



# Department of Homeland Security Office for Civil Rights and Civil Liberties

Fiscal Year 2010 Annual and Consolidated Quarterly  
Reports to Congress

September 20, 2011



Homeland  
Security

# Foreword

In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, I am pleased to present this Report to Congress on the Department of Homeland Security Office for Civil Rights and Civil Liberties: Fiscal Year 2010. This document also serves as the quarterly reports for the same period.

Pursuant to congressional requirements, this Report is being provided to the following Members of Congress:

**The Honorable Joseph R. Biden**  
President of the Senate

**The Honorable Daniel K. Inouye**  
Chairman, U.S. Senate Committee on Appropriations

**The Honorable Thad Cochran**  
Ranking Member, U.S. Senate Committee on Appropriations

**The Honorable Joseph I. Lieberman**  
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Susan M. Collins**  
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

**The Honorable Dianne Feinstein**  
Chairman, U.S. Senate Select Committee on Intelligence

**The Honorable Saxby Chambliss**  
Vice Chairman, U.S. Senate Select Committee on Intelligence

**The Honorable Patrick J. Leahy**  
Chairman, U.S. Senate Committee on the Judiciary

**The Honorable Charles Grassley**  
Ranking Member, U.S. Senate Committee on the Judiciary

**The Honorable John Boehner**  
Speaker of the House, U.S. House of Representatives

**The Honorable Hal Rogers**  
Chairman, U.S. House of Representatives Committee on Appropriations

**The Honorable Norm Dicks**  
Ranking Member, U.S. House of Representatives Committee on Appropriations

**The Honorable Peter T. King**  
Chairman, U.S. House of Representatives Committee on Homeland Security

**The Honorable Bennie G. Thompson**

Ranking Member, U.S. House of Representatives Committee on Homeland Security

**The Honorable Mike Rogers**

Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

**The Honorable C.A. “Dutch” Ruppberger**

Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

**The Honorable Lamar Smith**

Chairman, U.S. House of Representatives Committee on the Judiciary

**The Honorable John Conyers, Jr.**

Ranking Member, U.S. House of Representatives Committee on the Judiciary

**The Honorable Darrell Issa**

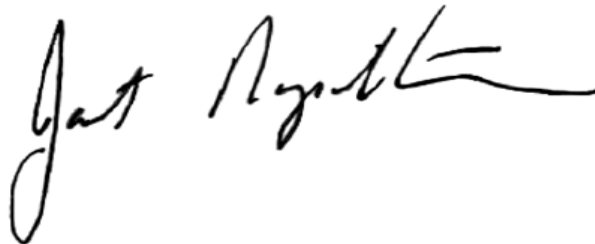
Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

**The Honorable Elijah E. Cummings**

Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform

Inquiries relating to this Report may be directed to the Office for Civil Rights and Civil Liberties (CRCL) at 866-644-8360 (TTY 866-644-8361) or [crcl@dhs.gov](mailto:crcl@dhs.gov). This Report and other information about CRCL are available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano". The signature is fluid and cursive, with a large initial "J" and a long horizontal stroke at the end.

Janet Napolitano  
Secretary  
U.S. Department of Homeland Security

## Message from the Officer, Margo Schlanger



I am pleased to present this Report on the activities of the U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL), which I have had the privilege to lead since January 2010. During Fiscal Year (FY) 2010, the Department's continued commitment to civil rights and civil liberties enabled CRCL to advance and improve its existing programs, as well as to expand.

CRCL is committed to the idea that American security and American rights are reinforcing. Core civil rights values—liberty, fairness, and equality under the law—are a vital part of America. American values are themselves a bulwark against those who threaten us. As President Obama has explained, “We uphold our most cherished values not only because doing so is right, but because it strengthens our country and it keeps us safe. Time and again, our values have been our best national security asset—in war and peace; in times of ease and in eras of upheaval.”

FY 2010 was an important year for CRCL. As the Department analyzed and refined its mission sets in the February 2010 Quadrennial Homeland Security Review, we aligned CRCL's activities to those missions—Preventing Terrorism and Enhancing Security; Securing and Managing Our Borders; Enforcing and Administering Our Immigration Laws; Safeguarding and Securing Cyberspace; and Ensuring Resilience to Disasters. As a result, in FY 2010, CRCL expanded its participation in programs and activities throughout the Department and continued its efforts to promote civil rights and civil liberties.

Full details are in the body of the report, but I want to highlight a few of the most significant initiatives and achievements:

- **Public Complaint Processing:** After conducting a thorough review of DHS's civil rights and civil liberties complaint procedures, we have improved the effectiveness and efficiency of our public complaint processes by posting a new, easy-to-use (optional) online complaint submission form in multiple languages; initiating an expedited process for urgent or limited complaints; increasing transparency; expanding our access to subject matter experts; and improving the availability of interpretation services for complainants with limited English proficiency. In addition, perhaps most importantly, we have improved our follow-up of recommendations to ensure that investigations lead to concrete improvements. More details are given in Section V, below.
- **Equal Employment Opportunity (EEO) Complaints:** In FY 2010, we greatly augmented efforts to eliminate the longstanding backlog of DHS's Equal Employment Opportunity (EEO) complaints awaiting CRCL's decision-making. As of this report's publication date, in FY 2011, the backlog is gone.
- **Community Engagement:** We have expanded our community engagement efforts to include a variety of stakeholders and organizations. Our engagement includes regular roundtables in



a growing list of geographic areas, occasional meetings in a large number of other locations, and national issue-based meetings.

- ***ICE Detention and Immigration Reform:*** We have collaborated closely with U.S. Immigration and Customs Enforcement (ICE) on detention reform and other immigration-related efforts.
- ***Aviation Security:*** In conjunction with the Transportation Security Administration (TSA), we have augmented our efforts to ensure that evolving aviation security measures protect civil rights and civil liberties.
- ***Training:*** We have expanded our training capacity and worked closely with the DHS Privacy Office and the Office of Intelligence & Analysis (I&A) to offer civil rights and civil liberties training sessions for fusion centers; we have also provided training that helps federal, state, and local law enforcement agencies do smarter, more effective work that avoids ethnic and religious profiling.
- ***Title VI of the Civil Rights Act of 1964:*** As part of a sustained effort to improve the Department's enforcement of Title VI of the Civil Rights Act of 1964, and its regulations, which prohibit recipients of financial assistance from DHS from discriminating in any program or activity on the basis of race, color, or national origin, we drafted and published for comment in the Federal Register guidance on Title VI's prohibition against national origin discrimination affecting persons with limited English proficiency (LEP). The guidance will help recipients of financial assistance meet their obligations to provide eligible LEP persons meaningful access to federally supported programs and activities. In April 2011, final guidance incorporating public comments was approved by the Department of Justice and published in the Federal Register. Other Title VI work, along with the development of a DHS-wide language access plan, is a priority for FY 2011.
- ***Deepwater Horizon Oil Spill:*** CRCL staff have worked in Mississippi, Louisiana, and Washington, DC, to safeguard the rights of communities adversely affected by the devastating Deepwater Horizon oil spill. CRCL has focused on promoting the ability of all residents—including those with limited English proficiency or disabilities that affect communication—to receive meaningful access to response and disaster resources, and has provided civil rights training to the DHS-deployed community relations personnel in the Gulf Coast.

This report, which constitutes both CRCL's annual report and quarterly reports for FY 2010, summarizes these activities and many others. More information is available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl). Please direct inquiries regarding this Report to [crcl@dhs.gov](mailto:crcl@dhs.gov) or call the Office at 866-644-8360 (TTY 866-644-8361).

Respectfully submitted,



Margo Schlanger  
DHS Officer for Civil Rights and Civil Liberties



## DHS Office for Civil Rights and Civil Liberties Annual Report FY 2010

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# I. Legislative Language

## **6 U.S.C. § 345 Establishment of Officer for Civil Rights and Civil Liberties**

Homeland Security Act of 2002, Pub. L. No. 107-296, § 705, 116 Stat. 2135, 2219-20, *amended by* Intelligence Reform and Terrorism Prevention Act of 2004, Pub L. No. 108-458, sec. 8303, § 705(a), 118 Stat. 3638, 3867.

### **(a) In general**

The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall--

- (1)** 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 Department;
- (2)** make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer;
- (3)** assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;
- (4)** oversee compliance 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;
- (5)** coordinate with the Privacy Officer to ensure that--
  - (A)** programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and
  - (B)** Congress receives appropriate reports regarding such programs, policies, and procedures; and
- (6)** 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.

### **(b) Report**

The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) of this section and any actions taken by the Department in response to such allegations.

## **42 U.S.C. § 2000ee-1 Privacy and Civil Liberties Officers**

Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. No. 110-53, sec. 803, § 1062, 121 Stat. 266, 360-362.

### **(a) Designation and functions**

... [T]he Secretary of Homeland Security ... shall designate not less than 1 senior officer to serve as the principal advisor to—

**(1)** assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;

**(2)** periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;

**(3)** ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and

**(4)** in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—

**(A)** that the need for the power is balanced with the need to protect privacy and civil liberties;

**(B)** that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and

**(C)** that there are adequate guidelines and oversight to properly confine its use.

### **(b) Exception to designation authority**

...

#### **(2) Civil liberties officers**

In any department, agency, or element referred to in subsection (a) of this section ... which has a statutorily created civil liberties officer, such officer shall perform the functions specified in subsection (a) of this section with respect to civil liberties.

### **(c) Supervision and coordination**

Each privacy officer and civil liberties officer described in subsection (a) or (b) of this section shall—

**(1)** report to the head of the department ...; and



(2) coordinate their activities with the Inspector General of such department ... to avoid duplication of effort.

**(d) Agency cooperation**

The head of each department, agency, or element shall ensure that each privacy officer and civil liberties officer—

- (1) has the information, material, and resources necessary to fulfill the functions of such officer;
- (2) is advised of proposed policy changes;
- (3) is consulted by decision makers; and
- (4) is given access to material and personnel the officer determines to be necessary to carry out the functions of such officer.

...

**(f) Periodic reports**

**(1) In general**

The privacy officers and civil liberties officers of each department, agency, or element referred to or described in subsection (a) or (b) of this section shall periodically, but not less than quarterly, submit a report on the activities of such officers—

- (A)(i)** to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;
- (ii)** to the head of such department, agency, or element; and
- (iii)** to the Privacy and Civil Liberties Oversight Board; and
- (B)** which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

**(2) Contents**

Each report submitted under paragraph (1) shall include information on the discharge of each of the functions of the officer concerned, including—

- (A)** information on the number and types of reviews undertaken;
- (B)** the type of advice provided and the response given to such advice;
- (C)** the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and
- (D)** a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

**(g) Informing the public**

Each privacy officer and civil liberties officer shall—

(1) make the reports of such officer, including reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) otherwise inform the public of the activities of such officer, as appropriate and in a manner consistent with the protection of classified information and applicable law.

**(h) Savings clause**

Nothing in this section shall be construed to limit or otherwise supplant any other authorities or responsibilities provided by law to privacy officers or civil liberties officers.

## II. Background

### A. Mission

The Office for Civil Rights and Civil Liberties supports the Department as it secures the Nation while preserving individual liberty, fairness, and equality under the law.

CRCL integrates civil rights and civil liberties into all of the Department activities:

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners.
- Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns.
- Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.
- Leading the Department's equal employment opportunity programs and promoting workforce diversity and merit system principles.

### B. Authorities

The authorities under which CRCL supports the Department are embodied in a variety of legal sources, including statutes passed by Congress, executive orders signed by the President, and delegations and directives issued by the Secretary of Homeland Security. Those authorities are listed in Appendix A of this report and are also posted at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### C. Leadership

The Officer for Civil Rights and Civil Liberties, **Margo Schlanger**, was appointed by President Obama in January 2010 to lead CRCL. Ms. Schlanger brings to the Department expertise in constitutional law and civil rights. She is on a long-term leave from her appointment as Professor of Law at the University of Michigan; her research and teaching have focused on constitutional law, civil rights, torts, prisons, and equal employment litigation. She also ran the Civil Rights Litigation Clearinghouse. Ms. Schlanger had previously been a Professor of Law at Washington University in St. Louis, and an Assistant Professor of Law at Harvard University. She earned her J.D. and her bachelor's degree, magna cum laude, from Yale University; while at Yale, she served as Book Reviews Editor of the Yale Law Journal and received the Vinson Prize. She then served as law clerk for Supreme Court Justice Ruth Bader Ginsburg from 1993 to 1995. Ms. Schlanger was also a trial attorney in the U.S. Department of Justice (DOJ) Civil Rights Division, where she worked to remedy civil rights abuses by prisons and police departments, and earned two Division Special Achievement Awards.

Ms. Schlanger is a leading authority on prisons and prisoner litigation. She was the reporter for the American Bar Association's revision of its Standards governing the Treatment of Prisoners; served on the Vera Institute's blue ribbon Commission on Safety and Abuse in America's Prisons; and worked as an advisor on development of proposed national standards implementing the Prison Rape Elimination Act. As the Officer for Civil Rights and Civil Liberties, she has testified before Congress, chairs the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, served on the first U.S. Delegation to the United Nation's Universal Periodic Review, and meets regularly with community leaders and groups across America to ensure that their perspectives regarding civil rights and homeland security are considered in the Department's policy process.

**Tamara Kessler** is the Deputy Officer for the Programs and Compliance Division. Prior to her appointment at DHS, Ms. Kessler spent 20 years at DOJ. Ms. Kessler first served as an Assistant U.S. Attorney in Philadelphia, then as a civil rights prosecutor at Main Justice. Following this, Ms. Kessler conducted internal investigations for the Office of the Inspector General and the Office of Professional Responsibility.

**Veronica Venture** was appointed in March 2011 as the Deputy Officer for EEO and Diversity Programs. She has spent her career promoting equal employment in the Federal Government, most recently as the EEO Director for the Federal Bureau of Investigation (FBI).

During FY 2010, **Stephen Shih** served as Deputy Officer for EEO and Diversity Programs. Upon Mr. Shih's departure for a new position at the Office of Personnel Management, **Robert Abraham** became the Acting Deputy Officer for EEO and Diversity, serving on a detail from his position as Supervisory Attorney in the Justice Department's EEO Complaint Adjudication Office.

## D. Organization

Under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the Officer for Civil Rights and Civil Liberties, Margo Schlanger, reports directly to the Secretary. Ms. Schlanger is supported by two Deputy CRCL Officers, Tamara Kessler, Deputy Officer for Programs and Compliance, and Veronica Venture, Deputy Officer for Equal Employment Opportunity and Diversity Programs. CRCL's staff is organized into the Programs and Compliance Division (further subdivided into two Branches, one for Programs and one for Compliance); the EEO and Diversity Division; and the Office of Accessible Systems and Technology, a joint endeavor with the DHS Office of the Chief Information Officer (OCIO).

At the close of FY 2010, CRCL had 99 staff and 10 contractors on board; staffing costs are the majority of the Office's budget. Table 1 details the Office's operating budget and staff for each fiscal year since 2004, the first year for which figures remain available.

**TABLE 1: CRCL OPERATING BUDGET AND STAFFING, FY 2004-FY 2010**

<b>Fiscal Year</b>	<b>Operating Budget</b>	<b>Federal Staff</b>	<b>Contract Staff</b>
2004	\$13,000,000	20	23
2005	\$13,000,000	24	34
2006	\$12,870,000	35	31
2007	\$13,090,495	45	12
2008	\$14,397,217	62	7
2009	\$18,417,000	75	10
2010	\$21,104,000	99	10

CRCL’s staff is organized into the following functional units:

The **Programs Branch** provides policy advice to the Department on civil rights and civil liberties issues; conducts training of DHS personnel and state and local law enforcement partners; and coordinates outreach and engagement activities in communities whose civil rights and civil liberties are particularly affected by DHS programs. The Programs Branch has six sections—Community Engagement; Immigration; Disaster Preparedness; Intelligence, Security, and Information Sharing; Impact Assessments; and the Civil Rights and Civil Liberties Institute. The Programs Branch sections’ activities and accomplishments are discussed in Section III.

The **Compliance Branch** investigates and resolves complaints from the public alleging violations of civil rights or civil liberties; racial, ethnic, or religious profiling, and disability discrimination prohibited by Section 504 of the Rehabilitation Act. See Section IV.

The **Equal Employment Opportunity and Diversity Division** leads the Department’s efforts to ensure that all employees and applicants enjoy equal opportunity, and issues final agency decisions on complaints of employment discrimination. See Section V.

The **Office of Accessible Systems & Technology** is a joint effort of CRCL and the DHS OCIO; it implements Section 508 of the Rehabilitation Act of 1973, which requires the Federal Government to ensure that information and data are accessible to persons with disabilities. See Section VI.

### III. Cross-Cutting Initiatives

#### A. Communications

Across CRCL, FY 2010 saw major improvements in communications with the public. CRCL redesigned its website, working collaboratively with the DHS Office of Public Affairs to create and implement a new web model for DHS headquarters components. The website, which launched in November 2010, provides comprehensive information about the Office, including



our reports, policies, complaints procedures, data on both employment and general civil rights complaints filed, and much more. Visit our website at [www.dhs.gov/crcl](http://www.dhs.gov/crcl) to learn more about CRCL.

Another major communications effort was the new CRCL newsletter, whose first issue went out at the end of the fiscal year. The monthly newsletter provides a look into the various activities of the Office, from our roundtable meetings with diverse ethnic and community-based organizations, to information on how the Office has improved its complaints process. It also includes updates on ongoing programs, calls for comments on various initiatives, and provides information about channels for redress and civil rights complaints. The newsletter is shared with thousands of nongovernmental organizations (NGO), community members, and government partners; it is also redistributed by several NGOs, furthering its reach. Readers may join the distribution list by sending an email request to [crcloutreach@dhs.gov](mailto:crcloutreach@dhs.gov).

Finally, CRCL has been active in engaging with media outlets, including local ethnic media in areas in which CRCL conducts community engagement work, which has resulted in articles and foreign-language interviews in cities around the country. Engaging local ethnic press helps improve CRCL's outreach by informing readers about CRCL and the work of the Department in securing the Nation while preserving individual liberty, fairness, and equality under the law.

#### **Inside the CRCL Newsletter (November 2010)**

[CRCL launches revamped website](#)

[CRCL submits Annual Report to Congress](#)

[ICC submits 2009 Annual Report to the President](#)

[CRCL improves complaints process](#)

[CRCL participates in the presentation at the UN Human Rights Council](#)

[Human Rights Day, December 10](#)

[CRCL expands community outreach roundtables](#)

[CRCL leadership](#)



## B. Response to the Deepwater Horizon Oil Spill

DHS played a key role in the Obama administration's response to the BP oil spill, the largest spill in our nation's history, leading the federal government's efforts to leverage resources from across the country and around the world to mitigate the impact of the oil on the environment, the economy and public health. Coordination of services to affected communities was managed by the Deepwater Integrated Services Team, established by the White House in the first days after the disaster. This Team monitored response and recovery activities, including clean up and processing of claims.

CRCL worked in collaboration with FEMA, the White House Initiative on Asian Americans and Pacific Islanders, and other interagency partners to provide support to the Integrated Services Team on access issues such as ensuring equal access to response and recovery activities for individuals with limited English proficiency or disability-related communications needs. Staff from CRCL's Disaster Preparedness Section, Immigration Section, and others worked tirelessly on a host of initiatives in Mississippi, Louisiana, and Washington, DC. CRCL staff:

- Met with non-governmental organizations, mayors, BP claims staff, leaders, and community members to understand the challenges faced by different communities in accessing relief provided by governmental agencies and BP.
- Trained 80 DHS community relations personnel deployed to the Gulf Coast on relevant civil rights issues, including Title VI compliance, language access obligations, and community outreach.
- Helped draft standard operating procedures regarding the provision of support and services to individuals with limited English proficiency and other communications barriers.
- Provided guidance regarding accessibility of public information, meetings sites, websites, and claims facilities for culturally diverse populations and for persons with disabilities. CRCL recommendations included, for example, the use of American Sign Language interpreters during town hall meetings and at claims sites.
- Supported the USCG oil spill claims staff and drafted policy language on equal access, ultimately adopted by the Gulf Coast Claims Facility. As a result of CRCL involvement, the USCG translated its claims booklets into Vietnamese, Khmer, and Spanish; established a phone line for those with hearing disabilities; and ensured that bilingual staff was available to answer public inquiries.

## C. Congressional Testimony and Briefings

- CRCL Officer Schlanger testified before the House Homeland Security Subcommittee on Intelligence, Information Sharing, and Terrorism Risk Assessment on March 17, 2010 as a witness in the hearing: "Working with Communities To Disrupt Terror Plots." Her testimony focused on CRCL's "[f]requent, responsive, and thoughtful engagement with diverse communities" as "a basic part of good and responsible government." Ms. Schlanger stated that CRCL's outreach and engagement develops "crucial channels of communication, both educating us about the concerns of communities affected by

DHS activities and giving those communities reliable information about policies and procedures. They build trust by facilitating resolution of legitimate grievances; reinforce a sense of shared American identity and community; and demonstrate the collective ownership of the homeland security project.” Ms. Schlanger reaffirmed that engagement with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities is “a crucial method of reinforcing the fundamental tenet that we are fellow citizens facing a common threat.”

- In FY 2010, CRCL led or participated in more than two dozen briefings, meetings, and events with Members of Congress or congressional staff covering the diverse range of topics and issues in which CRCL is engaged.

## IV. Programs Branch: Policy Advice, Training, and Outreach

CRCL's policy advice, training, and outreach efforts are structured into several Programs Branch sections, though many activities involve staff and other resources from across the Branch. CRCL's initiatives and accomplishments in these areas during FY 2010 are listed beneath the section that had principal involvement.

### A. Civil Rights and Civil Liberties Institute

Targeted and effective training helps improve the Department's capacity to protect America while respecting civil rights and civil liberties. In turn, this capacity helps to build public trust and to fuel cooperation with the Department's mission. CRCL's training section is the Civil Rights and Civil Liberties Institute (CRCL Institute). During FY 2010, the CRCL Institute provided classroom and on-line training, distributed multiple training products, and continued to partner with DHS Components and other agencies in the development and delivery of civil rights and civil liberties training.

1. ***State and Major Urban Area Fusion Center Training:*** At fusion centers, state and local officials, alongside their federal partners, collaborate, coordinate, and share law enforcement and intelligence information. CRCL provides training on civil rights and civil liberties for all DHS officers and intelligence analysts deployed to state and major urban area fusion centers, and supports the training of all fusion center personnel, under 6 U.S.C. § 124h(c)(4)(A)



In partnership with the DHS Privacy Office, and with funding from I&A, the CRCL Institute established the Fusion Center training program on privacy, civil rights, and civil liberties to fulfill requirements associated with the Implementing Recommendations of the 9/11 Commission Act of 2007. The curriculum and training materials were developed for delivery to all DHS intelligence officers and analysts before they deploy to state and major urban area fusion centers and throughout their careers, as well as to support the training of all fusion center personnel:

- a. ***Pilot:*** The Fusion Center training program began with a pilot program, conducted from April 2009 to November 2009. During the pilot, CRCL conducted 12 training sessions on-site at ten fusion centers in seven states, and trained over 300 staff and liaison officers and other personnel. Training evaluations had an average rating of 4.1 (out of 5) for overall usefulness and effectiveness.
- b. ***Training DHS Intelligence Officers Deployed to Fusion Centers:*** CRCL is fulfilling its statutory mandate under 6 U.S.C. § 124h to provide training on civil rights and civil liberties to DHS I&A intelligence officers deployed to state and major urban area fusion centers. CRCL and the Privacy Office trained the 36 I&A officers deployed in FY 2010, and provided refresher training to all analysts at the National Fusion Center Conference in February 2010.
- c. ***Training of Trainers:*** The best way to ensure incorporation of civil rights, civil liberties, and privacy protection into the day-to-day activities of the fusion centers is to train and

support a cadre of on-site experts. These experts can then provide training, consultation, and product review, if appropriate. Accordingly, CRCL developed a “training of trainers” program, which (i) provides state and major urban area fusion center staff with a foundation of core concepts regarding privacy, civil rights and civil liberties in the Information Sharing Environment, (ii) equips officials to themselves use the training materials developed by CRCL, and (iii) introduces the privacy, civil rights, and civil liberties (PCRCL) officers to each other and to the DHS resources and staff who can support them.

