



Report to Congress on the
Department of Homeland Security
Office for Civil Rights and Civil Liberties

2007



Homeland
Security

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BACKGROUND AND SUMMARY

In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the mission of the U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) is to assist the dedicated men and women of this Department in securing our country while preserving our freedoms and our way of life. CRCL assists its colleagues in four ways:

1. We provide proactive advice on a wide range of issues, helping DHS to shape policy in ways that are mindful of civil rights and civil liberties;
2. We investigate and facilitate the resolution of complaints filed by the public regarding DHS policies or actions taken by DHS personnel;
3. We provide leadership to DHS's equal employment opportunity programs, seeking to make DHS a model Federal agency; and
4. We serve as an information and communications channel with the public regarding these issues.



The Officer for Civil Rights and Civil Liberties, Daniel W. Sutherland, leads CRCL and reports directly to the Secretary, underscoring the strong commitment to the tenet that the protection of civil rights and civil liberties play a prominent role in the homeland security effort.

CRCL is addressing long-standing civil rights and civil liberties issues through an innovative, proactive, and practical approach to problem solving. Using this approach, CRCL has been able to achieve a number of accomplishments over the last year, many of which are highlighted in this report. Some of these accomplishments include:

- **Effective Processing of Civil Rights and Civil Liberties Complaints Filed by the Public:** In FY 2007, CRCL's Review and Compliance Unit opened 140 new complaints that raised issues in the areas of abuse of authority/color of law, conditions of detention, discrimination (race, disability, national origin), due process/administrative processing, profiling (race, religion), treatment, unaccompanied minors, and watchlists. Through the work of the Review and Compliance Unit, the Department has made revisions to programs and policies in the areas of interpreter services, conditions of detention for U.S. Immigration and Customs Enforcement (ICE) detainees and unaccompanied minors, searches of persons denied entry into the United States, redress for travelers affected by watchlists, and screening procedures and their effect on the religious rights of the traveling public.
- **Effective Processing of Equal Employment Opportunity (EEO) Complaints:** The EEO Program has established a new culture of professionalism and responsiveness. When the Department stood up, the EEO Program inherited thousands of cases. That inventory of cases, some stretching back to five or more years, has been eliminated. In FY07, DHS closed 997 complaints of employment discrimination. Of these closures, 96 were resolved by withdrawal, 187 were resolved by settlement, and 714 were final agency decisions (FADs) issued by CRCL.

- **Inclusion of Individuals with Disabilities in Emergency Preparedness, Response, and Recovery:** CRCL led the development of a reference guide entitled *Accommodating Individuals with Disabilities in the Provision of Disaster Mass Care, Housing, and Human Services*. The guidelines are ground-breaking. They synthesize the array of existing accessibility requirements into a user-friendly tool for use by response and recovery personnel in the field. The guidelines are required by Section 689 of the Post-Katrina Emergency Management Reform Act. CRCL coordinated this project by collaborating with a working group comprised of Federal Emergency Management Agency’s (FEMA) Office of Equal Rights and Federal agencies having regulatory, enforcement, and implementation jurisdiction over various disability civil rights and accessibility laws. The guidelines synthesize the array of existing accessibility requirements into a user-friendly tool for use by response and recovery personnel in the field. The Guidelines are available at: <http://www.fema.gov/oer/reference/>.
- **Engagement with American Arab, Muslim, Sikh, South Asian, and Other Ethnic and Religious Communities:** CRCL continued to build strategic partnerships between the government and these minority communities. For example, CRCL hosted a “Roundtable on Security and Liberty: Perspectives of Young Leaders Post-9/11” at George Washington University with 40 representatives from the Arab, Muslim, Sikh, South Asian, and Middle Eastern American communities. The purpose of the roundtable was to allow senior U.S. Government officials to communicate with and listen to the perspectives of young people on issues facing their communities. In addition, CRCL has established the Incident Community Coordination Team (ICCT) to engage and provide community leaders with timely and relevant information from government agencies in the aftermath of any terrorist act or homeland security incident.
- **Immigration:** CRCL continues to actively work with immigration advocacy groups concerning DHS policies and actions on a variety of issues, including worksite enforcement, naturalization name check delays, employment verification, comprehensive immigration reform, and refugee processing.
- **Information Sharing:** CRCL serves on the Information Sharing Environment’s Privacy Guidelines Committee and the Department’s Information Sharing Coordinating Council to help shape policies and programs, such as the State and Local Fusion Center Initiative and the Information Sharing Fellows Law Enforcement Program, that are mindful of civil rights and civil liberties. In addition, CRCL has made available training products from our Civil Liberties Institute, and also has been working to implement a specific civil rights and civil liberties training module on information sharing.
- **Beginning Implementation of the 9/11 Commission Act:** CRCL is actively implementing the 9/11 Commission Act.¹ For instance, CRCL developed a process for conducting the first civil liberties impact assessments for certain Departmental programs. These assessments will help to ensure civil liberties are considered as the Department develops or implements laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism.

The details of these and other CRCL programs and activities are described in the pages that follow.

¹ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53.

CRCL PROGRAMS

One of CRCL's key roles is to provide DHS senior leadership with advice on issues at the intersection of homeland security and civil rights and civil liberties. CRCL fulfills this role through its Programs Division, which reviews and helps to shape DHS programs, policies, reports, regulations, and other activities. CRCL's work spans a wide variety of issues, from disability and immigration policy to community engagement and information sharing.



Secretary Chertoff, Officer for Civil Rights and Civil Liberties Daniel W. Sutherland, and Chief Privacy Officer Hugo Teufel meet with members of the Privacy and Civil Liberties Oversight Board on January 31, 2007.

The following is a description of some of the CRCL Program Division activities over the past year:

I. Individuals with Disabilities and Other Special Needs Populations in Emergency Preparedness

CRCL continues to proactively engage in efforts to improve emergency preparedness for individuals with disabilities, the elderly, and other special needs populations. On behalf of the Secretary, CRCL is committed to ensuring that consideration for these populations is thoroughly incorporated within the formation and implementation of Departmental emergency management plans, systems, priorities, programs, and activities. Key highlights include:

A. Implementation of Executive Order 13347, Individuals with Disabilities in Emergency Preparedness

CRCL oversees the implementation of Executive Order 13347, Individuals with Disabilities in Emergency Preparedness, which was signed by President Bush in July 2004.

Executive Order 13347 is designed to ensure the safety and security of individuals with disabilities in all-hazard emergency and disaster situations. The Executive Order created an Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities, chaired by

CRCL. The ICC is comprised of senior leadership from more than 20 Federal Departments and agencies. The Council has concentrated its work in eight major areas:

- Emergency Communications;
- Emergency Preparedness in the Workplace;
- Emergency Transportation;
- Health;
- Private Sector Coordination;
- Research;
- State, local and Tribal Government Coordination; and
- Technical Assistance and Outreach.

On behalf of the ICC, CRCL plans and leads its quarterly meetings; serves as liaison to each of the Council's Subcommittees; compiles and disseminates Monthly ICC Updates via an ICC "listserv" created by CRCL; produces the ICC Annual Report to the President; and manages content of *Disability and Emergency Preparedness Resource Center*, a web-based resource center, that includes dozens of technical assistance materials to assist emergency managers in planning and response efforts related to people with disabilities. The resource center is available at: www.disabilitypreparedness.gov.

B. Development of Guidelines for Accommodating Individuals with Disabilities in Disaster

On behalf of the Department and FEMA, CRCL led the development of a reference guide for accommodating individuals with disabilities in disaster entitled, *Disabilities in the Provision of Disaster Mass Care, Housing, and Human Services*. The Guidelines are required by Section 689 of the Post-Katrina Emergency Management Reform Act. CRCL coordinated this project by collaborating with a working group comprised of FEMA's Office of Equal Rights and Federal agencies having regulatory, enforcement, and implementation jurisdiction over various disability civil rights and accessibility laws. The Guidelines synthesize the array of existing accessibility requirements into a user-friendly tool for use by response and recovery personnel in the field. The Guidelines are available at: <http://www.fema.gov/oer/reference/>.

