



Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002

No FEAR Act Annual Report

Department of Homeland Security
Office for Civil Rights and Civil Liberties
March 23, 2012



**Homeland
Security**

Message from the Deputy Officer for Civil Rights and Civil Liberties, U.S. Department of Homeland Security

I am pleased to present the U.S. Department of Homeland Security's (DHS) *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002* (No FEAR Act) Annual Report for Fiscal Year (FY) 2011.

The No FEAR Act, Public Law 107-174, requires that federal agencies be publicly accountable for violations of anti-discrimination and whistleblower protection laws. Federal agencies must post both quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on its public website, reimburse the Judgment Fund for any payments made, and notify employees and applicants for employment about their rights under the federal antidiscrimination and whistleblower laws. The No FEAR Act and its implementing regulations also require federal agencies to report annually:

- The number of cases pending or resolved in Federal District Court in each fiscal year arising under federal antidiscrimination and whistleblower protection laws;
- The total number of employees disciplined and the specific nature of the disciplinary action taken for violation of antidiscrimination and whistleblower protection laws;
- Final year-end statistical data of federal sector EEO activity;
- A detailed description of the agency's policy for taking disciplinary action for conduct that is found to violate federal antidiscrimination and whistleblower protection laws;
- An analysis of the trends and causes of complaints of discrimination as well as practical knowledge gained through experience and actions planned or taken to improve complaint or civil rights programs with the goal of eliminating discrimination;
- Amounts reimbursed for any payments made from the Judgment Fund and any budgetary adjustments required to comply with the reimbursement obligation; and
- A written plan to train employees about their rights.

This report summarizes DHS's most significant accomplishments in the DHS EEO program, particularly focusing on the area of EEO complaint processing. It evidences the Department's strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability.

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

The Honorable Daniel K. Inouye
President pro tempore, U.S. Senate

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 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 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 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

The DHS Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL's mission includes leading the Department's EEO programs and promoting workforce diversity. DHS succeeds in part by ensuring that our workplace decisions are equitable and based upon merit.

The DHS EEO program reflects a strong and collaborative partnership between CRCL and DHS Operational Components, shown in part through the various improvements in the Department's EEO program during FY 2011. FY 2011 accomplishments contained in this report include:

- Elimination of the backlog of cases awaiting merits Final Agency Decision (FAD); the Department had carried this backlog since its inception.

- Completion of over 80 percent of EEO counselings in the time frame specified by regulation.
- Issuance of 119 timely merits FADs, which is a 600-percent increase from the 17 timely merits FADs issued in FY 2010, and is due in large part to the backlog elimination.
- Issuance of an updated Anti-Discrimination Policy Statement by Secretary Janet Napolitano.

The achievements during FY 2011 have paved the way for continued measureable and valuable improvements in the DHS EEO program during FY 2012 and beyond. I look forward to continuing to provide information on the successes in this program in future reports.

A handwritten signature in blue ink, appearing to read "Veronica Venture". The signature is fluid and cursive, with the first name being the most prominent.

Veronica Venture
Deputy Officer for Civil Rights and Civil Liberties
DHS EEO and Diversity Director

Executive Summary

The No FEAR Act is intended to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable. Section 203 of the No FEAR Act specifically requires that, not later than 180 days after the end of each fiscal year, each federal agency submit to certain Congressional committees and members an annual report with the following information: federal antidiscrimination and whistleblower protection laws, complaint activity (including Federal District Court cases), and resulting disciplinary actions; Judgment Fund reimbursements; adjustments to agency budgets to meet reimbursement requirements; and an analysis of trends, causation, and practical knowledge gained through experience. This No FEAR Act Annual Report covers FY 2011 (October 1, 2010, to September 30, 2011).

At DHS, Secretary Janet Napolitano, Deputy Secretary Jane Holl Lute, and other senior DHS leaders demonstrate a strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability. DHS's Officer for Civil Rights and Civil Liberties provides policy and technical advice to Secretary Napolitano and senior DHS leadership on civil rights and civil liberties issues, and directs the Department's EEO and diversity management programs. During FY 2011, CRCL underwent a transition in the position of Deputy Officer and Director, EEO and Diversity Programs. The previous Deputy Officer departed DHS in October 2010, and Veronica Venture reported on duty as the new Deputy Officer in March 2011.

During FY 2011, CRCL continued to partner with the DHS Undersecretary for Management, the DHS Office of the Chief Human Capital Officer (CHCO), DHS Operational Component EEO Offices, and other internal and external stakeholders to promote equality, fairness, workforce diversity, and efficiency. Throughout FY 2011, CRCL also maintained close working relationships with all Components. The CRCL Deputy Officer chairs the EEO Council in which all Component EEO and Civil Rights Directors participate. Effective communication and collaboration have continued to strengthen partnerships with the Components throughout FY 2011. These efforts are yielding new collaborative opportunities moving into FY 2012.

In FY 2010 and FY 2011, CRCL and the Components worked together on the procurement and implementation of icomplaints — an enterprise-wide data system to track DHS's EEO complaints. The DHS icomplaints system was launched in the fourth quarter of FY 2010, and has proved to be an extremely valuable tool in FY 2011. Component EEO offices spent significant time in FY 2011 reconciling their complaint data to ensure data integrity after migration from DHS's previous tracking system into icomplaints.

In the area of EEO complaint processing, the percentage of timely counseling and timely investigations remained steady from FY 2010 to FY 2011. During FY 2011, 1,692 of the 2,096 (81 percent) requests for EEO counseling were timely completed, despite an increase in the number of requests for counseling. In FY 2011, there was a 5-percent decrease (888) in the total number of investigations DHS completed, compared to FY 2010 (939). Although the Department maintained a steady 60-percent rate of completing timely investigations, there was a 14-percent increase in the average number of processing days for investigations between FY

2010 (213) and FY 2011 (243), and a 6-percent decrease in the number of timely investigations completed between FY 2010 (566) and FY 2011 (531). The Departmental investigation statistics during FY 2011 were affected by an unusual 43-percent increase in the number of formal complaints filed with the Transportation Security Administration (TSA).

With regard to complaints adjudication, the backlog of cases awaiting merits FADs had existed since the Department's creation. At the start of FY 2011, DHS had a backlog of 247 merits FADs. In May 2011, DHS successfully eliminated the backlog of merits FADs, months ahead of the originally expected completion date of September 2011. The strategy used to eliminate the backlog included focusing on those matters that originated prior to FY 2008 and also maximizing the services from three contractors. In total, DHS issued 457 merits FADs during FY 2011.

The elimination of the merits FAD backlog allowed CRCL to focus efforts on increasing the percentage of cases processed within 60 days of the request, as required by Equal Employment Opportunity Commission (EEOC) regulations. As a result, in FY 2011, DHS issued 119 timely merits FADs, which is a 600-percent increase from the 17 timely merits FADs issued in FY 2010. In addition, there was also a dramatic reduction in the average number of processing days for merits FADs, decreasing from 807 average processing days in FY 2010 to 237 days in FY 2011 — a 71-percent decrease. There are strategic efforts underway in FY 2012 to align priorities and processes with the goal of regulatory timeliness.

Regarding findings of discrimination, DHS experienced a moderate decrease in the number of findings processed in FY 2011 (13) compared to FY 2010 (17). The FY 2011 findings reflected only small shifts in the bases of discrimination and issues alleged (*i.e.*, reprisal continued to be the most-frequently asserted basis, followed by race and color; the most-frequently asserted issues were reasonable accommodation and terms/conditions of employment). A review of FY 2011 EEO complaint data shows no notable changes since the prior report in FY 2010.

During FY 2011, DHS had 229 civil actions pending in Federal District Court involving the various laws covered in the No FEAR Act. During FY 2011, Federal Court judges disposed of 89 cases, of which 71 cases were decided in favor of the agency and 18 cases were settled by the parties.

In FY 2011, as reported by the Components, DHS's reimbursement of the Judgment Fund totaled \$2,561,000, while the amount reimbursed for attorney's fees in the same time period totaled \$481,000. During FY 2011, DHS disciplined three employees for discrimination, retaliation, harassment, or other infractions of provisions of law covered by the No FEAR Act.

Table of Contents

I.	Legislative Requirement	8
II.	Background	10
III.	Results and Data	11
A.	EEO Cases in Federal District Court	11
B.	Reimbursements to Judgment Fund	11
C.	Disciplinary Actions	11
D.	EEO Complaint Data	11
IV.	Analysis of Trends and Causality	12
A.	EEO Complaint Activity	12
B.	Bases of Discrimination in EEO Complaints	13
C.	Issues in EEO Complaints	14
V.	Actions Planned and Taken to Improve the Complaints Adjudication and Complaints Management Functions Within DHS	16
A.	EEO Counseling	16
B.	EEO Investigations	16
C.	Procedural Dismissals	18
D.	Findings of Discrimination	18
1.	Protected Bases	19
2.	Issues	20
VI.	Practical Knowledge Gained Through Experience, and Actions Planned or Taken to Improve the Complaints or Civil Rights Programs	21
A.	Improvements in DHS EEO Complaints Adjudication	22
1.	Strategic Focus on Backlog Elimination	22
2.	Continued Emphasis on Improving Process Efficiencies	23
3.	Initiating Collaboration with Components	23
4.	Stability Through Staffing Changes	24
B.	DHS Operational Components	24
1.	Federal Emergency Management Agency	24
2.	Federal Law Enforcement Training Center	25
3.	Headquarters EEO Office	26

4. Transportation Security Administration.....	28
5. U.S. Citizenship and Immigration Services	30
6. U.S. Coast Guard.....	32
7. U.S. Customs and Border Protection	34
8. U.S. Immigration and Customs Enforcement	36
9. U.S. Secret Service.....	38

Appendices

Appendix 1: DHS No FEAR Act Federal District Court Data for FY 2011

Appendix 2: DHS No FEAR Final Year End EEO Data for FY 2006-2011

I. Legislative Requirement

This document responds to the reporting requirements set forth in Section 203 of the No FEAR Act (Pub. L. No. 107-174), which states:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year —

- (1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;
- (2) the status or disposition of cases described in paragraph (1);
- (3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;
- (4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);
- (5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));
- (6) a detailed description of —
 - (A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —
 - (i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or
 - (ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and
 - (B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;
- (7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity

Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including —

- (A) an examination of trends;
- (B) causal analysis;
- (C) practical knowledge gained through experience;
- (D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Further guidance on each agency's reporting obligations is provided in 5 C.F.R. § 724.302, which also requires the submission of the annual report to the Director of the U.S. Office of Personnel Management (OPM) for the implementation of a best practices study and the issuance of advisory guidelines.