During FY 2010, CRCL led development of training plans for the PCRCL officers at every recognized fusion center. In conjunction with the Privacy Office, I&A, DOJ, and the Program Manager for the Information Sharing Environment, CRCL held four regional training sessions with the regional fusion center conferences in Minneapolis, MN; Philadelphia, PA; Portland, OR; and Montgomery, AL. Each PCRCL officer was asked to conduct one or more PCRCL training sessions in his or her local jurisdiction within four to six months. During the fourth quarter, the CRCL Institute hosted a “make-up” session in Washington, DC, for fusion center privacy and civil rights officers unable to attend spring trainings. In total, the sessions trained officers from 66 of the 72 recognized fusion centers. CRCL will continue to provide technical assistance and support to these participants throughout FY 2011. CRCL will also provide an additional Washington, DC training session, enabling the program to reach all 72 recognized fusion centers.

- d. **Basic Intelligence and Threat Analysis Course (BITAC):*** This training session offers an overview of the civil rights and civil liberties issues most likely to arise in the context of intelligence analysts’ work and the authorities under which they operate. During FY 2010, the CRCL Institute, in partnership with CRCL’s Intelligence, Security, and Information Sharing (ISIS) Section, trained more than 100 new intelligence analysts from U.S. Customs and Border Protection (CBP), I&A, ICE, National Protection and Programs Directorate (NPPD), TSA, U.S. Citizenship and Immigration Services (USCIS), the National Security Agency, and the Washington Regional Threat and Analysis Center. The CRCL Institute revised its curriculum based on past use, fusion center training, and intelligence product review. CRCL now delivers its portion of the BITAC Course to all new DHS analysts.
- e. **FY 2010 Fusion Center On-Site Training:*** CRCL supported the National Network of Fusion Centers by developing an expanded library of civil rights and civil liberties resources and technical assistance to support ongoing training for all fusion center personnel in FY 2011. Using both new and existing materials, the CRCL Institute has created customized training covering core issues that responds to the needs of individual fusion centers. Beginning in July 2010, the CRCL Institute, in collaboration with the DHS Privacy Office and I&A, provided on-site training to participants from seven fusion centers, reaching over 140 participants. On-site training continued to an additional eight fusion centers in the first half of FY 11, and will reach an additional six fusion centers by the end of the fiscal year. This program of on-site training provided not just to the PCRCL Officers but to fusion center personnel more broadly, usefully supplements the training of trainers by informing CRCL’s development of training materials and supports provided the PCRCL officers.

*f. Criminal Intelligence Coordinating Council Briefing:* In March 2010, the CRCL Institute disseminated fusion center training materials to members of the Criminal Intelligence Coordinating Council (CICC) and briefed the members on CRCL's fusion center training. CICC and the Global Intelligence Working Group (GIWG) are charged with advising and providing recommendations to the U.S. Attorney General on issues relating to advancing the use of technology, standards, and collaboration between agencies and organizations in the area of criminal intelligence. Both CICC and GIWG serve as advocates for local law enforcement in their efforts to develop and share criminal intelligence.

## 2. *Immigration-Related Training:*

*a. ICE Fact-finders Training:* In partnership with CRCL's Compliance Branch, the CRCL Institute developed training for ICE fact-finders on investigating civil rights and civil liberties complaints. CRCL provided this training five times in 2010 at the Federal Law Enforcement Training Center (FLETC) in Georgia for fact-finders from various areas' ICE offices.

*b. ICE Detention Service Managers Training:* The CRCL Institute and the Immigration Section conducted three training sessions for new ICE Detention Service Managers. The sessions covered civil rights and civil liberties issues in the detention environment, including the Violence Against Women Act (VAWA), asylum, access to counsel, sexual assault response, religious practices, cultural competencies, and language access. Work continues in FY 2011 to institutionalize similar training.

*c. E-Verify Training:* CRCL Institute and the Immigration Section collaborated with USCIS to produce, create, and release employer and worker educational videos, available in English and Spanish. These videos were accompanied by comprehensive print materials, to ensure that employees understand their rights and employers understand their responsibilities under the E-Verify program, which allows employers to verify the employment eligibility of newly hired workers. The videos were launched in March 2010 at a public event featuring USCIS Director Alejandro Mayorkas, Assistant Attorney General Thomas Perez, and CRCL Officer Margo Schlanger.



*3. Cultural Competency Training:* To enhance the cultural competency of DHS personnel, CRCL has distributed training posters on Muslim and Sikh religious head-coverings and the Sikh kirpan. In addition, CRCL created an in-person course for law enforcement and fusion center analysts in an effort to increase communication, build trust, and encourage interactive dialogue. Topics of discussion include: misconceptions and stereotypes of Islam and Muslims; a how-to guide for community interaction; effective policing without the use of ethnic profiling; and federal approaches to engagement and outreach. In FY 2010, CRCL trained 1300 international, federal, state, and local law enforcement officers and intelligence analysts.

## 4. *Additional New Training Products:*

*a. DHS 101: Awareness Forum:* The CRCL Institute developed *CRCL 101*, a one-hour presentation to incorporate into *DHS 101: Awareness Forum*, a monthly orientation

program for new DHS headquarters staff. CRCL 101 explains CRCL’s mission, key issue areas, and work. Nearly 500 new staff received the training over FY 2010.

- b. *Constitution Day Training:*** The CRCL Institute updated DHS Constitution Day training and ensured its availability on all eight DHS learning management systems for the September 17, 2010, Constitution Day observance.
- c. *Employees with Disabilities Training:*** The CRCL Institute designed and produced two web-based video sessions that help DHS managers and supervisors recruit, hire, and retain persons with disabilities. Additional new materials on Veterans with Disabilities and Providing Reasonable Accommodation will go live in FY 2011.

Information about dozens of other training products created or facilitated by the CRCL Institute in earlier fiscal years is available on our website, <http://www.dhs.gov/crcl>.

## B. Community Engagement Section

Good community engagement by a government agency such as DHS shares information, gathers information, builds trust, informs policy, enables prompt response to legitimate grievances and needs, and is the right of Americans as the sovereign source of governmental authority. The Community Engagement Section is a key facet of CRCL’s strategy to promote civil rights and civil liberties. This Section facilitates two-way communication with the public—both to share information and respond to concerns. The Section is continuing to build and expand partnerships between DHS and communities whose civil rights and civil liberties may be affected by the Department’s activities, and to serve as a point of inquiry and redress for individuals concerned about their civil rights and civil liberties.

- 1. *Community Roundtables:*** The core of CRCL’s engagement efforts has been the Office’s coordination of regular location-based meetings or “roundtables” among representatives of federal, state, and local government agencies, representatives of NGOs, and community leaders whose communities have civil rights concerns. Local leadership from TSA, CBP, ICE, and USCIS are often key participants, as are representatives of local U.S. Attorneys’ Offices and FBI offices. In many cities, CRCL’s Community Engagement staff coordinates the roundtables, often with a partner (most often the U.S. Attorney’s office, FBI district office, or USCIS). Elsewhere, CRCL participates for DHS rather than coordinates. CRCL’s roundtables have for a number of years focused on bringing together American Arab, Muslim, South Asian, Middle Eastern, and Sikh communities with government representatives. FY 2010 saw a major initiative to broaden the meetings, reaching out to diverse immigrant communities and others with frequent concerns relating to homeland security and civil rights/liberties.



Regular roundtables were held in FY 2010 in Washington, DC; Chicago, IL; Los Angeles, CA; Boston, MA; Detroit, MI; Columbus, OH; and three new cities that were added in late



2010—Seattle, WA; Atlanta, GA; and Minneapolis, MN. In addition, special meetings were held in Tucson, AZ; Fremont, CA; San Diego, CA; San Jose, CA; Hartford, CT; Tampa, FL; Portland, ME; Raleigh, NC; Albuquerque, NM; New York, NY; Cleveland, OH; Portland, OR; Kingston, RI; Dallas, TX; and San Antonio, TX.

Topics frequently addressed at roundtables included: immigration and naturalization policies; language access rights; roles and responsibilities of law enforcement; detention of national security suspects; redress mechanisms; services for newly-arrived refugees; how communities can work with government to counter violent extremism; protection of civil rights; and border searches. In FY 2010, two of the roundtable sessions included unclassified National Counterterrorism Center “Threat Briefings” on domestic violent extremism.

2. ***Latino and Asian American Initiative:*** CRCL significantly expanded outreach efforts during FY 2010 to include Latino and East Asian communities, including taking the following steps:
  - CRCL sponsored stakeholder meetings in Albuquerque, NM; Atlanta, GA; Chicago, IL; Denver, CO; Los Angeles, CA; San Antonio, TX; Tucson, AZ; and Washington, DC. Items discussed included regional CRCL outreach with a broader set of stakeholders, translations of ICE and CBP detention forms and documents, and disaster information for those with limited English proficiency.
  - CRCL participated for the first time in the National Council of La Raza (NCLR) Annual Conference (San Antonio, TX) and at the League of United Latin American Citizens (LULAC) National Convention and Exposition, presenting on a workers’ rights panel and sharing information on worker rights associated with the E-Verify program and CRCL’s initiatives involving Hispanic- and Asian-American communities (Albuquerque, NM).
  - CRCL Officer Schlanger met with numerous community groups in Los Angeles and Orange County, CA; New York, NY; and Washington, DC. She conducted a media roundtable with Asian language media outlets in Los Angeles.
3. ***Somali American Initiative:*** The Community Engagement Section worked closely with Somali-American leaders. Outreach and engagement examples included a youth roundtable discussion hosted by the City of Columbus, OH, in conjunction with the Somali Youth Summit; a meeting with Somali-American community and refugee assistance organizations in Denver, CO; and a meeting with Somali-Americans and NGOs in the Twin Cities. CRCL also participated in a DHS/DOJ Somali Advisory Group Meeting in Columbus to discuss fighting in the Horn of Africa and other issues of importance to the local Somali community. Finally, CRCL coordinated community engagement town hall meetings with Somali communities in Seattle, WA, and San Jose, CA. FY 2011 includes more work in this area.
4. ***International Engagement and Outreach Activities:*** The Community Engagement Section continued to strengthen relationships with foreign partners. CRCL shared best practices with these partners regarding protecting civil rights and civil liberties, such as information sharing and community policing. In particular, staff:
  - Presented at the Police Experts Conference on Hate Crimes and Community Policing in Vienna, Austria, hosted by the Organization of Security and Cooperation in Europe. The presentation included a discussion of the use of proactive community engagement tools to counter hate crimes within affected minority communities.

- Participated in international meetings to share engagement and outreach strategies with foreign government entities. One example was the Cairo Speakers Meeting, hosted by the U.S. Department of State (DoS) in Cairo and Alexandria, Egypt, at which CRCL participated in lectures, roundtable discussions, and media appearances relating to the protection of civil liberties for Muslim Americans.
- Met with a delegate from the Danish government to discuss CRCL engagement programs with American Muslim communities nationwide.
- Participated in a High-Level Conference on Tolerance and Non-Discrimination, sponsored by the Organization for Security and Cooperation in Europe, in Astana, Kazakhstan. The U.S. Delegation, which included CRCL, was organized by DoS.
- Participated in a cultural exchange with the Royal Kingdom of Saudi Arabia's Ministry of Interior to share information about protection of civil rights and civil liberties and countering violent extremism.

#### **5. *Special Issue-Focused Engagement***

Most of the Community Engagement Section's work focuses by region or city, and cuts across issues. But the Section has done substantial work on issue-specific engagement as well. For example:

- CRCL Officer Schlanger and TSA's Special Counselor to the Administrator held a listening session for diverse religious leaders on religious concerns relating to Advanced Imaging Technology (AIT).
- Community Engagement Section staff participated in a number of meetings with NGOs—such as the Sikh American Legal Defense and Education Fund, the American-Arab Anti-Discrimination Committee (ADC) in Boston, MA and the Muslim Public Affairs Council (MPAC) leadership—to discuss community policing and civil rights.
- Community Engagement Section staff participated in a Pakistani American Public Affairs Committee (PAKPAC) event, entitled “United States and Pakistan Enhanced Partnership Role of the Pakistani American Community.” Invitees included representatives of the Pakistani American Community, federal officials, members of Congress, and NGOs.
- Community Engagement Staff participated in a forum sponsored by MPAC along with other experts to discuss the importance of engaging with Muslim communities and partnerships between Muslim communities and law enforcement.
- During the Hajj travel season, the Community Engagement Section staff coordinated conversation involving CBP, TSA, and Muslim community leaders to prepare for and provide information and training regarding Hajj.

#### **6. *Youth Programs***

- CRCL Officer Margo Schlanger and CRCL representatives hosted a meeting in Los Angeles, CA with young leaders from American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities. The topics were civil rights concerns and activities, and the government's work to counter violent extremism.

- CRCL staff presented at a Legislative Training Program hosted by the United Voices for America for 40 Capital Leadership Academy Muslim and minority students.
  - CRCL staff presented on DHS and the role of CRCL at the PAKPAC Youth Empowerment Conference (Washington, DC).
7. ***Other Engagement Activities:*** The Community Engagement Section put together and participated in many special meetings to establish contacts, discuss civil rights priorities, and facilitate problem solving. These meetings involved international partners; community representatives; and federal, state, and local government officials. For example:
- The Section facilitated Secretary Napolitano’s meeting with leaders from American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities in Washington, DC in January 2010, and organized a follow-up meeting several months later bringing together NGO and community leaders and senior DHS leadership, including CRCL Officer Margo Schlanger.
  - CRCL Officer Schlanger attended a meeting in New York, NY hosted by the Homeland Security Advisory Council where she spoke on a panel about steps that DHS can take to better support community-based efforts to combat violent extremism domestically—focusing on the issues of training, information sharing, and the adoption of community-oriented law enforcement approaches.
  - Community Engagement Section staff attended a meeting with representatives of the Los Angeles Police Department (LAPD) and FBI in Los Angeles, CA to learn about their engagement initiatives. During the meeting CRCL, LAPD, and the FBI reviewed best practices for state and local engagement programs in order to bring them to the national level.
  - CRCL Officer Schlanger gave speeches or participated in panel presentations at numerous community/NGO events, including:
    - Annual dinner of the Council of Islamic Organizations of Greater Chicago.
    - ADC 30<sup>th</sup> Anniversary National Convention.
    - Conference on Radicalization and De-radicalization Strategies, hosted by Pak-PAK foundation.
    - Special gathering at the Futa Islamic Center in New York City.
8. ***Incident Community Coordination Team (ICCT):*** The ICCT connects government officials with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities. Three ICCT calls were convened during FY 2010, and more than 60 representatives of government and community organizations participated in each call, including the White House, DOJ, FBI, and the U.S. Department of Defense (DoD):
- To discuss the November 2009, Ft. Hood, TX incident
  - To discuss the December 2009, attempted bombing of Northwest Airlines Flight #253.
  - To discuss concerns related to the large number of hate-motivated violent incidents reportedly directed at American Muslim and Sikh communities.

9. ***Conventions and Conferences:*** CRCL staff participated in many conferences, including:

- MPAC Conference and Minnesota Human Rights Conference sponsored by the Minnesota Department of Human Rights (Minneapolis, MN).
- South Asian Americans Leading Together Conference (Washington, DC); panel entitled “Balancing Act: National Security and Civil Liberties in a Post-9/11 World.”
- North American South Asian Bar Association National Conference (Boston, MA); panel entitled “Grading the Obama Administration on Civil Liberties and Terrorism.”
- International Association of Chiefs of Police Conference (Denver, CO); “Cultural Competency for Law Enforcement.”
- Washington Institute’s Stein Program on Counterterrorism and Intelligence (Washington, DC); panel entitled “Terrorist Dropouts: Learning from Those Who Have Left.”
- Community event sponsored by the U.S. India Political Action Committee (Washington, DC); panel entitled “Discrimination Protections, Immigration Policy, and Civic Engagement.”
- ADC Convention (Washington, DC; CRCL Officer Schlanger presented on a panel entitled “Civil Rights: Unfinished Business?”
- 47th Annual Islamic Society of North America Convention (Rosemont, IL)
- USCIS Central and Eastern Regions Community Relations Officer Conferences (El Paso, TX, and Baltimore, MD).
- Peace and Security Summit hosted by the International Centre for the Study of Radicalization and Political Violence (New York, NY).
- National Council of La Raza Annual Conference (San Antonio, TX)
- LULAC National Convention and Exposition (Albuquerque, NM)

## **C. Countering Violent Extremism**

Violent extremism continues to pose a grave threat to our Nation’s security. Many DHS Components and offices conduct activities to understand, detect, deter, and prevent terrorism. CRCL’s role in the effort to counter violent extremism (CVE) focuses on working with communities as part of the solution to domestic violent extremism, and on ensuring that CVE efforts respect civil rights and civil liberties. The part of this report immediately above demonstrates CRCL and DHS’s deep commitment to frequent, responsive, and thoughtful engagement with diverse communities as an imperative of good and effective government. As a secondary or even tertiary goal, outreach programs can reinforce a sense of shared American identity and foster strong, resilient communities that can promote integration and counter possible precursors of violent extremism. It is communities rather than government that are best equipped to notice violent extremism. As numerous recent examples demonstrate, when community members trust law enforcement authorities, they report suspicious activities.

State and local law enforcement agencies are key to any nationally effective CVE program. Partnerships between communities and law enforcement and increased community-oriented

policing programs can reduce violent crime and inhibit ideologically motivated crime. But before any effective engagement programs commence, state and local partners must be well versed in the community, the issues, and the culture of those they seek to engage. Accordingly, CRCL conducts law enforcement training to support law enforcement CVE efforts, focusing in particular on community-oriented law enforcement approaches.

In 2010, CRCL provided CVE training to over 2,000 intelligence analysts and federal, state, and local law enforcement officials nationwide, in 30 training sessions. Our efforts reached:	
<b>Fusion Centers</b>	
<ul style="list-style-type: none"> <li>• DHS Intelligence Officers</li> <li>• National Fusion Center Conference</li> <li>• Rhode Island State Fusion Center and Anti-Terrorism Advisory Council</li> </ul>	<ul style="list-style-type: none"> <li>• Kentucky Intelligence Fusion Center</li> <li>• California Fusion Centers (Los Angeles, Sacramento, San Diego)</li> <li>• Indiana Intelligence Fusion Center</li> </ul>
<b>Law Enforcement Conferences</b>	
<ul style="list-style-type: none"> <li>• International Association of Chiefs of Police National Conference</li> <li>• Major City Chiefs Association Intelligence Commander’s Conference</li> </ul>	<ul style="list-style-type: none"> <li>• National Governor’s Association Homeland Security Advisors National Conference</li> </ul>
<b>DHS National Meetings</b>	
<ul style="list-style-type: none"> <li>• Fraud Detection and National Security national meeting</li> </ul>	<ul style="list-style-type: none"> <li>• U.S. Immigration and Customs Enforcement detention service managers national meeting</li> </ul>
<b>Local Law Enforcement</b>	
<ul style="list-style-type: none"> <li>• Houston Police Department (Texas)</li> <li>• Harris County Sheriff’s Office (Texas)</li> <li>• Los Angeles Police Department (California)</li> <li>• Los Angeles Sheriff’s Department (California)</li> </ul>	<ul style="list-style-type: none"> <li>• Tigard Police Department (Oregon)</li> <li>• Portland Police Department (Oregon)</li> <li>• Lexington/ Covington Police Departments (Kentucky)</li> </ul>
<b>Prisons</b>	
<ul style="list-style-type: none"> <li>• Federal Correctional Institute (Butner, North Carolina)</li> </ul>	
<b>International Law Enforcement</b>	
<ul style="list-style-type: none"> <li>• United Kingdom</li> <li>• Germany</li> <li>• Belgium</li> </ul>	<ul style="list-style-type: none"> <li>• Denmark</li> <li>• Canada</li> <li>• European Union</li> </ul>

CRCL’s CVE training is conducted on-site at state and local law enforcement agencies. It includes three components: 1) understanding violent radicalization; 2) cultural awareness; and 3) community engagement. Discussion topics include an unclassified threat briefing; misconceptions and stereotypes of Islam and Muslims; a how-to guide for community interaction; and effective policing without the use of ethnic profiling. The course orients law enforcement personnel to key cultural issues involving the American Arab, Muslim, Sikh, Somali, and South Asian communities and increases core competence in this area.

We continue to offer this training in FY 2011. At the same time, CRCL is a key participant in ongoing efforts to bring together the Federal Law Enforcement Training Center and other DHS and external participants to develop a more formal curriculum and course offering.

Additional CVE efforts involve sharing best practices and insights across international boundaries. In FY 2010, CRCL worked on numerous international efforts, including:

- Meeting with United Kingdom (UK) government officials to discuss their CVE initiatives; participating in the US-UK Joint Contact Group, the official bilateral forum for DHS and UK security agencies; and participating in a monthly video teleconference meeting with the UK Home Office to discuss matters of mutual concern in the area of homeland security.
- Hosting a second Joint Contact Group meeting from the UK Home Office, Office for Security and Counter-Terrorism. This program allowed DHS and the UK the opportunity to share best practices concerning programs and initiatives targeted to counter violent extremism.
- Participating in the International Summit on CVE hosted by the Department of State.
- Briefing an official with the Belgian National Police regarding community policing models within law enforcement. The discussion focused on the importance of capacity building and training for law enforcement officials, in the realm of community engagement.
- Participating in a Conference on Community Based Approaches to CVE in Stockholm, Sweden, to share best practices with American and European government officials and researchers on community outreach and CVE training.
- Participating in a cultural exchange with the Royal Kingdom of Saudi Arabia's Ministry of Interior to share information about protection of civil rights and civil liberties and CVE.
- Participating in a United States-Canada Joint Working Session on CVE hosted by DHS and Public Safety Canada to share information about law enforcement training and best practices in community engagement.

## **D. Disaster Preparedness Section**

During FY 2010, CRCL broadened the scope of its disaster-related civil rights and civil liberties work, promoting the elimination of barriers to equal access to disaster planning, response, and recovery. In prior years, the Section's efforts were devoted to integrating individuals with disabilities into the Nation's preparedness efforts. With the establishment of FEMA's Office of Disability Integration and Coordination, the Section has had an opportunity to expand its focus beyond disability issues and work on other civil rights initiatives as well.

At the same time, CRCL continues to lead interagency work on disability access to emergency preparedness. CRCL Officer Margo Schlanger chairs the 25-agency Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (ICC), to coordinate federal work to remove the barriers that undermine equal participation of persons with disabilities in this crucial area.