C. The National Response Plan and National Incident Management System Revision

CRCL led the Special Needs Work Group, one of 12 work groups formed to revise the National Response Plan (NRP)² and the National Incident Management System (NIMS). The Special Needs Work Group was responsible for ensuring that considerations for special needs populations are incorporated into the revised NRP and NIMS. In coordinating this important task, CRCL reached out and engaged numerous stakeholders and subject matter experts within Federal, State, local and Tribal governments, as well as private sector and non-governmental organizations. Based upon feedback from the stakeholders which comprised the work group, CRCL developed and submitted comprehensive recommendations to the writing teams for the NRP and the NIMS, respectively.

² Note that DHS released the National Response Framework (NRF), successor to the National Response Plan, on January 22, 2008. Since the reporting period covers FY 2007, this report references the National Response Plan.

Among the critical outcomes of this process is a proposed definition of the term “special needs” as used in the context of emergency management. Premised upon thorough research of the numerous published special needs definitions and vetted by the NRP Special Needs Work Group members, CRCL recommended to the NRP and NIMS Writing Teams a function-based definition framework that, if adopted, is capable of bringing consistency to this widely used but inconsistently defined term. The proposed definition will allow planners to plan for a predictable and specific set of functional support needs common among members of the populations that are typically categorized under the special needs umbrella.³ Notably, the development of this definition also satisfies an initial conclusion of the DHS Nationwide Plan Review that the Federal Government should develop a consistent definition of the term “special needs.”

D. Special Needs Planning Guide

CRCL has also been collaborating with FEMA in drafting a Special Needs Planning Guide for use by State, local, and Tribal personnel who have responsibility for developing emergency operations plans (EOPs). The guide is premised upon the function-based approach to defining special needs population and demonstrates that upholding civil rights provisions can also increase safety and health outcomes in emergency management. In extending this Planning Guide to the field, CRCL is working with FEMA grant recipients to incorporate the principles from the Planning Guide into DHS funded training curricula for emergency managers.

E. FEMA Disability Coordinator

The Post-Katrina Emergency Management Reform Act establishes a Disability Coordinator within FEMA to establish and implement policies, procedures, and standards associated with management of disaster-related disability issues. CRCL provided input to FEMA in the development of the Disability Coordinator position description and the Officer for Civil Rights and Civil Liberties participated as a member of the interview panel evaluating applicants for this position. In coordination with FEMA, CRCL also scheduled a meeting of approximately 20 representatives of disability consumer, advocacy, and service organizations plus the National Council on Disability with high level FEMA officials. This meeting provided a forum for discussion and exchange of information prior to the appointment of a Disability Coordinator within FEMA.

After FEMA appointed the new Disability Coordinator, CRCL served as a resource to her. FEMA’s Disability Coordinator is able to effectively implement policy and operationalize those policies during times of crisis. CRCL and the Disability Coordinator look forward to many years of effective collaboration.

³ Before, during, and after an incident members of this population may have additional needs in one or more of the following functional areas: maintaining independence, communication, transportation, supervision, and medical care. Individuals in need of additional response assistance may include those: who have disabilities; who live in institutionalized settings; who are elderly; who are from diverse cultures; who have limited English proficiency or who are non-English speaking; who are children; or, who are transportation disadvantaged.

F. FEMA Application/Registration for Disaster Assistance

Individuals with disabilities displaced by Hurricane Katrina indicated they encountered significant problems in obtaining timely and appropriate post-disaster assistance. The FEMA Application/Registration for Disaster Assistance did not account for the loss of support items and/or services in place prior to the disaster which enabled individuals with disabilities to maintain their functional independence. The absence of this information resulted in lengthy delays in replacement of important support items and/or restoration of critical pre-disaster services for these individuals. Based upon these lessons, CRCL collaborated with FEMA to revise the FEMA Application/Registration for Disaster Assistance form to include the addition of a question that assesses the loss of support items and services by individuals with disabilities as a result of a disaster. Collection of such information will provide enhanced assurance that individuals with special needs will, in a timely manner, have their support items replaced and/or services restored.

G. Emergency Preparedness Exercises

DHS, in partnership with State and local governments, conducted the largest and most comprehensive counterterrorism exercise to date. Top Officials 4 (TOPOFF 4) is the Nation's premier terrorism preparedness exercise, involving top officials at every level of government, as well as representatives from the international community and private sector and took place October 2007, in Arizona, Oregon, and the U.S. territory of Guam. More than 15,000 participants from all levels of government, international partners and the private sector participated in this full-scale, simulated response to radiological dispersal device attacks. The exercise addressed policy and strategic issues that mobilized prevention and response systems, required participants to make difficult decisions and carry out essential functions, and challenged their ability to maintain a common operating picture during an incident of national significance.

As a result of CRCL's ongoing efforts in FY 2007 to integrate disability/special needs issues into DHS-led emergency preparedness exercises, one underlying theme for TOPOFF 4 was "to test and evaluate the handling and treatment of special needs individuals during and after a terrorist event or incident of national significance." CRCL provided special needs subject matter input prior to and throughout *all* phases of the exercise and ensured that the exercise design included scenarios that involve response to individuals with disabilities and other special needs.

H. Collaboration with American Red Cross, Salvation Army and other Volunteer Organizations Active in Disasters

CRCL continues to proactively collaborate with the American Red Cross, Salvation Army, and other Volunteer Organizations Active in Disasters to address areas of improvement needed in our Nation's shelters and in citizen preparedness as related to individuals with disabilities, the elderly, and other special needs population.

I. Outreach Activities

CRCL believes that many current and future problems can be lessened, if not avoided completely, if collaborative relationships between the disability community, the Federal Government, and the private sector are established and maintained.

CRCL has cemented relationships with the National Citizen Corps and established the National Citizen Corps Council Subcommittee on Individuals with Disabilities in Emergency Preparedness. This Subcommittee meets quarterly and brings together representatives from national disability consumer, service, and advocacy organizations representing a cross-section of the disability community. The Subcommittee assists in the exchange of information between the disability community, DHS, and the ICC, while promoting the participation of this community in emergency preparedness training, exercises, and volunteer programs.

CRCL staff also spoke about disability issues and emergency preparedness, planning, and recovery at outreach activities in which CRCL staff presented keynote remarks or a plenary session:

- Civil Rights Application to Emergency Management, Howard University, September 2007;
- *TOPOFF 4 National Seminar*, Washington, D.C., July 2007;
- *FEMA Higher Education Conference*, Emmitsburg, Maryland, June 2007;
- *Embrace the Future: Make a Difference! Alabama Association of the Deaf Conference*, Birmingham, Alabama, June 2007;
- *Oklahoma Governor's Conference on Developmental Disabilities*, Oklahoma, April, 2007;
- *Your Power, Your Choice 2007*, Old Dominion University, March 2007;
- *Emergency Disaster Preparedness Conference, Homeland Security: The Ripple Effect*, American Military University, February 2007;
- *Summit on Emergency Preparedness and Individuals with Disabilities*, Kentucky, January 2007;
- *National Organization on Disability/Homeland Defense Journal, Emergency Preparedness and Response Conference For People with Disabilities, the Elderly, Pediatrics, and Animals*, Washington D.C., December 2006; and
- School Preparedness, Disability Network of the U.S. Department of Education's Regional Office on Civil Rights, Audio Conference, November 2006.

II. Engagement with American Arab, Muslim, Sikh, Middle Eastern, and South Asian Communities

Building and strengthening strategic partnerships with key communities, including Arab and Muslim Americans, is one of our chief priorities. Pursuant to our statutory authority, we believe that it is a wise investment to spend our time communicating with the public, providing information, and hearing and responding to concerns. We are convinced that our first function – helping to shape policy in ways that are mindful of the U.S. Constitution and Federal civil rights laws – is much more effective when we listen to the reactions and concerns of the American people. Good policy and good communications with the public are inherently connected with one another.

One of the projects that we in our department are very concerned about is making sure that we continue to develop, cultivate and maintain partnerships with key leaders in our American Arab, Muslim, and South Asian communities. . . . You can't beat a set of ideas, even if they're bad ideas, unless you offer competing ideas. And the only way to develop those ideas and to be able to communicate those ideas is by working with community leaders who are, in fact, those who influence thought and education and belief. And that's why reaching out to embrace these communities – Arab communities, Muslim communities, and South Asian communities – is so important to us. We need to make sure that everybody in this country, whatever their religious belief and ethnic background, feels connected to the American way and to the government. We have to listen to their concerns and ideas. We have to encourage people from these communities to join public service, to become part of the FBI, or DHS, or part of the military, so that they have a full stake in the venture and nobody feels excluded.