II. Background

The Department of Homeland Security's (DHS) mission is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive. In order to maximize its effectiveness, DHS seeks to have an exemplary Equal Employment Opportunity (EEO) program. DHS was established through the *Homeland Security Act of 2002*, Pub. L. No. 107-296, (http://www.dhs.gov/xlibrary/assets/hr_5005_enr.pdf), and Section 103(d)(5) of the Act provides for the presidential appointment of an Officer for Civil Rights and Civil Liberties (Officer). On June 5, 2003, the Secretary of Homeland Security delegated authority to the Officer to lead the Department's EEO Programs and Diversity Initiative, and on August 1, 2006, the Officer re-delegated this responsibility to the Deputy Officer for EEO and Diversity Programs, in CRCL.

CRCL resides within the Office of the Secretary, and provides technical and policy advice to Department leadership on civil rights and civil liberties issues. The Officer, by statute, reports directly to the Secretary and assists senior leadership in shaping policy in ways that protect, rather than diminish, the personal liberties of all persons protected by our laws. In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL's mission is to support DHS as the Department secures the Nation while preserving individual liberty, fairness, and equality under the law. CRCL is involved in all of the Department's missions and performs four key functions to integrate civil rights and civil liberties into Department activities:

1. Advising Department leadership, personnel and partners about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions.
2. 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.
3. Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.
4. Leading the Department's EEO programs and promoting workforce diversity and merit system principles.

CRCL provides Departmental guidance and standards for establishing and maintaining effective programs for diversity management and EEO, as required under both Title VII of the *Civil Rights Act of 1964* (Title VII), as amended, 42 U.S.C. § 2000(e) *et seq.*, Section 501 of the *Rehabilitation Act of 1973* (Rehabilitation Act), as amended, 29 U.S.C. § 791 *et seq.*, the *Age Discrimination in Employment Act of 1967* (ADEA), as amended, 29 U.S.C. § 621 *et seq.*, the *Equal Pay Act of 1963* (EPA), 29 U.S.C. § 206 (d)(1) *et seq.*, and the *Genetic Information Nondiscrimination Act of 2008* (GINA), (Pub. L. No. 110-233). To meet this objective, the Deputy Officer for EEO and Diversity Programs and her staff develop policies and plans, deliver training, conduct oversight, adjudicate EEO complaints, and submit annual reports to stakeholders including Congress, the White House Initiatives Offices, the Department of Justice (DOJ), the Equal Employment Opportunity Commission (EEOC), and OPM.

III. Results and Data

A. EEO Cases in Federal District Court

During Fiscal Year (FY) 2011, DHS had 229 civil actions in Federal District Court, pending or resolved under the laws covered in the No FEAR Act. The majority of those Federal District Court filings arose under Title VII (143), followed by filings under the ADEA (51), the Rehabilitation Act (31), the *Whistleblower Protection Act of 1989* (4), and the EPA (0).

During FY 2011, Federal District judges disposed of 89 cases: 71 were decided in favor of the Department and 18 were resolved by settlement. For further information regarding FY 2011 employment discrimination and whistleblower cases filed in Federal District Court against DHS, see Appendix 1.

B. Reimbursements to Judgment Fund

During FY 2011, as reported by DHS Components, the Department reimbursed the Judgment Fund in the total amount of \$2,561,000 while the amount of reimbursement for attorney's fees in that same period totaled \$481,000. The bulk of the reimbursement to the Judgment Fund derived from cases filed under Title VII, in the amount of \$2,553,500. Cases arising under the Rehabilitation Act led to the remaining \$7,500 reimbursement to the Judgment Fund. With respect to attorney's fees, Title VII cases involved a total amount of \$336,000, Rehabilitation Act cases resulted in \$135,000, and ADEA cases resulted in \$10,000.

C. Disciplinary Actions

At DHS, whether to impose disciplinary action on an employee is determined on a case-by-case basis, depending on the specific facts or circumstances at issue. During FY 2011, DHS disciplined three employees for discrimination, retaliation, harassment, or an infraction of any provision of law covered by the No FEAR Act. One employee was removed, one employee was suspended, and one employee was reprimanded.

D. EEO Complaint Data

See Appendix 2 for DHS No FEAR Act web posting data for FY 2011.

IV. Analysis of Trends and Causality

A. EEO Complaint Activity

Between FY 2006 and FY 2011, DHS experienced an 18-percent increase in filings of new statutory and non-statutory EEO complaints. During FY 2011, the filing of 1,283 new statutory and non-statutory EEO complaints equated to a 7-percent increase (89 more complaints) from FY 2010. In FY 2009, there were 1,457 complaints filed; however, as noted in DHS's FY 2010 No FEAR Act Annual Report, the FY 2009 data was skewed as a result of 359 individual complaints filed in FY 2009 after the closure of a Federal Emergency Management Agency (FEMA) facility in Puerto Rico. As a result, the trend and rate of increased complaint filings above does not include these FEMA cases, which are pending in Federal District Court.¹ See Figure 1.

Figure 1: Complaints Filed, FY 2006 – FY 2011

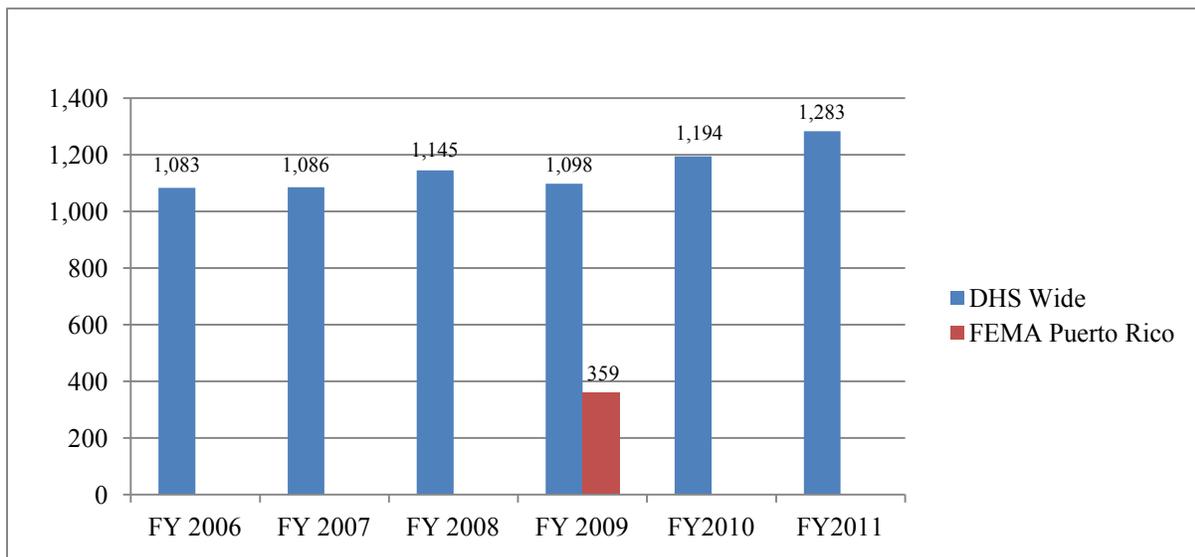


Table 1 compares DHS's total workforce complaint filing rate against the rate of other similarly-sized federal agencies. (Although FY 2011 data is used for DHS, FY 2010 information is used for the other agencies because FY 2011 federal-wide data is not yet available). In FY 2011, the DHS complaint filing rate was 6.1 complainants per 1,000 employees. This rate is on par with the FY 2010 filing rate at the Department of Veterans Affairs (VA) (6.7 complainants per 1,000 employees) and slightly higher than the FY 2010 filing rate at DOJ (5.6 complainants per 1,000 employees). The DHS FY 2011 filing rate was approximately 26 percent higher than the FY 2010 Government-wide Cabinet level agencies' filing rate (4.5 per 1,000 employees) and approximately 44 percent higher than the FY 2010 Department of Defense filing rate (3.4 per 1,000 employees).

¹ The complaints arising out of the closure of the Puerto Rico facility are pending in Federal District Court as a single complaint with 359 plaintiffs. Thus, this one case is included in the 229 civil actions noted in Section III(A).

Table 1: Rate of Complaints Compared Across Agencies

<i>Agency*</i>	<i>Civilian Workforce</i>	<i>Number of Complaints</i>	<i>Number of Complainants</i>	<i>Complainants/ 1000 Employees</i>
DHS (FY 2011)	199,452	1,283	1,220	6.1
Dept. of Veterans Affairs	307,322	2,199	2,079	6.7
Dept. of Justice	117,843	678	666	5.6
All Cabinet-level Agencies	3,401,940	16,249	15,261	4.5
Dept. of Defense	893,491	3,215	3,030	3.4

*Source for non-DHS agencies data: Annual Report on the Federal Workforce Fiscal Year 2010, <http://www.eeoc.gov/federal/reports/fsp2010/upload/FY-2010-Annual-Report-Part-I-EEO-Complaint-Processing.pdf>