1. ***Enhancing Long-Term Disaster Recovery:*** CRCL worked to strengthen the National Disaster Recovery Framework (NDRF), a draft of which was published in the Federal Register in February 2010 by FEMA in coordination with the interagency Long Term Disaster Recovery Working Group. When complete, the NDRF will create a comprehensive coordinating structure to enhance the Federal Government's ability to work with state and local governments, NGOs, and the private sector to effectively deliver recovery assistance. CRCL's Disaster Preparedness Section provided comments and other assistance to the NDRF Interagency Working Group, and co-chaired a group within the ICC to develop recommendations for a report to the White House that will accompany the final NDRF. The recommendations developed were also included in an ICC's report to the President, and work to bring them to fruition continues in FY 2011. They included, for example, inclusion of disability specific measures in any performance metrics used to evaluate disaster recovery, and the interagency development of grant terms that allow for significant augmentation of disability-related organizational funding during disaster response and recovery.



2. ***Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities Convened under Obama Administration:*** Under Executive Order 13347, which established the ICC and called for the inclusion of individuals with disabilities in emergency preparedness planning, the ICC reconvened in 2010 with renewed energy and many new representatives from member agencies. With numerous staff-level meetings, and two principal-level meetings chaired by CRCL Officer Margo Schlanger, FY 2010 accomplishments included:

- **Disaster response:** The ICC tested real-time ICC disaster response functions as part of National Level Exercise (NLE) 2010, and conducted incident coordination in preparation for and response to Hurricane Earl.
- **Best Practices:** The ICC published an addendum to the Framework of Guidelines for Emergency Preparedness for Federal Agencies with regard to stairwell evacuations. Relevant ICC agency staff examined and documented progress on the disability-related provisions of the Post-Katrina Emergency Management Reform Act of 2006. This legislation contains numerous provisions intended to bring about improvements in emergency management for individuals with disabilities. The group identified the provisions that have not yet been implemented and developed a strategy for continued interagency collaboration towards enabling the full implementation of disability-related provisions of this legislation.
- **Annual Report and Recommendations:** The ICC also submitted the Annual Report to the President required by Executive Order 13347—the first such report since 2006—presenting a significant set of recommendations to improve long-term disaster recovery for individuals with disabilities. Two of these recommendations were achieved in FY 2010—FEMA's hiring of disability subject matter experts in its Regional offices and the inclusion of accessibility among the search criteria for the U.S. Department of Housing and Urban Development's National Housing Locator System. Work on several remaining 2009 recommendations continues in FY 2011, focusing on separating

accessibility costs from the cap on FEMA Individual Assistance granted households with disaster-related costs; contributing to the training of FEMA field personnel on access and functional needs; establishing a ready-to-go Mission Assignment document to enable DOJ to provide accessibility expertise following a disaster; and working with the U.S. Department of Transportation to increase public awareness of funding options for accessible transportation during disaster recovery.

- **ICC Update Newsletters:** The *ICC Update* is distributed to approximately 1,000 stakeholders from the governmental and non-governmental sectors and is posted on the ICC's website, [www.disabilitypreparedness.gov](http://www.disabilitypreparedness.gov). CRCL published two *ICC Updates* during FY 2010. The May 2010 issue highlighted the reconvening of the ICC under the Obama Administration and the Council's 2010 work plan, and the July 2010 issue described the work of the Deepwater Integrated Services Team.
3. ***Partnering with NORTHCOM on Incident Response:*** Working through DHS and Department of Defense Northern Command (NORTHCOM) liaisons, Disaster Preparedness Section staff interviewed Joint Task Force Commanders and Defense Coordinating Officers to identify civil rights and civil liberties issues that arise during domestic military incident response, and provided training to 120 National Guard Joint Task Force commanders on best practices in addressing the diverse needs and rights of community members as part of the NORTHCOM Defense Support of Civil Authorities course.
  4. ***Support of International Disaster Response:*** Following the devastating January 2010 earthquake in Haiti, CRCL participated in a working group created to establish guidelines and procedures for a coordinated federal response to meet the functional needs of Haitians with disabilities. The group also included technical experts from the U.S. Agency for International Development, FEMA, and the U.S. Department of Health and Human Services (HHS). CRCL gathered information about persons with disabilities impacted by the earthquake, identified concerns, and promoted outreach and communication to key stakeholders so that issues faced by that population were appropriately addressed. The working group developed recommendations for future incidents, suggesting that DoS Task Forces should incorporate disability issues into their decision-making to regularize inclusion of disability issues into federal international response and recovery efforts.
  5. ***Working to Ensure Equal Access to Response Activities in the Gulf Coast:*** This activity is discussed in Cross-Cutting Initiatives, Section III, above.
  6. ***Responding to the H1N1 Pandemic:*** The Disaster Preparedness Section staff worked with the Department's Office of Health Affairs to develop the DHS H1N1 strategic plan, the DHS Intra-Departmental Pandemic Influenza Exercises, and DHS Pandemic Influenza workforce guidance. In particular, CRCL worked to ensure that, regardless of disability, DHS employees had equal access to H1N1-related messages, guidance, and any workplace accommodations that might be needed in response to a serious outbreak within the workplace.

## Outreach Activities:

- Disaster Preparedness Section staff spoke at numerous external events, including the Baltimore Federal Executive Board's 2009 Annual Disability Employment and Awareness Training Program. In addition, this Section held a meeting with the Eastern Kentucky

University undergraduate emergency management students, staff, and local emergency professionals; spoke to San Francisco Bay regional emergency evacuation planners; and providing technical assistance to the city of San Jose, CA, as it developed its emergency shelter plans.

- CRCL, along with DOJ, co-hosted a training session for the civil rights personnel of DHS Headquarters and various Components on the basic concepts and application of Section 504 of the Rehabilitation Act of 1973.
- Section staff delivered a plenary presentation on Citizen and Community Preparedness at the NLE Initial Planning Conference and led a workgroup to identify which community preparedness strategies would best suit the Midwest states participating in the 2011 NLE. Attendees included federal, state, and local emergency management as well as external affairs professionals and non-governmental agency representatives.
- Section staff participated in a panel discussion on inclusive planning, evacuation, and exercise considerations for children and adults with disabilities and others facing barriers to equal access, at the National Preparedness Training and Exercise Conference.
- Disaster Preparedness staff delivered presentations on “Preparing for the Whole Community,” including at a FEMA Regional Conference in Jefferson City, MO, which focused on catastrophic planning for a potential New Madrid earthquake. At FEMA’s Getting Real Conference in Baltimore, which brought together leaders from the emergency management and disability communities to discuss strategies to integrate the entire community into emergency planning, CRCL staff moderated an interagency panel and led a discussion on a disaster scenario.

## E. Immigration Section

CRCL’s Immigration Section works with other DHS Components, and government and non-governmental organizations, to ensure that civil rights and civil liberties protections are incorporated into DHS immigration-related activities and policies; communicates with the public about immigration-related civil rights and civil liberties; and provides civil rights and civil liberties training to DHS Components. The Immigration Section also leads CRCL’s work on international human rights.

1. ***E-Verify Compliance and Training:*** Since 2009, CRCL has partnered with USCIS and the DOJ Civil Rights Division on an Interagency Task Force on Verification Monitoring and Compliance to improve monitoring of employer abuse within the E-Verify program. In addition, the Immigration Section trained new monitoring and compliance staff of the USCIS Verification Division in Buffalo, NY on civil rights issues associated with verification of status and identity.
2. ***Human Trafficking Policy and Training:*** The Immigration Section, in partnership with CRCL Institute, the Citizenship and Immigration Services Ombudsman, and FLETC, provided subject-matter expertise on the DHS Human Trafficking Working Group to develop and manage two phases of human trafficking training for federal, state, and local law enforcement agencies nationwide. The first phase of the Human Trafficking training is



currently being disseminated to state, local, campus, and tribal law enforcement officers throughout the country via a web-based training course that incorporates video-based human trafficking scenarios and important tips for law enforcement on identifying indicators of human trafficking, differentiating between human smuggling and human trafficking, and human trafficking investigation. The second phase—for DHS personnel—is designed to increase awareness of human trafficking and focuses on how operational Components may encounter and should respond to trafficking victims. In addition, the second phases provides personnel information regarding the DHS Blue Campaign, which coordinates DHS efforts to combat human trafficking. This web-based course is currently under development; completion is expected in the summer of 2011. This course will be accessible to all DHS personnel. The Section also partnered with FLETC to develop a training course entitled “Violence Against Women Act: Confidentiality and Immigration Remedies.” This web-based course provides information on the federal legislation concerning confidentiality of information and immigration remedies available to immigrants who have been victims of domestic violence, trafficking, and other crimes. This training is also expected for release in the summer of 2011 and the Section will be involved in its dissemination.

3. ***BP Deepwater Horizon Oil Spill Training and Response:*** In the months following the BP Deepwater Horizon oil spill, the Immigration Section worked to ensure that all affected residents—including those with limited English proficiency or disabilities that affect communication—had access to the entire array of response activities. More details are included in Cross-Cutting Initiatives, Section III, above.
4. ***ICE 287(g) Training:*** CRCL provided civil rights and civil liberties training to supervisors of law enforcement officers who participated in ICE’s 287(g) program, under which state and local law enforcement officers are delegated authority to enforce federal immigration law. In September 2010, CRCL trained recently appointed ICE 287(g) program managers regarding consular notification rights, claims to U.S. citizenship, detainees, vulnerable populations, interpreters, the use of race and ethnicity in law enforcement, and public complaint procedures.
5. ***287(g) Coordination with ICE:*** The Immigration Section accompanied the ICE Office of Professional Responsibility (OPR) on several audits of Section 287(g) programs, to better understand and help to improve OPR’s 287(g) audit process.
6. ***287(g) Coordination with the Office of Inspector General:*** As a result of the Immigration Section collaborating with the Office of Inspector General (OIG) on its audit of the ICE 287(g) Program, two members of the Immigration Section were honored along with the OIG team by the Council of the Inspectors General on Integrity and Efficiency. The team was recognized at the 2010 awards ceremony for its expert analysis and report on this issue.
7. ***ICE Detention Reform:*** As ICE continued its work on detention reform, the Immigration Section assisted in many ways. CRCL provided training to new ICE Detention Service Managers regarding civil rights and civil liberties issues in the detention environment, including rights under VAWA, asylum, access to counsel, sexual assault response, religious practices, cultural competencies, and language access. In addition, CRCL partnered with ICE to assist in the development of the Online Detainee Locator System, medical classification guidelines, a new risk assessment tool, and a directive on detainee transfers. Section staff also worked with ICE to draft updated Performance Based National Detention

Standards to ensure protection of the civil rights and civil liberties of persons in immigration detention. CRCL focused primarily on standards covering medical and mental health care, access to counsel, religious accommodations, and sexual assault.

8. ***Human Rights Implementation:*** Executive Order 13107, *Implementation of Human Rights Treaties* (Dec. 10, 1998), requires each federal department to name a “single contact officer” to coordinate international human rights treaty compliance and reporting. CRCL’s Officer was designated as the DHS single contact officer in 2006. In FY 2010, the Immigration Section coordinated the Department’s drafting and clearance of reports under the International Covenant on Civil and Political Rights and responded to international treaty body queries on implementation of human rights obligations. In FY 2011, the Section will continue work on the reports required under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Elimination of all forms of Racial Discrimination. In addition, in FY 2010, CRCL coordinated the Department’s drafting, clearances, and civil society consultations for the landmark U.S. report to the UN Human Rights Council for the Universal Periodic Review (UPR), which reported on overall implementation of the Nation’s international human rights obligations. Early in FY 2011, this was followed by CRCL Officer Schlanger’s participation in the U.S. delegation to the UPR presentation in Geneva, Switzerland. CRCL also coordinated DHS preparation and response to inquiries from a UN Special Rapporteur regarding the use of restraints and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

### Outreach Activities:

- The Immigration Section provided speakers at events nationwide, including the American Bar Association (ABA); the National Asian Pacific American Bar Association Conference in Boston, MA; the Grantee Conference of the DOJ Civil Rights Division; the National Legal Aid and Defender Association; and an ICE Employer Symposium.
- Section staff facilitated and moderated U.S. Customs and Border Protection (CBP) meetings in San Diego, CA and Brownsville, TX for dozens of regional and local stakeholders, and in Washington, DC for 20 national stakeholders.
- The Immigration Section participated in UPR consultations organized by the DoS in San Francisco, CA; New York, NY; Washington, DC; Birmingham, AL; and El Paso, TX.
- CRCL organized a community forum in Salem, OR, to educate the community about the expanding Secure Communities program. ICE presented information on Secure Communities, and CRCL discussed civil rights and civil liberties protections.
- The Immigration Section hosted, in partnership with ICE, two day-long sessions in Washington, DC with prominent experts, practitioners, and advocates to discuss civil detention. Chaired by CRCL Officer Margo Schlanger, the first session concerned the design and operationalization of a civil detention system; the second addressed the needs and challenges of dealing safely and appropriately with civil detainees with mental illnesses and/or intellectual disabilities. DOJ sent high-level representation to participate as well.
- CRCL Officer Schlanger also met quarterly with the NGO Civil Rights/Civil Liberties Committee in Washington, DC. The Committee brings together over 20 NGOs that specialize in civil rights and policy issues related to DHS and immigration. Among the

issues discussed at the meetings were CBP training, National Guard deployment along the southern border, ICE 287(g) and Secure Communities programs, and ICE's detainer policy.

## F. Impact Assessments Section

The Impact Assessment Section examines the civil rights and civil liberties implications and effects of selected DHS programs and provides suggestions for improvements to those programs. The following assessments were underway or completed during FY 2010:

- 1. *Border Search of Electronic Devices:*** At Secretary Napolitano's direction, the Impact Assessment Section is collaborating with CBP and ICE to examine the civil rights and civil liberties impact of policies relating to border searches of electronic devices. The Section is continuing to develop a report and recommendations. Working with CBP and the Privacy Office, CRCL also participated in a separate assessment of CBP's Border Searches of Electronic Information training course, which was completed and published in August 2010, and is available on-line from CRCL's website. .
- 2. *Interagency Threat Assessment and Coordination Group:*** In accordance with Section 521 of the Implementing the Recommendations of the 9/11 Commission Act of 2007, the CRCL Officer, together with the Civil Liberties Protection Officer at the Office of the Director of National Intelligence and the DOJ Chief Privacy and Civil Liberties Officer, submitted a civil liberties impact assessment of the Interagency Threat Assessment and Coordination Group (ITACG) program. This program facilitates information sharing by: identifying national intelligence products that may be of use to state, local, and tribal consumers; suggesting revisions to make intelligence products more useful to those consumers; and advocating within the intelligence community to ensure that state and local information needs are met. The assessment, which was submitted to Congress and posted on-line in September 2010, concluded that there was a low risk that ITACG members would improperly rely on race, ethnicity, religion, or other constitutionally suspect classifications in selecting products for recommended dissemination and that the training provided to ITACG members further reduces this risk. Nevertheless, the assessment recommended that the ITACG Advisory Council include guidance on the use of race, ethnicity, religion, and other constitutionally suspect classifications in its ITACG operations policies. The Council agreed to do so. In 2011, we are working with the ITACG to incorporate the recommended guidance into the ITACG Standard Operating Procedures.
- 3. *Fusion Centers:*** Section 511 of the Implementing Recommendations of the 9/11 Commission Act of 2007 requires CRCL to conduct a follow-up to the Fusion Center Impact Assessment released in December 2008. CRCL is working with a newly-established DHS coordination framework for the Fusion Center program to complete a new impact assessment.
- 4. *Future Attribute Screening Technology:*** CRCL has undertaken an impact assessment on the Future Attribute Screening Program, an initiative of DHS's Science and Technology Directorate (S&T) to develop innovative, non-invasive technologies to enhance the screening of individuals at transportation venues, special events, or other secure areas. CRCL staff traveled to Cambridge, MA with S&T researchers to view a research prototype of technology currently being developed. We plan to complete this assessment in FY 2011.



## G. Intelligence, Security, and Information Sharing Section

CRCL's Intelligence, Security, and Information Sharing (ISIS) Section advises DHS senior leaders and program managers to ensure that activities respect constitutional, statutory, regulatory, and other legal and policy requirements relating to civil rights and civil liberties.

1. **Intelligence and Analysis Product Review:** Beginning in FY 2009, CRCL, the Privacy Office, and the Office of the General Counsel began reviewing I&A intelligence products. As a result, in FY 2010, the ISIS Section reviewed hundreds of classified and unclassified I&A products, providing comments and working with I&A management and analysts to quickly resolve civil rights and civil liberties issues. Through CRCL's efforts, awareness of civil rights and civil liberties issues in I&A product development and dissemination has greatly improved.
2. **Cybersecurity:** CRCL ensures that civil rights and civil liberties protections are integrated into the Department's efforts to advance the Comprehensive National Cybersecurity Initiative (CNCI). The ISIS Section works with the Department's National Cybersecurity Division as it deploys cybersecurity intrusion detection technology to federal agencies. Staff has also worked with the DHS Privacy Office on many other cybersecurity issues, including an exercise under CNCI that tested the effectiveness of intrusion detection technology in protecting the information systems of another government agency. CRCL staff also participated in the Working Group for Civil Liberties and Privacy, operating as part of the White House Cybersecurity 60-Day Review, to help identify and address civil rights and civil liberties issues arising in the interagency cybersecurity environment.
3. **Aviation Security:** Following the attempted December 25, 2009, bombing of Northwest Airlines Flight 253, ISIS Section staff participated in the DHS Global Aviation Working Group led by the Office of Policy's Office of International Affairs. This working group brought together representatives of DHS Components and offices to identify ways to improve aviation security. CRCL's involvement ensured that as DHS continues to work with global partners to enhance aviation security, civil rights and civil liberties concerns are fully considered. ISIS and other CRCL sections also worked in partnership with TSA's Office of Civil Rights and Liberties (OCRL) on several other aviation security measures, including a review of the Screening Checkpoint Standard Operating Procedures related to AIT, as well as implementing enhanced screening measures tied to real-time intelligence.
4. **Information Sharing Coordinating Council:** Bringing together various DHS offices and Components, the Information Sharing Coordinating Council (ISCC) coordinates DHS information-sharing activities and works to find common solutions to critical cross-cutting information-sharing challenges. The ISIS Section continued to serve as an active ISCC member. CRCL also co-chaired an Integrated Project Team charged with ensuring that the Department meets the training requirements of the Information Sharing Environment (ISE) Implementation Plan. CRCL participated in the Data Access Request Process working group and has played a leading role in ISCC to revise DHS procedures for new information sharing requests, ensuring that privacy, legal, civil rights, and civil liberties oversight are appropriately integrated. Finally, CRCL provided input into and oversight for international and domestic information sharing agreements executed between DHS law enforcement intelligence community Components and external sharing partners.



5. ***Information Sharing Environment:*** The ISIS Section worked closely with the DHS ISCC to ensure that the new ISE Guidelines on Privacy, Civil Rights, and Civil Liberties were followed in all DHS information-sharing efforts. CRCL also helped to develop a process for DHS participation in the Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI), a partnership among local, state, tribal, and federal agencies that establishes a capacity for sharing terrorism-related SAR. The NSI established a national capacity for gathering, documenting, processing, analyzing, and sharing SAR in a manner that rigorously protects the privacy, civil rights, and civil liberties of Americans. CRCL assisted in the drafting of the Concept of Operations for DHS involvement, the Privacy Impact Assessment, and other documents required to implement the NSI. In addition, the CRCL Officer is one of four members of the Executive Committee of the Privacy and Civil Liberties Subcommittee of the Information Sharing and Access Interagency Policy Committee. Finally, CRCL participated on the Global Privacy and Information Quality Work Group and collaborated with the DOJ Bureau of Justice Assistance in the development and implementation of a multi-faceted training program for the state and major urban area fusion centers.
6. ***Watchlisting:*** Following the attempted December 25, 2009, bombing of Northwest Airlines Flight 253, CRCL participated in the review of the U.S. Government Protocol Regarding Terrorist Nominations to the consolidated government terrorist watchlist. The protocol documents included the identification of the criteria for acceptance of known or suspected terrorist nominations into the Terrorist Screening Database. CRCL's participation included working with DHS on the interagency integrated project team to ensure that the updated guidance was fair and equitable and included appropriate civil rights and civil liberties protections.
7. ***Seasonal Travel:*** CRCL's ISIS and Community Engagement sections worked with the Screening Coordination Office to develop a strategy to ensure that the Department and its Components were prepared for various religion-related travel (in particular, Sukkot and Hajj).

## V. Compliance Branch: Public Complaints

CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, which requires 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);
- 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); and
- periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering civil liberties in its actions, 42 U.S.C. § 2000ee-1(a)(2).

CRCL reviews and assesses civil rights or human rights complaint, including complaints about:

- physical or other abuse
- discrimination based on race, ethnicity, national origin, religion, gender, sexual orientation, or disability;
- inappropriate conditions of confinement;
- infringements of free speech;
- violation of right to due process, such as right to timely notice of charges or access to lawyer;
- violation of the confidentiality requirements of VAWA; and
- any other civil rights or civil liberties violation related to a Department program or activity.

### A. Accomplishments

**1. *Complaint Process Review:*** Beginning in May 2010, the Compliance Branch undertook a comprehensive review of CRCL's complaints process to enhance its timeliness, effectiveness, and transparency. CRCL consulted with DHS Components, NGOs, and other departments to solicit their views on the most efficient and effective processes. Substantial progress was made in FY 2010, and a more responsive complaint process resulted from the robust interchange of ideas with our various stakeholders. Among the improvements:

- Easy-to-use optional online complaint submission form, posted in English and nine other languages.

- Initiation of an expedited complaint process, to facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and require limited investigation. Since 2009, CRCL has expedited notification to ICE on complaints regarding allegations that involve serious and urgent medical and mental health care needs of detainees in ICE custody. ICE responds to CRCL with updated information regarding the allegations, and a solution to urgent individual problems.
  - Increased transparency, by more detailed complaint reporting in this report and on CRCL's website.
  - Expanded availability of subject matter experts. CRCL has more than doubled its contracting with subject matter experts (e.g., physicians, mental health experts, and corrections experts), who assist in investigations that need their technical expertise.
  - More comprehensive interpretive services.
  - Systematic recommendation follow-up.
  - Availability of confidential complaint channels. CRCL forms and instructions now make clear that complaints may be submitted confidentially or anonymously.
2. ***Entellitrak:*** Working together, CRCL and TSA OCRL established a new database and interface, the Entellitrak system, that greatly improves collection of complaint and investigation information. TSA nominated several CRCL staff members for an Honorary Team Award for participating in the Integrated Project Team, which brought together TSA and CRCL staff.
  3. ***Reviews of Deaths in Detention:*** As a result of concerns stemming from prior deaths in ICE detention, CRCL now conducts a review of any such deaths, in accordance with ICE Directive 7-9.0, which became effective on October 1, 2009. CRCL received eight death notices for ICE detainees during FY 2010, and reviewed relevant records associated with the deceased detainee—including, for example, detention files, medical records, and ICE death review reports—to determine if civil rights violations may have occurred. In a number of instances, we consulted with contracted medical experts to determine compliance with the relevant National Detention Standards and to note any additional medical concerns. Based on these initial reviews, CRCL opened an investigation into one death and submitted a memo of recommendations to ICE regarding the facility where the death occurred. ICE is working with the facility to develop an action plan for improvements; CRCL will continue to review and monitor medical care at the facility. (This matter is discussed in Appendix C, as item 8.)