– Secretary Michael Chertoff, speaking before the
Anti-Defamation League, May 1, 2007

As discussed elsewhere in this report, we have sustained dialogues with numerous communities. We meet with leaders of the disability community to discuss emergency preparedness issues; we meet with immigration advocacy groups who are concerned with border security and naturalization policies; and we meet with numerous stakeholders to discuss various issues that are at the intersection of civil rights and homeland security.

We also regularly meet with American Arab, Muslim, Sikh, Middle Eastern, and South Asian communities to discuss ways to protect the homeland while maintaining civil rights. Building upon previous good work in this area, CRCL has made significant progress reaching out to and working with various communities over the past year. We have both created and expanded our Engagement Team, which focuses on security and civil rights issues affecting or of concern to these communities. While we continue to expand our network of contacts, we have moved beyond introductions and informational meetings and have begun institutionalizing partnerships with these Americans who are some of our strongest assets in our effort to secure our country while preserving our freedoms and our way of life. Below is a short summary of our work in this area.

A. Formal Meetings with Advocacy Groups, Community Leaders, and Senior DHS Officials

Regularly-held community roundtable meetings between advocacy groups, community leaders, and Federal government representatives continue to be central to our outreach and engagement efforts. These forums offer an opportunity for government officials to provide information and respond to questions. And because we hold these regularly – four to six times a year depending on the city – the roundtables further our broader goal of institutionalizing partnerships.

For the community leaders, the roundtables provide a venue to both raise concerns as well as to access information and guidance that may be of interest to their constituents. Though the purpose of these meetings is not policymaking, participating in these forums allows Federal officials to gain community perspectives about the merits and effectiveness of official policies and programs. CRCL now leads or plays a significant role in meetings held in Washington, D.C., Houston, Chicago, Los Angeles, and Detroit. In addition, during the past year we have assisted local DHS and other Federal officials with holding similar meetings in other cities across the country.



Secretary Chertoff met with religious leaders from the Jewish, Christian, and Muslim faiths at the Karbaala Islamic Center in Dearborn, Michigan. Imam al-Husainy of the Karbaala Islamic Center hosted the visit. Secretary Chertoff was joined by U.S. Attorney Stephen J. Murphy, Federal Bureau of Investigation Special Agent in Charge Andrew Arena, and DHS Officer for Civil Rights and Civil Liberties Daniel W. Sutherland

In addition to the regular roundtable meetings, CRCL continues to arrange meetings between advocacy groups, community leaders, and senior DHS officials. For example, during the past year, CRCL stakeholders have met with Secretary Chertoff, U.S. Citizenship and Immigration Services Director Emilio Gonzalez, TSA Assistant Secretary Kip Hawley, and Assistant Secretary for Policy Stewart Baker. These meetings have the benefit of giving community leaders and senior government leaders an opportunity to share perspectives and insights on specific policies and programs. More broadly, they highlight the fact that the very highest levels of the DHS are interested in hearing the concerns and feedback of all Americans, including those of ethnic and religious minority communities.

B. Conferences, Media Appearances, and Significant Events

CRCL has also cemented strong community relationships by attending numerous conferences, conventions, and other significant events. During the past year, CRCL representatives have given speeches, participated on panels, and attended events hosted by the National Association of Muslim Lawyers, the American-Arab Anti Discrimination Committee, the Muslim Public Affairs Council, the Sikh American Legal Defense and Education Fund, and the Muslim Public Service Network, among other organizations.

CRCL also held its own conference, entitled a “Roundtable on Security and Liberty: Perspectives of Young Leaders Post-9/11.” Perhaps our most significant event, this entailed inviting over 40 young

American Arab, Muslim, Sikh, South Asian and Middle Eastern leaders to Washington, D.C. to meet with Secretary Chertoff and other Federal officials to hear their perspectives on topics including:

- The State of Arab, Muslim, Sikh, South Asian, and Middle Eastern American Youth;
- Civil Rights in America: Challenges and Opportunities;
- Toronto, London and Madrid: Can it Happen in America?; and
- Careers in the U.S. Government.



Secretary Chertoff (middle), Officer for Civil Rights and Civil Liberties Daniel Sutherland (left), and DHS Chief of Staff Chad Sweet (right) converse with the young leaders at the “Roundtable on Security and Liberty: Perspectives of Young Leaders Post-9/11”

A truly unique event, the youth roundtable was a tremendous opportunity to engage young leaders and discuss some of the most significant issues that our country is confronting.

In addition to participating in conferences, CRCL has continued to engage media outlets to raise awareness about the Department’s role and the importance of engaging with ethnic and religious minorities. While several leading domestic media outlets have profiled our work in this area, we continue to prioritize engaging with foreign and ethnic media. In an era where a news story can cross continents in a manner of seconds – and to support the Federal Government’s public diplomacy efforts – we believe it is essential that government officials appear on a wide range of media outlets, including those serving these communities. Giving interviews to locally-based ethnic newspapers and radio programs allows us to maximize our impact by reaching a broader range of audiences.

C. Incident Community Coordination Team: Arab, Muslim, Sikh, South Asian, and Middle Eastern American Communities

CRCL has assembled an Incident Community Coordination Team (ICCT), previously known as the Incident Management Team, to engage with community leaders and resolve any issues that arise in the aftermath of any future terrorist act or homeland security incident. The goal of the group is to engage and provide community leaders with timely and relevant information from government agencies in the aftermath of any future terrorist act or homeland security incident.

During the past year, DHS Officer for Civil Rights and Civil Liberties, Daniel W. Sutherland, convened the ICCT following the attempted terrorist attacks at Fort Dix and JFK Airport, and after the release of the National Intelligence Estimate. Additionally, on June 22, 2007, CRCL convened an unprecedented tabletop exercise of the ICCT in which over 40 representatives of government and community organizations participated. An example of strengthened ties between the Federal government and these key communities, this exercise highlighted a number of issues that both government agencies and community leaders need to grapple with in order to adequately prepare for any future attack on the United States.

III. Immigration Initiatives

CRCL works with its DHS colleagues on the civil rights and civil liberties implications of DHS immigration policy initiatives. For instance, CRCL has worked with USCIS on the development of an electronic employment verification program, E-Verify. CRCL's primary focus is to ensure that the program is not used in a manner that adversely affects U.S. citizens and aliens who are authorized to work. CRCL has actively worked with USCIS to implement safeguards designed to protect workers who are U.S. citizens and work-authorized aliens and also prevent employer misuse of the program. CRCL's work encompasses program design, implementation, education, policies and procedures. CRCL is creating educational outreach material for employers and workers in both video and pamphlet form. The employer material will be designed to educate employers about their responsibility to use the program in a proper and legal manner, and employee rights. The employee material will be designed to educate workers about the scope of E-Verify, employer and employee obligations, proper use of the program, and how to obtain relief if an employer misuses the program.

This year, CRCL also continued to engage with immigration groups on issues of concern such as naturalization delays, conditions of detention, worksite enforcement, and implementation of the Violence Against Women's Act. CRCL regularly meets with representatives of national immigration and civil rights organizations, and sponsored two meetings for these organizations to meet and discuss issues with the Secretary.

CRCL believes that immigration policy and civil rights are intertwined, and that immigration policy and implementation cannot be complete unless civil rights and liberties concerns are addressed throughout program development and implementation. CRCL's strong relationships with immigration and civil rights organizations is essential to the DHS's success in moving forward in the absence of comprehensive immigration reform legislation.

IV. Civil Liberties Institute

Delivering targeted and effective training, CRCL helps to improve the Department's reputation for protecting America while respecting individual rights. In turn, this training helps build public trust and fuel cooperation with the DHS's mission. In 2007, CRCL continued to train the men and women of DHS to fulfill their roles and complete their missions while respecting civil rights and civil liberties. CRCL has branded its efforts the Civil Liberties Institute. The Civil Liberties Institute created new training products, sponsored advanced classroom training and partnered with Department agencies to co-sponsor and approve training products.

