

TESTIMONY OF
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SPOTLIGHT FORUM OF
U.S. SENATE DEMOCRATIC WHIP DICK DURBIN, RANKING MEMBER OF THE
SENATE JUDICIARY COMMITTEE

ON

**“CRUEL AND UNAMERICAN:
THE ABUSE OF IMMIGRANTS TO ATTACK OUR CONSTITUTIONAL ORDER”**

BEFORE THE
SENATE JUDICIARY COMMITTEE DEMOCRATS AND SENATE DEMOCRATS

JUNE 11, 2025

Ranking Member Durbin and Members of the Committees, thank you for the opportunity to appear at this forum.

My name is Rebekah Tosado. I joined the Department of Homeland Security, Office for Civil Rights and Civil Liberties (CRCL), in 2003, nearly 22 years ago. Like many others at that time, I wanted to help secure the nation after the devastating attacks of September 11, 2001. I appear today as a protected whistleblower represented by Government Accountability Project to highlight Congressionally mandated functions that have ceased or have been significantly reduced since DHS effectively eliminated CRCL through a purported Reduction in Force on March 21st, 2025. I was one of more than thirty anonymous whistleblowers from CRCL who submitted protected disclosures to Congress on May 15, 2025, raising grave concerns about the illegal and dangerous manner and consequences of this administration's actions to eliminate CRCL.¹ While I was previously anonymous, I made a difficult decision to come forward today.

Since joining DHS, I have worked alongside the presidentially appointed Officer for Civil Rights and Civil Liberties in every administration to carry out the office's statutory functions. I have worked to ensure that the Department treats all persons interacting with DHS in accordance with the law. I have worked on and addressed civil rights issues such as DHS's cruel separation of families; inhumane treatment of unaccompanied children, including children with disabilities; failure to provide religious accommodations; detention of families; and inadequate language access for Indigenous language speakers.

During one investigation at a family detention facility years ago, I observed an infant who was completely listless in his mother's arms. CRCL's medical expert, who was onsite with

¹ Government Accountability Project, "Two Protected Whistleblower Disclosures Concerning the Dissolution of DHS's Office for Civil Rights and Civil Liberties," May 15, 2025, <https://whistleblower.org/wp-content/uploads/2025/05/05-15-2025-GovAcctProj-Whistleblower-Disclosures-to-Congress-re-CRCL.pdf>

CRCL staff at the time. asked for the infant's medical records and found that he had lost nearly 32% of his body weight over 10 days because of diarrheal disease but was never taken to an emergency room or given IV fluids. The infant received care and the Department ceased placing families in that facility after CRCL's review.

Congress established the Officer for Civil Rights and Civil Liberties as part of DHS when it enacted the Homeland Security Act of 2002. By statute, the Officer is charged with ensuring that the Department complies "with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department."

This and all other statutory work appeared to stop on March 21st, 2025, after DHS officials informed me and my colleagues that our positions at CRCL were being eliminated through a purported "Reduction in Force."

On that same day, a Department spokesperson issued a statement saying that CRCL and the other oversight offices "obstructed immigration enforcement by adding bureaucratic hurdles and undermining DHS's mission."²

CRCL was and is crucial to DHS's mission. In our work we have sought to minimize the Department's risk of violating the Constitution and have collaborated with Departmental components, making recommendations to make operations safer, more efficient, and respectful of individual rights.

DHS's March 21 elimination of all CRCL federal staff positions (except three SES) resulted in the office ceasing to investigate or abandon more than 500 open complaint

² Ximena Bustillo, "Homeland Security Makes Cuts to Civil Rights and Immigration Oversight Offices," *NPR*, March 21, 2025, <https://www.npr.org/2025/03/21/nx-s1-5336738/homeland-security-rif-cuts-dhs>.

investigations including, for example, investigating sexual abuse and deaths in immigration custody and the Department's use of Guantanamo Bay to hold migrants.

The office's effective closure also halted EEO functions, Violence Against Women Act implementation, as well as CRCL's oversight of ICE's delegation to state and local law enforcement of some of its immigration enforcement authority. In addition, CRCL must submit annual reports to Congress detailing its oversight activities and make the reports available online for the public. These reports remain pending to Congress.

If CRCL were operating now, CRCL likely would have received allegations about DHS's conduct of the sort that have prompted today's hearing, and referenced by today's witnesses. Having spent more than 20 years at CRCL, the cases you have heard about today raise the types of allegations that CRCL would have investigated or sought to address.

After plaintiffs Robert F. Kennedy Human Rights and others filed a lawsuit challenging the elimination of CRCL and the two other DHS oversight offices,³ a Department official testified to the court that the office would be reconstituted. Asked by the judge if there was a plan for this, the Department official said he had a "notion of a plan." The Department official subsequently provided a declaration to the court stating that CRCL would consist of 22 employees and some contractual support. I believe this level of staffing is inadequate to fulfill the statutory duties of the Office. Further, the Department's representation seems to be undercut by the President's proposed budget, which does not include funding for new full-time employees, detailees, or others performing statutory functions.

³ Robert F. Kennedy Human Rights et al v. Department of Homeland Security, Complaint for Declaratory and Injunctive Relief, D.C. District Court, April 24, 2025, available at <https://www.citizen.org/wp-content/uploads/1-RFK-v.-DHS-complaint.pdf>.

As a lifetime civil servant, I am deeply concerned that without a fully functioning CRCL, the guardrails provided to ensure DHS abides by the Constitution will be removed. The concerning activities described in this hearing highlight that oversight is needed now more than ever.

We urge Congress to investigate DHS's decisions regarding CRCL and how its statutory functions of protecting constitutional rights will be carried out. Thank you.