## B. FY 2010 Investigations

CRCL receives potential investigations from a variety of sources. Complaints from the general public and NGOs come through U.S. mail, email, fax, the DHS Traveler Redress Inquiry Program (TRIP), and the CRCL telephone hotline. Incidents that might merit investigation are also forwarded to CRCL from other offices at DHS and other government agencies. For example, the HHS, Office of Refugee Resettlement sends CRCL Significant Incident Reports each year (15 in FY 2010), regarding treatment of unaccompanied juveniles by U.S. Border Patrol personnel. DOJ, in particular the Civil Rights Division's Federal Coordination and

Compliance Section (formerly Coordination and Review), also forwards complaints raising civil rights concerns that may fall within CRCL's jurisdiction. Within DHS, potential complaints are forwarded to CRCL by the Office of Diversity and Civil Rights within CBP, by ICE when the complaint relates to the 287(g) or Secure Communities programs, and occasionally by the Office of Inspector General. Further, as already mentioned, since October 1, 2009, ICE has notified CRCL of each death of an individual in ICE custody.

Pursuant to 6 U.S.C. § 345(a)(6) and internal DHS policies, CRCL begins the investigation process by referring all complaints to the DHS OIG. The OIG then determines whether or not it will investigate the case. If the OIG declines to investigate the complaint, it is referred back to CRCL for appropriate action, at which point CRCL determines whether the case should be retained for CRCL's own investigation or referred to the relevant DHS Component(s). If a case is referred, the Component issues a Report of Investigation (ROI) to CRCL at the completion of factual investigation; if retained, CRCL conducts its own fact-finding. When the investigation is complete, CRCL provides senior leadership of the relevant Component(s) with its conclusions and any recommendations for improving policy, practice, or training. CRCL also notifies the complainant of the results. Beginning in FY 2010, CRCL has asked DHS Components to formally concur (or non-concur) with our recommendations, and to provide concrete action plans for implementing accepted recommendations.

During FY 2010, CRCL received 195 new complaints and closed 118. Of these, the OIG retained eight complaints forwarded by CRCL, leaving CRCL 187 for investigation and response. Similarly, during FY 2010, the OIG reported to CRCL the results of ten complaints OIG closed in FY 2010; the results involved one matter retained by the OIG in FY 2006, six in FY 2009, and three in FY 2010. Upon review, CRCL determined that no additional work was needed in any of these matters, and closed them within our Office, as well.

Tables 2 and 3, below, summarize the investigations CRCL opened and closed in FY 2010 and do not include the matters retained and closed by the OIG. Information about those complaints can be found in Appendix B of this Report. Additional tables in Appendix B detail the OIG's retained matters, and the number of investigations per quarter, by Component and issue, dividing them into those that were retained for full investigation by CRCL, referred for fact investigation to the relevant Component, and expedited.

("Short-form" complaint processing procedures facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and require limited investigation. The short-form process makes it easier to open and close complaints; cases that prove to require additional work are converted to standard investigations.)

Summaries of all complaints the Compliance Branch closed during the reporting period that had been retained for CRCL investigation are provided in Appendix C. Summaries of complaints closed by the Compliance Branch during the reporting period following a referral to the Component for investigation are provided in Appendix D.

**TABLE 2: COMPLAINTS RECEIVED FY 2010, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		All
Excessive Force / Abusive Questioning	2	8					2	3	2				1				1			1			5	13	2	20
Conditions of Detention		2	2				22	18	29														21	20	31	72
Profiling/ Discrimination		15	1				2	4	2	2	5	1		1			1				1	5	26	5	36	
Due Process		1					3		3					1	1				1	1	1	4	3	5	12	
Treatment		13	2				1	5	2	2	6	1		1					1		1	6	25	6	37	
Unaccompanied Minors	2	5	1						1										1			3	5	2	10	
Watch List								2																		
<b>Total</b>	<b>4</b>	<b>44</b>	<b>6</b>				<b>30</b>	<b>32</b>	<b>39</b>	<b>4</b>	<b>11</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>1</b>		<b>2</b>		<b>3</b>	<b>2</b>	<b>3</b>	<b>42</b>	<b>94</b>	<b>51</b>	<b>187</b>	

Note: Eight complaints retained by the OIG are not included in this tally. See Appendix B.

**TABLE 3: COMPLAINTS CLOSED FY 2010, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		All
Excessive Force / Abusive Questioning		1					2	4			1						1			1	1		3	8		11
Conditions of Detention							8	15	1													8	15	1	24	
Profiling/ Discrimination		7					1	1		1	14										1	2	23		25	
Due Process							1	2						1								1	3		4	
Treatment	1	8	1					3		1	21								1			3	32	1	36	
Unaccompanied Minors		5						1											1			1	6		7	
Watch List										1														1	1	
<b>Total</b>	<b>1</b>	<b>21</b>	<b>1</b>				<b>12</b>	<b>26</b>	<b>1</b>	<b>2</b>	<b>37</b>		<b>1</b>			<b>1</b>		<b>3</b>	<b>2</b>		<b>18</b>	<b>88</b>	<b>2</b>	<b>108</b>		

Note: Ten complaints previously retained by the OIG are not included in this tally. See Appendix B.

## C. Recurring Issues in Complaints

This section summarizes several of the recurrent issues raised by complaints. For a more complete accounting of all the complaints received see Appendix C.

- 1. *Treatment of Unaccompanied Minors:*** CRCL continued to focus considerable attention on the treatment of unaccompanied minors in DHS custody. We are alerted to potential matters for investigation by direct complaints and by significant incident reports forwarded to us by Department of Health and Human Services Office of Refugee Resettlement (ORR), which assumes long-term custodial authority over unaccompanied alien children apprehended by DHS. On this basis, we opened ten matters and closed ten regarding unaccompanied minors in the short-term custody of U.S. Border Patrol. (The closed investigations were opened in prior years, and merged into one consolidated investigation of conditions in the Tucson Sector, conducted on site in March 2008.) Allegations in both the closed and newly opened matters included physical and verbal abuse during apprehension, lack of medical care, inappropriate hold room conditions, lack of appropriate types and amounts of food, lack of clean bedding, and failure to provide access to telephones and translation services. As described in Appendix D, CRCL made recommendations related to food and facilitation of speedy transfer out of DHS custody. Follow-up review demonstrates substantial recent progress, with more improvements planned.
- 2. *Conditions of Detention for Adult ICE Detainees:*** Each year, the Compliance Branch receives complaints alleging inadequate conditions of detention for ICE detainees. Complaints frequently allege that facilities are substandard with respect to medical care; food service; environmental health and safety; issuance and exchange of clothing, bedding, and towels; hunger strikes; opportunity for exercise; staff-detainee communication; access to legal materials; administrative and disciplinary segregation; communication with non-English speaking detainees; telephone access; visitation; detainee grievance procedures; detainee handbooks; use of force; and disciplinary policy. CRCL conducts its investigations in this area with appropriate assistance, including that of independent subject-matter experts and of the ICE Health Services Corps (IHSC) (previously named the Division of Immigration Health Services). As a part of DHS's detention reform efforts, we continue to make recommendations regarding access to and adequacy of medical care, nutrition and food quality and safety, hygienic living conditions, and appropriate recreation and effective communication procedures. Details are included in the summaries of closed complaints in Appendices D and E.
- 3. *Traveler Redress Inquiry 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. DHS TRIP automatically refers to CRCL all inquiries from travelers who check a box indicating they believe they have been subjected to discrimination by DHS employees on the basis of race, religion, ethnicity, disability, or gender. CRCL reviews each of these inquiries to determine whether it should be treated as a complaint. DHS TRIP received over 40,000 requests for redress during FY 2010; over 2,000 were referred to CRCL. In nearly all, the TRIP process demonstrated either that the complainant had not been subjected to secondary screening, that such screening occurred because of a mismatch resolved through the successful completion of the redress process, or that such screening was appropriate. When necessary to resolve discrimination issues, CRCL

opens a full investigation; in FY 2010, this occurred three times. For one of these investigations, the matter has been closed without recommendation because the allegations were not substantiated; two others remain open.

## D. Examples of Complaints Resolved by CRCL

The Compliance Branch addresses a wide range of civil rights and civil liberties complaints, summaries of which are provided in Appendices D and E. Below are some of the most significant allegations CRCL addressed:

- 1. *Conditions of Detention at a New Jersey Detention Facility:*** In April 2008, CRCL received three complaints involving 95 detainees at a New Jersey detention facility. The complaints alleged verbal and physical abuse, retaliation, inappropriate medical care, and inadequate grievance and visitation procedures. CRCL's investigation concluded that the facility violated ICE's detention standards in numerous areas. CRCL issued its final report in January 2010; ICE responded that use of the facility had been discontinued in October 2009, just a few weeks after CRCL's onsite visit. In the event of any future agreement with the facility, CRCL recommended that ICE review facility policies, procedures, and practices to ensure that the staff operate in compliance with the relevant detention standards. ICE stated that it has no plan to house detainees at this facility.
- 2. *Treatment of a Deaf Detainee:*** Under applicable regulations, CRCL has a special procedure for complaints received pursuant to Section 504 of the Rehabilitation Act of 1973. One such complaint was brought in August 2005 by a detainee who was unable to hear, read lips, or speak; he had filed many similar complaints against ICE involving numerous facilities over the course of four years. He alleged that the facilities lacked TTY access and provided him inadequate access to the telephone or television, and that he was denied a sign language interpreter prior to his arrest by ICE and during his detention. CRCL conducted a site visit and later facilitated a meeting between the detainee and senior ICE officials to discuss his concerns and recommend ways for ICE to improve its communications with deaf detainees. An agreement was reached under which ICE undertook to provide Section 504 training to specified employees and to designate a disability coordinator within the appropriate agency field office.
- 3. *Conditions of Detention:*** A community leader in Massachusetts alleged in June 2010 that a detainee was being held in maximum security conditions on alleged immigration violations. The detainee was allegedly kept in his cell for 23 hours a day without any contact and was held in leg irons, handcuffs, and chains. ICE initially reported to CRCL that the detainee was being held as a person of interest in a DOJ and ICE investigation. After further review, ICE determined that the detainee was no longer a person of interest and, therefore, could be released from the facility and followed as a non-detainee. CRCL recommended that ICE periodically review the relevant detainees to review their classification. ICE concurred with the recommendation and now has policy and guidance in place to ensure that detainees who are placed in administrative segregation have their cases reviewed on a weekly basis. CRCL closed the matter in August 2010.



## VI. Antidiscrimination Obligations for Federally Conducted and Federally Supported Activities

A number of statutes and regulations impose antidiscrimination obligations on organizations that receive various types of support—for example grants or training—from federal agencies, including DHS. In addition, under Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (Aug. 11, 2000), federal agencies are required to take reasonable steps to provide meaningful access to agency programs and services for persons with limited English proficiency, and under Executive Order 12898, *Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994), agencies must work to avoid disproportionately high and adverse health and environmental effects on minority populations and low-income populations. In FY 2010, CRCL worked to ensure compliance with these requirements

During FY 2010, staff focused on Title VI of the Civil Rights Act of 1964. FEMA's Office of Equal Rights has the lead for Title VI enforcement activities related to FEMA's grants, conducting over 240 investigations of discrimination complaints in FY 2010. CRCL also worked across DHS to promote and facilitate compliance with Executive Order 13166's provisions on language access. To fulfill one of the requirements of the Executive Order, CRCL drafted proposed guidance for its recipients of financial assistance on providing meaningful access to applicants and beneficiaries whose English proficiency is limited. The DHS guidance, modeled on similar guidance published by the Department of Justice in 2002, was published in the Federal Register for public comment in accordance with the Executive Order. The guidance explains that in certain circumstances failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition against national origin discrimination under Title VI and the Department's implementing regulations.

CRCL announced the publication of the proposed guidance and provided a summary of its content, in more than ten languages on CRCL's website. Following receipt of comments, CRCL reviewed these comments and coordinated with the Federal Coordination and Compliance Section of the Civil Rights Division within DOJ. The Guidance became final in April 2011.

CRCL also continued to work on strengthening language access within the Department's own programs and activities. For example, the Office addressed language access in public messaging associated with disasters, including the Gulf Coast oil spill disaster, and immigration detention reform. CRCL delivered training to a new corps of ICE detention service managers across the country on the principles of language access found in Title VI and Executive Order 13166 and tips for effectively communicating with LEP detainees.

In addition, CRCL increased its provision of meaningful access for LEP persons, increasing interpretation capacity and translating CRCL's own complaint form into nine non-English languages.

**TABLE 4: EXTERNAL CIVIL RIGHTS AND LANGUAGE ACCESS LAWS AND REQUIREMENTS**

Source	Requirements
Title VI of the Civil Rights Act of 1964 and implementing regulations, 42 U.S.C. §§ 2000d to 2000d-7; 6 C.F.R. Part 21; 44 C.F.R. Part 7.	Forbids recipients of federal financial assistance to conduct their programs in a way that has the effect of subjecting persons to discrimination based on race, color, or national origin. Long-standing interpretations of the law and regulations mandate reasonable steps to offer foreign-language assistance, if necessary to provide meaningful access to persons with limited English proficiency.
Title IX of the Education Amendments of 1972, and implementing regulations, 20 U.S.C. §§ 1681 et seq., 6 C.F.R. Part 17; 44 C.F.R. Part 19.	Generally forbids recipients of federal financial assistance to discriminate on the basis of sex in any educational program or activity.
Age Discrimination Act of 1975, 42 U.S.C. §§ 6101 et seq., 45 C.F.R. Part 90.	Prohibits discrimination on the basis of age in all programs and activities receiving federal financial assistance, except where the use of age is related to the objective of the program, or any adverse effect on persons of particular ages has a substantial relationship to the operation or objective of the program.
Section 504 of the Rehabilitation Act of 1973 and implementing regulations, 29 U.S.C. § 794; 6 C.F.R. Part 15; 44 C.F.R. Part 16.	Forbids recipients of federal funding and federal agencies from discriminating against individuals on the basis of disability. Unless an undue burden would result, programs must be accessible to and usable by individuals with disabilities, and employers must provide reasonable accommodations to employees with disabilities. Programs and public accommodations must communicate effectively with persons with disabilities.
Executive Order 13166, <i>Improving Access to Services for Persons with Limited English Proficiency</i> (Aug. 11, 2000)	Requires federal agencies to take reasonable steps to provide meaningful access for persons with limited English proficiency and (as also required by Title VI) to ensure that recipients of federal financial assistance do the same.

Other antidiscrimination activities included:

- Coordinating standard grant terms and conditions:** CRCL worked with the DHS Office of the Chief Financial Officer, Division of Financial Assistance Policy and Oversight, to revise the terms and conditions of DHS relating to civil rights obligations that accompany receipt of federal financial assistance, effective with the beginning of FY 2011. These terms and conditions are included in all of the Department’s funding opportunity announcements, program guidance, and awards. The new language clearly articulates funding recipients’ obligations under Title VI, including language access; Title VIII of the Civil Rights Act of 1968, pertaining to nondiscrimination in sale or rental of housing; the Americans with Disabilities Act and the Rehabilitation Act, which require nondiscrimination on the basis of actual or perceived disability; the Age Discrimination

Act; Title IX of the Education Amendments of 1972, pertaining to sex discrimination educational programs; and the Trafficking Victims Protection Act. Recipients of DHS financial assistance are required to provide assurances they will abide by these obligations.

- **Title VI Training:** CRCL provided in-person training on Title VI obligations and compliance responsibilities to organizations that received grants from the USCIS Office of the Citizenship. Training was provided to representatives of nearly 80 organizations across the country receiving grants or subgrants to help prepare permanent residents for citizenship and promote immigrant integration in the United States.
- **Participation in the Federal Interagency Working Group on Limited English Proficiency:** CRCL participated in a Working Group led by DOJ bringing together representatives of more than 35 federal agencies to promote meaningful access for limited English proficient persons to important federal and federally assisted programs, and to ensure implementation of language access requirements under Title VI, Title VI regulations, and Executive Order 13166. CRCL continues to participate in the Working Group in FY 2011.
- **Environmental Justice:** DHS began participating in the Interagency Working Group on Environmental Justice, chaired by the U.S. Environmental Protection Agency and established by Executive Order 12898, near the end of FY 2010. Along with the Office of Safety and Environmental Programs (OSEP), CRCL co-leads DHS participation in that working group. This work continues in FY 2011.

## VII. Equal Employment Opportunity & Diversity Division

CRCL provides Departmental guidance for establishing and maintaining effective programs for equal employment opportunity (EEO) and diversity management under various federal laws and regulations, including Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq., Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq., the Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq., the Equal Pay Act of 1963, 29 U.S.C. § 206(d)(1), Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff et seq., Executive Order 11478 (as amended by Executive Orders 13087 and 13152) prohibiting discrimination based on sexual orientation or status as a parent, and 29 C.F.R. § 1614.102. The EEO & Diversity Division includes units responsible for adjudicating EEO complaints; developing and monitoring program plans; and administering EEO and diversity programs for the Headquarters unit of DHS and its 6,435 employees. The Division also prepares and submits a variety of annual progress reports relating to DHS's diversity and EEO activities.

### A. Diversity Management

The Diversity Management Unit (DMU) leads the Department's diversity initiatives by analyzing workforce trends to ensure equal opportunity, producing EEO reports, managing required Special Emphasis Programs (for Hispanic Employment, Persons with Disabilities, and the Federal Women's Program), and leading the Department's efforts to achieve Model EEO Program Status as defined by the Equal Employment Opportunity Commission.

In FY 2010, the DMU submitted a variety of required reports (available on CRCL's website, [www.dhs.gov/crcl](http://www.dhs.gov/crcl)):

- U.S. Equal Employment Opportunity Commission (EEOC) Management Directive 715 Status Report
- Annual Report to the President on Hispanic Employment in the Federal Government
- Annual Federal Equal Opportunity Recruitment Report Program (FEORP) Accomplishment Report and Plan Certification for FY 2010
- Annual Performance Report on Agency Actions to Assist Historically Black Colleges & Universities (HBCUs) and Annual Federal Plan on Agency Actions to Assist HBCUs
- Annual Performance Report on Agency Actions to Assist Tribal Colleges and Universities (TCUs)

In FY 2010, the DMU focused on numerous activities to promote the Department's diversity initiatives, including: implementing the U.S. Government Accountability Office recommendations for MD-715 Report; implementing new Departmental civil rights and civil liberties computer applications, including iComplaints (to track EEO complaints) and eVersity (to generate required data tables and help prepare EEO plans); developing a standard DHS format for EEO/diversity plans; starting systematic program meetings with Component special emphasis program managers and EEO/diversity report writers; working closely with DHS Information Technology to develop a workforce analysis system; developing and issuing evaluation forms and check lists for various reports/plans involving FEORP, Hispanic

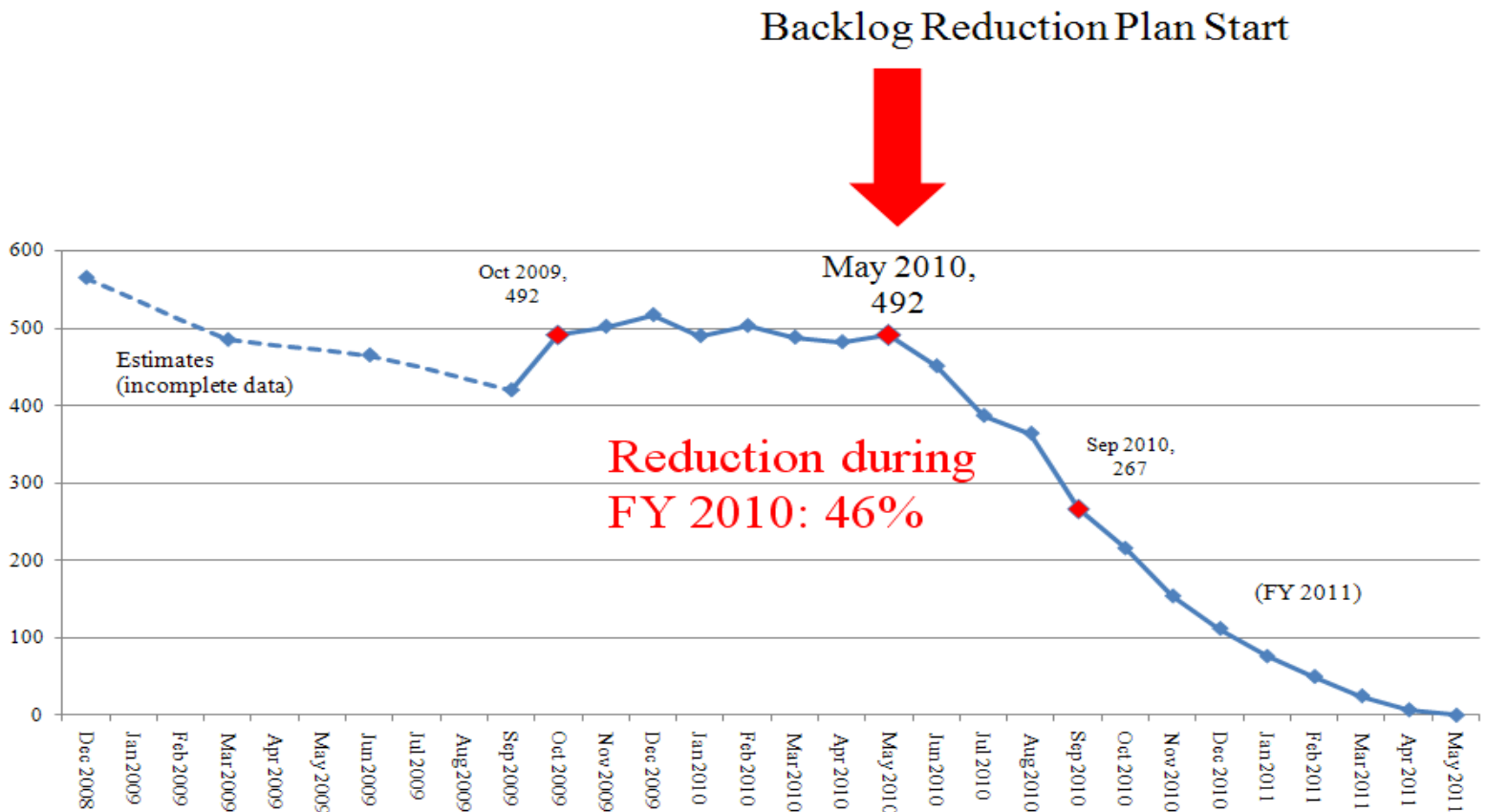
Employment in the Federal Government, and HBCUs to help improve Department reporting; and participating as an audit team member in the Accountability Audit of TSA.

DMU also hosted or supported a significant number of training and other events including: supporting the DHS Disability Forum; chairing the subcommittee of volunteers for the Office of Personnel Management’s (OPM) Federal Hiring Event; hosting an event at the Society of American Indian Government Employees Conference; hosting an agency forum at the Federally Employed Women’s Conference in New Orleans; hosting an Operation Warfighter (OWF) training event for DHS OWF program managers; providing technical assistance to DHS Component MD-715 Program Managers to support their report development; hosting an annual meeting for the Workforce Recruitment Program for College Students with Disabilities Steering Committee; co-sponsoring two all-day Veterans Programs Training events for managers from all DHS Components, Human Resources specialists and EEO specialists; organizing and facilitating a panel of senior DHS officials to address the American Indian Higher Education Consortium (AIHEC) Board for the presidents from all 33 TCUs; and participating in AIHEC’s Spring Student Conference.

