other experts that contains the expert's findings and recommendations. CRCL is seeking a concurrence or non-concurrence for each priority recommendation and an action plan for implementation. Information about action taken on expert recommendations will be reflected in the final memorandum issued by CRCL.
- 3.2. **CRCL Referred Complaint.** A complaint for which ICE issues a report of investigation to CRCL for review at the completion of ICE's factual investigation.
- 3.3 **CRCL Request.** A request for information or assistance from CRCL regarding a potential or ongoing investigation. Unless CRCL specifies a longer time period, or ICE is granted an extension by CRCL, ICE will provide the requested information and materials to CRCL within two weeks of receiving the request. ICE will not edit or otherwise limit review of the information that is responsive to CRCL's request.
- 3.4. **Headquarters Responsible Officials.** Executive Associate Directors (EADs) of Homeland Security Investigations (HSI), Enforcement and Removal Operations (ERO), and Management and Administration (M&A), and the Assistant Directors, officers, or equivalent positions who report directly to the Director, Deputy Director, Chief of Staff, or the EAD for M&A.
- 3.5. **ICE Inquiry Management Team.** A group of ICE officials who will meet, as necessary, to review the CRCL recommendations received and discuss which Directorate or Program Offices should be tasked with providing a response. The ICE Inquiry Management Team is comprised of the ICE Deputy Chief of Staff, as well as

representatives from ODCR, the Office of the Principal Legal Advisor (OPLA), and all of the Directorates or Program Offices with a possible stake in the appropriate response to a CRCL inquiry, including applicable program offices of HSI, ERO (including the ICE Health Service Corps and the Custody Management Division), the Office of Professional Responsibility (OPR), the Office of Policy (OP), and the Office of Detention Policy and Planning (ODPP).

- 3.6. Subject Matter Experts (SMEs).** ICE employees who are responsible for, or have extensive knowledge about a particular program, subject, or the relevant organization and are so designated by their relevant chain of command.
- 3.7. Task Monitor.** The Directorate or Program Office official who receives all CRCL inquiries regarding recommendations from ODCR and coordinates the responses for his or her Program Office, which includes, but is not limited to, working with other Directorates or Program Offices to obtain the necessary information and assigning SMEs to draft a response or provide any other Directorate or Program Office input.
- 3.8. CRCL Request Point of Contact (POC).** ICE employees designated by their Directorate or Program Office headquarters responsible official to receive, track, and respond to CRCL requests for information or other assistance.
- 3.9. Tracking.** The use of business processes and electronic audit tracking systems to send tasks and monitor inquiries, correspondence, and other administrative actions associated with CRCL inquiries, as defined in section 3.1. ICE will use an iteration of the Office of the Chief Information Officer's Task Management System, to be named the Civil Liberties Tracking System.

4. Responsibilities.

- 4.1. Headquarters Responsible Officials, or their designees, are responsible for:**
 - 1) Ensuring employee compliance with this Directive;
 - 2) Selecting an employee from their immediate staff to serve as a member of the ICE Inquiry Management Team and to act on their behalf for all Directorate or Program Office CRCL inquiry matters;
 - 3) Selecting employees from their immediate staff to serve as task monitors;
 - 4) Properly reviewing and clearing documentation to be submitted to ODCR;
 - 5) Ensuring that their designated task monitors provide ODCR with a copy of their prepared draft response(s) to each CRCL-initiated inquiry; and
 - 6) Designating a point of contact to receive and respond to CRCL requests.

