

**SUPPORTING STATEMENT FOR
DHS Civil Rights and Civil Liberties Complaint and Privacy Waiver Form
OMB Control No.: 1600-NEW**

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The U.S. Department of Homeland Security (DHS), Office for Civil Rights and Civil Liberties (CRCL) reviews and investigates civil rights and civil liberties complaints filed by the public regarding U.S. Department of Homeland Security (DHS) policies and activities. Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL reviews and assesses allegations involving a range of alleged civil rights and civil liberties abuses, such as:

- **Discrimination based on race, ethnicity, national origin, religion, sex, sexual orientation, gender identity, or disability;**
- **Violation of rights while in immigration detention or as subject of immigration enforcement;**
- **Discrimination or inappropriate questioning related to entry into the United States;**
- **Violation of due process rights, such as the right to timely notice of charges or access to lawyer;**
- **Violation of confidentiality provisions of the Violence Against Women Act;**
- **Physical abuse or any other type of abuse;**
- **Denial of meaningful access to DHS or DHS-supported programs, activities, or services due to limited English proficiency and**
- **Any other civil rights, civil liberties, or human rights violation related to a Department program or activity, including allegations of discrimination by an organization or program that receives financial assistance from DHS**

2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

The information collected on this form will allow CRCL to review and investigate civil rights and civil liberties complaints filed by the public regarding DHS programs and activities.

CRCL submits copies of all external allegations of civil rights and civil liberties violations within its jurisdiction that it receives to the DHS Office of Inspector General (OIG) for review because OIG has the right of first refusal to investigate any

allegations. If the OIG declines to investigate the allegations, CRCL may investigate. CRCL coordinates with DHS Components and the OIG regarding matters that CRCL opens as complaint investigations as well as some it decides not to investigate. In general, CRCL shares the incoming information with the Components involved and coordinates with the Components throughout a CRCL investigation. CRCL typically has a designated liaison office or person for each component and directs requests to them, which they route or share according to their internal procedures and obligations to obtain and share information with CRCL pursuant to statute, delegation, and other Department policies and directives. CRCL staff receive privacy training and adhere to DHS required policies and procedures regarding the protection of PII. At the conclusion of its complaint investigations, CRCL issues recommendations to DHS Components to address issues of concern and to enhance the agency's civil rights and civil liberties protections. CRCL also engages with Components on the implementation of such recommendations.

In addition, the information provided is entered into a CRCL complaint management system (CMS) and may be used by CRCL to track allegations and identify trends and systemic issues that are within CRCL's jurisdiction regardless of whether CRCL investigates an individual allegation. CRCL has used information from these database records to notify DHS Components of issue areas and locations that may warrant closer attention.

Information can be submitted to CRCL via U.S. mail, e-mail, fax, or telephone and may be initiated by members of the public, federal agencies, or agency personnel, non-governmental organizations, media reports or other sources. The use of the complaint form is optional and all fields do not have to be completed to submit a complaint. Furthermore, the complaints may be submitted anonymously.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

The form is in a fillable accessible PDF format and can be submitted by U.S. mail, e-mail, or fax to CRCL. The form is provided in other languages at <https://www.dhs.gov/file-civil-rights-complaint> or a letter with the same information can be submitted instead of the form. However, if the complainant files a complaint by letter, they are requested to submit the same information that is requested in the form. Additionally, a complainant can submit a complaint over the phone. The use of this form provides an efficient means for collecting and processing required data and information that is useful to conduct an investigation. To minimize administrative burden on complainants and the Department, submission of information electronically, via email, is the fastest way to reach CRCL. Information provided by complainants is maintained in electronic format, so provided the information electronically will further

minimize administrative burdens.

If a complainant is unable to or does not wish to submit their information electronically, the complainant can submit information via U.S. mail, fax, or phone call. CRCL's website advises that postal mail can take up to 20 business days before the complaint is received by CRCL.

CRCL is planning to launch a new Compliant Management System to support other means of complaint submission (e.g., web portal). The Complaint Management System is currently in development and will be a part of a future information collection submission. It will reflect the fillable accessible PDF form in this collection. The Complaint Management System will serve as an additional method for submitting complaints to CRCL.

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.

A review of the DHS Forms Inventory Report reveals no duplication of effort. There is no other DHS form available to capture similar information used for the purposes described in Item 2. CRCL is DHS's civil rights office and the issues raised to CRCL and the information provided by individuals filing complaints with CRCL may not overlap with information provided elsewhere.

5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

This information collection does not have an impact on small businesses or other small entities.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the information collection is not conducted or is conducted less frequently, CRCL may not be able to effectively fulfill its statutory obligation to the public to review and investigate allegations involving alleged civil rights and civil liberties concerns regarding DHS policies and activities.

Consequences for not using the fillable form include overall delays in processing and an increased frequency in need to follow up with complainants to obtain the types of information requested on the form.