## B. EEO Complaints Adjudication

1. **Eliminating the EEO Complaints Backlog:** Since the Department’s inception, CRCL has had a significant backlog of EEO complaints awaiting Final Agency Decisions (FADs). CRCL began implementing a backlog elimination plan in May 2010; 492 complaints awaited final decision. The plan included three vital components: improved efficiency, contracting, and prioritization. By the end of FY 2010, the backlog was reduced to 267 cases. As of May 2011, four months ahead of schedule, CRCL brought the backlog to zero.

FIGURE 1: DHS FINAL AGENCY DECISION BACKLOG REDUCTION PLAN



Further details on EEO complaint processing during FY 2010 are provided in Table 5:

**TABLE 5: CRCL/EEO COMPLAINT ADJUDICATION, FY 2010 (BY QUARTER)**

	Q1	Q2	Q3	Q4	FY 2010 Total
<b>Incoming EEO Complaints</b>	<b>664*</b>	<b>225</b>	<b>314</b>	<b>284</b>	<b>1,487</b>
<b>Resolutions</b>	<b>215</b>	<b>610*</b>	<b>345</b>	<b>485</b>	<b>1,655</b>
Procedural dismissals	52	392*	56	63	563
Merits Final Agency Decisions	43	85	134	265	527
EEOC Final Orders	47	63	73	73	256
EEOC Findings of discrimination (findings appealed)	6 (5)	4 (3)	4 (3)	2 (0)	16 (11)
Breach determinations	8	6	5	11	30
Settlements, withdrawals, compensatory damage awards, and administrative closures	65	64	77	72	278

\* Included 359 linked matters subsequently dismissed on procedural grounds; these were filed in response to the closure of FEMA’s Puerto Rico National Processing Center and were dismissed after the complainants brought suit in Federal District Court.

2. ***New Enterprise Application Systems:*** By the end of FY 2010, the DHS Integrated Project Team made significant progress on the installation and implementation of two new EEO computer systems that will provide DHS enterprise-wide support:
  - a. ***iComplaints:*** We completed major compliance procedures for this new EEO complaints tracking application, including the privacy impact assessment, Section 508 waiver, data migration tests, and the establishment of servers. iComplaints was launched throughout DHS in August 2010.
  - b. ***eVersity:*** eVersity is an electronic records system that provides workforce analysis, barrier identification, tracking, management, and reporting required under Equal Employment Opportunity Commission Management Directive 715. This web-based application also provides a robust plan generator and plan management console.

## C. Headquarters EEO Program

The DHS Headquarters (HQ) EEO Office provides operational EEO and diversity management services to all DHS Headquarters offices and personnel. HQ EEO is specifically responsible for developing EEO and diversity policies and procedures specific to DHS HQ; providing EEO and diversity guidance to all Headquarters executives, managers, supervisors, and line employees; managing the HQ EEO complaints process, including EEO counseling, Alternative Dispute Resolution, and EEO investigations; promoting diversity management initiatives, including special emphasis program management to help Headquarters offices recruit, hire, develop, and retain a diverse workforce; managing the Headquarters reasonable accommodation process; and providing training on EEO and diversity.

1. ***Supporting the Transition of 1,200 ICE/FPS Personnel to NPPD:*** HQ EEO assisted with the successful realignment of Federal Protective Service (FPS) from ICE to NPPD. CRCL collaborated with NPPD leadership and ICE’s Chief Diversity Office to support the transition of more than 1,200 employees to ensure continuity of EEO and diversity services and products including EEO complaint processing, mediation, training, and mentoring.

2. ***Attracting and Hiring Wounded Warriors:*** HQ EEO participated in several career fairs, including DoD's Operation Warfighter Program and the Fort Meade Community Job Fair. The purpose of these events was to share information about DHS and to meet skilled veterans and veterans with disabilities interested in working for DHS.
3. ***Reasonable Accommodation Requests:*** HQ EEO processed 15 reasonable accommodation requests for Headquarters employees with disabilities, and conducted eight ergonomic and accessible technology assessments, in collaboration with the Office of Accessible Systems and Technology (OAST).
4. ***Employees with Disabilities:*** Government wide, FY 2010 saw a renewed focus on enhancing the employment of individuals with disabilities. CRCL partnered with OPM and the Department of Labor in a ground-breaking Federal Hiring Event for People with Disabilities, held in Washington, DC. At this event, the Federal Government invited individuals who had applied for federal jobs and met either the criteria for the special hiring authority for people with disabilities or the appointing authority for disabled veterans to participate in multiple interviews conducted by federal hiring officials, with the potential for on-the-spot conditional offers of employment. The HQ EEO Selective Placement Coordinator chaired the Hiring Event Volunteer Subcommittee, which recruited and coordinated 172 volunteers from numerous federal and state agencies to support the event.

During FY 2010, HQ EEO continued to provide expert advice, guidance, and support to managers, supervisors, and employees on various subjects ranging from general information on the EEO process, reasonable accommodation, and EEO/diversity training. HQ EEO promoted EEO and diversity by conducting several training activities during FY 2010, including:

- *Prevention of Unlawful Workplace Harassment*
- *EEO, No FEAR Act, and Anti-Harassment*
- *Outreach Initiatives for Women and Individuals with Disabilities*
- *Equality for All Workshop*

## VIII. Office of Accessible Systems and Technology

OAST guides and supports all DHS Components in removing barriers to information access by individuals with disabilities, in accordance with Section 508 of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1998. OAST was created jointly by CRCL and OCIO to ensure through a range of policy, training, technical assistance, compliance, and governance activities, that electronic and information technology procured, developed, maintained, or used is accessible to DHS employees and customers with disabilities.

### A. Improving Accessibility

- During FY 2010, OAST reviewed and remediated more than 4,000 document pages (593 files) including annual reports, management directives, catalogues, forms, congressional budget files, handbooks, memoranda, flyers, and reports. This total includes successfully reviewing and remediating 294 DHS Management Directives in a project initiated by the CRCL Officer.



- OAST is an active member of the Interim Infrastructure Change Control Board, a governance body responsible for ensuring that relevant IT change requests are Section 508 compliant. In addition to influencing 224 IT change requests, OAST developed a new Section 508-related course for Program and Project Managers. The course was developed to support integration of Section 508 accessibility requirements into all aspects of IT development activities. The course was delivered the first quarter of FY 2011.
- During FY 2010, OAST explored the option of providing long-distance Section 508 compliance training, piloting several software solutions.
- OAST successfully pilot-tested a web-content-testing tool to conduct accessibility assessments on DHS web sites. Once fully deployed (in late FY 2011 or early FY 2012), this software will allow OAST to more effectively scale up quarterly web accessibility remediation activities while significantly reducing costs and improving access to the testing tool. Overall, DHS website accessibility improved by 7 percentage points in FY 2010 and 58 percentage points since a baseline was established in FY 2007. Throughout the fiscal year, several Components—ICE, CBP, NPPD, and USCIS—received perfect website accessibility scores.

**TABLE 6: WEB SITE ACCESSIBILITY DURING FY 2010 (BY QUARTER)**

Web Accessibility Remediation Program	Baseline (FY 2007 Q2)	FY 2010			
		Q1	Q2	Q3	Q4
URLs evaluated	134	113	129	134	131
Number of pages	213,934	225,694	243,477	234,269	417,347
Websites scoring 85 or higher	22%	73%	70%	79%	80%

- OAST launched a new enterprise-wide Accessibility Compliance Management System (ACMS), which replaced an older system stood up quickly when OAST initiated the DHS Accessibility Help Desk. The ACMS is a Web-based application that allows both OAST staff and Component Section 508 Coordinators to track accessibility-related activities and outcomes. The system also offers remote access capabilities, improved reporting features, faster performance thus improving overall productivity, and enhanced customer service by allowing customers to request assistance directly via the ACMS homepage.
- OAST trained over 1,400 DHS employees through online, classroom, one-on-one, and hands-on trainings—a 122% increase from FY 2009. OAST released Introduction to Section 508, an online course that offers three Section 508-related modules: The Importance of Section 508; The Requirements of Section 508 Law and Its Application; and The Role of OAST in DHS Section 508 Implementation.
- OAST successfully pilot tested the Enterprise Compliance Management Framework (ECMF) tool. The ECMF is an automated tool that enables scanning of non-HTML content for accessibility. This automated tool will significantly reduce the amount of time it takes to evaluate PDFs which up until recently required manual testing of each file. OAST played a major role in helping NetCentric develop this tool to meet our needs.

- Until recently, no secure, accessible portable communication device was available to employees with visual disabilities, even though such devices are often crucial for job responsibilities. OAST completed a pilot and deployment for the Orator, an assistive technology product that allows people with visual disabilities to use the BlackBerry device. Currently three DHS employees are using the Orator solution.

## B. Accessibility Help Desk Requests

OAST received 2,423 help desk requests from various DHS Components, non-DHS agencies, and public entities. This marked a 109% overall increase in assistance requests since last year (1,164). Notably, OAST processed 1,235 technical assistance requests during FY 2010, a 240% increase from FY 2009. Additionally, DHS Components processed an additional 212 technical assistance requests.

**TABLE 7: SOURCES OF ACCESSIBILITY HELP DESK REQUESTS RECEIVED DURING FY 2010**

Accessibility Help Desk Requests	Q1	Q2	Q3	Q4	FY 2010 Total
DHS Components	433	633	516	818	2,400
Non-DHS Agencies	1	3	2	3	9
Public Entities	3	3	4	4	14
<b>Total Help Desk Requests</b>	<b>437</b>	<b>639</b>	<b>522</b>	<b>825</b>	<b>2,423</b>

**TABLE 8: SUMMARY OF ASSISTANCE PROVIDED BY OAST TO COMPONENTS DURING FY 2010**

Types of Assistance Provided by OAST	Q1	Q2	Q3	Q4	FY 2010 Total
IT Application Reviews for Section 508 Compliance (e.g., Web applications, IT Systems)	69	66	90	71	296
IT Requests (e.g., Software Requests)	46	28	43	104	221
Document Accessibility Reviews (e.g., forms, budget files, handbooks, memos, informational pamphlets, flyers & reports)	123	65	42	363	593
Technical Assistance Provided by OAST	184	456	323	272	1,235
Section 508-related Training	131	186	391	698	1,406
Section 508-related Reasonable Accommodations	11	10	8	9	39

**TABLE 9: SUMMARY OF IT GOVERNANCE/COMPLIANCE ACTIVITIES PROVIDED BY OAST**

Types of Governance/Compliance Activities Provided	Q1	Q2	Q3	Q4	FY 2010 Total
Enterprise Architecture Compliance Reviews	4	14	15	6	39
IT Change Requests Reviewed for Section 508 Compliance (number tagged with Section 508-related action items)	472 (39)	515 (56)	699 (73)	756 (56)	2,442 (224)
Web Accessibility Assessment/Remediation: URLs	113	129	134	131	N/A

## Outreach Activities

OAST participated in a variety of outreach activities during FY 2010:

- Hosted booths at the General Services Administration (GSA)-sponsored Interagency Disability Education Awareness Showcase Conference; and at DHS headquarters during Disability Awareness Month, for assistive technology demonstrations and distribution of program and training information to DHS and GSA employees.
- Bill Peterson, OAST Executive Director, served as a panelist in an EEO Leadership Forum dialogue with hiring managers on the hiring of persons with disabilities.
- OAST staff presented at the California State University, Northridge, 25<sup>th</sup> Annual International Technology and Persons with Disabilities Conference in San Diego, CA. OAST's presentations included information on Section 508 in the Electronic and Information Technology Life Cycle, Ensuring Accessibility throughout the Document Life Cycle, and an Introduction to Accessible Multimedia.
- OAST participated in the OCIO Open House, which allowed OCIO program offices to showcase services that are available to both internal and external DHS personnel.
- OAST held the annual DHS Section 508 Coordinators Conference where Section 508 Component Coordinators and subject-matter experts convened to share information on Component successes, challenges, and opportunities related to ensuring equal access to information and data for people with disabilities. Chief Information Officer Richard Spires, and CRCL Officer Margo Schlanger addressed the attendees.
- OAST provided three presentations, one of which was webcast, on "Accessibility Tools for Community Engagement" at "Getting Real," FEMA's 2010 Inclusive Emergency Management National Capacity Building Training Conference in Baltimore, MD.

## IX. Conclusion

The staff of the Office for Civil Rights and Civil Liberties works with dedication and vigor each day to secure the country while protecting civil rights and civil liberties, which form a crucial part of the American way of life. For much more information, including prior congressional reports, testimony, training materials, civil rights and civil liberties impact assessments, and many other items, see the Office's website at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

# Appendix A: DHS Civil Rights/Civil Liberties Authorities

## Statutes:

- **6 U.S.C. § 111; Section 101, Homeland Security Act of 2002 (as amended)—DHS Mission.** Requires that the Department ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland.
- **6 U.S.C. § 113; Section 103, Homeland Security Act of 2002 (as amended)—Other Officers.** The Officer for Civil Rights and Civil Liberties is appointed by the President.
- **6 U.S.C. § 345; Section 705, Homeland Security Act of 2002 (as amended)—Establishment of Officer for Civil Rights and Civil Liberties.** Authorizes the CRCL Officer to investigate complaints, provide policy advice to Department leadership and Components on civil rights and civil liberties issues, and communicate with the public about CRCL and its activities. The statute also requires coordination with the DHS Chief Privacy Officer and Inspector General, and directs submission of this annual Report to Congress.
- **42 U.S.C. § 2000ee-1; Section 803, The Implementing Recommendations of the 9/11 Commission Act of 2007—Privacy and Civil Liberties Officers.** Provides additional authority to investigate complaints, review Department activities and programs for their civil liberties impact, and communicate with the public about CRCL and its activities. This statute also ensures CRCL's access to information and individuals needed to carry out its functions, forbids reprisal against complainants, requires general coordination with the Inspector General, and directs the Officer for Civil Rights and Civil Liberties to report, quarterly, to Congress.

## Regulations:

- **6 C.F.R. pt. 15.** Forbids discrimination on the basis of disability in programs or activities conducted by the Department of Homeland Security. This regulation effectuates Section 504 of the Rehabilitation Act of 1973 (as amended), 29 U.S.C. § 794.
- **6 C.F.R. pt. 17.** Forbids discrimination on the basis of sex in education programs or activities receiving federal financial assistance. This regulation effectuates Title IX of the Education Amendments of 1972 (as amended), 20 U.S.C. § 1681 et seq.
- **6 C.F.R. pt. 21.** Forbids discrimination on the basis of race, color, or national origin (including Limited English Proficiency) in programs or activities receiving federal financial assistance from the Department of Homeland Security. This regulation effectuates the provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

## Executive Orders:

- **Executive Order 11478 (as amended by Executive Order 11590, 12106, 13087, and 13152), *Equal Employment Opportunity in the Federal Government* (August 8, 1969).** Prohibits federal employment discrimination on the basis of race, color, religion, sex, national origin, handicap, age, sexual orientation, or status as a parent.
- **Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994).** Requires each federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.
- **Executive Order 13107, *Implementation of Human Rights Treaties* (December 10, 1998).** Requires the Secretary to designate a single official as the interagency point of contact for human rights treaties; the Secretary has so designated the Officer for Civil Rights and Civil Liberties.
- **Executive Order 13145, *To Prohibit Discrimination in Federal Employment Based on Genetic Information* (February 10, 2000).** Prohibits federal employment discrimination on the basis of protected genetic information.
- **Executive Order 13160, *Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs* (June 23, 2000).** Holds the Federal Government to the same nondiscrimination principles relating to educational opportunities as those that apply to the education programs and activities of state and local governments, and to private institutions receiving federal financial assistance.
- **Executive Order 13163, *Increasing the Opportunity for Individuals with Disabilities to be Employed in the Federal Government* (July 28, 2000).** Promotes increasing opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and supports the goals articulated in section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791.
- **Executive Order 13164, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation* (July 26, 2000).** Requires federal agencies to establish procedures to facilitate the provision of reasonable accommodation, and to submit a plan to do so to EEOC within one year.
- **Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000).** Requires federal agencies to take reasonable steps to promote meaningful access to federally conducted and federally funded programs and activities for people with Limited English Proficiency.

- **Executive Order 13256, *President's Board of Advisors on Historically Black Colleges and Universities* (February 12, 2002).** CRCL reports and plans for DHS.
- **Executive Order 13270, *Tribal Colleges and Universities* (July 3, 2002).** CRCL reports and plans for DHS.
- **Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness* (July 26, 2004).** Promotes the safety and security of individuals with disabilities in emergency and disaster situations. The Executive Order also created an Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, which is chaired by the Secretary of the Department of Homeland Security, who has designated the Officer for Civil Rights and Civil Liberties to carry out these duties.
- **Executive Order 13515, *Increasing Participation of Asian Americans and Pacific Islander in Federal Programs* (October 19, 2009).**

**Delegations and Directives:**

- **Directive 3500,** Operational Roles of the Officer for Civil Rights and Civil Liberties and the Office of the Chief Counsel.
- **Directive 4010.2,** Section 508 Program Management Office and Electronic and Information Technology Accessibility.
- **Delegation 3095,** Delegation to the Officer for Civil Rights and Civil Liberties for Matters Involving Civil Rights, Civil Liberties, and Equal Employment Opportunity.
- **Delegation 19000,** Delegation to the Deputy Officer for Equal Opportunity Programs.
- **Delegation 19001,** Delegation to the Deputy Officer for Civil Rights and Civil Liberties Programs and Compliance.
- **Delegation 19002,** Delegation to the Officer for Civil Rights and Civil Liberties to Integrate and Manage Civil Rights, Civil Liberties, and Equal Employment Opportunity Programs.



## Appendix B: Complaint Tables

In FY 2010, CRCL received 195 new complaints (compared to 155 in FY 2009) and closed 118 complaints (compared to 144 in FY 2009). In addition, in FY2010, CRCL instituted many improvements to make the complaint system more responsive and effective. The new processes after conducting roundtables with NGO advocacy organizations, and receiving NGO and internal DHS comments. Major changes include: easy-to-use optional complaint submission form, expedited complaint process, increased transparency, expanded access to subject matter experts, comprehensive language access services, new complaint database system, and enhanced privacy protection, among many others.

Appendix B's nine tables describe: (1) matters retained by the Office of Inspector General during FY 2010; and (2) matters retained and referred by CRCL, both received and completed, during FY 2010 (by quarter). (Appendix C summarizes all matters retained by CRCL for investigation and closed during FY 2010, and Appendix D the complaints closed during FY 2010 that CRCL had referred to Components for fact investigation.)

As of September 30, 2010, the Compliance Branch had 284 open complaints. Of those, 118 are retained within CRCL for investigation, 28 using "short-form" investigations to facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and therefore require limited investigation. The short-form process makes it easier to open and close complaints, allowing speedier resolution. Cases that prove to require additional work are converted to standard investigations. 155 complaints had been referred to a DHS Component for investigation, and 11 were retained by the OIG for investigation.

For a tally of all CRCL's complaints by Component and primary allegation from 2003 to 2010, please visit [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### Office of Inspector General

CRCL initially refers all complaints to the Office of the Inspector General (OIG), which retains a relatively small number of those complaints for its own investigation. See 6 U.S.C. § 345(a)(6). As of September 30, 2010, the CRCL Compliance Branch had 11 open complaints that were retained by OIG; of these, eight, were opened in FY 2010.

Table B-1A tallies the complaints, by quarter and Component that were retained for investigation by the OIG. Table B-1B tallies the ten complaints OIG closed; these included one matter retained by the OIG in FY 2006, six in FY 2009, and three in FY 2010.

**TABLE B-1A: CRCL COMPLAINTS RECEIVED AND RETAINED BY OIG, FY 2010**

Primary Allegation	CBP				FEMA				ICE				TSA				USCIS				USSS				Multi-Component				Sub-Totals				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Excessive Force / Abusive Questioning									1			1																			1	1	2
Conditions of Detention			1						1																						1	1	2
Profiling/ Discrimination																																	
Due Process																																	
Treatment	1																														1		1
Unaccompanied Minors									3																						3		3
Watch List																																	
<b>Total</b>	1		1						3	2		1																	4	2	1	1	8

**TABLE B-1B: CRCL COMPLAINTS CLOSED BY OIG, FY 2010**

Primary Allegation	CBP				FEMA				ICE				TSA				USCIS				USSS				Multi-Component				Sub-Totals				Total
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	
Excessive Force / Abusive Questioning											2																				2		2
Conditions of Detention									1																						1		1
Profiling/ Discrimination																																	
Due Process																																	
Treatment																																	
Unaccompanied Minors	1		3								3																				1	6	7
Watch List																																	
<b>Total</b>	1		3						6																				1		9		10

## Complaints Retained by CRCL and Referred to DHS Components, by Quarter

Pursuant to 42 U.S.C. § 2000ee-1, the tables below summarize, by quarter, the year's complaints received and resolved, dividing them into those that were retained for full investigation by CRCL, those that were referred for fact investigation by a Component, and those that were processed within CRCL via short form. (Note that many components also receive and resolve civil rights complaints; these tables deal only with those in which CRCL has played a role.)

### First Quarter FY 2010

**TABLE B-2A: COMPLAINTS RECEIVED Q1 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	13						17			2			2			2						36					
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	All		
Excessive Force / Abusive Questioning	1	2							2															1	2	2	5
Conditions of Detention							2		9															2	0	9	11
Profiling/Discrimination		3									1			1										0	5	0	5
Due Process									2					1						1				0	2	2	4
Treatment	1	5							1	1														1	6	1	8
Unaccompanied Minors	1								1										1					2	0	1	3
Watch List																											
<b>Total</b>	3	10					2		15	2			2						1	1				6	15	15	36

**TABLE B-2B: COMPLAINTS CLOSED, Q1 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total			
	10						7			15						3						34						
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	All
Excessive Force / Abusive Questioning							1				1								1						2	1		3
Conditions of Detention							1	4																	1	4		5
Profiling/Discrimination		4								1	6														1	10		11
Due Process																												
Treatment	1	3									6								1						2	9		11
Unaccompanied Minors		1						1											1						1	2		3
Watch List											1															1		1
<b>Total</b>	1	8					2	5		1	14								3					7	27		34	

**Second Quarter FY 2010**

**TABLE B-3A: COMPLAINTS RECEIVED Q2 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
	21						20			4						1			1						47
Excessive Force / Abusive Questioning	1	4						3									1					1	8		9
Conditions of Detention		1	2				1	10														1	11	2	14
Profiling/Discrimination		4					1	2			1											1	6	1	8
Due Process							2															2	0		2
Treatment	1	4						1		1	2								1			3	7		10
Unaccompanied Minors	1	3																				1	3		4
Watch List																									
<b>Total</b>	3	16	2				4	16		1	2	1					1		1			9	35	3	47

**TABLE B-3B: COMPLAINTS CLOSED, Q2 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
	8						9			17															34
Excessive Force and Abusive Questioning		1					1	2														1	3		4
Conditions of Detention							2	3														2	3		5
Profiling/Discrimination		1									6												7		7
Due Process																									
Treatment		2						1			11												14		14
Unaccompanied Minors		4																					4		4
Watch List																									
<b>Total</b>		8					3	6			17											3	31		34

**Third Quarter FY 2010**

**TABLE B-4A: COMPLAINTS RECEIVED, Q3 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		
	7						27			6			3			1			4						48	
Excessive Force / Abusive Questioning							1						1						1			2	1		3	
Conditions of Detention							7	6	7													7	6	7	20	
Profiling/Discrimination		4	1					1	1	1	2					1						1	1	8	3	12
Due Process														1					1			1		1	2	
Treatment		1					3	1	1	1	1		1									1	1	6	3	10
Unaccompanied Minors		1																					1		1	
Watch List																										
<b>Total</b>	6	1					8	10	9	2	3	1	1	1	1	1	1	1	1	1	2	12	22	14	48	

**TABLE B-4B: COMPLAINTS CLOSED, Q3 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
	3						11			3			1						1						18
Excessive Force / Abusive Questioning							1												1				2		2
Conditions of Detention							5																5		5
Profiling/Discrimination		1					1	1		1												1	3		4
Due Process							1						1										2		2
Treatment		2					1			2													5		5
Unaccompanied Minors																									
Watch List																									
<b>Total</b>	3						1	9		3			1						1			1	17		18

**Fourth Quarter FY 2010**

**TABLE B-5A: COMPLAINTS RECEIVED, Q4 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	All
	15						35			5									1						56
Excessive Force / Abusive Questioning		2					1															1	2	0	3
Conditions of Detention		1					12	2	13													12	3	13	28
Profiling/Discrimination		4					1	1	1	1	2											2	7	1	10
Due Process		1					1		1												1	1	1	2	4
Treatment		3	2				1	1			2											1	6	2	9
Unaccompanied Minors		1	1																				1	1	2
Watch List																									
<b>Total</b>		12	3				16	4	15	1	4										1	17	20	19	56

**TABLE B-5B: COMPLAINTS CLOSED, Q4 FY 2010: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	All	
	3						13			4						1			1						22	
Excessive Force / Abusive Questioning								1									1								2	
Conditions of Detention							5	3	1													5	3	1	9	
Profiling/Discrimination		1									1										1			3	3	
Due Process							1	1														1	1		2	
Treatment		1	1					1		1	2												1	4	1	6
Unaccompanied Minors																										
Watch List																										
<b>Total</b>		2	1				6	6	1	1	3						1				1		7	11	2	22

## Appendix C: Closed Retained Complaints

This appendix summarizes all retained investigations completed by CRCL during FY 2010. (Appendix D summarizes the complaints closed during the fiscal year that CRCL had referred to Components for fact investigation.) The number of items in these lists does not match the number of complaints listed in Appendix B because some complaints were consolidated for investigation due to similarities in the nature of the allegations and/or location of the incidents. Additional information about a few of these complaints is highlighted in Section V.D., above.