4.2. ODCR is responsible for:

- 1) Overseeing all aspects of this Directive related to CRCL inquiries, as defined in section 3.1, including serving as the primary point of CRCL contact, coordinating the development of responses, facilitating Directorate and Program Office consensus and clearance, and ensuring response tracking and timely delivery to CRCL;
- 2) Convening a meeting, as necessary, of the ICE Inquiry Management Team to inform them of the scope of CRCL inquiries, as defined in section 3.1, and to develop a strategy to address the issues raised in CRCL inquiries;
- 3) Tasking the appropriate Directorates or Program Offices to provide ODCR with timely responses to CRCL inquiries, as defined in section 3.1;
- 4) Ensuring that CRCL expert recommendation reports are timely forwarded to the appropriate Directorates, Program Offices, and contractors (such as detention facilities);
- 5) Informing the appropriate headquarters responsible officials of matters that require their immediate attention;
- 6) Convening a meeting, as necessary, between ICE and CRCL, with all relevant SMEs, to discuss CRCL inquiries, as defined in section 3.1, when, in the view of either ICE or CRCL, a meeting may assist with resolving concerns or questions about the inquiries;
- 7) Ensuring that official correspondence and official ICE responses to CRCL inquiries, as defined in section 3.1, with the exception of OPR investigative reports, are recorded in the Civil Liberties Tracking System;
- 8) Clearing all responses through the affected Directorates and Program Offices, OPLA, and the ICE Deputy Chief of Staff;
- 9) Reviewing and submitting all cleared, official ICE responses to CRCL inquiries, as defined in section 3.1;
- 10) Ensuring that designated task monitors provide ODCR with an appropriate and timely response to information requests;
- 11) Where appropriate, providing CRCL with information or materials reflecting the implementation of recommendations;
- 12) Producing monthly status reports on the medical referrals and recommendations for submission to all applicable stakeholders, including CRCL; and

- 13) Producing a quarterly status report on the CRCL inquiries, as defined in section 3.1, for submission to the ICE Director's Office.

4.3. OPR is responsible for:

- 1) After receiving a referred complaint regarding a violation of civil rights or civil liberties from CRCL, OPR will review the complaint to determine if it has already been investigated and provide the results of the previous investigation to CRCL;
- 2) Timely investigating referred complaints or assigning them for investigation;
- 3) Maintaining results of its investigations in its case management system;
- 4) Providing closing reports of investigation to CRCL;
- 5) Providing closing reports of investigations when requested by the ICE Office of the Director (OD); and
- 6) Coordinating with ODCR on complaints when questions of civil rights/civil liberties are apparent.

4.4. The ICE Inquiry Management Team is responsible for:

- 1) Meeting when convened by ODCR to review CRCL recommendations;
- 2) Providing input to ODCR on which Directorates or Program Offices should be assigned to prepare the draft ICE response to CRCL; and
- 3) Coordinating to achieve consensus on appropriate ICE responses to CRCL recommendations.

4.5. Task Monitors are responsible for:

- 1) Providing to ODCR, within the assigned deadline, an electronic response to all requests for information and responses to CRCL inquiries, as defined in section 3.1;
- 2) Designating SMEs for all incoming CRCL inquiries, as defined in section 3.1;
- 3) Ensuring completion of all CRCL-related assignments received from ODCR within deadlines, unless an extension was requested and granted;
- 4) Coordinating Directorate or Program Office and SME responses through the appropriate Directorate or Program Office leadership;

- 5) If requested by an SME, sending requests for extensions to ODCR; and
- 6) Clearing all official ICE responses for draft and final reports through the headquarters responsible official for their respective Directorate or Program Office before submitting them to ODCR.

4.6. SMEs are responsible for:

- 1) Serving as the principal experts with substantive contextual and technical knowledge of the issues raised in the inquiry;
- 2) Submitting responses to all inquiry-related assignments within deadlines, unless an extension was requested and granted;
- 3) Making themselves available for inquiry-related meetings; and
- 4) Ensuring that all responses to CRCL-initiated inquiries that fall within their subject matter expertise are submitted to their task monitor within the assigned deadline or, if extenuating circumstances arise where the deadline cannot be met, seeking a request for an extension, including justification, from the task monitor as soon as the need for an extension is known.

4.7. CRCL Request POCs are responsible for:

- 1) Serving as the point of contact in their Directorate or Program Office to receive, track, and respond to CRCL requests, as defined in section 3.3;
- 2) Tasking the appropriate personnel in their Directorate or Program Office to provide the CRCL Request POC with timely responses to the CRCL request;
- 3) Reviewing information and documents submitted in response to a CRCL request to ensure it is appropriate, responsive, and complete; and
- 4) Providing a timely response to all CRCL requests.

4.8. Supervisors are responsible for:

- 1) Immediately notifying the task monitor of any CRCL inquiry or information requests received outside the process described in this Directive;
- 2) Providing the task monitor with copies of all correspondence related to CRCL inquiries, as defined in section 3.1; and
- 3) Informing ICE employees that any request for information from CRCL must be referred to their program's CRCL POCs.