B. Bases of Discrimination in EEO Complaints

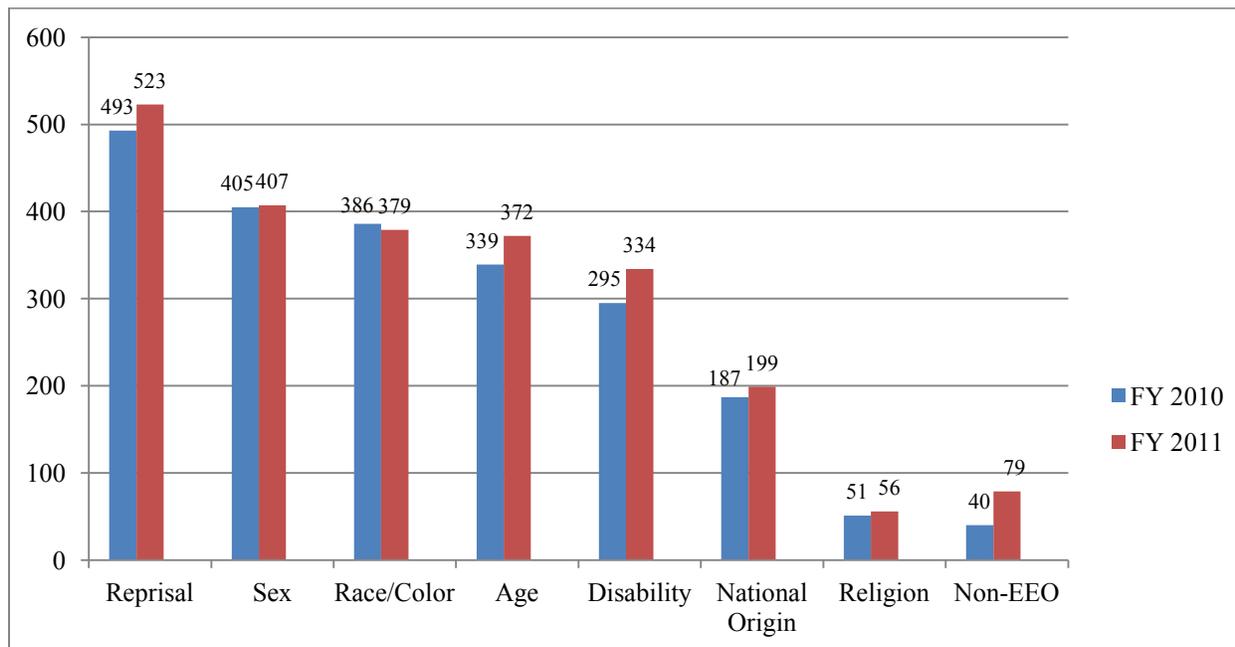
During FY 2011, DHS’s most-frequently alleged bases of discrimination in formal EEO complaints were, in order of frequency: reprisal, sex, and race/color. See Figure 2, below. This is consistent with the most-frequently alleged bases in FY 2010. To assist in interpreting trends related to asserted bases, note that the Department’s workforce increased by about 4 percent (from 191,150 to 199,452 employees) from FY 2010 to FY 2011. While total complaints increased 7 percent, from 1,194 to 1,283, the total alleged bases of discrimination increased by 11 percent, from 2,196 to 2,476. Thus, half of the increases described below in particular types of claimed discrimination reflect not more claims, but more alleged bases per claim.

Reprisal: DHS’s FY 2011 reprisal claims (523) were higher than reprisal claims in prior years (493 in FY 2010; 418 in FY 2009; 432 in FY 2008; 389 in FY 2007; and 391 in FY 2006). The frequency of reprisal claims as the leading basis at DHS is consistent with government-wide data for reprisal claims, which show that reprisal is the most-frequently alleged basis of discrimination across the Federal Government from FY 2006 to FY 2010. At DHS, as elsewhere in the Federal Government, reprisal claims are nearly always joined with an underlying EEO complaint on the basis of race, national origin, sex, etc. See EEOC’s *Annual Report on the Federal Workforce FY 2010* (<http://www.eeoc.gov/federal/reports/fsp2010/index.cfm>)

Sex: During FY 2011, DHS received 407 complaints alleging discrimination on the basis of sex — an increase of only 2 cases over FY 2010 (405). Since FY 2006, sex discrimination claims have numbered among the three most-frequently filed bases of discrimination. In the FY 2010 No FEAR Act Annual Report, DHS announced a plan to pay particular attention to this issue in order to ascertain whether the FY 2010 experience was anomalous or the beginning of a trend. However, with only a *de minimis* increase this year, it is not possible to draw a conclusion about the existence of a trend. DHS will continue to monitor this basis for future trends.

Race/Color: During FY 2011, race/color discrimination constituted the third most-frequently filed basis of discrimination, with 379 complaints, which is a decrease of 7 cases from FY 2010 (386). For information on these and other bases asserted, see Figure 2, which sets out data from FY 2010 and FY 2011.

Figure 2: Bases of Discrimination, FY 2010 and FY 2011



* Nearly all color complaints also reference race.

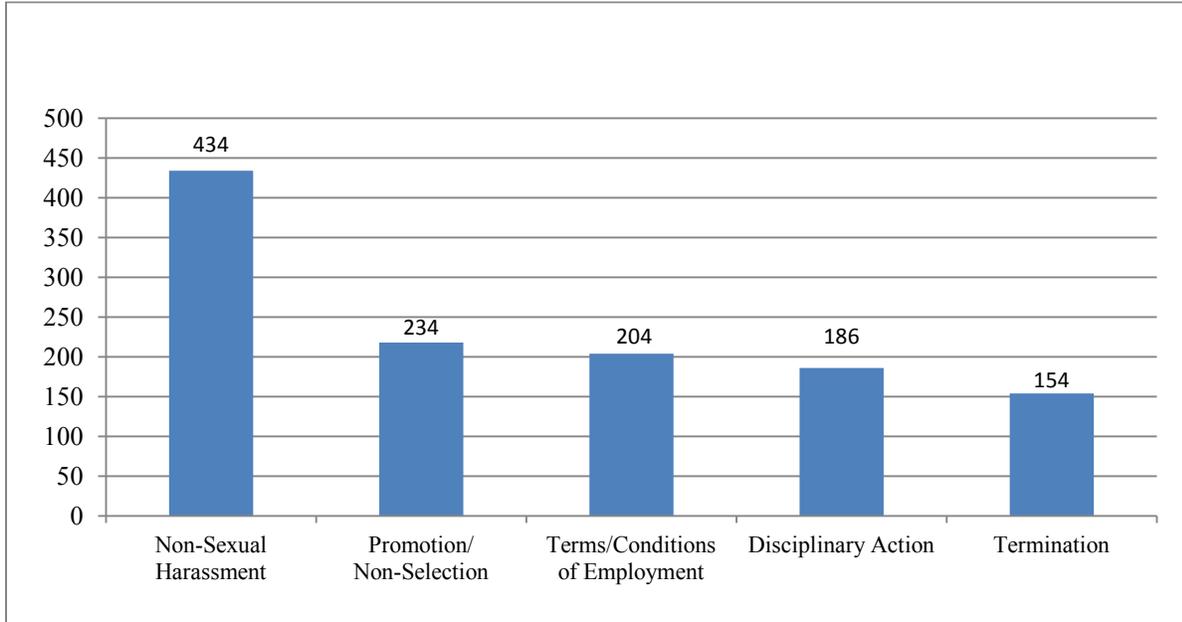
** Non-EEO includes parental status and sexual orientation.

C. Issues in EEO Complaints

The two most-frequently raised issues in discrimination complaints during FY 2011 involved non-sexual harassment² (raised in 434 complaints) and promotion/non-selection (raised in 218 complaints). These two issues ranked among the three most-frequent issues in discrimination claims at DHS in each of the past three fiscal years. The prevalence of these issues is consistent with government-wide trends (*i.e.*, these two issues ranked among the three most-frequently raised issues in discrimination complaints across the Federal Government from FY 2006 to FY 2010, as reported in the EEOC's *Annual Report on the Federal Workplace FY 2010* (<http://www.eeoc.gov/federal/reports/fsp2010/index.cfm>). And as shown in Figure 3, terms/conditions of employment was raised in 204 complaints, ranking third among the issues most-frequently raised at DHS during FY 2011.

² The No FEAR Act requires reporting of complaints involving sexual harassment (*i.e.*, sex-based claims involving actionable unwelcome conduct of a sexual nature) and non-sexual harassment (*i.e.*, claims involving actionable unwelcome conduct not of a sexual nature, *e.g.*, race, sex, national origin, color, religion, age, disability, or reprisal).

Figure 3: Issues in Complaints, FY 2011



V. Actions Planned and Taken to Improve the Complaints Adjudication and Complaints Management Functions Within DHS

A. EEO Counseling

During FY 2011, DHS continued the progress made in FY 2010 in the percentage of timely-completed requests for counseling.³ In FY 2011, counseling was completed for 2,096 cases, and 81 percent (1,692) of these cases were timely completed. As in FY 2010, the percentage of timely counseled cases in FY 2011 remained steady at 81 percent. In FY 2011, however, it is important to note there was a 13-percent (1,692) increase in the number of cases that were timely counseled in comparison with the number counseled in FY 2010 (1,495). The effectiveness of the Department's counseling programs allowed DHS to maintain the percentage of timely completions, even though case volume increased. See Table 2.

Table 2: EEO Counseling at DHS, FY 2006 – FY 2011

	2006	2007	2008	2009	2010	2011
Total Number	2,223	2,240	2,064	2,479	1,848	2,096
Timely Number	1,796	1,709	1,497	1,684	1,495	1,692
Percentage	81	76	73	68	81	81

During FY 2011, four DHS Components provided timely counseling in 85 percent or more cases. In particular, for the second year in a row, U.S. Customs and Border Protection (CBP) completed 100 percent (574) of its cases within the regulatory time period. Other Components that had a high percentage of timely cases counseled during FY 2011 include:

- U.S. Citizenship and Immigration Services (USCIS), timely completing 124 of 127 (98 percent);
- U.S. Coast Guard (USCG), timely completing 76 of 78 (97 percent); and
- Federal Law Enforcement Training Center (FLETC), timely completing 21 of 24 (88 percent).

Notably, the Transportation Security Administration (TSA) significantly increased the number of cases timely counseled. Specifically, in FY 2010, TSA timely completed counseling in 294 of 475 cases (62 percent), compared with timely completed counseling in 443 of 675 cases (66 percent) in FY 2011.

B. EEO Investigations

In FY 2011, there was a 5-percent decrease in the total number of investigations (888) DHS completed compared with the number completed in FY 2010 (939). Although the total number

³ In accordance with 29 C.F.R. § 1614.105(d), counseling must be completed within 30 calendar days, unless the aggrieved person agrees to extend the counseling period up to an additional 60 calendar days.

of timely investigations also decreased from 566 in FY 2010 to 531 in FY 2011, the overall percentage of timely investigations remained even at 60 percent. DHS experienced an increase of 30 days (14 percent) in the number of average processing days during FY 2011. See Table 3.

Table 3: EEO Investigations at DHS, FY 2006 – FY 2011

	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Total Number	796	742	787	861	939	888
Timely Number	254	375	448	561	566	531
Percentage	32	51	57	65	60	60
Average Days	279	248	215	217	213	243

During FY 2011, two DHS Components stood out for their timely completion of EEO investigations: USCIS and CBP. USCIS timely completed 99 percent of its 82 investigations, and CBP timely completed 99 percent of its 268 investigations. Notably, CBP accomplished this high rate of timely investigations despite a 9-percent increase in the number of investigations (247 in FY 2010 and 268 in FY 2011). USCIS maintained the lowest average processing rate (134 days) of all DHS Components.