### CBP

- 1. *Laptop Screening and Traveler Treatment:*** A traveler seeking admission to the United States in July 2008 alleged mistreatment by CBP officers when they checked his electronic devices, reviewed pictures on his mobile phone, and asked him to turn on his laptop. CRCL examined relevant CBP policies and concluded in November 2009 that the CBP officers performed an appropriate inspection of the complainant, properly referred him to secondary inspection, and treated him appropriately, with the exception of an inappropriate comment by one officer. CBP took appropriate action in regard to this matter. In addition, CBP returned the complainant's equipment within a reasonable period of time. Since then, CBP published a new policy memorandum, "Border Search of Electronic Devices Containing Information Directive," currently the subject of an ongoing Civil Rights/Civil Liberties Impact Assessment by CRCL's Impact Assessment section.
- 2. *Use of Force by U.S. Border Patrol at a Private Residence in California:*** In October 2009, CRCL received a complaint alleging excessive force and abuse of authority by four Border Patrol agents at a private residence. The agents allegedly accused the complainant of lying about his citizenship, handcuffed and punched him in the stomach several times, and then forced him to the ground for 30 minutes while he was experiencing what he later described as excruciating pain. CRCL reviewed the information provided by the complainant and CBP, as well as transcripts of an ICE interview with the complainant and his daughter. CRCL concluded in September 2010 that the allegations were unsubstantiated, that the Border Patrol agents entered the complainant's property to fulfill their assigned mission to intercept a person of interest in a smuggling case who was known to reside at that address, and that the agents acted in good faith based on the information available to them when they questioned the complainant's identity and detained him.

### ICE

- 3. *ICE Operation Conducted at a Private Residence:*** A U.S. citizen asserted that ICE officers violated the Fourth Amendment in February 2008 when they allegedly bypassed the security gate to his apartment building, refused to leave when he asked them to depart from the common area of the building, and threatened to break down the door to his apartment. CRCL concluded that the officers' appearance at the door in an attempt to speak with the subject of



their investigation was justified, that a judicial warrant was unnecessary, but that one of the officers appeared to have intimidated the complainant with the threat of forced entry. CRCL expressed concerns as to whether the officers followed proper procedures and responded appropriately once they encountered verbal resistance. CRCL recommended that ICE undertake more effective training of officers on relevant issues. ICE agreed to modify its basic training to cover the scenario in the complaint.

4. ***Medical Care and Conditions of Detention at a Processing Center:*** In October 2007, an HIV-positive, transgender detainee alleged physical abuse in addition to inadequate grievance procedures, mail service, and medical care. CRCL's investigation found no evidence to substantiate the physical abuse or mail service allegations; CRCL found minor issues with the administration of the complainant's medication during shakedowns but concluded that the situation was appropriately resolved. In October 2009, CRCL made several recommendations to ICE relating to transgender issues, the administration of medications during shakedowns, and the proper response times for medical grievances. ICE agreed to work with CRCL to address several of these issues in the next revision of detention standards, as well as to review the existing Classification Standard to address the housing of transgender detainees, and its medical grievance process. ICE agreed to share the findings of their reviews of these issues with CRCL. Additionally, ICE agreed to issue a clarification memorandum to field office directors requiring them to have a standard operating procedure addressing the delivery of critical medications during security procedures. Field guidance has since been promulgated on appropriate housing of vulnerable detainees, including those who are transgender.
5. ***Conditions of Detention at a County Jail in New Jersey:*** CRCL closed four separate complaints involving a New Jersey detention facility alleging excessive force and retaliation involving 92 detainees. The complainants claimed in April 2008 that ICE contract officers, in an unprovoked attack, used excessive force against a detainee, and then levied disciplinary charges against several other detainees who got involved in the incident and placed them in segregation or removed them from the facility. One complainant also alleged excessive force by an ICE officer in a courthouse holding cell; another reported that inadequate visitation procedures denied detainees access to legal representation and family members; and a final complainant alleged that the facility failed to provide adequate medical care to an HIV-positive detainee. CRCL's investigation found non-compliance with ICE detention standards relating to detainee handbooks, disciplinary segregation, staff-detainee communication, visitation, and medical care. The onsite facility review also raised concerns with the ICE detention standards on telephone access, grievance procedures, and suicide prevention and intervention. In October 2009, just weeks after CRCL's onsite visit to the facility, ICE discontinued use of the facility. Nevertheless, CRCL made a number of recommendations to ICE in the event that future agreements were sought with the facility, including appropriate care for detainees with medical and mental health concerns, improved staff reporting and record-keeping, and facility monitoring by ICE or an ICE designee. However, ICE confirmed that as of March 2011, this facility will not be utilized for ICE immigration detention.

6. ***Treatment of a Deaf Detainee:*** Complaints received pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, follow a special procedure, according to the regulations. One such complaint was brought in September 2005, by a detainee who was unable to hear, read lips or speak, and had filed many similar complaints involving numerous facilities over the course of four years. He alleged that the facilities lacked TTY access and had inadequate access to the telephone or television, and that he was denied a sign language interpreter prior to his arrest by ICE and during his detention. CRCL conducted a site visit and later facilitated a meeting between the detainee and senior ICE officials to discuss his concerns and recommend ways for ICE to improve its communications with deaf detainees. ICE and CRCL have since provided Section 504 training to specified employees and designate a disability coordinator within the appropriate agency field office.
7. ***Conditions of Detention at an ICE Contract Facility in Texas:*** In May 2010, CRCL received two complaints alleging that a detainee was denied clean clothes, bedding, and hygiene products while in ICE custody at a facility in Texas. Due to a lack of cooperation by the complainant, CRCL was unable to investigate the allegations, and closed the matter in September 2010.
8. ***Death of an ICE Detainee in Massachusetts:*** Pursuant to ordinary procedures, ICE notified CRCL of the death of a detainee at a detention facility in Massachusetts in October 2009, and subsequently provided the individual's detention and medical records. CRCL's medical expert concluded that the care the detainee received leading up to his death was not appropriate. Although the exact causes of death remained uncertain, CRCL concluded there were systemic failures in the medical unit's processes and procedures that impacted both chronic and acute health needs. Deficiencies included transfer delay, a shortage of qualified staff, absence of clear policies and procedures regarding emergency and other medical situations, and lax record-keeping. ICE's report, based largely on the independent analyses of two ICE-contracted consultants, supported CRCL's conclusions, citing specific violations of the Detention Standard on Medical Care. In September 2010, CRCL recommended that ICE: (1) conduct a detailed audit of the facility's medical unit to determine compliance with the ICE detention standards on medical care and medical emergencies, whether the medical unit had appropriate emergency policies and procedures in place, and whether the medical unit staff was qualified to implement appropriate emergency responses; (2) conduct a detailed review of medical reports, discrepancies, and errors, and thereafter take action to prevent similar errors and future patient harm; (3) require the facility to ensure medical unit staff are fully trained and qualified to provide all levels of medical care to ICE detainees; (4) request that the attending physician at the time of a detainee's death communicate directly with the medical official conducting the autopsy regarding the medical circumstances and diagnoses leading up to the death or, ideally, attend the autopsy; (5) minimize the transfer of detainees with serious or chronic medical conditions between detention facilities in order to ensure a quality and consistent continuum of care; (6) utilize alternatives to detention for those detainees with chronic or serious health conditions and who otherwise qualify for alternatives to detention programs; and (7) ensure that physicians, rather than nurses, conduct future death reviews for ICE. In response, the facility developed an action plan and has begun to implement CRCL's recommendations. CRCL continues to monitor the progress of

implementation; ICE and CRCL monitoring of that plan is underway. ICE visited the facility in May 2011.

9. ***U Visa Certification:*** In October 2009 and March 2010, a complainant alleged that she had been sexually assaulted by an ICE agent during a worksite enforcement visit in June 2008, but that when she applied for a U visa, predicated on her status as a victim of that assault, ICE misconstrued the applicable law, resulting in denial of the needed certification. She had filed sexual assault charges with the local police, who referred the matter to ICE for investigation; OPR and the U.S. Attorney's Office concluded that no crime had occurred. In the absence of evidence of the existence of a crime, ICE determined that the complainant was ineligible for the U visa. CRCL concluded in September 2010 that ICE was within its legal authority to deny the U visa certification.
10. ***Legal Resources at a Virginia Regional Jail:*** An asylum seeker alleged in March 2010 that he was denied appropriate access to courts when ICE personnel took an unreasonable amount of time to replace a printer ink cartridge at a Virginia regional jail during January and February 2010, rendering him unable to print legal documents. He claimed that notwithstanding multiple requests to ICE and jail officials, no action was taken to alleviate the problem. CRCL substantiated the complainant's allegation of unreasonable delay, but ascertained that the missing ink cartridge had not caused the complainant to miss any filing deadlines.

## TSA

11. ***Removal of Passengers from an Aircraft in Washington, D.C.:*** In January 2009, a Muslim family complained of inappropriate profiling by TSA officials after they were removed from a commercial flight. CRCL's investigation found that two passengers on the flight overheard two of the passengers who were removed make what was perceived to be a suspicious remark; TSA's employees proceeded on the basis of the resulting report. CRCL concluded in October 2009 that the conduct of TSA employees was appropriate and not based on impermissible factors and that their actions did not violate DHS policies or constitutional or statutory requirements.
12. ***Treatment of a Traveler at a Texas Airport:*** A complainant alleged in May 2008 that she had been mistreated and discriminated against due to her disability at a Texas airport. She claimed that she had a facial deformity resulting from cancer, making it difficult for her to communicate and forcing her to travel with more than the three ounces of liquid TSA typically allowed through airport checkpoints. TSA procedures allow for exceptions to be made for individuals such as the complainant, but the Transportation Security Officer (TSO) whom she encountered forced her to discard the liquids prior to the involvement of a supervisor. TSA's investigation concluded that the TSO involved treated the passenger rudely and inappropriately instructed her to discard her medically necessary fluids. TSA took appropriate action on that finding. The investigation concluded that this incident was isolated and not indicative of a widespread misunderstanding of TSA policy by TSOs. CRCL closed the matter in September 2010.

**13. TSA Screening at a Delaware Airport:** A traveler alleged that she was subjected to unprofessional treatment in March 2010 when a TSO touched her inappropriately during a physical pat-down. She also claimed that the pat-down occurred without warning after she passed through the metal detector without setting off the audible alarm, and that she was not given the opportunity to request a private screening. The CRCL and TSA OCRL investigation found that the complainant was selected at random for the pat-down she received, which is consistent with TSA Standard Operating Procedures and policies. Such unpredictable screenings are a routine part of TSA's protocols. In addition, the TSO involved stated that she explained to the passenger prior to the pat-down search that she was going to perform such a search. In addition, although the passenger did not receive verbal notice of the opportunity for private screening, posted signs provided notice. CRCL concluded this form of communication is sufficient in light of the large numbers of passengers screened each day. In sum, the complainant's civil rights were not violated. CRCL closed the matter in September 2010.

## Multi-Component

**14. Treatment of a Foreign National Traveling to the U.S.:** A woman alleged mistreatment in August 2008 when Border Patrol agents allegedly dragged her from a bus to a police van and placed her into a cell with a man. Additionally, the complainant made a number of allegations regarding mistreatment and conditions of detention while in ICE custody. CRCL found in November 2009 that a Border Patrol agent had erred in placing the male and female detainees together for a very brief time, but found no evidence to substantiate that the Border Patrol agents dragged her from the bus to the van. In regard to improper hold room placement, CBP posted signs ensuring each cell is appropriately marked by gender.

**15. Interactions with Activists by DHS Officials and Maryland State Police:** The ACLU alleged in March 2009 that DHS officials and Maryland State Police improperly monitored and disseminated the communications of peace activists affiliated with the DC Anti-War Network (DAWN). CRCL's investigation concluded that because FPS is responsible for the safety of people in federal buildings, it had a legitimate reason to share the information related to protests shared for areas near such buildings obtained from message boards, and that DAWN's First Amendment rights were not violated. FPS acted in furtherance of its mission to mitigate risk to federal facilities and their occupants. CRCL recommended that the FPS update its operational guidelines regarding the monitoring of public message boards, prohibit the use of personal computers for law enforcement purposes, and provide training on information sharing procedures and guidelines. FPS issued a Regional Information Sharing Program (RISP) Directive clarifying the collection, review, analysis, and dissemination of open source, criminal, and national security information, both internally and externally. In addition, FPS provided guidance to FPS managers and special agents relating to the RISP, privacy matters, and access to public websites for law enforcement and official purposes. Follow-up training is planned for FY 2011. CRCL closed the matter in November 2009.

**16. Treatment of Unaccompanied Minors by CBP and ICE:** CRCL consolidated ten HHS Office of Refugee Resettlement (ORR) significant incident reports into one large investigation of the treatment of unaccompanied minors in DHS custody in Arizona; the

earliest of the consolidated matters had come to the Office in September 2007. The investigation examined allegations of abusive treatment during apprehension, inadequate provisions of meals and bedding, insufficient record-keeping and medical care, and excessive time in DHS custody before transfer to the placement facilities of HHS ORR, which takes custody of unaccompanied minors from DHS. While CRCL found no problems in some of the allegation areas, we concluded in November 2009 that sector station procedures and insufficient recordkeeping were contributing to inadequate provision of meals and to excessive amounts of time in DHS custody. Although the length of time minors spent prior to transfer to ORR was sometimes increased by ORR's bed space shortage and by other factors including arrest location, transportation issues, and the need for medical care, in some instances the Border Patrol delayed processing the minors and notifying ICE of the need for transfer. CRCL recommended improvements throughout the Tucson sector regarding improved record keeping, providing timely and appropriate meals, and timely transfer out of DHS custody after processing. In follow-up reviews done in February and August, 2010, CRCL observed that the sector had implemented many of the recommendations. Sector stations were beginning to use a new logging system to track arrival and transfer times. Some were providing different types of heatable food to minors, with other stations to follow suit as vendor contracts expired, and were improving transport protocols to move apprehended individuals more quickly to larger facilities with better food availability. More generally, Tucson Sector leadership agreed to maintain juvenile coordinator staff to oversee the handling of unaccompanied minors, to improve recordkeeping systems, and to participate in CRCL trainings on key issues such as the use of force during apprehension of minors. CRCL will continue to closely monitor the relevant issues.

## Appendix D: Closed Referred Complaints

This appendix summarizes the complaints CRCL closed during FY 2010 that had been referred to Components for fact investigation. (Appendix C summarizes each matter retained by CRCL for investigation and closed during the fiscal year.) The number of items in these lists does not match the number of referred complaints listed in Table 3, because some complaints were consolidated for investigation due to similarities in the nature of the allegations and/or location of the incidents. Additional information about a few of these complaints is highlighted in Section V.D., above.

### CBP

#### First Quarter

- 1. *Alleged Harassment at a Port of Entry:*** An individual seeking entry into the U.S. in December 2008 alleged in May 2009 that his civil rights were violated by CBP personnel at a California port of entry who called him a derogatory name and denied him use of the restroom after he informed them of his disability. Upon referral, the CBP Office of Internal Affairs investigated and found insufficient evidence that officers used derogatory language towards the complainant during the inspection. In addition, the complainant was appropriately referred to secondary inspection due to X-ray anomalies, his criminal history, and his behavior. The delay in restroom access may have resulted from the requirement that travelers stay in their vehicles; however, CBP officers do allow travelers to have restroom access if warranted by the circumstances. CRCL made no recommendations based on this complaint, and closed it in December 2009.
- 2. *Inspection at a Port of Entry:*** A complaint was forwarded to CRCL in July 2009 by a member of Congress on behalf of a U.S. citizen seeking reentry into the U.S. The individual alleged that he and his wife were racially profiled by CBP personnel at a California port of entry the month before while returning home to the U.S. from Mexico. The couple was referred for secondary inspection, handcuffed, detained, and interrogated in a CBP office for several hours before being released. The CBP Office of Field Operations (OFO) investigation found that the inspection was conducted in compliance with CBP policies and procedures, including the handcuffing, which was safety-related. CRCL provided DHS TRIP information to the complainants in the event that they wished to seek resolution of screening issues in the future, and closed the matter in November 2009.
- 3. *Secondary Inspection at a Michigan Airport:*** CRCL received a complaint in July 2009 regarding an individual seeking entry into the U.S. at a Michigan airport. Although the individual had been approved for travel under the Visa Waiver Program, CBP personnel denied entry because he did not provide evidence that he planned to return to his home and family. The complaint alleged that the individual experienced substantial mental distress when he was interrogated by CBP officers for hours without food or water, fingerprinted, searched, and then returned to England. The investigation by CBP IA revealed that the

individual was not clearly admissible as a bona fide visitor, and his application was properly refused. In addition, during the time he spent in CBP custody he neither requested a meal nor met the mandatory feeding prerequisite of six hours. IA concluded that the actions taken by the officers were warranted and with good cause, that all CBP procedures were followed, and that the officers treated the individual with respect and professionalism throughout the process. CRCL closed the matter in November 2009.

4. ***Alleged Enforcement on a College Campus in Michigan:*** In May 2009, CRCL opened an investigation regarding CBP's treatment of students at a university campus in Michigan; the complainant, a student at the university, referred to an August 2008 newspaper article alleging that CBP officers engaged in racial profiling and excessive force, and took advantage of international students who were unaware of their rights. CBP IA's investigation found that the interviews in question were part of a legitimate law enforcement operation, and were not discriminatory. CBP held a productive meeting with university officials to explain CBP's policies and practices; CRCL closed the matter in November 2009.
5. ***Secondary Inspection at an Illinois Airport:*** An individual seeking entry into the U.S. in June 2009 complained that CBP officers subjected him to harassment and humiliation during secondary inspection and discriminated against him based on his name and religion. He also alleged that he was refused food and water and was coerced into signing papers withdrawing his application for admission. After investigation, CBP OFO reported that the complainant was treated with respect, dignity, and professionalism, and was not a victim of discrimination. During secondary inspection, CBP determined that the complainant was traveling to the U.S. to obtain employment and was, therefore, inadmissible. The allegation regarding the denial of food and water was determined to be unfounded. Finally, OFO concluded that the complainant's withdrawal of his admissions application was willing, voluntary, and without coercion. CRCL closed the matter in December 2009.
6. ***Passenger Returning from Religious Pilgrimage:*** A U.S. citizen filed a request for redress with DHS TRIP, alleging discrimination based on religion by CBP officers. He claimed that after his return from the Hajj pilgrimage, CBP frequently referred him to secondary inspection and questioned him in a biased manner. This complaint was filed in January 2008 and closed in October 2009. CBP investigated the matter and concluded that the complainant's inspections were conducted in compliance with current DHS policies and procedures. No evidence of discrimination was found.
7. ***Unaccompanied Minors at a Florida Airport:*** An individual filed a DHS TRIP complaint in January 2008 alleging that when a sponsor returning from international travel with a group of high school students was referred to secondary inspection at a Florida airport, one of his students waited outside the secondary inspection area without supervision for more than an hour. CBP's investigation found that the complainant was held in secondary inspection for 19 minutes; CBP reported that the group of students was identified by CBP and remained inside an enclosure near the supervisor's podium, approximately 30 feet from the inspection. As a result of this complaint, however, CBP reiterated to its officers policies related to secure detention and treatment of unaccompanied minors. The DHS TRIP program also processed the complainant's potential travel issues. CRCL closed the matter in November 2009.



8. ***Alleged Religious Discrimination at a Virginia Airport:*** A traveler wrote in a newspaper op-ed that CBP officers at a Virginia airport refused his colleague entry to the U.S. in January 2009. The op-ed questioned whether the colleague's Muslim faith may have improperly factored into the decision. CRCL opened the matter in response in March 2009. CBP's investigation found that the individual was inadmissible to the U.S., and as a result, he was appropriately allowed to withdraw his application for admission. CRCL closed the matter in October 2009.

## Second Quarter

9. ***Unaccompanied Minors in California:*** In January 2009, CRCL received two Significant Incident Reports from HHS/ORR containing several allegations from unaccompanied minors in California. The two minors claimed that they were detained for 50 hours in December 2008 and were mistreated by Border Patrol agents, who acted unprofessionally, yelled obscenities, and coerced them into signing voluntary return documents. The complainants also alleged inadequate access to telephones, food, and water. CBP's administrative inquiry found that the minors were not mistreated or coerced into signing their departure documents, and that one of the complainants refused offers of food on several occasions. Because of a delay in ORR's designation of a placement facility, Border Patrol did in fact hold the minors beyond the 24 hour limit in Border Patrol's hold room policy. In addition, the investigation revealed several concerns regarding the treatment of unaccompanied minors, including poor record keeping of time in custody and provision of meals. These concerns were addressed by CBP leadership, and the San Diego Sector has since taken corrective action. CRCL closed the matter in January 2010.

10. ***Alleged Physical Abuse of an Unaccompanied Minor in Texas:*** An unaccompanied minor alleged in March 2009 that he was physically abused by Border Patrol agents during his apprehension. CRCL referred the complaint to CBP, whose Report of Investigation indicated that there was no evidence to support the allegations. This conclusion was supported by intake and screening records, as well as interviews with arresting and processing agents. CRCL closed the matter in February 2010.

11. ***Treatment of an Unaccompanied Minor:*** CRCL received a Significant Incident Report from HHS/ORR in June 2009, alleging that a 16-year-old unaccompanied minor was physically and verbally abused by Border Patrol agents in Arizona. CBP's investigation found no evidence of misconduct, and CRCL closed the matter in March 2010.