In a special session of the Anti-Defamation League's *Advanced Training School*, CRCL's Civil Liberties Institute sponsored a course on Terrorism, Extremism and Civil Liberties for Homeland Security officials. Law enforcement professionals from various divisions within the Department, including ICE, U.S. Customs and Border Protection (CBP), Transportation Security Administration (TSA), Federal Law Enforcement Training Center (FLETC), the U.S. Secret Service (USSS) and the Federal Air Marshals Service (FAMS) received state-of-the-art training, information, resources, and contacts to increase their capabilities in combating domestic and international terrorist threats while ensuring civil rights and liberties are protected in the process.

In 2007, CRCL also began to fulfill its role to train Department personnel who work with fusion centers. In accordance with the 9/11 Commission Act, CRCL is charged with conducting a Civil Liberties Impact Assessment of the State, Local and Regional Fusion Center (SLRFC) Initiative and training SLRFC analysts, before deployment, on civil liberties standards. CRCL is fulfilling this mandate by supplementing Intelligence & Analysis (I&A) orientation training for DHS participants with civil rights and civil liberties instruction. In March 2007, CRCL made available its training module on Arab and Muslim cultures to nearly 600 fusion center directors and Federal, State, local, and Tribal law enforcement officers within intelligence units attending the National Fusion Center Conference. Beginning in April 2007, CRCL has toured a variety of fusion centers and conducted in-classroom training on cultural competence and civil liberties at individual fusion centers and regional fusion center conferences.

At the close of 2007, CRCL completed work on its Asylum Seekers Overview, a fulfillment of a recommendation of the U.S. Commission of International Religious Freedom (USCIRF) in its "Report on Asylum Seekers in Expedited Removal." Specifically, the Commission recommended, "specialized training to better understand and work with a population of asylum seekers, many of whom may be psychologically vulnerable due to the conditions from which they are fleeing." This computer-based training program provides basic information designed to help law enforcement officers perform their duties and carry out the missions of their agencies while preserving the rights of asylum seekers.

The Civil Liberties Institute library now includes over a dozen training products including:

- **National Detention Standards (NDS) Training:** This online and CD-ROM-based training, produced in cooperation with ICE's Detention and Removal Office (DRO) in 2006, provides managers, supervisors, line staff, and contractors at facilities that house immigration detainees with information about the NDS to enable these personnel to effectively fulfill their duties. The NDS training is available on the ICE Virtual University for ICE employees.

- **CBP Supervisory Communications: Supporting the Cornerstone of Professionalism:** This highly interactive CD-ROM-based training, designed in cooperation with CBP's Office of Training and Development, is targeted to all CBP managers and supervisors with an emphasis on the basic elements of professionalism, integrity and communications with employees. A number of video scenarios help equip managers to earn respect from their employees by effectively demonstrating personal accountability, positive communications skills, coaching, teamwork, conflict resolution and stress management.
- **The First Three to Five Seconds:** CRCL repurposed, in cooperation with the Department of Justice's Community Relations Service, a CD entitled "The First Three to Five Seconds" in November 2004. The instructional curriculum is a 12-minute web-based and computer-based training video introducing law enforcement officers to basic principles of the Arab American and Muslim American cultures. The goal of the video is to assist these officers in working safely and effectively with members of these communities. The training has been deployed to field personnel across DHS via CD-ROM and Internet and Intranet delivery systems.
- **Educational Posters:** Two posters that provide guidance to DHS personnel on how to screen and, if necessary, search individuals who wear common Muslim and Sikh head coverings and also an educational poster on how to screen those of the Sikh faith who carry a *kirpan*, or ceremonial religious dagger.
- **TSA Screener Training on Travelers with Disabilities:** With CRCL support, TSA has developed several initiatives to enhance the screening of people with disabilities, including the following: (1) an in-depth training video for screeners who interact with travelers with disabilities; and (2) a "Z card," a pocket-sized card with basic instructions and quick reference points for screeners who interact with travelers with disabilities, such as wheelchair users, travelers with service animals, and people with various complex medical conditions.
- **Introduction to Arab American and Muslim American Cultures Course for DHS Personnel:** An hour-long training session for DHS personnel who interact with Arab Americans, and people from the Arab world, and Muslim Americans, and people from the Muslim world. The training includes insights from four national and international experts – an Assistant U.S. Attorney who is a practicing Muslim, a member of the National Security Council who is a practicing Muslim, a scholar of Islamic studies, and a civil rights attorney who advocates on issues of concern to Arab American and Muslim American communities.

CRCL has also reviewed training efforts created by agencies of the Department to ensure compliance with civil rights and civil liberties and suggest ways to incorporate respect for civil rights and awareness for cultures and communities. CRCL reviews various instructor guides, training modules and classroom scripts throughout the year, often adding essential information about the rights and responsibilities of DHS personnel.

Looking forward, the Civil Liberties Institute will continue to help DHS build a culture that respects civil rights and civil liberties. In the coming year, CRCL plans to issue training for employers and employees on the new E-Verify system for employment eligibility, and expand its training for fusion center personnel.

V. Office on Accessible Systems & Technology

The Officer for Civil Rights and Civil Liberties and the DHS Chief Information Officer (CIO) continue to collaborate to fully implement and enforce the provisions of Section 508⁴ throughout the Department. In 2005, the two offices worked in concert to establish a Department-wide Section 508 program, run by the Office on Accessible Systems & Technology (OAST). This year OAST was a catalyst for great progress in the Section 508 compliance area.

A. Web Audit and Remediation Program

OAST started the new Web Audit and Remediation Program (WARP) to routinely test DHS and Component websites, both internal and external, for Section 508 compliance. WARP conducted three quarterly Web accessibility scans for FY 2007 on 129 websites containing approximately 275,000 pages. Baseline findings revealed 22 percent of sites were accessible (green), 9 percent contained moderate accessibility issues (yellow), and 69 percent of sites failed due to numerous accessibility issues (red). The third and final scan for FY 2007 found 33 percent of sites were green, 13 percent yellow, and 55 percent red. This marks a 14 percent improvement over a nine month period. ICE and FLETC showed the most marked improvements, with ICE moving from zero percent compliance to 100 percent compliance for approximately 3,000 pages. Results were shared with DHS and component CIOs for action and while the overall change was not rapid, this level of change is significant considering the volume of information. Progress also has been made in educating website owners about how to resolve accessibility/Section 508 compliance problems identified.

B. Implementation of a Commercial/Government Off-the-Shelf accessibility/Section 508 evaluation and integration service

OAST implemented a program to test commercial and government off-the-shelf (COTS/GOTS) products to be deployed at DHS headquarters for Section 508 compliance and a repository to store the results for future use. Since being stood up in March, this program evaluated 27 COTS/GOTS products of which 12 passed the Section 508 compliance check and 15 failed but were allowed for use in small numbers only (less than 10). The process has assisted end-users to recognize that more accessible products may be available that meet their needs. OAST is currently working with ICE and CBP to implement 508 testing as part of their configuration management program. OAST has prepared training materials for such expansion efforts and plans to push out this work in FY08 now that the processes and tools have been put in place.

C. Accessibility Help Desk

OAST created a new Department-wide Accessibility Help Desk to assist DHS employees with disabilities in meeting their accessibility and accommodation needs. The DHS Accessibility Help Desk serves as a single point of contact for accessibility needs including: assistive technology needs assessments; and training to improve the usability and accessibility of electronic documents, websites, IT systems and applications, e-learning, multimedia, and technical support.

⁴ Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

OAST trained more than 500 individuals across DHS about Section 508 and how to use various compliance tools for web and document accessibility. Upon completion, recipients were provided a copy of the software compliance tools to be loaded onto their workstation computers to assist them with making web content and documents Section 508 compliant. OAST developed and launched a very comprehensive online training course entitled: *Section 508 Web Standards and Compliance*. This course is intended to assist DHS web managers, developers, and designers in the assessment of web design and content for accessibility. This five and a half hour training course is broken up into five modules: Web Standard Requirements, Introduction to Testing, Automated Testing (using AccRepair), Testing Process: How to Test Websites, and Using AccRepair Tools.