The United States Secret Service (USSS) showed marked improvement in timely completion of investigations from FY 2010 to FY 2011. In FY 2010, USSS timely completed 18 percent — 2 of 11 investigations. In contrast, in FY 2011, USSS timely completed 42 percent — 8 of 19 investigations.

The investigation statistics for DHS as a whole in FY 2011 were significantly affected by several developments within TSA’s EEO program. TSA experienced a 43-percent increase in the number of formal complaints filed in FY 2011 (439) compared with the number filed in FY 2010 (306), which resulted in a 24-percent increase (250) in the number of investigations TSA completed when compared to the number completed in FY 2010 (201). The increase in complaints resulted in a backlog of cases that were untimely investigated, which was compounded by TSA’s lack of contract investigation support for over 4 months in FY 2010. TSA’s timely investigation rate was also negatively influenced by a temporary 40-percent decrease in TSA’s EEO Specialist staffing level in FY 2011.

The increase in the number of investigations and backlog cases resulted in a 42-percent decrease (53) in the number of timely investigations completed by TSA in FY 2011, when compared to the 91 timely investigations completed in FY 2010. In FY 2011, TSA experienced a 27-percent increase (303) in the average number of processing days, compared to 238 days in FY 2010. TSA responded to these challenges throughout FY 2011 by implementing in-house investigations; increasing engagement with complainants to proactively manage timeliness efforts; providing on-site training to investigative vendors to optimize timely and quality investigative efforts; and aggressively addressing staffing needs.

C. Procedural Dismissals

An agency may dismiss an EEO complaint for several reasons, including: failure to state a claim; untimely initial contact with an EEO counselor; filing the identical claim in Federal District Court; and failure to provide necessary information to the agency, among other reasons. See 29 C.F.R. § 1614.107(a). DHS Operational Components submit requests to CRCL’s Complaints Management and Adjudication Section for full dismissal of complaints that meet appropriate regulatory criteria. During FY 2011, CRCL issued 163 dismissals, which is significantly lower than the 550 dismissals issued in FY 2010; however, the FY 2010 dismissals were an anomaly, as they included 359 cases filed as a result of the closure of a FEMA facility in Puerto Rico and the resulting procedural dismissal of those complaints by DHS when the complainants filed suit in U.S. District Court. The remaining 191 dismissals in FY 2010 were 15 percent higher than the 163 dismissals in FY 2011, a year which resulted in the lowest number of dismissals between FY 2006 and FY 2010. The 153 average processing days in FY 2011 was also the lowest number of days between FY 2006 and FY 2010. See Table 4.

Table 4: DHS Procedural Dismissals, FY 2006 – FY 2011

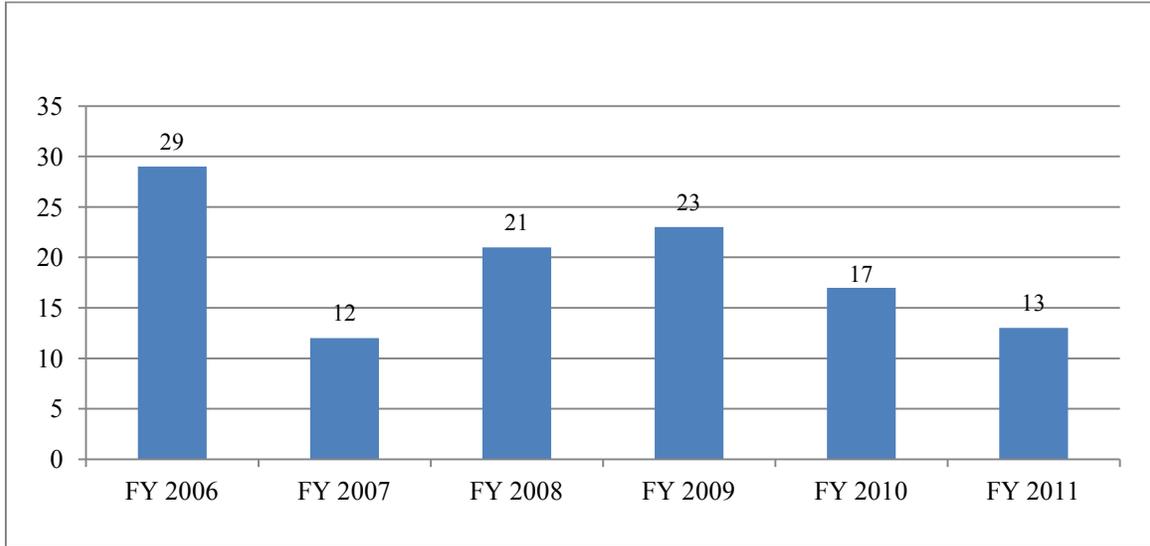
	2006	2007	2008	2009	2010	2011
Total Number	304	187	247	204	550	163
Average Processing Days	254	257	220	241	385	153

D. Findings of Discrimination

Section 203(a)(7) of the No FEAR Act requires federal agencies to examine trends and causes behind the data in their reports over the past five years. The following tally of DHS’s findings of discrimination from FY 2006 to FY 2011 illustrates DHS’s EEO complaint trends and causes based on the overall number of findings at the Department, the protected bases upon which the findings were made, and the types of claims or issues involved in the findings during this period.

Overall, from FY 2006 to FY 2011, DHS has processed 115 findings of discrimination through the issuance of merits FADs or Final Orders following an EEOC Administrative Judge’s (AJ) decision. FY 2011 does not show any systemic EEO issues or trends compared to prior years. In FY 2011, DHS processed 13 cases in which findings of discrimination were made. These cases included 2 merits FADs (without an EEOC AJ’s decision); 6 decisions from an EEOC AJ finding discrimination that DHS fully implemented; and 5 EEOC AJ decisions finding discrimination that DHS did not fully implement, but instead appealed to EEOC’s Office of Federal Operations (OFO). The 13 findings of discrimination represent a decrease from FY 2010 when DHS processed 17 findings of discrimination, and it is lower than the Department’s average annual number of findings (20) from FY 2006 to FY 2010. See Figure 4.

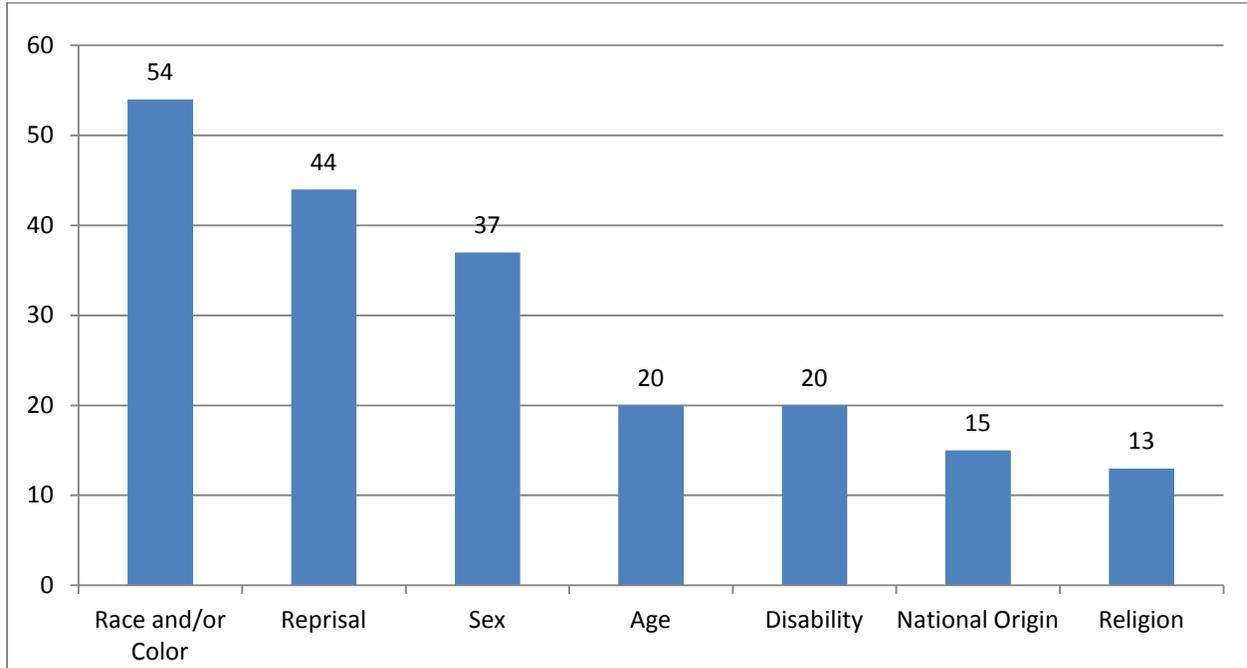
Figure 4: DHS Findings, FY 2006 – FY 2011



1. Protected Bases

In FY 2011, the majority of findings were based on the protected bases of race (4), disability (4), and reprisal (4). This marks a variation from the previous two fiscal years, in which there were more findings based on reprisal than on any other basis; FY 2010 (8) and FY 2009 (11). In FY 2011, the remaining findings were based on the protected bases of color (2), religion (2), sex (1), national origin (1), and age (1). It is important to note that the total number of bases within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on more than one basis. The total number of findings by bases from FY 2006 to FY 2011 is shown in Figure 5.

Figure 5: Findings by Bases, FY 2006 – FY 2011



2. Issues

FY 2011 findings of discrimination involved issues consistent with previous fiscal years, and do not suggest any particular pattern or trend. In FY 2011, DHS findings predominantly involved reasonable accommodation (5) and non-sexual harassment (3). Other issues in FY 2011 findings included duty hours (2), terms/conditions of employment (2), appointment/hire (1), reprimand (1), and termination (1). The number of findings involving duty hours and reasonable accommodation rose in FY 2011; however, the increase is too small to indicate a particular trend. In comparison, findings related to non-selection/-promotion – the issue with the most number of findings between FY 2006 and FY 2011 – dropped from six findings in FY 2010 to zero findings in FY 2011. As noted above with regard to bases, the total number of issues within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on multiple issues. See Table 5.