7. Explain any special circumstances that would cause an information collection to be

conducted in a manner:

- Requiring respondents to report information to the agency more often than quarterly;
- requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;
- requiring respondents to submit more than an original and two copies of any document;
- requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;
- in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;
- requiring the use of a statistical data classification that has not been reviewed and approved by OMB;
- that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or
- requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.

The special circumstances contained in this section are not applicable to this information collection.

8. If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may

preclude consultation in a specific situation. These circumstances should be explained.

As required by the Paperwork Reduction Act of 1995 (PRA-95), the Agency issued a 60-Day Federal Register notice on June 24, 2021 at 86 FR 33331. DHS received no comments. In addition, the Agency issued a 30-Day Federal Register notice on August 23, 2021 at 86 FR 47133, soliciting comments from the public on the information collection.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There is no payment or gifts to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

The assurance of confidentiality provided to the respondents for this information collection will be provided by: CRCL's statute under 6 U.S.C. § 345, 42 U.S.C. § 2000ee-1; the Privacy Impact Assessment for the CRCL Complaint Form and Privacy Waiver; and the Systems of Record Notice: Department of Homeland Security/ALL-029 Civil Rights and Civil Liberties Records System of Records.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's form whom the information is requested, and any steps to be taken to obtain their consent.

Information collected may contain detailed information on the complainant's basis(es) for the alleged discrimination (e.g., discrimination based on race, color, national origin, sex, age, disability, religion, or sexual orientation), being subjected to sexual abuse, or other sensitive information related to engagement with a DHS program or activity. Per the authorities listed in Question 1, CRCL is authorized to collect this information in order to review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the U.S. Department of Homeland Security (DHS).

12. Provide estimates of the hour burden of the collection of information. The statement should:
 - Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary

widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.

- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.
- Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours)	Total Annual Burden (in hours)	Avg. Hourly Wage Rate	Total Annual Respondent Cost
Members of the Public or non-government organizations	DHS Civil Rights and Civil Liberties Complaint and Privacy Waiver Form	2000	1	1	2000	\$36.41	\$72,820
Total		2000	1	1	2000		\$72,820

In the last several years, CRCL has received approximately 3,000 to 4,000 allegations each year and opened about 800 to 900 complaints for a full investigation. Approximately half of the allegations received by CRCL are forwarded from other DHS offices that receive complaints or allegations from the public, and those offices share the information they received through their intake process that may be of interest to CRCL. These offices include the DHS Office of Inspector General (OIG), CBP Situation Room, CBP Information Center, and the HHS Office of Refugee Resettlement, among others. The submissions from these offices are not submitted on the complaint form and are manually entered into CRCL’s database based on the information CRCL’s receives. CRCL

estimated the number of potential respondents (2,000) based on the number of allegations received in past years on CRCL's complaint form and through means (letter, email, U.S. mail, etc.). The estimate excluded allegations shared by other DHS offices and factored in an expectation that a larger proportion of allegations will be submitted the approved form and the web portal submission after both are approved and available.

The projected hours per response for this collection of information were derived based on CRCL estimates and by first breaking the process into three basic components:

Learning about the law and the form: 20 minutes

Completion of the form: 30 minutes

Assembling and filling out the form: 10 minutes

Total hours per response: 1 hour

Total annual reporting burden hours is 2000. This figure was derived by multiplying the number of respondents (2000) x frequency of response (1) x hours per response (1 hour).

The mean hourly wage rate from the U.S. Bureau of Labor Statistics (BLS) May 2021 for the private sector, adjusted to include benefits, is \$36.41.¹

13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).
 - The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should consider costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
 - If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment

¹ Bureau of Labor Statistics, Occupational Employment and Wage Statistics, available at: [May 2021 National Occupational Employment and Wage Estimates \(bls.gov\)](https://www.bls.gov/news.release/occwage21.pdf). The estimate was prepared using the All Occupations Occupation title. The Mean hourly wage is \$28.01 x 130% to account for benefits, which equals \$36.41.

process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.

- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.

There are no recordkeeping, capital, start-up or maintenance costs associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

The complaint forms are reviewed during 50% of a GS 13, Step 1 position, upon submission to CRCL.

50% GS-13, Step 1 \$69,434 ((\$106,823x130% for benefits)/2)²

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

This is a collection that was in use without an OMB control number. The form was available as an optional means of submitting complaints to CRCL in addition to sending allegation information in whatever form the submitter chose via U.S. mail, email, fax, or other means.

16. For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

This information collection will not be published for statistical purposes.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

² Office of Personnel Management, 2022 General Schedule (GS) Locality Pay Tables, FOR THE LOCALITY PAY AREA OF WASHINGTON-BALTIMORE-ARLINGTON, DC-MD-VA-WV-PA, available at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/22Tables/html/DCB.aspx>. The estimate was prepared using Grade 13, Step 1 salary x 130% to account for benefits, divided in half, \$69,434.

DHS will display the expiration date for OMB approval of this information collection.

18. Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.

DHS does not request an exception to the certification of this information collection.