OAST developed and delivered the DHS Accessibility Requirements Tool (DART) to component 508 Coordinators for distribution to those responsible for generating information technology (IT) purchase requests. The DART is an HTML-based tool that generates Section 508-related language for Purchase Requests (PR) quickly and simply. This tool simplifies the PR development process by inserting appropriate Section 508 language based on the PR and decreases the amount of time it takes for a Section 508 review since the language can now be created by requiring officials.

VI. Intelligence Community Activities and Information Sharing

The leadership of the Department wants to ensure that intelligence and information sharing are conducted in a lawful manner consistent with Constitutional, statutory, regulatory, and other legal and policy requirements, including applicable civil liberties standards.

To help accomplish this goal, CRCL serves on the Information Sharing Coordinating Council (ISCC), charged with coordinating DHS information sharing activities, including fulfilling Department tasks outlined in the ISE – Implementation Plan. CRCL has also collaborated with the Department of Justice’s Global Initiative and the ISE Privacy Guidelines Committee, where CRCL heads an interagency sub-working group on civil rights and civil liberties issues. In this role, CRCL has aided in preparing and distributing guidance on implementing civil liberties policies and training in the ISE.

CRCL has also worked closely with I&A to review civil rights and civil liberties implications of programs, polices, and activities, such as the National Application Office, the State and Local Fusion Center Initiative, the Interagency Threat and Coordination Group, and the Information Sharing Fellows Program. Through these reviews, CRCL collaborates with I&A to build safeguards for civil rights and civil liberties into programs, policies, and activities.

VII. Legislative Activities

Over the past year, CRCL has made a concerted effort to brief Congress of its ongoing activities, roles, and responsibilities. This effort involved briefing several members of Congress and Congressional staffers on a wide range of issues, such as CRCL’s roles and responsibilities, the CRCL complaints process, engagement efforts with ethnic and religious communities, and individuals with disabilities and emergency preparedness. In 2007, DHS Officer for Civil Rights and Civil Liberties, Daniel W. Sutherland, also provided testimony in several Congressional hearings, which included:

- Testifying on the “Threat of Islamic Radicalism to the Homeland” before the U.S. Senate Committee on Homeland Security and Governmental Affairs—March 14, 2007;
- Testifying on “The Department of Homeland Security State and Local Fusion Center Program: Advancing Information Sharing While Safeguarding Civil Liberties” before the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment, U.S. House of Representatives Committee on Homeland Security—March 14, 2007;
- Testifying on CRCL’s FY08 budget before the Subcommittee on Homeland Security, U.S. House of Representatives Committee on Appropriations Committee—March 21, 2007; and
- Testifying on the civil liberties implications of the National Applications Office before the U.S. House of Representatives Committee on Homeland Security—September 6, 2007.

On April 5, 2007, the CRCL Programs Director also testified at a field hearing before the Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment, U.S. House of Representatives Committee on Homeland Security on “Radicalization, Information Sharing and Community Outreach: Protecting the Homeland from Homegrown Terror.”

CRCL has also been working to implement the 9/11 Commission Act⁵, enacted on August 3, 2007. The 9/11 Commission Act has a substantial impact on the responsibilities and reporting requirements of the Office. Below is a brief summary of the Act’s impact on CRCL:

- **Policy Review and Analysis:** CRCL is charged with assisting the Secretary in considering civil liberties during the development or implementation of new laws, regulations, policies, procedures, or guidelines related to effort to protect the Nation against terrorism. Specifically, CRCL must review the operations of State and local fusions centers and assess the civil liberties impact of the Department’s data mining activities. In addition, CRCL is required to consult with the Secretary on the implementation and development of public transportation research and development initiatives within the Homeland Security Advanced Research Projects Agency, railroad security initiatives, and over-the-road bus security initiatives and to review the civil rights and civil liberties implications of such initiatives.
- **Training:** CRCL must provide civil liberties standards training for: officers and intelligence analysts in State, local, regional, and Tribal fusion centers; Information Sharing Fellows; local law enforcement agencies and other emergency response providers in rural areas as part of the Rural Policing Institute; and all detailees of the Interagency Threat Assessment and Coordination Group.
- **Reporting:** CRCL is now required to report to Congress quarterly on the number and types of reviews concerning Department actions. Additionally, CRCL must conduct and report on civil liberties assessments of the following: State, local, and regional Fusion Centers; the Information Sharing Fellow’s Program; and the Threat Assessment and Coordination Group. CRCL must also conduct a civil rights and civil liberties review as part of the Northern Border Railroad Passenger Report.
- **Individuals with Disabilities:** Consistent with CRCL’s role in the Department’s efforts to integrate people with disabilities at all levels of emergency planning, CRCL will assist the Secretary with the implementation and development of the multiple public transportation security

⁵ Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53.

initiatives, which call for training and planning regarding persons with disabilities. These provisions call for evacuation plans and communication measures for individuals with disabilities, as well as the development of security exercises and public transit employee training programs, which must address the needs of individuals with disabilities.

CRCL has already begun working on many of these initiatives, as this report indicates, and will continue to work on its implementation in 2008.

COMPLAINT INVESTIGATIONS

CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, which require the DHS Officer for Civil Rights and Civil Liberties to:

- Review and assess information alleging abuses of civil rights, civil liberties, and racial, ethnic, or religious profiling, 6 U.S.C. § 345(a)(1);
- Oversee 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); and
- Investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General, 6 U.S.C. § 345(a)(6).

CRCL reviews matters that arise under a variety of Federal civil rights statutes including Section 504 of the Rehabilitation Act of 1973, and Title VI of the Civil Rights Act of 1964.

To carry out its mission, CRCL has an established process for receiving, assigning, investigating, referring, and concluding reviews of allegations falling under these statutes and the authorities above. This also satisfies the requirement of the 9/11 Commission Act that DHS have adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege DHS has violated their civil liberties. Pursuant to the 9/11 Commission Act, CRCL will begin reporting quarterly on complaints, including the number, types, and summary of reviews undertaken.

I. CRCL Complaint Process

CRCL's complaint activities are carried out in accordance with Management Directive (MD) 3500, which sets forth the process for handling complaints falling within its jurisdiction. CRCL complaints are entered into an internal computer-based tracking system. CRCL has provided this tracking system to the Inspector General (IG), and all new complaints filed with CRCL are reviewed by the IG to determine if allegations of abuse may reflect systemic concerns of fraud, waste, abuse, or criminal violations pursuant to statute. Within five days, the IG determines whether to investigate the allegations. If the IG declines to investigate, the allegation is returned to CRCL. CRCL retains the complaint for investigation – that is, assigns it within the Review and Compliance Unit – or refers the investigation to the appropriate DHS Component for review and a report back to CRCL. Because of the small size of the CRCL staff and that DHS Components have existing mechanisms for handling certain complaints, approximately 70 percent of complaints received by CRCL are referred to the Components for review. The Components are asked to provide a report to CRCL on their review or investigation.

II. Summary of Complaints Received Under CRCL Statutes

Since its creation, the Office for Civil Rights and Civil Liberties (CRCL) has received 441 complaints under 6 U.S.C. 345 and other Federal statutes as of September 30, 2007. Approximately 30 percent of these complaints received have been retained by CRCL for investigation by the Office. Approximately 70 percent of these complaints have been referred to DHS Components for investigation and response.

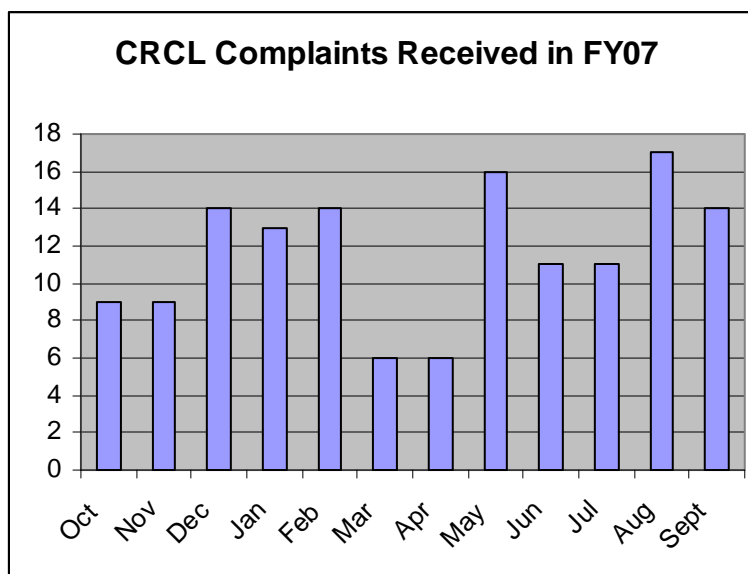
Of the 441 complaints filed, 249, or 56.5 percent, have been investigated and closed, and 192, or 43.5 percent, complaints remain open either at CRCL or with a DHS component.