Table 5: DHS Findings by Issue, FY 2006 – FY 2011

	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>Total</i>
Appointment/hire	4	1	2	0	1	1	9
Disciplinary action	2	2	2	4	4	1	15
Duty hours	0	0	0	0	0	2	2
Harassment (non-sexual)	9	2	5	10	3	3	32
Non-selection/non-promotion	10	2	11	5	6	0	34
Reasonable accommodation	1	0	0	1	2	5	9
Termination	5	2	2	4	2	1	16
Terms/conditions of employment	3	2	2	2	1	2	12
Total number	34	11	24	26	19	15	129

VI. Practical Knowledge Gained Through Experience, and Actions Planned or Taken to Improve the Complaints or Civil Rights Programs

During FY 2011, DHS achieved significant program improvements and enhancements, resulting in a substantial increase in DHS’s issuance of Final Actions issued in EEO complaints, improved quality of complaint tracking and reporting, and enhanced services to stakeholders. This past fiscal year, CRCL eliminated the backlog of merits FADs that existed since the Department’s inception. CRCL and the Department’s EEO Directors committed to reconciling EEO data in icomplaints — the DHS enterprise-wide data system for complaint management and reporting — in order to strengthen the information infrastructure. The collaboration and partnerships between CRCL and the Components have continued to flourish as complaints management and adjudication efforts matured.

On September 20, 2011, the effective date of the repeal of the military’s Don’t Ask Don’t Tell policy, Secretary Napolitano issued an updated Anti-Discrimination Policy Statement (http://www.dhs.gov/xutil/gc_1287766900101.shtm). This Anti-Discrimination Policy Statement affirms DHS’s full commitment to EEO principles and serves as a guide to the Department’s employees, managers, supervisors, and executives in understanding their rights and responsibilities relating to equal employment.

A. Improvements in DHS EEO Complaints Adjudication

1. Strategic Focus on Backlog Elimination

In FY 2011, the DHS complaints adjudication program focused on two priorities: (1) eliminating the backlog of merits FADs, and (2) increasing timely issuance of merits FADs. This two-fold goal of addressing old cases while making a commitment to address new cases involved a myriad of strategic, collaborative, and innovative efforts. First, in May 2011, CRCL accomplished the long-standing goal of eliminating the backlog of cases awaiting merits adjudication by closing the remaining 247 cases in this category. In January 2009, the backlog of such cases within the CRCL EEO Division numbered approximately 500 complaints, and some of these cases were older than DHS itself. Thus, during FY 2010, CRCL's EEO staff designed and launched a plan to eliminate the backlog by the end of FY 2011. During FY 2011, CRCL accelerated the plan and set a new, even more aggressive, completion date. By June 2011, thanks to the strategic focus and unflagging effort by CRCL, the merits FAD backlog was gone for the first time in DHS's history.

In addition to focusing on eliminating the backlog of old merits FADs, CRCL concurrently emphasized the importance of timely adjudicating incoming merits FADs. In FY 2010, CRCL issued only 17 merits FADs within the 60 days required under regulation, and in FY 2009, CRCL had timely issued only 16 merits FADs. However, in FY 2011, DHS timely issued 119 merits FADs — 26 percent of the total merits FADs issued during the year — a 600-percent increase in the number of timely merits FADs over the past fiscal year. Also, as a result of the dual focus on backlog elimination and timely FAD issuance, the average number of processing days for merits FADs dropped dramatically from 807 days in FY 2010 to 237 days in FY 2011, a 71-percent decrease. Notably, in a year when an emphasis was placed on backlog elimination, the timely issuance of 119 merits FADs also marks the highest number and highest percentage of timely merits FADs in the Department's history. In FY 2012, CRCL will continue to focus on timely processing of merits FADs and CRCL plans to coordinate closely with Component offices to facilitate adjudication within regulatory timeframes. See Table 6.

Table 6: DHS Timeliness for Merits FADs FY 2006 – FY 2011

	2006	2007	2008	2009	2010	2011
Backlog at Year End	203	419	568	420	247	0
Total FADs Issued	266	249	86	303	527	457
Number Timely Issued	4	4	21	16	17	119
Percentage Timely	2	2	24	5	3	26
Average Processing Days	400	355	545	567	807	237

2. Continued Emphasis on Improving Process Efficiencies

During FY 2011, CRCL continued to maximize process efficiencies in order to both eliminate the backlog of merits FADs and effectively move on new, incoming complaints. To achieve these accomplishments, DHS continued to engage contractor resources throughout FY 2011 to supplement internal resources and maintained a dedicated, focused effort on review of the contractor-drafted FADs to meet internal expectations for FAD-writing quality and efficiency. CRCL staff enhanced existing templates, refined the library of boilerplate language, and enhanced a database of applicable legal research and case law. On August 29, 2011, the U.S. Office of Management and Budget (OMB) informed DHS that it had cleared DHS's use of a revised formal complaint form, pursuant to EEOC's requirement that agencies track pregnancy discrimination cases. In September 2011, CRCL launched a pilot for a revised final action format — taking on a judicial decision form and integrating a procedural history and a certificate of service. These enhancements allowed for more-accurate analysis, timely processing, and tracking of final actions. The revised final action format was fully launched in early FY 2012.

CRCL also partnered with DHS Operational Components to transition digital solutions into standard practices. CRCL and Component offices focused on updating information and uploading documents to icomplaints to allow for access to uniform data and documents. Operational Components continue to request procedural dismissals and merits FADs via email, and CRCL continues to engage in digital review and drafting of decisions. During FY 2011, CRCL began using digital signatures and issuing all final actions in an accessible format. These digital initiatives allowed CRCL to maximize telework opportunities — initiatives encouraged across the Executive Branch during FY 2011. CRCL made effective use of Adobe Connect as a resource for holding meetings in a more-effective manner. These digital initiatives enhanced the speed and accuracy of case processing and adjudication in FY 2011 and will continue on into FY 2012.

3. Initiating Collaboration with Components

FY 2011 was also a year CRCL engaged in proactive opportunities to create collaboration and information-sharing within and outside the Department. In May 2011, CRCL conducted a workshop for CBP on hostile work environment law and application. This workshop provided an opportunity for both CRCL and CBP to engage in discussion, improve case analysis and processing, provide process transparency, and build a stronger working bond between the two offices. In August 2011, during EEOC's annual Examining Conflicts in Employment Law (EXCEL) Conference, CRCL organized a "meet-and-greet" with EEO staff from U.S. Immigration and Customs Enforcement (ICE), FEMA, FLETC, and TSA. This informal gathering and in-person introduction paved opportunities for closer working relationships throughout the year and will be used as a platform for a potential DHS forum during the EXCEL Conference in FY 2012. In May and June 2011, CRCL provided individualized icomplaints training to ICE employees in Bloomington, Minnesota, and in Washington, D.C., in efforts to reconcile ICE's complaints data and to provide guidance on case management system improvements. Similarly, throughout FY 2011, CRCL provided leadership in maintaining data accuracy in icomplaints by troubleshooting system functionality problems, conducting data accuracy checks and running reports, and providing guidance to address Components' specific

needs. Lastly, during FY 2011, CRCL initiated engagement with EEOC OFO to join in the EEOC File Exchange (EFX) pilot program — a web-based portal between agencies and EEOC OFO’s document management system. By joining the pilot program and involving Components early, CRCL was able to provide valuable input into shaping the design features of EFX so Component usage can be more effective. CRCL remains active in an EFX Focus Group created to continue to dialogue between EEOC and the user community.

4. Stability Through Staffing Changes

CRCL experienced significant leadership staffing changes during FY 2011. Following the October 8, 2010, departure of the then-Deputy Officer and Director of the EEO and Diversity Section, the Director of the Complaints Management and Adjudication Section (CMAS), briefly assumed the role of Acting Deputy Officer until the arrival on November 8, 2010, of a detailee from the Complaint Adjudication Office in DOJ’s Civil Rights Division, who reported on duty as the interim Acting Deputy Officer. On March 28, 2011, the permanent Deputy Officer, Veronica Venture, reported on duty at CRCL. The vacant Team Lead in CMAS remains unfilled. Notwithstanding the changes in leadership positions throughout the year, CMAS continued to maintain high performance and high production.

Also during FY 2011, CRCL’s EEO and Diversity Section, in coordination with the DHS Headquarters EEO Office (HQ EEO), completed another successful summer internship program. Two legal interns worked with CRCL, engaging in work spanning the entire range of the complaint process, including inventory-reduction assignments and initiatives related to EEO complaints adjudication.

B. DHS Operational Components

DHS Operational Components continued to lean forward with process efficiency initiatives. Beginning with a department-wide commitment to maximize utility of the iComplaints enterprise database system, all Components have emphasized the importance of data integrity, reconciliation, and the timely updating of information and documents. These efforts have matured during FY 2011 allowing for quicker and more-reliable conveyance of cases from the Components to CRCL for adjudication. These initiatives have also allowed for easier access to documents and related reports. These digital process efficiencies continue to be the foundation upon which CRCL and Components have built a speedy and collaborative EEO program.

1. Federal Emergency Management Agency

Complaint Processing

FEMA continued to experience delays in conducting investigations in a timely manner due to the significant increase in the volume of complaints processed during FY 2009.⁴ However, beginning in FY 2010, FEMA started noticing a downward trend in complaint filings, and as a result, is anticipating that the average timeframe for conducting an investigation will decrease in future years. To assist with improving processing timeframes, in FY 2011, FEMA issued Blanket Purchase Agreements for investigative services with 13 contract EEO investigation

⁴ In FY 2009, the closure of a FEMA facility in Puerto Rico led to the filing of 359 individual complaints.

companies and FEMA plans to increase its formal complaints staff in FY 2012 with a focus on streamlining internal procedures for investigations.

During FY 2011, FEMA began coordination with CRCL to join the Departmental instance of icomplaints. FEMA and CRCL met to coordinate with the vendor to identify and align the operational needs of both icomplaints systems. At the end of the first quarter of FY 2012, DHS achieved its goal of having a department-wide comprehensive data system capable of tracking and reporting.

Diversity Management

In FY 2010, the FEMA Administrator issued a *Diversity Action Plan* and established a Diversity Management Advisory Council (DMAC). In FY 2011, FEMA and the DMAC began implementation of the strategies and actions identified in the *Diversity Action Plan*, which includes a comprehensive checklist with 32 strategies and initiatives, many of which have already been completed. The DMAC held its annual offsite meeting in August 2011 to summarize and document diversity management accomplishments in FY 2010 and FY 2011, as well as to establish goals and objectives for FY 2012.