12. ***Treatment of an Unaccompanied Minor in Arizona:*** CRCL received a Significant Incident Report from HHS/ORR in June 2009 alleging that Border Patrol agents used excessive force on a 15-year-old unaccompanied minor during apprehension in Arizona. The HHS records suggested that Border Patrol waited two days before notifying ICE of the need for an HHS/ORR placement. Upon referral from CRCL, CBP IA concluded that the excessive force allegations were unfounded, and that CBP had notified ICE of the need to place the juvenile within the hour of arrival. CRCL closed the matter in March 2010.

- 13. Secondary Inspection at a Washington, D.C. Area Airport:** An international graduate student alleged in August 2009 that CBP officers were verbally abusive, threatening, and made offensive and discriminatory statements during her secondary inspection at a Washington, D.C. area airport. Upon referral, CBP IA investigated the incident and found no evidence of verbal abuse or discrimination. CRCL closed the matter in March 2010.
- 14. Disability and Secondary Inspection at a California Port of Entry:** In June 2009, a person with a disability entered the U.S. and alleged that during secondary inspection he was dragged out of his vehicle after informing officers of his physical disability. CBP IA found that the complainant had failed to comply with officers' instructions and became verbally abusive. When the traveler informed the officers of his disability, they provided him with a wheelchair in order to escort him to secondary inspection. In addition, CBP reported that his removal from the vehicle was consistent with current CBP policy and necessary due to his non-compliance. CRCL closed the matter in March 2010.

### Third Quarter

- 15. Secondary Inspection at a New York Airport:** An individual alleged in August 2009 that he was "unnecessarily abused, detained and questioned" by CBP employees at a New York airport in July 2009 while in transit between Europe and Canada via the U.S. He also claimed that he was provided with an interpreter only in Hungarian and not his native language of Serbian, and that he was forced to sign a document that he did not understand. CBP investigated and was unable to substantiate the allegations. CBP reported that the complainant's processing time was normal, and that there was no record of the complainant's request for an interpreter during his inspection. In fact, the complainant was not provided an interpreter in any language, and he attested in a sworn statement that he was able to understand the questions in English. Findings also indicated that the passenger was re-routed through the U.S. by his airline without the proper visa, which resulted in a fine against the airline and required a sworn statement by the passenger. Rather than return him to Europe, CBP granted the complainant humanitarian parole to allow him to continue his journey to Canada. CRCL closed the case in April 2010.
- 16. Admissibility Determination at a Texas Airport:** In an August 2009 DHS TRIP complaint referred to CRCL, a passenger seeking to enter the U.S. in March 2009 alleged that CBP officers at a Texas airport fingerprinted and photographed her and asked her to remove her Islamic head covering. She also alleged that she spent the night in jail prior to her removal. CBP found that the complainant's inspection was conducted in compliance with CBP policies. As a nonimmigrant alien, the passenger was subject to United States Visitor and Immigrant Status Indicator Technology requirements, which necessitated the fingerprints and photographs. For adequate reasons within standard operating procedures under the circumstances, two female officers then conducted a personal search in a private room, away from public view, and asked her to remove her head covering. After the passenger was determined to be inadmissible to the U.S., the processing CBP officer used his discretion to allow her to withdraw her application for admission in lieu of expedited removal, and she was appropriately detained until a return flight could be scheduled. The matter was closed in June 2010.

**17. Alleged Racial Profiling at a Texas Airport:** An individual seeking to enter the U.S. in November 2009 claimed the following month that he was profiled and harassed by CBP officers at a Texas airport. He specifically alleged that CBP examined his baggage, willfully damaged his property, and detained him for more than four hours, all because he was an Asian male. CBP's investigation found that the complainant was released in less than two hours, and that his referral to secondary inspection was in accordance with CBP policies and procedures. CBP also reported while a number of prohibited items were seized, no items were reported damaged by the complainant or CBP officers during the inspection. CRCL closed the matter in April 2010.

## Fourth Quarter

**18. Alleged Discrimination at the Arizona Border:** In December 2009, an African-American male alleged race and gender discrimination because he was forced in June 2009 to pull over to allow Border Patrol agents to search his vehicle at an Arizona border checkpoint without explanation. He also alleged that he was detained and questioned illegally, and that he was not allowed to leave until the search of his motor home was complete. Border Patrol investigated the incident and estimated that the entire encounter with the complainant lasted 5-10 minutes, was conducted in a professional manner, and that the basis for referral to secondary inspection and subsequent questioning was appropriate. CRCL closed the matter in September 2010.

## ICE

### First Quarter

**19. Conditions of Detention in Arizona:** In February 2009, a complainant alleged multiple deficiencies at an Arizona detention facility in the areas of food service, religious meals, religious access, mail pickup, hygiene products, strip searches, use of restraints, telephone access, hold room seating, staff-detainee communication, shackling of female detainees during transportation, and access to the law library and library supplies. Upon review of the ICE investigation, CRCL concluded in December 2009 that the allegations were largely unsubstantiated. The report showed that the complainant was provided largely unfettered daily access to the library during her ICE detention, received a kosher diet, and was not subject to improper strip searches or restraints. Similarly, no violation of the applicable detention standards was found regarding mail pickup, hygiene products, or staff-detainee communication. The report did, however, substantiate allegations relating to hold room seating and access to telephones. New telephones were installed, and time spent in hold rooms was shortened to minimize detainees' need to sit.

**20. Treatment of an Unaccompanied Minor in Arizona:** An unaccompanied 17-year-old alleged in April 2009, that agents at an Arizona field office denied her drinking water and indicated that the only water available was in the toilet. She also alleged that she was fed only once

each day for three days. ICE found that the complainant was provided with three hot meals and one snack bag during the 18 hours she was in ICE custody before her transfer to an HHS/ORR facility. In addition, the complainant's holding cell was outfitted with benches, toilet facilities, a sink, and a water fountain. CRCL closed the matter in December 2009.

**21. *Conditions of Detention at a Regional Jail in Virginia:*** The complainant, an ICE detainee, alleged in April 2008 that a regional jail in Virginia was deficient in a number of areas, including medical care, recreation, and a poor sleeping environment. He also alleged race discrimination. ICE found that the complainant received appropriate medical and dental care, including timely responses to his sick call requests. OPR also found no evidence to support either the claim of denial of recreational equipment by the facility or race discrimination, and concluded, as well, that the jail was in compliance with the detention standards relevant to its sleeping environment. CRCL closed the matter in November 2009.

**22. *Safety of Detainees in a County Jail in Kentucky:*** An ICE detainee at a county jail in Kentucky alleged in December 2008 that he was housed with dangerous inmates who stole his food, threatened him, physically assaulted him, and broke his nose. He alleged that he was placed in segregation after the assault, that he was denied surgery to repair his nose, and that his request for a single cell was denied upon his release from segregation back to general population. ICE reported that the complainant was classified as a "minimum level" detainee, the lowest risk level, and was appropriately housed with both county inmates and ICE detainees similarly classified. Following the altercation, the complainant was treated at a local hospital, receiving appropriate medical care; he was also appropriately housed in a medical unit upon return to the facility. CRCL closed the matter in December 2009.

**23. *Medical Care at a Florida Transition Center:*** CRCL received a complaint in February 2009 on behalf of two individuals in ICE custody alleging that they were not receiving proper medical care after suffering trauma from a December 2008 boating accident. ICE found that the ICE facility provided health assessments and physicals. In addition, following receipt of mental health evaluations from the detainees' psychiatrist, medical staff at the transition center conducted a subsequent evaluation, prescribed them medications, and scheduled outpatient psychiatric consultations. About six months later, both men reported that they were receiving their medications and expressed no concerns regarding their medical care. CRCL closed the matter in November 2009.

## Second Quarter

**24. *Medical Care at a Regional Jail in Virginia:*** An ICE detainee complained in December 2008 that a fellow detainee entered a Virginia regional jail in good health five months prior had become physically immobile and had lost movement in the right side of his body. Also, he was not receiving access to a wheelchair. About two months later, CRCL received a second complaint from the same complainant, stating that he, himself, had lost mobility in his hands and legs because of a stroke suffered while at the jail, and that ICE was not responding to his medical needs. CRCL and a representative from the ICE Office of the Principal Legal Advisor visited the jail and CRCL consulted with medical experts, and concluded that the medical care provided was inadequate. ICE ceased to house detainees at

this facility prior to the issuance of the final report and has no intention to house detainees there in the future. If ICE decides to reestablish use of the facility, medical issues that would need to be addressed include ensuring that: medical staff possess core competencies; discharge planning is adequate; transfers of detainees are properly coordinated; and patients receive appropriate levels of monitoring when placed on close medical observation. CRCL closed the matter in February 2010.

**25. *Conditions of Detention at a County Correctional Facility in New Jersey:*** Two complaints were referred to CRCL by DOJ's Civil Rights Division, alleging that in June 2008, ICE officials in Pennsylvania discriminated against Muslim detainees based on religion. One complaint also alleged that ICE officials misclassified a detainee and denied a custody review, and also failed to provide a religious diet and religious services. ICE's investigation found no evidence to support the religious discrimination allegations, but did find a failure on the part of the facility to provide the complainant with a Post Order Custody Review within 90 days after he was taken into custody. The facility was notified of the deficiency and conducted the appropriate review. In addition, CRCL requested a review of classification procedures at the facility and found the detainee's classification compliant with the applicable detention standards. CRCL closed the matter in January 2010.

**26. *FPS Treatment at a Social Security Card Center:*** The complainant alleged in September 2009 that he and his son were improperly detained by an FPS contract security officer while attempting to obtain a replacement social security card from a social security office in Nevada, and that excessive force was applied while they were handcuffed. FPS is now part of DHS NPPD, but at the time it was part of ICE. ICE was unable to substantiate the allegations. CRCL closed the matter in March 2010.

**27. *Physical Search and Legal Resources at a Detention Facility in Louisiana:*** A detainee alleged in September 2009 that he was subjected to an improper and invasive physical search in a Louisiana detention facility, and that legal resources at the facility were inadequate, preventing detainees from conducting adequate legal research. ICE did not substantiate the allegations, finding that the physical search complied with ICE policies and procedures, and that there was no evidence of inappropriate touching. Regarding the issue of legal resources, ICE reported that the legal resources available to ICE detainees at the detention facility were maintained in accordance with ICE policies, the facility had no record of denying any request for access to legal resources, and the facility provided the necessary amount of time for detainees to conduct legal research. The matter was closed in March 2010.

**28. *Medical Care at a Correctional Facility in California:*** In a complaint received in September 2009, a detainee alleged that in April, correctional officials in California failed to properly explain medical risks associated with a surgical procedure, and that they retaliated against him after an unrelated argument with a staff member by interfering with his requested transfer. CRCL consulted with the Division of Immigration and Health Services (now ICE Health Services Corp) regarding the complainant's medical care and interviewed him. While at the facility, the complainant received frequent medical, dental, eye, and mental health care for his conditions; ICE also appropriately informed him of the risks associated with surgery for a heart condition. CRCL closed the matter in March 2010.

## Third Quarter

- 29. *Treatment by Correctional Officers at a Regional Jail in Alabama:*** An ICE detainee at a regional jail in Alabama alleged in July 2007 that correctional officers engaged in verbal and physical abuse, retaliation, and destruction of mail. The detainee also alleged deficient conditions of detention at the facility in the areas of food service, medical care, segregation, grievance procedures, and mail. ICE substantiated the allegation of inadequate medical care. ICE reported many improvements in response, including an eight hour turn-around process for medical requests, access to boxes in each housing unit for submission of medical requests, and nurse visits in the housing units at least two to three times each day. ICE also found several instances in which correctional officers had used inappropriate language toward detainees, and ICE took appropriate responsive action. The detainee's other allegations were unsubstantiated. CRCL closed the matter in June 2010.
- 30. *Conditions at a Detention Facility in New York:*** An ICE detainee at a contract detention facility in New York alleged excessive use of force by ICE officers, subsequent inadequate medical care, and failure of ICE to properly handle personal property. The incident allegedly occurred in January 2009, and the complaint was filed three months later. ICE reported that ICE had indeed failed to properly process the detainee into the facility and track his property, but that remedial action was taken to ensure proper procedures are followed in the future. ICE did not find evidence to support the detainee's allegations concerning excessive use of force and inadequate medical care. CRCL closed the matter in May 2010.
- 31. *Treatment and Medical Care at a Texas Service Processing Center:*** In two separate complaints filed in January and May 2009, ICE detainees made a number of allegations against officials at a service processing center in Texas. The allegations included excessive use of force and failure to provide proper medical treatment. ICE's investigation found that although force was used, it was not excessive. In addition, OPR concluded that adequate medical care was provided to the complainants while in ICE detention. CRCL closed the matters in May and June 2010, respectively.
- 32. *Religious Accommodations at a Processing Center in Texas:*** An ICE detainee alleged in April 2009 that he was denied the right to wear his kufi and that Muslim detainees were denied an opportunity for prayer at an ICE contract detention facility in Texas. ICE found that contract facility officials did not discriminate against the detainee on the basis of his religion. According to OPR, the detainee had not followed proper procedures in order to wear the kufi; once he consulted with the chaplain, he was permitted to wear it. Regarding the allegation that access to prayer was denied, OPR found no evidence to support this, but did note that in one instance, contract facility officials were forced to turn away some Muslim detainees who were attempting to gather in a room for prayer because the room became overcrowded. CRCL closed the matter in April 2010.
- 33. *Arrest during Mental Health Treatment in Massachusetts and Maryland:*** CRCL received a complaint in November 2008 alleging that ICE wrongfully arrested two individuals while they were undergoing treatment at state mental health institutions in Massachusetts and Maryland. Upon review of ICE's report of investigation, CRCL concluded in April 2010 that



ICE personnel erroneously assumed that an ICE detainer overrode a state court order. CRCL recommended that ICE develop policies and procedures to ensure ICE personnel are aware of and appropriately handle court orders and state legal actions that are relevant to mental health issues. Further, CRCL recommended that ICE institute guidelines regarding the removal of aliens prior to completion of a prescribed treatment program, recognizing the importance of mental health treatment. ICE agreed to develop and implement new guidance regarding procedures for handling mental health related matters, including court orders, in coordination with CRCL.

**34. *Conditions of Detention at a County Jail in California:*** A complaint alleged that in September 2009 an ICE detainee in a county jail in California was subjected to discriminatory treatment based on sexual orientation and asylum status. The complaint also alleged deficiencies in telephone access, mail, issuance and exchange of clothing, bedding and towels, food service, medical care, and use of force. ICE found that the facility was in compliance with the relevant detention standards. CRCL reviewed ICE's findings and due to several concerns regarding the health, safety, and well-being of the detainee, conducted a separate inquiry, which included consultation with medical experts, and concluded that the detainee had received inadequate medical and mental health care. CRCL made a thorough set of recommendations in April 2010, including that medical record-keeping be improved, that tuberculosis screening procedures be updated, that severely mentally ill detainees who refused medication be considered for therapy and involuntary medication, and that the facility improve physician oversight and availability. ICE concurred and, in September 2010, indicated that the facility, overseen by the local field office, had implemented a number of CRCL's recommendations and was taking steps to implement the others. Among the recommendations already implemented were enhanced medical records management, medical evaluations conducted within 14 days, and improved coordination with IHSC regarding mental health treatment. CRCL is continuing to monitor this matter.

**35. *Conditions of Detention in California:*** An ICE detainee alleged in August 2009 that the law library at an ICE facility in California was rarely open during scheduled hours, and that the detainee's assigned ICE deportation officer had not followed through with his promise to obtain additional legal materials. He claimed that he filed a grievance with ICE in May 2009, but that ICE failed to respond. ICE's investigation revealed that the law library was open for 10 hours per week, which exceeded ICE's minimum standard. In addition, ICE reported that the assigned deportation officer found and provided nearly all of the requested materials. CRCL closed the matter in May 2010.

**36. *Conditions of Detention in Georgia:*** In February 2009, a detainee held at an ICE detention center in Georgia alleged inadequate food service and telephone service, improper use of segregation, and failure to respond to grievances. ICE found no significant violations of the relevant detention standards. CRCL closed the matter in April 2010.

## Fourth Quarter

**37. *ICE Enforcement Action in Texas:*** In June 2009, a complainant questioned the arrest of a man by an ICE agent at a Southeast Texas church. ICE determined that the agent did not



follow ICE's policy on "Enforcement Actions or Investigative Activities At or Near Sensitive Community Locations"; in response, ICE took appropriate action. CRCL closed the matter in July 2010.

- 38. Medical Care at a County Detention Center in Texas:** In April 2010, an ICE detainee complained that he was not receiving appropriate medical care while in detention in Texas. A CRCL medical consultant and medical professionals from IHSC reviewed the detainee's medical records. Based upon those reviews, CRCL found no evidence of inadequate medical care and closed the complaint in August 2010.
- 39. Conditions of Detention at an ICE Processing Center in California:** In October 2009, a complaint alleged that an ICE processing center in California provided inadequate medical care and imposed improper disciplinary sanctions upon detainees at the facility. In addition, detainees alleged that ICE failed to provide adequate access to pro bono legal representation. ICE found the facility's medical and disciplinary practices in compliance with ICE policies. In addition, OPR found that a listing of pro bono attorneys is provided to detainees at the facility by the DOJ, Executive Office for Immigration Review. CRCL closed the matter in September 2010.
- 40. Actions by Facility Staff at a Detention Center in California:** An ICE detainee alleged in October 2009 that another detainee was retaliated against for reporting staff misconduct while being held at a California facility, that detainees were touched inappropriately and sexually harassed by detention center employees, and that the facility issued him a razor blade which was previously used by another detainee. ICE verified that used razors had been issued to detainees; however, the report stated that this problem had since been corrected. ICE did not substantiate the other allegations. CRCL closed the matter in September 2010.
- 41. Conditions of Detention in New York:** In July 2009, an ICE detainee alleged that he received inadequate medical care for a chronic condition while in custody at a New York federal detention facility. He also alleged that he was denied a haircut after he refused to use dirty Barbicide and defective barbering equipment while working as a volunteer barber at the facility. Prior to completion of ICE's investigation, ICE changed this facility to a processing center for intake purposes. Accordingly, this facility no longer provides either medical care for chronic conditions or long-term personal hygiene. CRCL closed the matter in August 2010.
- 42. Due Process by ICE Officials:** In August 2010, a detainee alleged that he was placed in ICE custody after his April 2010 arrest in Kentucky, even though he told ICE officers that he was a U.S. citizen. He claimed that he was under the age of 18 when his father became a naturalized U.S. citizen, and that ICE did not follow-up on his claim to citizenship through his father. The detainee alleged that he had been detained for months and lost his job and educational financial aid as a result. According to the ICE investigation, the complainant's citizenship application had been denied (although it was on appeal); detention was mandatory based upon his criminal history.

**43. *Conditions of Detention in Massachusetts:*** A community leader in Massachusetts alleged in June 2010 that a detainee was being held in maximum security conditions on alleged immigration violations. The detainee was allegedly kept in his cell for 23 hours a day without any contact and was held in leg irons, handcuffs, and chains. ICE initially reported to CRCL that the detainee was being held as a person of interest in a DOJ and ICE investigation. After further review, ICE determined that the detainee could be released from the facility. CRCL recommended that ICE conduct periodic reviews of all immigration detainees in the complainant's circumstances to review their classification. ICE concurred with the recommendation and now has policy and guidance in place to ensure that detainees who are placed in administrative segregation have their cases reviewed on a weekly basis. CRCL closed the matter in August 2010.

**44. *Alleged Discrimination at a County Jail in North Carolina:*** In December 2008, a detainee in a facility in North Carolina alleged that because of his ethnicity he was locked in a cold room for six to seven hours and fed only once by ICE and local police. He further alleged he was forced to answer questions regarding his immigration status and how he entered the U.S. and was never informed that he could file a complaint against ICE. The complaint also alleged that another detainee, who was a U.S. citizen, was detained by ICE and/or the local police department for an extended period of time and prevented from posting bond. ICE concluded that the allegations were unfounded. In addition, the complainant was in state custody, not ICE custody, at the time covered by the allegations. The matter was closed in September 2010.

**45. *Federal Email Communications by an ICE Official in New Jersey:*** In February 2009, an Islamic non-profit organization alleged that an ICE attorney in New Jersey engaged in improper use of his DHS email account when he sent the complainant an email message expressing his negative personal views about Islam. ICE conducted an investigation and found that improper conduct occurred. CRCL reviewed the information provided by ICE, including ICE's actions based upon the ROI's findings, and found that ICE took appropriate action to address the complaint. CRCL closed the matter in September 2010.

## TSA

In five complaints filed between 2007 and 2009 and referred to TSA's Office of Civil Rights and Liberties, a delay in the start of OCRL's investigation made it impossible to gather sufficient evidence to make any reliable findings. CRCL closed out these five matters between November 2009 and February 2010. CRCL and OCRL together established a new set of protocols to initiate TSA complaint investigations promptly, in order to facilitate use of video evidence (typically kept for only a few weeks or months), employee interviews, and other sources of information. These five matters are numbered 46 to 49, and 64 below.

## First Quarter

**46. *Screening of a Flight Attendant at an Illinois Airport:*** A civil rights organization filed a complaint in September 2007 on behalf of a flight attendant who alleged that since

September 11, 2001, he had been subjected to random pat-downs and searches nearly every day he reported to work, and that his bags had been searched almost every time he returned from a flight. Due to a delay in the start of the investigation, TSA OCRL, was unable to gather sufficient evidence to support any findings. CRCL provided the complainant with information on DHS TRIP, which is the single point of contact for individuals seeking resolution regarding difficulties they experienced during airport screening. In addition, CRCL informed the complainant about TSA's Secure Flight program, which provides a consolidated and enhanced method of watch list matching in order to reduce the likelihood of mismatches and false positives. CRCL closed the matter in November 2009.

- 47. *Treatment of a Passenger with Disabilities at a New York Airport:*** A passenger with anxiety and post-traumatic stress disorders alleged that in September 2007 a TSA screening supervisor in New York refused to allow him to explain his medical condition and proceeded to pat him down, causing him extreme distress. Due to a delay in the start of the investigation, TSA OCRL was unable to gather sufficient evidence to support any findings. CRCL closed the case in November 2009.
- 48. *Removal from a Plane at a New York Airport:*** In April 2009, a passenger alleged that TSA personnel at a New York airport discriminated against him based on ethnicity and religion when they removed him from a flight and subjected him to additional screening and questioning by TSA and airline employees. Due to a delay in the start of the investigation, TSA OCRL was unable to gather sufficient evidence to support any findings.
- 49. *Treatment of a Passenger with Disabilities at a California Airport:*** In November 2007, a traveler with multiple disabilities alleged that TSOs at a California airport were rude and failed to accommodate her disabilities. Due to a delay in the start of the investigation, TSA OCRL was unable to gather sufficient evidence to support any findings. Because the passenger sought compensation for harm to her health and mental state, OCRL referred her to the TSA Claims Management Office. CRCL closed the matter in December 2009.
- 50. *Treatment of a Passenger at a California Airport:*** A passenger alleged in September 2009 that he was subjected to harassment and rude, unprofessional treatment by TSA employees at a California airport during his security screening. He also alleged that he was regularly singled out for secondary searches and asked to expose himself by TSA employees because of his ileostomy bag. TSA OCRL's review found that secondary screening via a handheld metal detector was required because the alarm sounded when the complainant walked through the metal detector. The complainant was offered and accepted a private screening room and voluntarily removed his clothing upon entering the room. OCRL found that the complainant was screened promptly and cleared to proceed. In addition, OCRL concluded that TSA employees were not rude or unprofessional but followed principles requiring people with medical conditions and disabilities to be treated with respect, dignity, and sensitivity during screening. CRCL closed the matter in December 2009.
- 51. *Airport Screening of Sikh Americans at a California Airport:*** Two separate complaints, filed in February 2008 and February 2009, alleged that TSA discriminated against Sikh American passengers in two California airports on the basis of religion. After passing

through the walk-through metal detector without an alarm, they were allegedly referred to secondary screening and subjected to pat-downs and sampling procedures for their turbans while travelers wearing other religious headgear were not selected for additional screening. Allegedly, in both cases, a TSO was rude and disrespectful, and in one case, an officer touched the complainant inappropriately. TSA OCRL's investigation concluded that the screening procedures were consistent with policy regarding searches of non-formfitting headwear. A number of changes in screening procedures, including those concerning religious head coverings, have been implemented to address these concerns while preserving security. It remains the case, however, that while passengers may wear any type of head covering through the security checkpoint, non-formfitting headwear is subjected to additional evaluation, which, at the traveler's request, may be conducted in private. CRCL closed these complaints in December and November 2009, respectively.