4.9. Employees are responsible for:

- 1) Immediately notifying their supervisor of any CRCL inquiry received outside the process described in this Directive before responding to CRCL;
- 2) Cooperating with CRCL when being interviewed as part of an investigation; and
- 3) Providing their supervisor with copies of all inquiry-related correspondence and requests for information, data, materials, or documentation of telephone contacts with CRCL.

5. Procedures/Requirements.**5.1. OPR investigations of complaints.**

- 1) After receiving a referred complaint regarding a potential violation of civil rights or civil liberties from CRCL, OPR will review the complaint to determine if it has already been investigated and provide the results of any previous investigation to CRCL;
- 2) OPR will investigate, or assign for investigation, referred complaints received from CRCL;
- 3) If OPR has questions about a CRCL referred complaint, OPR and CRCL will confer or meet, as necessary, to discuss the questions about the complaint;
- 4) OPR will assign the investigation of CRCL referred complaints and ensure the closing report of investigation prepared by ICE addresses the issues or allegations raised by CRCL;
- 5) OPR will timely provide completed closing reports of investigation to CRCL; and
- 6) Results of investigations will be maintained in OPR's case management system.

5.2. ODCR Assignment of CRCL Inquiry.

- 1) The Chief of the Civil Liberties Division, ODCR, will collect all CRCL recommendations received and convene a meeting with the ICE Inquiry Management Team, as necessary, to review and discuss which Directorate or Program Office(s) should be tasked with responding to each inquiry;
- 2) Once the ICE Inquiry Management Team members determine which Directorate or Program Office(s) should respond to each issue posed, the Chief of the Civil Liberties Division will task them, via the task monitor, with providing responses;

- 3) ODCR will confirm receipt of a recommendation with CRCL and coordinate, if necessary, regarding the deadline for the response; and
- 4) The task monitor will assign an SME to respond to the inquiry and will obtain all necessary clearances before sending it, within the assigned deadline, to ODCR.

5.3. ODCR Review of Response.

- 1) ODCR will review the response to the recommendation and will contact the SME, task monitor, headquarters responsible official, and/or OPLA with questions;
- 2) If necessary to achieve consensus, ODCR will convene the ICE Inquiry Management Team to discuss and resolve outstanding issues;
- 3) ODCR will send the consensus response to the Deputy Chief of Staff of ICE, who will obtain the appropriate clearance from the Office of the Director and coordinate with the Office of the Executive Secretariat to provide a final response to ODCR;
- 4) If consensus cannot be reached on any issue by the Inquiry Management Team, ODCR will, with the input of the Inquiry Management Team, lead the preparation of a decision memorandum and elevate the issue to the Deputy Chief of Staff for resolution; and
- 5) Upon receipt of the cleared, final response from the Office of the Director, ODCR will submit it to CRCL.

5.4. Inquiry Compliance. When ICE decides to take action as a result of a CRCL inquiry, as defined in section 3.1, ODCR will report to CRCL on a quarterly basis regarding the status of that action until the issue or action is resolved.

6. Recordkeeping. All correspondence, official ICE responses, and other records generated as a result of this Directive will be stored and maintained in the Civil Liberties Tracking System module that is owned and operated by ODCR.

7. Authorities/References.

- 7.1. *Homeland Security Act of 2002*, Title 6, United States Code (6 U.S.C.).
- 7.2. DHS Management Directive No. 3500, Operational Roles and Responsibilities of the Officer for Civil Rights and Civil Liberties and the Office of Chief Counsel, issued May 19, 2004.
- 7.3. DHS Instruction No. 046-01-001, Instruction for the Office for Civil Rights and Civil Liberties, issued November 6, 2013, and DHS Instruction 046-01-002, Instruction for the

Office for Civil Rights and Civil Liberties, Compliance Branch, issued November 6, 2013.

- 7.4. *Privacy Act of 1974*, 5 U.S.C. § 552a(d).
- 7.5. DHS Management Directive No. 0470.2, *Privacy Act Compliance*, issued October 6, 2005.
- 7.6. DHS Privacy Policy Guidance Memorandum 2011-01, *Privacy Act Amendment Requests*, February 11, 2011.
8. **Attachments.** None.
9. **No Private Right.** These guidelines and priorities are not intended to, do not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter.



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