Services and Proactive Engagement

FEMA revised its orientation program for new employees in an effort to improve job readiness and workforce retention — ingredients that affect EEO complaint activities. Working with the Emergency Management Institute (EMI) and a private course development contractor, FEMA developed “FEMA Mission Readiness” training course (also known as the “E696” course) in FY 2011. The purpose of this course is to teach new FEMA employees about the agency, its mission, its culture, and how to navigate within the organizational structure. Specifically, E696 is a four-day residential training course held at the National Emergency Training Center (NETC) in Emmitsburg, Maryland. Each cohort of students is assigned an Executive Mentor, who is a member of FEMA’s Senior Executive Service (SES) and who stays on campus participating as both a member of the cohort and an adjunct instructor as warranted during the week. The Executive Mentor also serves as a “group mentor” to the students for the next 12 months. The class is taught entirely by FEMA Subject Matter Experts (SMEs) and covers 14 Units, including courses on basics of emergency management, the purpose and function of the various Components, and achieving work/life balance. E696 contains many team-building and group problem solving exercises designed to maximize interaction and discussion.

2. Federal Law Enforcement Training Center

Infrastructure

During FY 2011, FLETC hired a new EEO Director, John Weaver.

Complaint Processing

During FY 2011, FLETC completed 7 out of 10 EEO investigations within the regulatory timeframe of 180 days, or 270 days with an approved extension. Also during FY 2011, the FLETC EEO Office continued to manage the entire investigative process — a process that was launched at the beginning of FY 2010. The strategies implemented in this process have produced significant improvements in meeting regulatory time frames for completing

investigations. Nevertheless, the EEO Office is conducting a comprehensive evaluation of the process and procedures used during the investigative phase of the EEO process to determine if resources are being used in an efficient and effective manner. FLETC is committed to its goal of ensuring that all EEO investigations are completed in a timely manner. In an effort to reach this goal, the FLETC EEO Office will continue to work closely with EEO contract investigators, Responding Management Officials (RMO), the Human Capital Operations Division (HCO), and the Office of Chief of Counsel (OCC).

Diversity Management

During FY 2011, the FLETC EEO Office, HCO, and the FLETC Recruitment Council (FRC) collaborated to develop, review, and make recommendations regarding the DHS/FLETC Workforce Strategy Operational Plan. The plan focused on the following goals: (1) building an effective mission focused on a diverse and inspiring cadre of leaders, and (2) recruiting a highly-qualified and diverse workforce, which aligns with both FLETC's strategic plan and recruitment plan. This collaboration ensured that specific components of the plan took into account FLETC's long-term strategic planning goals, and that diversity and disability hiring initiatives were being addressed. During FY 2011, FLETC's Operation Warfighter Program — a temporary assignment/internship program for service members that are convalescing at military treatment facilities in the National Capital Region — had a total of 26 participants, 2 of whom were hired into permanent positions at FLETC and 1 of whom was referred to and hired by another DHS Component. A Memorandum of Understanding (MOU) between FLETC and Fort Stewart, Georgia, created a viable partnership that has produced a pipeline for veterans and created opportunities for wounded veterans to work and develop new skills.

Services and Proactive Engagement

FLETC had a 100-percent participation rate for the FY 2011 No FEAR Act Training, which is available on the organization's Learning Management System. The FLETC EEO Office is currently reviewing and developing new training materials that will enhance EEO and diversity goals.

3. Headquarters EEO Office

Infrastructure

During FY 2011, HQ EEO was directly involved in providing training and career development opportunities to staff members of the EEO and Diversity Office, which also resulted in enhanced customer service. Work continued on securing full responsibility for ensuring the successful and final stage of the transfer of Federal Protective Services (FPS) EEO servicing from ICE to HQ EEO.

Complaint Processing

HQ EEO achieved noteworthy success during FY 2011 and strongly enhanced the efficiency and quality of services to customers, which resulted in the elimination of the backlog of formal complaints pending acceptance or dismissal determinations. In FY 2011, HQ EEO showed slight increases in the number of EEO cases counseled and formal complaints filed. In FY 2011, HQ EEO completed EEO counseling for 88 cases, which represented a slight increase from FY 2010; of these 88 cases counseled, 86 percent were timely. There was an 8-percent increase in

formal complaints filed in FY 2011 (56) compared to the number filed in FY 2010 (52). There were a total of 34 completed investigations, of which 38 percent were timely.

Diversity Management

HQ EEO is specifically responsible for developing EEO and diversity policies and procedures specific to DHS Headquarters offices; 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 (ADR), and EEO investigations; promoting diversity management initiatives, including Special Emphasis Programs management to help Headquarters Components recruit, hire, develop, and retain a diverse workforce; managing the Headquarters reasonable accommodation process; and providing training on EEO and diversity.

Services and Proactive Engagement

HQ EEO processed 58 requests for reasonable accommodation for individuals with disabilities, including provision of sign language interpreters and eight ergonomic and accessible technology assessments, in collaboration with the DHS Office of Accessible Systems and Technology (OAST).

The Informal Complaints Manager conducted New Employee Orientation training for 1,446 new employees, providing new employees, supervisors, and managers with pertinent information regarding their EEO rights and responsibilities, merit systems principles, and the No FEAR Act. Over 120 supervisors and managers were trained on the prevention of unlawful workplace harassment.

During FY 2011, the Federal Women's Program provided several opportunities for employees to develop their skills and promote their advancement in the workforce. For example, HQ EEO sponsored the Fourth Annual Women's Leadership Forum, which was attended by over 150 employees. Numerous "Lunch and Learn" programs were also conducted during FY 2011, including program topics such as employee benefits, leadership skills needed for the 21st century, and maintaining a current résumé. HQ EEO hosted monthly Women's Focus Group meetings in a continuing effort to engage women in discussions on the value of setting career goals and sharing information on training, education, and career advancement opportunities.

HQ EEO participated in several career fairs during FY 2011, including the Department of Defense's Operation Warfighter Program and the Fort Meade, Maryland, Community Job Fairs. 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. The following provides a summary of specific activities conducted during FY 2011:

- The Selective Placement Coordinator (SPC) participated in the Second Annual Wounded Warrior Conference, Ft. Belvoir, Virginia. The presentation included providing training on résumé writing and offered attendees one-on-one coaching for improving their résumés.
- HQ EEO briefed military service members at the DOD's Transition Assistance Programs, Family and Fleet Center, highlighting: benefits of Federal jobs, the variety of locations

where positions are available, and the DHS Headquarters focus on mission critical occupations.

- HQ EEO participated in mock interviews for Wounded Warriors at the OPM, Veterans Employment Program Office, Veterans Services.
- The SPC assisted OPM and the U.S. Department of Labor (DOL), as a member of an advisory group, to make recommendations to leaders on a web-based Community of Practice for Federal Disability Program Managers and SPCs.
- The SPC worked with the CRCL Institute on updating the web-based training course, “The Road to Success,” which is available via the DHS enterprise learning system. The course will assist supervisors and managers in developing strategies to attract, hire, develop, and retain qualified individuals with disabilities.
- HQ EEO conducted three workshops on the laws governing reasonable accommodation for employees and applicants with disabilities, as well as best practices throughout the Federal Government.
- The SPC provided résumé-writing training to over 75 veterans, including veterans with disabilities and spouses of the veterans.

4. Transportation Security Administration

Infrastructure

In FY 2011, the TSA Office of Civil Rights and Liberties (OCRL) continued a program of effective records management by purging more than 3,000 files of closed cases that were either archived or destroyed in accordance with the National Archive Records Administration General Record Schedule.

Technology

Throughout FY 2011, OCRL updated icomplaints to ensure the accuracy and completeness of case tracking data from FY 2002 through FY 2011. This project resulted in more accurate data for the fourth quarter No FEAR Act Report and the FY 2011 Annual 462 Report. Close monitoring of the icomplaints database will continue through FY 2012 to ensure accurate tracking of informal and formal complaints, as well as hearings and appellate matters. TSA continues to refine the implementation of the e-File electronic complaint filing program, which was initiated in FY 2010, and is estimated to be active by the second quarter of FY 2012.

Complaint Processing

OCRL advanced model workplace and human capital goals by helping managers, supervisors, and employees resolve EEO workplace conflict and disputes through its Alternative Resolutions to Conflict (ARC) program. Initial contacts decreased by 21 percent between FY 2010 and FY 2011, but informal complaint filings only increased by approximately 6 percent over FY 2010. OCRL responded to 593 informal complaints in FY 2011. Even though informal complaint filings increased, the mediation resolution rate was 55 percent in FY 2011— an increase of 6 percent from FY 2010 and above TSA’s internal mediation participation goal of 50 percent. Overall, when parties participated in mediation in FY 2011, cases were resolved 66 percent of the time, which is also an increase from the number resolved in FY 2010.

In OCRL's Formal Complaint Division, complainants filed 439 complaints in FY 2011 — an increase of 133 complaints (43 percent) over the 306 complaints filed in FY 2010. For FY 2011, the average number of days for completion of investigations was approximately 303 days. Although this is an increase over the average for FY 2010, when investigations were completed in an average of 239 days, the overall turnaround time is remarkable because OCRL lacked contract investigation support for more than four months during FY 2010, and in the process, developed a backlog of cases that had to be investigated when support was restored. In addition to the 43-percent increase in formal complaint filings, the EEO Specialist staffing level of the Formal Complaint Division decreased by 40 percent. TSA responded to these challenges by implementing an in-house investigations capability, increasing engagement with complainants to proactively manage timeliness efforts, providing on-site training to investigative vendors to optimize timely and quality investigative efforts, and aggressively addressing staffing needs.

Diversity Management

OCRL markedly advanced TSA's strategic, multi-year goal of achieving a diverse workforce by ensuring that the Diversity Advisory Council (DAC) finalized TSA's first Diversity Strategic Plan (DSP) and obtained the Administrator's approval. As this effort was realized in advance of the President's August 2011 issuance of an Executive Order on "*Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*," the DSP is currently being evaluated to ensure TSA's plan is fully harmonized with OPM guidelines. OCRL effectively guided the fourth annual TSA-wide Diversity Day to celebrate the richness of diversity and raise awareness and understanding of different cultures represented in TSA's diverse workforce. OCRL also provided substantive leadership and direction to the DAC and facilitated the selection and installation of DAC III in September 2011.