**52. Screening and Detention at a California Airport Checkpoint:** A couple complained in December 2008 of age discrimination by TSA personnel at a California airport. They also alleged that during secondary screening, a supervisory TSO touched one of the complainants inappropriately and improperly detained them, causing them to miss their flight while waiting for local police. TSA OCRL's investigation found that the supervisor did not follow some protocols, that his actions were not in keeping with TSA management directives and screening checkpoint procedures, and that he acted beyond his authority when keeping the complainants from boarding the flight. However, there was no evidence to support the inappropriate touching, discrimination, or improper arrest allegations. As a result of the findings, remedial measures were taken, including an increased emphasis on customer service and ongoing training for all TSA employees at the California airport to ensure that all passengers are treated in a fair and respectful manner. CRCL closed the matter in November 2009.

**53. Screening at a Texas Airport Checkpoint at an Airport:** In July 2009, a passenger alleged that he was a victim of racial profiling and ridicule by TSA employees when he was selected for secondary screening at a Texas airport. He further alleged that several members of his family had also experienced racial profiling at the same airport, and as a result they sometimes missed their flights. After extensive investigation, TSA OCRL concluded that TSA employees followed standard operating procedures and were professional and respectful. No evidence of race discrimination was found. The alleged ridicule by TSA employees was apparently laughter at humorous comments made by the complainant. CRCL closed the matter in November 2009.

**54. Screening of a Family at a New Jersey Airport:** A complainant alleged that he and his family members—wearing clothing often associated with observant Jews—were subjected to religious discrimination during screening at a New Jersey airport in August 2008. He claimed that when a TSO discovered a ceremonial knife in his daughter's carry-on bag, a TSA supervisor would not allow her to check the knife or bag as checked baggage, and that she was verbally harassed. TSA OCRL reported that protocols were followed during the screening process; it is within a TSO's discretion whether to allow a passenger to check this kind of item. CRCL closed the matter in November 2009.

- 55. Screening of a Passenger at an Ohio Airport:** A passenger who had experienced multiple knee surgeries alleged in January 2009 that he was subjected to rude and unprofessional treatment by TSOs in at an Ohio airport in December 2008. Specifically, he alleged that he was not allowed to sit on a table or chair during secondary screening, and that TSA officials threatened to make him late for his flight. TSA OCRL's investigation found that the complainant did not inform the officers of his medical condition or knee pain. The nearest chair, which he requested, was broken and unusable at the time. Since this incident, the airport has added functional chairs to security checkpoints for those passengers who may need them during screening. CRCL closed the matter in December 2009.
- 56. Screening of a Traveler Wearing Religious Headwear at a Massachusetts Airport:** A man alleged in February 2009 that his daughter was the victim of discrimination and profiling when she was required to undergo secondary screening and remove her hijab in public at a Massachusetts airport. According to the complainant, she was informed that new TSA policy requires everyone wearing the hijab to go through secondary screening. TSA OCRL's investigation concluded that proper screening procedures were not followed in this case by the TSO, who was required to notify passengers of their screening options, including the availability of private screening, when additional screening proved necessary. OCRL noted that measures were being taken to ensure that incidents of this nature were not repeated. CRCL closed the complaint in November 2009.
- 57. Pat-Down of a Traveler at a North Carolina Airport:** A passenger alleged in April 2009 that after he cleared security at a North Carolina airport, a TSO began a pat-down, touched him inappropriately, and failed to provide justification for the pat-down or honor his request to discontinue the procedure. In addition, he claimed that TSA discriminated against him on the basis of gender. Upon referral, TSA OCRL investigated and concluded that the evidence did not support the allegations of discrimination or inappropriate touching. The complainant was provided information regarding random pat-down search procedures. CRCL closed the matter in November 2009.
- 58. Screening of a Traveler at a Nevada Airport:** A passenger alleged in April 2009 that he and his girlfriend were touched inappropriately by TSA personnel at a Nevada airport. TSA OCRL was unable to locate any evidence regarding the screening of the two individuals. Therefore, TSA OCRL was unable to identify the TSOs who had allegedly inappropriately screened the individuals. CRCL closed the matter in December 2009.

## Second Quarter

- 59. Selection for Secondary Screening at a New York Airport:** A traveler alleged that in May 2007, TSOs at a New York airport selected her for secondary screening because she was Muslim and wore a hijab. This complaint was filed in August 2007. TSA airport management was unable to find any evidence to either substantiate or refute the allegation. CRCL closed the matter in March 2010.

- 60. Screening of a Traveler with a Disability and Her Companion at a Washington, D.C. Area Airport:** A traveler complained in May 2008 of inappropriate and rude treatment of herself and her elderly mother, who had physical disabilities, during the screening process at a Washington, D.C. area airport. TSA concluded that its employees followed standard procedures and did not discriminate against the complainant's mother based on race, disability, or any other prohibited basis, but that one TSO may have failed to treat the two women with appropriate courtesy and respect. After TSA took appropriate action, CRCL closed the matter in March 2010.
- 61. Traveler with Disabilities at a Nevada Airport Checkpoint:** A traveler alleged discrimination in July 2008 on the basis of his disability at a Nevada airport checkpoint, claiming that TSA personnel threatened and intimidated him at the screening checkpoint and forced him to remove his metal leg support brace and shoes. TSA OCRL's investigation found that the screening failed to comply with standard operating procedures in requiring the complainant to remove the metal brace. Indeed, this violation occurred routinely at this particular airport, at management's direction. As a result of this investigation, OCRL recommended that all personnel at this particular airport be required to view new Persons with Disabilities training videos, and managers at the airport prepared briefings for their entire workforce reaffirming TSA's written disability policy. CRCL closed the matter in March 2010.
- 62. Interview of a Traveler Boarding an Aircraft in Massachusetts:** A U.S. citizen traveler alleged that in June 2008, TSA personnel held him inappropriately and nearly made him miss his flight because they claimed to have intelligence that he was asking questions about the amount of fuel on the plane. The complainant stated that he had been in the airport for two hours but had not spoken to anyone; he surmised that his treatment may have been discriminatory on grounds of his ethnicity or national origin. This complaint was filed in August 2008. TSA OCRL found no discrimination, but rather an appropriate response to possible intelligence received from an airline employee. Following a TSA interview and identification verification that accorded with standard procedures, the complainant was allowed to travel on his planned flight. CRCL closed the matter in January 2010.
- 63. Screening of a Family at a Missouri Airport:** A law enforcement agent alleged that in July 2008, a male screener conducted a pat-down on one of his young daughters and exposed her undergarments to other passengers, and that his family members were not offered a private screening. This complaint was filed in September 2008. TSA OCRL concluded that the complainant's daughters were not patted down or screened by male TSOs; that no evidence could be found to indicate whether or not they were offered private screening; and that there was in general no evidence to substantiate the allegation of inappropriate screening. OCRL confirmed that the airport did have a private screening area. This complaint was closed in March 2010.
- 64. Screening of a Muslim Family at a Virginia Airport:** An advocacy organization reported the experience of a traveler who claimed abusive screening of himself, his pregnant wife, and his mother in November 2008 on grounds of their religion, ethnicity, and Muslim attire as they attempted to take a domestic flight. Due to a delay in the start of the investigation, TSA

OCRL, was unable to gather sufficient evidence to support any findings. CRCL closed the complaint in February 2010.

- 65. *Screening of a Traveler with a Disability Carrying Medication at an Airport in Arizona:*** A traveler alleged in November 2008 that a TSO placed her medications on the X-ray machine after he was asked to hand-check the medications, that the medications were then allowed to spill out of the bag, that she was humiliated by a TSO's comments, and that this conduct discriminated against her on the basis of her disability. TSA OCRL's investigation was inconclusive; OCRL could not find evidence to corroborate or refute the complainant's account. CRCL closed the matter in February 2010 and conveyed to the complainant TSA's apology regarding this screening encounter.
- 66. *Interaction Between a TSA Employee and Passenger Escort at a Florida Airport:*** A traveler alleged in March 2009 that he witnessed abusive treatment by a TSA official of a person escorting passengers in wheelchairs through a security checkpoint, and that this mistreatment may have constituted discrimination on the basis of the wheelchair escort's race. TSA OCRL was unable to locate any video evidence of the screening or other evidence that race was a factor in the TSA employee's actions or statements. TSA reported that a supervisor had taken appropriate action to defuse the situation when it arose. CRCL closed the matter in January 2010.
- 67. *Screening of a Traveler with Disabilities and Her Personal Items at an Illinois Airport:*** A traveler alleged that she was subjected to additional and inappropriate screening in February 2009 because of her disability. She claimed that she was treated unprofessionally, was not offered a private screening room to remove a money pouch concealed beneath her clothing, and was not provided any additional assistance despite her disabilities. This complaint was filed in April 2009. TSA OCRL's resulting investigation found that, after speaking with a TSA manager the traveler had agreed to remove her travel pouch and receive additional screening. ORCL found that she declined an offer of private screening. ORCL found the screening consistent with TSA policies. However, OCRL recommended that all of the TSOs involved in this screening receive training on customer service and engaging the traveling public. CRCL closed the matter in February 2010.
- 68. *Screening and Photography at a Security Checkpoint at a California Airport:*** CRCL received a complaint in May 2009 regarding an adult traveler and a student she was chaperoning. The adult raised concerns regarding a TSA employee's request for their identification, search of the student's turban, confiscation of her camera, and deletion of a photo of the student sitting in the security area. TSA OCRL was unable to locate any video evidence of the student's screening or the incident involving the camera confiscation, but was able to make several findings: The request for identification from travelers appearing to be adults was required by TSA policy, and the student's screening experience complied with screening protocols for non-formfitting headwear. OCRL was unable to determine whether proper protocols were followed regarding the alleged confiscation of the camera and photo deletion. (Photography during screening is permitted, so long as it does not interfere with the screening process and no images of the monitors are taken.) OCRL recommended that airport management remind employees of the proper procedures to follow when a traveler is



taking photographs at the security checkpoint. CRCL closed the matter in January 2010.

- 69. Application for a Transportation Worker's Credentials:** CRCL received a complaint in June 2009 from an applicant for a Transportation Workers Identification Credential (TWIC). The applicant alleged that TSA's Office of Transportation Threat Assessment and Credentialing initially denied his TWIC application in September 2008 due to religious and racial discrimination, erroneous information, and arbitrary enforcement of rules and policies. TSA OCRL determined that the initial decision to deny the complainant (subsequently reversed, prior to the complaint) was based on information provided by FBI, not racial or religious discrimination. CRCL closed the matter in February 2010.
- 70. Comments by TSA Officials at a Tennessee Airport:** A traveler alleged in July 2009 that his rights were violated by TSA checkpoint employees who responded rudely to his inquiry into delays and to his request to file a complaint. TSA OCRL investigated and concluded that, while there was no violation of the complainant's First Amendment right to free speech, appropriate remedial measures had been taken, and training was enhanced to better facilitate the communication skills of the employees involved. CRCL closed the case in January 2010.
- 71. Physical Contact in Airport Screening in Texas:** A traveler alleged that she was subjected to unnecessary and unwelcome touching during security screening in June 2009. On review of the video footage of the complainant's screening, TSA found that the screening, which included a pat-down for the presence of bulky items, followed proper procedures. CRCL closed the matter in February 2010.
- 72. Screening at an Oregon Airport:** A couple complained of unfair and unprofessional treatment by a TSO in July 2009 when they were selected for secondary screening. TSA OCRL found that the husband demonstrated observable behaviors under the Screening Passengers by Observation Techniques (SPOT) program that were sufficient to merit interaction with the Behavioral Detection Officer (BDO). However, additional SPOT protocols to engage passengers to assess the rationale behind their behaviors were not followed; had they been, the couple probably would not have been designated for additional screening. As a result, national TSA managers spoke with the complainants at length regarding their concerns and TSA's steps to improve the screening experience. TSA leadership then discussed the issue with screening and BDO senior managers, and with the BDOs at this particular airport, to stress the importance of ensuring positive screening experiences for passengers. The airport undertook immediate remedial measures. CRCL closed the matter in January 2010.
- 73. Checkpoint Screening Involving Bulky Clothing at an Ohio Airport:** A traveler wearing religious dress alleged in July 2009 that TSOs engaged in religious profiling when they selected her for secondary screening because they required her to undergo a pat-down even though she passed through the metal detector without alarm. TSA OCRL concluded that screening protocols for bulky clothing were followed appropriately and that additional screening, conducted in a private area, was conducted properly. There was no evidence that the complainant was subjected to additional screening due to her religion. CRCL closed the matter in March 2010.

- 74. Checkpoint Screening at a California Airport:** A complainant alleged in October 2009 that when he was selected for secondary screening in June 2009, he was harassed by TSOs because of his national origin, was searched with unnecessary and painful force, and was improperly threatened with arrest by local police. TSA OCRL found no evidence that the complainant was subjected to additional screening because of his national origin; the screening was prompted by appropriate application of TSA's policy on bulky clothing. TSA found that video evidence was inconsistent with the complainant's allegations regarding his screening, and found no misconduct with respect to the interaction with local police.
- 75. Airport Screening of a Mother and Children at a Washington, D.C. Area Airport:** In June 2007, a traveler claimed that three months earlier TSA selected her for secondary screening due to her disability and race, causing her and her children to miss their flight. She also alleged that she was groped by a TSO and that some of her belongings were thrown away or broken. TSA OCRL found that the complainant was subjected to a pat-down in secondary screening because her driver's license had expired and the supplemental sticker on the back was unreadable, and not on account of her race or disability. OCRL also provided the complainant with information about how to seek compensation from TSA's Claims Management Branch. CRCL closed the matter in January 2010.

### Third Quarter

- 76. Screening of the Spouse of a Service Member at a Hawaii Airport:** A passenger alleged in September 2009 that she was discriminated against based on race and gender when she was selected for secondary screening by TSA employees, that those employees threatened and humiliated her, and abused their authority when they asked her husband for his military identification and command contact information. TSA OCRL investigated and found no evidence that screening had any improper motivation—rather, the passenger was wearing a bulky sweater, which required a pat-down search. TSA offered her a private screening with her husband present, which she accepted. However, OCRL concluded that the lead TSO did not follow appropriate procedures when he required her husband to produce his military identification and contact information, and TSA took appropriate measures to inform the TSO of proper procedures. CRCL closed the matter in April 2010.
- 77. Screening Involving Medically-required Liquids and Medical Records at a Hawaii Airport:** A traveler alleged in June 2008 that he and his family were asked to show medical documentation to allow liquids through an airport screening area, and that his daughter's medical documents were exposed to the general public, violating her medical privacy. TSA OCRL's investigation found that the request for medical documentation was consistent with TSA policies for screening liquids. OCRL found no evidence relevant to the allegation that the medical documentation was left in plain view and so could not substantiate or reject the privacy allegation. OCRL concluded that the family was subjected to inappropriate delay and experienced a lack of customer service and professionalism from TSA officials. Airport management took appropriate corrective actions; OCRL also recommended a refresher training course for the TSOs regarding customer service, professionalism, and respect for people with disabilities and medical conditions. CRCL closed the matter in May 2010.

## Fourth Quarter

- 78. Screening of a Traveler Carrying Insulin:** In January 2010, a traveler alleged that TSA personnel committed disability discrimination when they asked him to pour out his spare insulin from its reservoir before he entered screening, and then threatened him with arrest if he did not comply. The traveler was unfortunately unable to provide any information as to the approximate time of his screening or its precise location. The TSA Office of Disability, Policy and Outreach pursued an extensive investigation, including 30 interviews with TSOs on duty at the checkpoint in question, but could not locate anyone who recalled the incident or find any other record of it. CRCL closed the matter in July 2010.
- 79. Screening of a Traveler Wearing a Hijab at a Virginia Airport:** A female traveler alleged that TSOs discriminated against her in March 2010 when they selected her for secondary screening, shoved her forcefully, and failed to follow standard screening procedures. TSA OCRL determined that the process used to select the traveler for secondary screening was consistent with the standard operating procedures for screening passengers with non-formfitting headwear. However, the TSO did not properly advise the traveler of options for the additional screening (in private, for example). Furthermore, the TSO admitted to refusing to tell the traveler her name and to putting her hand on the traveler's back to guide her, both in violation of applicable rules. OCRL was unable to ascertain whether the TSO's actions were motivated by religious bias. TSA took appropriate action, and CRCL closed the matter in September 2010.
- 80. Screening of a Traveler at an Indiana Airport:** A female traveler alleged in April 2010 that TSOs acted rudely and touched her inappropriately during a pat-down and directed her to undergo additional screening via AIT without giving her the option to select an alternative screening method. TSA OCRL concluded that the hand search conducted by a female TSO fell within TSA's policy requiring additional screening of some passengers based on bulky clothing and some behavioral indicators. TSOs were under no obligation to notify passengers of their option to forego the AIT; ample notices were available at the check point and on the TSA website to reasonably ensure public awareness of the option of selecting alternative screening methods. CRCL closed the matter in September 2010.

## USCIS

### Third Quarter

- 81. Implementation of Confidentiality Provisions for Alien Victims of Domestic Violence:** An attorney alleged in August 2008 that USCIS violated her client's rights by sending her confidential immigration documents to the address of her abusive ex-husband, thus violating statutory confidentiality protections for individuals seeking immigrant status as a battered spouse or child under the Violence Against Women Act. The USCIS Office of Security and Integrity investigated, and CRCL reviewed its report, finding procedural and technological irregularities that, if corrected, might have prevented the event. CRCL recommended that USCIS improve address change processes and policies to make the address changes more

secure. USCIS concurred, has reviewed existing address change processes/policies and implemented modifications to enhance security, and is continuing its review of processes/policies to identify additional areas in which modifications may further enhance security. CRCL closed the matter in May 2010.

## U.S. Secret Service

### Fourth Quarter

**82. *Protest at the White House.*** In January 2010, several activists alleged that U.S. Secret Service (USSS) officers mistreated them and violated their First Amendments rights by preventing them from peacefully demonstrating outside of the West Guard Gate of the White House in October 2009. In its inquiry, the USSS reported that the activists were located in front of an emergency access route into and out of the White House Complex, in violation of District of Columbia Code, so USSS officers moved them to a nearby area where the activists' First Amendment activity could continue away from the emergency access route. The matter was closed in July 2010.

## Multi-Component

### Third Quarter

**83. *Inadequate Medical Care at an ICE Detention Facility:*** A detainee alleged in June 2009 that an ICE facility failed to provide her with adequate or timely medical care the month before for an injury incurred during her apprehension by Border Patrol. CRCL reviewed ICE's investigation and concluded that ICE and the detention facility failed to provide the prescribed and approved medical treatments even though they were aware of the detainee's injury, diagnosis, an orthopedic surgeon's report and recommendation for physical therapy, and an approved treatment authorization request. CRCL recommended in June 2010 that ICE ensure that detainees are provided the appropriate treatments for their medical needs without undue delay, particularly when prescribed by a recognized medical provider and approved through the established process. ICE concurred and ensured that the detainee was provided the appropriate medical care at the facility.

## Appendix E: Acronyms

ABA	American Bar Association
ACLU	American Civil Liberties Union
ACMS	Accessibility Compliance Management System
ADC	American-Arab Anti-Discrimination Committee
AIT	Advanced Imaging Technology
AIHEC	American Indian Higher Education Consortium
BDO	Behavioral Detection Officer
BITAC	Basic Intelligence and Threat Analysis Course
CBP	Customs and Border Protection
CICC	Criminal Intelligence Coordinating Council
CNCI	Comprehensive National Cybersecurity Initiative
CRCL	DHS Office for Civil Rights and Civil Liberties
CRCL Institute	Civil Rights and Civil Liberties Institute
CVE	Countering Violent Extremism
DAWN	DC Anti-War Network
DHS	U.S. Department of Homeland Security
DOD	U.S. Department of Defense
DOJ	U.S. Department of Justice
DOS	U.S. Department of State
DMU	CRCL Diversity Management Unit
ECMF	Enterprise Compliance Management Framework
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAD	Final Agency Decision
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FEORP	Federal Equal Opportunity Recruitment Report Program
FLETC	Federal Law Enforcement Training Center
FPS	Federal Protective Service
FY	Fiscal Year
GIWG	Global Intelligence Working Group
GSA	General Services Administration
HBCU	Historically Black College and University
HHS	U.S. Department of Health and Human Services
HQ	Headquarters
I&A	DHS Office of Intelligence & Analysis
ICC	Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities
ICCT	CRCL Incident Community Coordination Team
ICE	Immigration and Customs Enforcement
IHSC	ICE Health Services Corps
ISCC	Information Sharing Coordinating Council
ISE	Information Sharing Environment

ISIS	Intelligence, Security, and Information Sharing
IT	Information Technology
ITACG	Interagency Threat Assessment and Coordination Group
LAPD	Los Angeles Police Department
LEP	Limited English Proficiency
LULAC	League of United Latin American Citizens
MPAC	Muslim Public Affairs Council
NDRF	National Disaster Recovery Framework
NGO	Non-Governmental Organization
NLE	National Level Exercise
No FEAR Act	Notification and Federal Employee Antidiscrimination and Retaliation Act
NORTHCOM	U.S. Northern Command
NPPD	National Protection and Programs Directorate
NSI	Nationwide Suspicious Activity Reporting (SAR) Initiative
OAST	Office of Accessible Systems & Technology
OCIO	DHS Office of the Chief Information Officer
OCRL	TSA Office of Civil Rights and Liberties
OFO	CBP Office of Field Operations
OIG	DHS Office of Inspector General
OPM	Office of Personnel Management
OPR	Office of Professional Responsibility
ORR	HHS Office of Refugee Resettlement
OSEP	DHS Office of Safety and Environmental Programs
OWF	Operation Warfighter
PAKPAC	Pakistani Public Affairs Committee
PCRCL	Privacy, Civil Rights, and Civil Liberties
RISP	Regional Information Sharing Program
ROI	Report of Investigation
SAR	Suspicious Activity Report (or Suspicious Activity Reporting)
SPOT	Screening Passengers by Observation Techniques
S&T	DHS Science and Technology
TCU	Tribal College and University
TRIP	Travel Redress Inquiry Program
TSA	Transportation Security Administration
TSO	Transportation Security Officer
TWIC	Transportation Workers Identification Credential
UK	United Kingdom
UPR	United Nations Universal Periodic Review
USAID	U.S. Agency for International Development
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
USSS	U.S. Secret Service
VAWA	Violence Against Women Act