Approximately 38 percent of all complaints filed with CRCL involve complainants who are Arab, Muslim, Sikh, or South Asian, many of whom are United States citizens or lawful permanent residents of the United States.

Of all complaints filed with CRCL, the primary issues cited in the allegations are: discrimination (race, disability, religion, national origin, etc.)—19 percent; abuse of authority/color of law—18 percent; profiling—17 percent; conditions of detention—15 percent; watchlists—12 percent; due process/administrative processing—10 percent; and other—9 percent.

In FY 2007, the Office has received 140 complaints. Twenty-five complaints were retained by CRCL, three were retained by the IG; 98 were referred to DHS Components for investigation and response; 12 were closed; and two remain under review.

Of these 140 complaints received, 61 involved ICE, 52 involved CBP, 11 involved the TSA, 12 involved DHS generally (crossed Component lines), three involved USCIS, and one involved FEMA.



III. Examples of Complaints Resolved by CRCL

A. Treatment of Unaccompanied Minors

CRCL received several complaints concerning the treatment of unaccompanied minors in DHS custody. Allegations concerned physical and verbal abuse, inadequate food and bedding, delays in transferring minors to appropriate placements, and inadequate medical attention in Border Patrol facilities. CRCL accepted these complaints and conducted investigations of the allegations.

DHS is bound by the terms of a settlement agreement, commonly referred to as the *Flores* agreement.⁶ This agreement requires DHS to hold minors following arrest in facilities that are safe, sanitary, and consistent with the Department's concern for their particular vulnerability as minors, and restricts the length of time unaccompanied minors can be detained after apprehension before being transferred to licensed care facilities. The *Flores* agreement specifies that facilities must provide access to toilets and sinks; drinking water and food; medical assistance in an emergency; adequate temperature control and ventilation; adequate supervision to protect minors from others; and separation from unrelated adults where possible.

CRCL presented its investigative findings and recommendations to leadership of the DHS Components responsible for unaccompanied minors and has worked with management and staff to implement the recommendations and subsequently review compliance. CRCL has also worked with leadership and staff of the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR), which assumed responsibility under the Homeland Security Act of 2002 for the care and placement of unaccompanied minors after DHS apprehension. CRCL also participated in interagency workgroups, along with ORR, to draft joint operating procedures for DHS and ORR field personnel. In addition, CRCL accepted invitations to review and comment on component policies impacting minors and provided input on draft Federal regulations that will define how the Department handles this vulnerable age group while ensuring their civil rights and civil liberties are protected.

CRCL continues to receive and handle complaints involving the treatment of unaccompanied minors and continues to work on a policy level to address the myriad issues associated with this vulnerable population.

B. Customer Access to Sign Language Interpreters – U.S. Citizenship and Immigration Services (USCIS)

CRCL received complaints between 2004 and 2006 alleging that USCIS failed to provide sign language interpreters to individuals with a hearing impairment to access USCIS services and benefits in violation of Section 504 of the Rehabilitation Act of 1973, as amended. CRCL undertook a formal review of these complaints and worked closely with representatives from USCIS to address the systemic issue of access to qualified sign language interpreters by individuals with disability-related communication needs who require these services for effective communication at USCIS district offices and service centers.

⁶ *Stipulated Settlement Agreement, Flores v. Reno*, No. CV 85-4544-RJK (Px) (C.D. Cal. Jan. 17, 1997).

CRCL concluded that pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, and DHS Interim Regulation 6 C.F.R. Pt. 15, USCIS is required to make participation in all of its programs and activities accessible to all persons and ensure that persons with disabilities are not excluded from participation because of their disabilities.

As a result of CRCL's review, USCIS disseminated information to district offices and service centers concerning the obligation of these offices to provide sign language interpreters to qualified individuals. Moving forward, CRCL will work closely with USCIS to develop and disseminate policies and procedures to ensure that all USCIS district office personnel are aware of the legal requirements under Section 504 and that members of the public have readily available information on how to request a sign language interpreter.

C. Traveler Redress Inquiry Program

CRCL helped to implement the DHS Travel Redress Inquiry Program (TRIP) program. DHS TRIP serves as a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs. Travelers may contact DHS TRIP by email, postal mail or via an online submission form. Requests received by DHS TRIP are routed for redress to the appropriate DHS Components. Components review the request and reach a determination about a traveler's status.

CRCL receives from DHS TRIP inquiries from travelers who assert that they have been discriminated against on the basis of race, disability, religion, gender, or ethnicity by DHS employees. When CRCL receives an inquiry, we review it to determine if CRCL should treat it as a complaint and conduct an investigation under 6 U.S.C. 345. From February 22, 2007, to September 30, 2007, CRCL did not open as a complaint under 6 U.S.C. 345 any of the records CRCL received from DHS TRIP. During this period DHS TRIP received 14,464 requests for redress and 308 individuals alleged that they had been discriminated against by DHS employees.

IV. Examples of Ongoing Issues Being Reviewed by CRCL

A. Conditions of Detention for Adult ICE Detainees

CRCL regularly receives complaints alleging violations of the National Detention Standards (NDS) at facilities used to house ICE detainees. Many of these complaints are retained for investigation by CRCL; others are referred with a request for a report of investigation to the ICE Office for Professional Responsibility, which now has a unit that provides enhanced oversight of these facilities to ensure that detention standards are met.

Allegations raised in complaints retained by CRCL include issues such as: detainees' access to telephones and law libraries and other standards that provide legal access to detainees; appropriate recreation; religious accommodations; and the appropriate provision of medical and dental care. CRCL is working with ICE DRO to investigate these allegations and implement recommendations made as a result of investigations when appropriate. CRCL has retained the services of experts in the fields of corrections, medical care, and environmental health to assist with these investigations.

B. Reasonable Accommodations for Persons with Disabilities at the Border

CRCL received several complaints alleging a lack of reasonable accommodations for persons with disabilities at the San Ysidro, California, pedestrian border crossing. The complaints focus on the inability of some persons with disabilities to stand in a long line waiting for inspection and admission into the United States. CRCL is working with CBP to ensure that persons with disabilities receive appropriate accommodations at the border, consistent with CBP's mission and safety and security concerns.

C. Religious Accommodations for DHS contract employees

CRCL received two complaints from individuals who work for DHS contractors who had been told to remove head coverings and/or shave their beards in order to work under the DHS contract. The instructions conflicted with their religious beliefs. ICE modified its grooming standards for contract employees in order to accommodate the religious preferences of the contract workers. CRCL continues to work with ICE to ensure that any effects of the previous ICE contract worker grooming standards are addressed.

D. Reasonable Accommodations for Persons with Disabilities in Requesting Disaster Assistance

CRCL received a complaint alleging systemic violations of the Rehabilitation Act of 1973, as amended, by FEMA in providing access to information on disaster assistance to persons who are deaf or hard of hearing. FEMA has provided the complainants with significant information concerning steps that have been taken to address the needs of this community in times of disaster. CRCL will continue to work with FEMA to ensure that reasonable accommodations are provided to persons with disabilities to access information regarding assistance in times of natural disasters or emergencies.⁷

⁷ See also "CRCL Programs" Section in this report for further information on CRCL's work on inclusion of people with disabilities in emergency preparedness, recovery, and response efforts, at page 3.