In July 2011, OCRL implemented TSA's first Diversity Train-the-Trainer program for 12 staff members from the TSA Office of Security Operations, Federal Air Marshal Service (FAMS), Office of Information Technology, and Transportation Threat Assessment and Credentialing (TTAC) organization. This program established a cadre of internal TSA Full-Time Equivalent (FTE) employees, in lieu of contractors, capable of conducting training. A total of nine diversity-focused training events occurred in FY 2011, plus introduction of a transgender curriculum, to deliver as needed or when requested by agency management. In October 2011, TSA hosted a Special Emphasis Program Managers' Course for DHS and all Components.

Services and Proactive Engagement

In FY 2011, OCRL staff provided live EEO training to approximately 3,500 employees, including 500 managers and supervisors. The training was provided at 22 airports, 7 FAMS offices (including the regular EEO training for each new FAMS class at the Atlantic City International Airport (ACY) training facility, and 6 headquarters offices (including the Federal Security Director (FSD) Academy). These site visits delivered legally-mandated EEO and civil rights training to TSA managers and employees and allowed TSA to comply with Federal mandates and EEOC AJs' orders. During these on-site visits, OCRL also provided EEO-related counseling services and intervention support for FSDs and management teams on existing EEO related disputes or conflicts. The "in person" training was a supplement to the DHS No FEAR Act training provided on-line and required every other year for all TSA employees. TSA also

required all new employees to complete the No FEAR Act training within 90 calendar days of entering service.

OCRL provided four one-hour EEO trainings via video teleconference (VTC). All FAMS managers and supervisors in all FAMS offices were required to join the VTC and attendance was recorded. OCRL assisted in development of the OCRL-FAMS Liaison positions and assisted in the review and selection of the candidates, as well as leading the development and execution of the training for the new OCRL-FAMS Liaisons. OCRL also provided four hours of diversity training for the FAMS Cincinnati Field Office.

OCRL continued to administer its training curricula designed to advance diversity and inclusion in TSA. TSA OCRL also continued to conduct the full range of affirmative employment programs designed to increase awareness and assist with the development and advancement of key employee demographics. Related efforts included various programs in partnership with DHS and other federal agencies and submission of reports mandated by Executive Orders, Congress, and the EEOC. TSA OCRL prepared numerous briefings for the TSA workforce and developed a training module to raise awareness of the cultural sensitivities of the traveling public.

5. U.S. Citizenship and Immigration Services

Infrastructure

The USCIS Office of Equal Opportunity and Inclusion (OEOI) provides civil rights services to USCIS's 10,645 employees. OEOI is led by a Chief and has three divisions: the Complaints Resolution Division, the Diversity and Inclusion Division, and the Disability Accommodation Program. These divisions perform the following roles:

- The Chief and her staff provide executive leadership and oversight of all the office's activities by managing its internal policies and programs;
- The Complaints Resolution Division manages the administrative processing of discrimination complaints, administers the agency's ADR and anti-harassment programs, and provides support to various training initiatives within OEOI;
- The Diversity and Inclusion Division is responsible for the agency's diversity initiatives, affirmative employment program, and special emphasis and outreach initiatives; and
- The Disability Accommodation Program manages the agency's reasonable accommodation program, which includes obtaining accommodation funding, providing consultative services to managers and employees regarding disability issues, and arranging training on reasonable accommodation procedures and requirements.

In FY 2011, USCIS established a full-time EEO counselor position to reduce the costs of contract counseling and to improve the quality of services provided to its customers. A Special Assistant to the OEOI Chief was hired to improve oversight and management of the office's programs.

Technology

In FY 2011, 96 percent of USCIS supervisors and managers completed mandatory instructor-led training on the subject of disability accommodation. Seven videophones were installed in meeting and conference rooms to encourage the use of remote video interpreting during meetings and trainings. Instructor-led training was also conducted with 14 employees and their supervisors to ensure that all parties understood the capabilities and limitations of videophones and to provide reminders on communication etiquette with individuals who are hearing-impaired. USCIS also identified a need for training in regard to how six blind and low-vision employees were using their assistive technology. The Computer/Electronic Accommodation Program conducted an assessment of these employees' assistive technology, updated hardware and software as needed, and conducted additional on-site training.

Complaint Processing

During FY 2011, USCIS counseled 127 cases compared to 197 cases counseled in FY 2010 — a 36-percent decrease. USCIS had a 36-percent decrease in the number of formal complaints filed; there were 82 complaints filed in FY 2011 and 129 complaints filed in FY 2010. The percentage of complainants in the total workforce dropped to one percent, which was the lowest rate in the past five years. Ninety-eight percent of counseling during FY 2011 was completed in a timely manner — the best timely processing rate USCIS has had in four years. USCIS also continued to process investigations in a timely manner with an average processing time of 134 days from filing to completion of the investigation, as compared to the DHS-wide average of 243 days.

Diversity Management

In the area of diversity and inclusion, OEOI conducted a qualitative and quantitative analysis of diversity in the higher grade levels at USCIS to ensure that any potential EEO barriers were identified and addressed.

Services and Proactive Engagement

In FY 2011, OEOI re-vamped its ADR program, which resulted in a substantial increase in the percentage of employees electing ADR during the pre-complaint process and in the number of cases that were resolved at this early stage in the process. In FY 2009 and 2010, approximately 24 percent and 30 percent, respectively, of aggrieved employees elected ADR, with approximately 20 percent and 30 percent of those cases, respectively, resulting in settlement. However, in FY 2011, 44 percent of employees elected ADR, with about 29 percent of those cases resulting in settlement. In FY 2011, OEOI revised the ADR request process, which made it easier for employees to obtain information about ADR and to make an election. OEOI also refreshed its evaluation process to make it easier for participants to provide meaningful feedback about their experiences with the ADR process, allowing OEOI to address any perceived deficiencies. The results of these surveys, however, showed a decidedly positive response to the agency's ADR process. OEOI enhanced management of the process through increased communication with participating management officials, mediators, agency counsel, and aggrieved employees, in order to ensure the efficiency of the process in the hope that an early ADR session would be more likely to result in resolution. As a result of these efforts, over the last two years, OEOI has doubled the percentage of individuals who have elected ADR.

6. U.S. Coast Guard

Infrastructure

During FY 2011, the USCG Civil Rights Directorate (CRD) modernized into a centrally aligned national structure, managed by full-time specialists. Initially CRD staff provided civil rights services USCG-wide through three regions. Most recently, during FY 2011, USCG added a fourth region, with additional staff to improve civil rights services to the workforce.

In FY 2011, the CRD updated its five-year, 2011 - 2016 Strategic Plan, which includes the full scope of program-centric, measurable performance elements designed to improve performance and services, with the overarching goal to eradicate discrimination.

Technology

During FY 2011, USCG's complaints data was fully uploaded to icomplaints, thereby allowing for improved reporting of trends and analyses, as well as facilitating resolution of complaints.

Complaint Processing

During FY 2011, the rate of civilian complaints decreased by 4 percent (45 compared with 47 in FY 2010). The average number of days pending prior to dismissal of complaints decreased by 141 days (40 percent) — from 355 days in FY 2010 to 214 days in FY 2011. In FY 2011, the number of formal complaints pending at year-end decreased by 9 cases (10 percent) when compared to the number for FY 2010. There were no findings of discrimination against USCG rendered during FY 2011.

Diversity Management

USCG continued to utilize an inter-agency team to identify triggers and barriers to equal opportunity. During FY 2011, the CRD conducted eight Equal Opportunity (EO) reviews for a variety of locations and unit types. (EO cases apply to military personnel, while EEO applies to civilian personnel). Field level Civil Rights Service Providers assisted USCG commands in conducting EO reviews in response to local incidents, Defense Equal Opportunity Climate Survey (DEOCS) results, community incidents, and information received from other sources, including pre-complaint activity.

Services and Proactive Engagement

In FY 2011, USCG was active in a variety of strategic initiatives and practical engagements, including:

- Implemented a strategy aimed at recognizing management officials who exhibited exemplary equal opportunity behaviors and practices. Based on reviews of management officials' reactions to various situations in EEO and EO cases, the CRD staff identified and recognized three management officials for their commendable behavior. The first management official was recognized for taking an active role and achieving a successful outcome in reconciling a complaint. A second official was recognized for holding individuals accountable for their positive or negative EEO behaviors. A third official was recognized for engaging in EEO leadership in Social Climate (community) matters. The CRD worked with the recipients' staffs and made appropriate and high-visibility award presentations, to include the USCG Commandant conferring the award to one of the recipients.
- Published and distributed *A Civil Rights Guide for Managers*, a pocket-sized booklet, which provides an easy reference for equal opportunity information, to 3,485 USCG supervisors and managers. The booklet included information on the following: the Equal Opportunity Mission, harassment procedures, military and civilian complaint processes, climate survey requirements, and contact information.
- Produced a brochure to promote awareness of ADR and delivered an ADR briefing at the Commandant's weekly leadership meeting.
- Produced 12 editions of the monthly newsletter, *Civil Rights On Deck*, which contained best practices and solutions and was distributed to the entire USCG workforce and key stakeholders.
- Implemented tools and offered training to all staff having roles in resource management. A monthly spend-down report was established, specifically tailored to CRD so that managers could gauge resource levels and be accountable for funds under their charge. Additional training was provided to administrative personnel, and Standard Operating Procedures (SOP) were developed for programming expenses in a timely manner. This activity has continuously improved over the two years since the directorate was reorganized, and has resulted in a higher level of understanding by non-financial managers of fiduciary responsibilities. The training has greatly stabilized CRD's overall spend-down rate and facilitated the flow of funds to support field level requirements.
- 371 Coast Guard commands requested climate surveys, of which 299 met the participation requirements (16 or more personnel). This total was significantly higher than FY 2008 (95).
- Continued improvement and development in educating the workforce and eliminating real or perceived discriminatory practices. These efforts include the following:
 - Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS). This annual survey is a tool to aid management in measuring an office's civil rights climate and organizational effectiveness.
 - Command Checklist. The annual compliance report is designed to ensure that USCG officials are aware and knowledgeable of their EEO responsibilities.

During FY 2011, the compliance template was updated to include outreach and ADR elements.