EQUAL EMPLOYMENT OPPORTUNITY

CRCL provides Departmental guidance and standards for establishing and maintaining effective affirmative programs of equal employment opportunity as required under both Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.*, and Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 *et seq.* To meet this objective, the Deputy Officer for EEO Programs and staff develop program plans, monitor implementation, and submit annual progress reports to the Office of Personnel Management, the White House Initiatives staff, the Equal Employment Opportunity Commission (EEOC), and other appropriate agencies for the following program elements:

- Model EEO Program, MD 715 Report;
- Historically Black Colleges and Universities Initiative;
- Tribal Colleges and Universities Initiative;
- Federal Equal Employment Opportunity Recruitment;
- Hispanic Employment;
- Veterans with Disabilities;
- President's Management Agenda Score Card;
- Reasonable Accommodations;
- EEO Program Evaluations; and
- Discrimination Complaints.

The EEO staff provides technical assistance and training to support DHS Components. The Deputy Officer for EEO Programs leads bi-weekly meetings with DHS Component EEO and Civil Rights Directors to discuss policies, procedures and opportunities for program improvements, facilitate an integrated approach to program requirements, and to leverage resources.

During 2007, the Officer and Deputy also held meetings with DHS Component heads to:

- Discuss the role of Senior Leadership in supporting the Secretary's commitment to diversity;
- Review specific details regarding component's workforce profile;
- Address recruitment strategies that can assist DHS to recruit, hire, develop, and retain the most qualified, diverse workforce at senior, mid and entry levels; and
- Discuss the Department's commitment to enhance recruitment efforts at Minority Serving Institutions (MSIs), Historically Black Colleges and Universities (HBCUs), Tribal Colleges and Universities (TCUs), and Hispanic Serving Institutions and grants to these institutions.

CRCL completed the first DHS-wide barrier analysis assessment pursuant to EEOC's MD 715. Under MD 715, each Federal agency is required to conduct self-assessments of its progress towards establishing and maintaining affirmative programs of EEO as well as identifying and eliminating barriers that impede free and open competition in the workplace. CRCL limited the scope of this initial assessment to structural barriers only, i.e., personnel policies, procedures, and practices that governed how the Department recruited, hired, developed, and retained its workforce.

Eleven potential barriers were identified. These potential barriers and EEO Program deficiencies are rooted in the six MD 715 Essential Elements for a Model Agency Title VII and Rehabilitation Act

Programs and systemically connected to DHS personnel policies, procedures, and practices. The identification was based entirely on information provided by DHS and its Components, including interviews with EEO and Office of the Chief Human Capital Officer (CHCO) staffs. However, to validate the barriers additional quantitative and qualitative data analyses are required. CRCL plans to conduct the analyses and review the action plans for correcting and eliminating the potential barriers and program deficiencies in conjunction with the Department's FY 2007 MD 715 report.

In FY 2007, DHS participated in several events demonstrating its commitment to support HBCUs and TCUs. For example, Secretary Chertoff met with Dr. Louis W. Sullivan, chair of the President's Board of Advisors on HBCUs. Under Secretary for Science and Technology Jay M. Cohen, the Officer for Civil Rights and Civil Liberties, and Deputy Officer also attended the meeting. Secretary Chertoff also delivered remarks at the annual HBCU National Conference. Additionally, CRCL sponsored a training program for DHS TCU representatives, which featured Deborah J. Cavett, Executive Director, White House Initiative for Tribal Colleges and Universities (WHITCU) and the DHS Director of Grants Oversight and Policy.

I. EEO Complaint Program Management

CRCL's EEO Program is responsible for issuing DHS final actions on complaints of discrimination based on race, color, sex, national origin, religion, physical or mental disability, age, parental status, sexual orientation or protected genetic information filed by current or former employees, or applicants.

A. Providing Leadership to Component EEO and Civil Rights Offices in EEO Complaint Processing

DHS continued to have a robust informal EEO counseling process. In FY 2007, DHS provided 2240 counseling sessions to aggrieved individuals alleging employment discrimination and other workplace issues.

Recognizing that Alternative Dispute Resolution (ADR) offers an opportunity for the parties to address both the instant complaint and other underlying issues in an expedited manner, DHS continued to expand its ADR efforts. Mediation, the most often used ADR technique, on average takes four to six hours and offers a substantial savings in time and money when compared to administrative processing of a typical EEO complaint.

With regards to bases alleged between FY 2006-07, DHS saw drops in allegations by race-black, religion, national origin-Hispanic, and age. The most common bases for both fiscal years were reprisal and age.

The number of complaints pending investigation decreased by 5 percent from FY 2006 to FY 2007, while the average number of days pending in the investigation stage dropped by 51 percent.

B. Effective Processing of Final Actions in EEO Complaints

In FY 2007, DHS closed 997 complaints of employment discrimination. Of these closures, 96 were resolved by withdrawal, 187 were resolved by settlement, and 714 were final agency decisions (FADs) issued by CRCL. The number of average processing days for merit FADs showed an 11 percent decrease with respect to the final action phase (excluding the investigation phase).

C. Proactive EEO Compliance Program

In order to have a model EEO Program, DHS must ensure legal compliance by fully and timely responding to final EEOC orders directing corrective action and relief. DHS CRCL's goal is to have an EEO compliance program that is proactive, i.e., monitors relief, ensures implementation of remedies, and informs EEOC of the status of its cases. For FY 2007, CRCL implemented the following process improvements:

- A more proactive approach to the evaluation of Component compliance programs with notification to Component heads of identified problems;
- Compliance training for all DHS Components; the greater utilization of tracking system to better manage cases; and
- The implementation of relief in a timelier manner. CRCL also reduced its compliance inventory by 32 percent.

II. EEO Program Evaluation

Under 29 C.F.R. § 1614.102(a)(10), each agency is required to establish a system for periodically evaluating the effectiveness of the agency's overall EEO effort. While Components submit several reports to CRCL annually on outreach efforts, complaint program statistics, recruitment plans, and accomplishments, these reports do not always reflect such things as customer satisfaction or information about effectiveness of the program in carrying out its mission. The CRCL EEO Office developed a methodology for evaluating the nine DHS component EEO Offices to ensure efficiency, effectiveness, and compliance with EEOC and statutory requirements. Because EEO programs were under development in the early years of the DHS, they were following directives/procedures designed by legacy organizations. As DHS developed its own programs, procedures and directives, it is now appropriate to monitor the implementation of these DHS program guidelines.

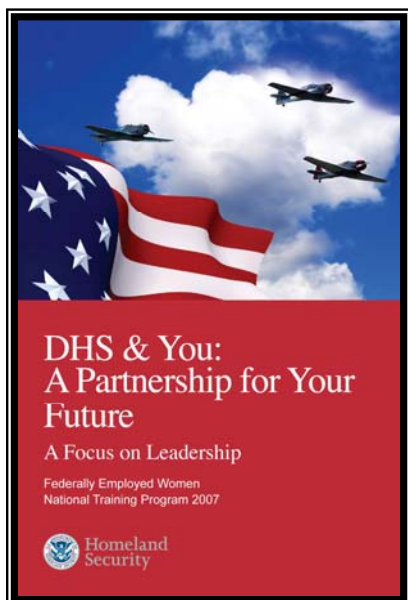
The first DHS Component to be evaluated was the Federal Law Enforcement Training Center (FLETC) in Glynco, Georgia. The evaluation onsite visit took place from August 26 through August 30, 2007. The results were encouraging and best practices were identified, as well as areas for program improvements. It is planned that three program evaluation visits will take place each year and information concerning best practices will be shared among the Components with the ultimate goal that FLETC becomes an agency with a model EEO program. Every DHS Component EEO Office should be evaluated onsite every three years to ensure continuous program improvement.

III. Training

The EEO program developed training for DHS employees to meet the requirements of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (NOFEAR). Over 64,000 employees DHS-wide took the training saving Components the time and cost of developing separate programs to meet the requirement.

During FY 2007, DHS made dramatic progress in training management on the disability employment program. DHS Components began incorporating disability awareness, recruiting, hiring and accommodating individuals with disabilities into their existing management training programs, including orientation for new supervisors. As a result, 11,208 managers and supervisors received training on this issue.

CRCL provided training on revised regulations to the DHS Staffing Council as part of the Office of the Chief Human Capital Officer (CHCO) Hiring Flexibilities Symposium for Human Resource Specialists and DHS managers. CRCL was also called on to provide training for DHS employment and labor law attorneys; Senior Executive Service (SES) and New Flag officers at the United States Coast Guard (USCG); and Component EEO staffs.



With the assistance of the Office of the CHCO, CRCL developed training for the Federally Employed Women’s Annual Conference. The objective of the forum was to provide a framework to assist new and emerging leaders in the Department in building their leadership skills and competencies. Entitled, “DHS and You: A Partnership for Your Future,” the forum provided a three-pronged focus on leadership and featured a Leaders Empowering Others panel comprised of four DHS employees representing each level of the leadership competency framework: 1) team/project leader (managing projects); 2) supervisor (managing people); 3) manager (managing systems); and 4) executive (leading strategically). Presentations on the DHS core competencies and defining and following a leadership development path completed the forum.

External training presented included workshops on employing people with disabilities in DHS and on how to navigate the Federal application and hiring process at the 2007 Annual National Deaf and Hard of Hearing in Government Conference and the Bi-Annual Conference of the Consortia of Administrators for Native American Rehabilitators (CANAR).

IV. Commitment to Hiring People with Disabilities

CRCL continues to work with DHS Components to expand opportunities for an underutilized American resource—individuals with disabilities. DHS has seen significant progress toward achieving a world class workforce reflective of the Nation, fully inclusive of individuals with disabilities at the highest levels. In fact, DHS’s participation rate of 3.85 percent for employees at the SES level exceeded the Government-wide participation rate of 3.72 percent. Three DHS components, the USCG, DHS Headquarters (HQ) and ICE also distinguished themselves at the SES level with

participation rate for employees with disabilities of 10 percent, 7.43 percent, and 4.25 percent, respectively. Further, once again, DHS HQ, USCG, FEMA, and FLETC, all exceeded the FY 2006 Government-wide participation rates for the employment of people with disabilities at the GS-13, 14, 15 grade levels. Interns with disabilities placed in Components increased by 254 percent.

People with disabilities comprised 10 percent of the FLETC workforce, the highest participation rate of DHS's nine major operating components, and an impressive accomplishment for the Nation's premier law enforcement training center. ICE, FEMA, USCG, TSA and CBP all dramatically increased their hiring of individuals with disabilities.

In FY 2007, DHS expanded outreach and recruitment networks to 155 veteran organizations, associations and agencies servicing veterans, to recruit veterans with disabilities, notably those returning from the war on terror in Afghanistan and Iraq. In FY 2007, approximately 10 percent of USCIS hires were individuals with disabilities, the majority of which were veterans with disabilities. DHS doubled the number of veterans with disabilities hired and increased participation in Department of Defense's (DOD) Operation Warfighter program. To date, DHS Components have hosted 38 wounded service members for work experiences.

DHS employees continued to benefit from DHS's partnership with the DOD Computer Electronic Accommodation Program (CAP). During FY 2007, DHS employees requested 181 products and services from CAP saving DHS \$82,330.48.

V. Headquarters Equal Employment Opportunity

During FY 2007, DHS HQ EEO Office set out to distinguish itself as an independent organization within the Office for Civil Rights and Civil Liberties. HQ EEO hired one full-time EEO Specialist responsible for HQs Alternative Dispute Program and the Hispanic Employment Program. In addition, HQ EEO employed the services of a Special Emphasis Program Manager to support efforts to attract and retain a diverse workforce, including women and minorities at the GS-12 and above levels. Specific programs and positions marketed extensively were the following:

- Acquisitions Fellows Programs;
- Presidential Management Fellows (PMF) Program;
- DHS Policy Honors Fellowship Program;
- Student Employment Programs; and
- Senior Executive Service.

The DHS HQ EEO Office also expanded the use of a weekly electronic mail message sent to over 1,000 organizations, including, but not limited to, minority serving institutions, professional societies, bar associations, and advocacy groups. Now, in addition, to advertising DHS vacancies, this "List Serv" is also used as an information channel for the various programs offered by DHS HQ organizations, such as the Science and Technology Directorate's University Program, a program which conducts workshops for MSI universities and colleges, faculty and students and provides internships and scholarships.

In addition to working with the Office of the CHCO in the planning and execution of the first DHS Career Expo, HQ EEO conducted outreach with the following organizations:

- Maryland Workforce Exchange;
- Baltimore City Homeless Veterans Project;
- Montgomery County One Stop Career Centers;
- Anne Arundel County One Stop Career Centers;
- Army Career and Alumni Program;
- Gallaudet University;
- Northern Virginia Community College;
- Northern Virginia Rehabilitation Services;
- Maryland Division of Rehabilitation Services;
- Operation War Fighter Program;
- Military Severely Injured Center;
- Army Wounded Warrior Program;
- Department of Labor Transition Assistance Program (TAP);
- National Security Education Program's (NSEP) Job Forum;
- Various diversity-focused events targeting African Americans, American Indians, Asian Pacific, Hispanic Americans, Individuals with Disabilities, Military/Veterans with disabilities and Women; and
- Asian Pacific American Federal Career Advancement Summit.

HQ EEO also sponsored "Connecting with Your Future," an open house to attract students with disabilities, as well as veterans with disabilities to DHS HQ. Participants had an opportunity to meet with managers and representatives from the various HQ offices and other DHS components.

Additionally, DHS HQ EEO conducted training on Prevention of Harassment, including sexual harassment for over 200 DHS managers and continued bi-weekly EEO and diversity training at orientation sessions for DHS managers, supervisors, and employees.

The HQ EEO Selective Placement Coordinator (SPC), recognized as an expert on advocacy for the employment of individuals and veterans with disabilities, was asked by various Federal agencies to provide information on employment of individuals and veterans with disabilities. The SPC also participated on panels at the following conferences: the Deaf and Hard of Hearing in Federal Government National Training Conference; CANAR; and the State of Maryland Career One Stop Navigators.

CONCLUSION

This report has highlighted many of the areas in which DHS has worked to ensure our goal of protecting America while preserving our civil rights and civil liberties. We strongly believe that America can both enforce its laws and fully respect our fundamental freedoms.

In the upcoming year, CRCL looks forward to continued collaboration with our DHS colleagues, Congress, and the public to further accomplish this important goal.

ACRONYMS

ADL	Automated Distance Learning
ADR	Alternative Dispute Resolution
CANAR	Consortia of Administrators for Native American Rehabilitators
CAP	Computer Electronic Accommodation Program
CBP	U.S. Customs and Border Protection
CIO	Chief Information Officer
CHCO	Office of the Chief Human Capital Officer
CRCL	Office for Civil Rights and Civil Liberties
CD-ROM	Compact Disc-Read Only Memory
COTS	Commercial Off-the-Shelf
DART	DHS Accessibility Requirements Tool
DHS	Department of Homeland Security
DOD	Department of Defense
DRO	Detention and Removal Office
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EOP	Emergency Operations Plans
FAD	Final Agency Decision
FAMS	Federal Air Marshals Service
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Center
FY	Fiscal Year
GOTS	Government Off-the-Shelf
HBCUs	Historically Black Colleges and Universities
HQ	Headquarters
I&A	Office of Intelligence & Analysis
ICE	U.S. Immigration and Customs Enforcement
ICC	Interagency Coordinating Council
ICCT	Incident Community Coordination Team
IG	Inspector General
IGSA	Inter-Governmental Service Agreement
ISCC	Information Sharing Coordinating Council
ISE	Information Sharing Environment
IT	Information Technology
MD	Management Directive
MSIs	Minority Serving Institutions
NDS	National Detention Standards
NIMS	National Incident Management System
NO FEAR	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
NRP	National Response Plan
NSEP	National Security Education Program
OAST	Office on Accessible Systems & Technology
ORR	Office of Refugee Resettlement

PGC	Privacy Guidelines Committee
PMF	Presidential Management Fellows
PR	Purchase Requests
SES	Senior Executive Service
SLFC	State and Local Fusion Centers
SLRFC	State, Local and Regional Fusion Center
SPC	Selective Placement Coordinator
TAP	Transition Assistance Program (TAP)
TCUs	Tribal Colleges and Universities
TRIP	Travel Redress Inquiry Program
TSA	Transportation Security Administration
TOPOFF 4	Top Officials 4
U.S.	United States
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
USCIRF	U.S. Commission of International Religious Freedom
USSS	U.S. Secret Service
WARP	Web Audit and Remediation Program
WHITCU	White House Initiative for Tribal Colleges and Universities