7. U.S. Customs and Border Protection

Infrastructure

CBP's Office of Diversity and Civil Rights (DCR) provides civil rights services to nearly 60,000 CBP employees and is composed of an Executive Director and three divisions: Headquarters, a Complaints Processing Center and regional offices. It also has a Mediation Program. Below is a brief description of each category and its role:

- The Executive Director provides executive leadership and oversight for the effective establishment and management of internal policies and programs.
- The Field Directors report to the Deputy Director, DCR. These positions oversee and manage two regional offices. Currently, the DCR Office has four regions (Northeast, Southeast, Northwest, and Southwest). The two Field Directors (East and West) are responsible for all field activities.
- The Assistant Field Directors manage the local equal opportunity officers who are responsible for providing leadership and support for DCR programs in their assigned areas. DCR provides field staff services to all CBP Offices.
- The Complaints Processing Center, located in Oakland, California, is managed by a Field Director and is responsible for managing the formal EEO complaint process. The Field Director reports to the Deputy Director, DCR.
- DCR Headquarters, located in Washington, D.C., includes the Policy and Program Operations Division and the Diversity and Compliance Programs Division, which both provide services to customers in the field. The Diversity and Compliance Programs Division is responsible for diversity and inclusion, affirmative employment, and special emphasis and outreach initiatives. The Policy and Program Operations Division responds to executive correspondence, maintains the office budget, provides technical support to the field directors and regional offices on reporting requirements, and maintains the DCR webpage.

Complaint Processing

In FY 2011, CBP had a 12-percent increase in the number of EEO cases counseled compared to the number counseled in FY 2010. Of the 574 cases counseled in FY 2011, 100 percent were timely. In FY 2011, 328 formal complaints were filed — an increase of 6 percent from FY 2010, when 309 complaints were filed. The number of investigations completed increased by 9 percent in FY 2011, when 268 investigations were completed, compared to 247 investigations in FY 2010. In spite of an 8-percent increase in the number of complaints requiring investigation, CBP completed 99 percent of its investigations within the regulatory timeframe in FY 2011, compared to the 98-percent timely rate achieved during FY 2010. In FY 2011, there were 123 merits FADs issued, which was a 23-percent increase from FY 2010, when 100 merits FADs were issued.

Diversity Management

It is the policy of CBP to treat all employees, members of the trade and traveling public, and individuals detained for law enforcement purposes, with dignity and respect. At CBP, diversity is considered a tool for achieving readiness and accomplishing the core mission. CBP's mission — protecting the Nation — is global in nature. CBP's workforce — Air and Marine Interdiction Agents, Border Patrol Agents, Customs and Border Protection Officers, and mission support staff — must interact with a diverse population each and every day. To maintain status as a high-performing federal law enforcement organization, it is imperative that CBP build and maintain a talented and diverse workforce to protect and safeguard our Nation. By reflecting America's diversity, CBP's workforce can provide a wider range of ideas and solutions aimed at protecting and securing our Nation. This responsibility is not limited to managerial actions regarding recruiting and employment; CBP works to dispel stereotypes and to build a work environment that is based on mutual respect. CBP holds employees to a commitment to provide fair and equal access to the privileges and benefits of employment based solely on individual merit while requiring personal accountability and integrity in all aspects of the law enforcement mission. To meet this commitment, CBP works to create a work environment that recognizes diversity and fosters inclusion and equal opportunity regardless of an individual's race, color, national origin, religion, sex, age, disability, status as a parent, sexual orientation, or genetic information.

Services and Proactive Engagement

During FY 2011, CBP began implementation of a five-year strategic plan for DCR. A DCR Newsletter was launched and disseminated to the workforce to make them aware of DCR's role to develop, establish, and administer all CBP policies, implementation guidelines, standards, and programs necessary to ensure compliance with federal civil rights and civil liberties laws, executive orders, and relevant federal policies. CBP implemented a Minority-Serving Institutions Implementation Plan to build partnerships with Minority-Serving Institutions (MSI) to create a diverse pool of candidates by ensuring students receive experience through internships and career experience programs. In support of the MSI Implementation Plan, DCR targeted 27 Historically Black Colleges and Universities (HBCU) and 7 Tribal Colleges and Universities (TCU). The FY 2011 MSI initiative now includes Women's Colleges, Hispanic Serving Institutions, and universities with students with disabilities.

Through CBP monthly observance activities, Diversity and Inclusion Committee (DIC) volunteers and employees around the Nation continue to cultivate a culture where similarities and differences of individuals are respected and valued. CBP is using DIC volunteers and designees across the country to help build diversity through increased cultural awareness, education, and appreciation of differences. During FY 2011, DIC volunteers sponsored numerous cultural and enrichment programs and activities.

CBP increased the number of workplace diversity awareness programs from 662 in FY 2010, to 899 in FY 2011, which represents a 36-percent increase. In just one year, CBP employee participation, support, and attendance at programs and events increased by 43 percent in FY 2010 from 43,100 to more than 61,573 in FY 2011. DIC volunteers also collaborated with local community organizations at nearly 491 community outreach events to educate the public about

CBP's mission and career opportunities that included high schools, colleges, churches, and community organizations throughout the Nation.

CBP is committed to investing in the leadership development of all its managers and supervisors. All new supervisors are required to complete EEO Awareness Training during mandatory Supervisory Leadership Training held at the CBP Leadership Academy. During FY 2011, 4,917 new supervisors completed this training on various dates throughout the year. Nine hundred supervisors and managers were trained by DCR staff members in supervisory EEO Awareness Training sessions conducted at various duty posts across the country. The supervisory EEO awareness curriculum includes instruction on the topics of diversity and inclusion, affirmative employment, and reasonable accommodation.

CBP continues to participate in the Department of Defense's Operation Warfighter initiative. During FY 2011, CBP provided seven temporary assignments in this program.

During FY 2010, CBP established an EEO toll free number and a designated electronic mailbox for individuals to initiate requests for EEO counseling. Both methods were established to provide a more efficient manner to initiate requests for pre-complaint EEO counseling and to assign, facilitate, and track requests. CBP received a total of 268 messages from the toll free number. DCR launched a communication plan to notify the workforce of these additional methods for seeking EEO counseling, including posting to the Information Display Systems for the Offices of Field Operations and Border Patrol, mass mailings, and posting messages on employees Leave and Earning Statements and on the Intranet.

In FY 2011, CBP conducted a Management Assurance Review at 34 operational locations around the Nation. The reviews, conducted by CBP's Office of Internal Affairs Management Inspection Division, resulted in 28 reports, which assessed that CBP achieved less than 100-percent compliance in its No FEAR Act mandatory training requirement. To address the findings of less than 100-percent compliance for CBP employees completing No FEAR Act training in FY 2011, CBP's Office of Diversity and Civil Rights has identified a series of steps to ensure CBP's full compliance, and will work with the Office of Training and Development to implement these steps.

8. U.S. Immigration and Customs Enforcement

Infrastructure

In March 2011, ICE appointed Scott Lanum as Assistant Director for Diversity and Civil Rights. With the appointment of the new Assistant Director, the Office of EEO and the Office of the Chief Diversity Officer merged to form the Office of Diversity and Civil Rights (DCR). Since the Assistant Director's arrival, he has conducted organizational briefings with several senior program office executive directors. The Assistant Director will continue providing briefings to each senior program official on a quarterly basis. On August 1, 2011, the DCR hired three new employees in the positions of Chief, Complaints and Resolution Division; Chief, Diversity Division; and Chief, Complaints Management Branch. In FY 2011, DCR redesigned its complaints and ADR programs from a compartmentalized strategy to a "cradle-to-grave" approach. This redesigned process improves customer service by providing the same EEO

Specialist to individuals throughout the process. This redesigned approach became effective on October 1, 2011.

Technology

During FY 2011, ICE successfully reconciled all complaint data housed in icomplaints to ensure 100-percent reporting accountability. Since transitioning to icomplaints, ICE conducted several training sessions for the EEO staff to facilitate understanding and system knowledge.

In May 2011, ICE EEO Specialists attended the 2011 EEOC Training Institute Webinar series entitled, "EEOC's New Regulations: Implementing the ADA Amendments Act." The training provided guidance on major changes to the Americans with Disabilities Amendments Act. On August 23, 2011, Nancy Lee Jones, J.D., provided an overview on the Genetic Information Nondiscrimination Act (GINA) to DCR staff. DCR included partners from the Offices of Principal Legal Advisor (OPLA), Human Capital, and Employee Labor Relations to participate and receive an advanced overview of GINA. ICE participated in the EEOC EFX pilot. The EFX portal allows for the electronic exchange of documents related to federal sector EEO complaints and provides two-way communication with EEOC and agencies on hearings and appeals. ICE enhanced its transmittal of documents more efficiently by using EFX.

Complaint Processing

In FY 2011, ICE continued to maintain a strong complaint processing program. In FY 2011, the ICE Complaints and Resolution Division timely counseled 218 of its 263 pre-complaints (83 percent), as compared to FY 2010 when 191 of its total 209 pre-complaints were timely counseled (91 percent). During the same period, ICE received 174 formal EEO complaints filed by individuals. This represents a decline of 11 percent (122 cases) in formal complaints filed this period, as compared to the number filed in FY 2010. ICE's formal complaint program achieved timely completion of 66 of the 98 (67 percent) EEO investigations, as compared to FY 2010 when only 69 of the 136 (51 percent) EEO investigations were timely completed. Fourteen formal complaints were dismissed by DHS CRCL, with an average processing time of 122 days.

A review of the complaints filed during FY 2011 indicates no changes in the numbers or types of bases and issues raised in FY 2010 complaints. The top three bases of discrimination complaints filed were age, reprisal, and sex. The top three issues were non-sexual harassment, terms and conditions of employment, and promotion/non-selection.

The ICE ratio of complainants to its workforce of 20,300 is 1 percent. ICE had no findings of discrimination in FY 2011.

Diversity Management

ICE's Diversity Management (DM) is responsible for Diversity Outreach, Strategic Recruitment, Model Workplace Program, Diversity Consultants, and the Disability Program. During FY 2011, ICE hired 41 employees through the Department of Defense's Operation Warfighter program. Further, ICE developed a new SOP for requesting and providing reasonable accommodation, an anti-harassment (Prevention of Sexual Harassment – POSH) policy, and "Disability 101" curriculum. The SOP, anti-harassment (POSH) policy, and curriculum will be deployed to ICE management and employees.

Also during FY 2011, ICE participated in the following: 6 outreach events targeted at individuals with disabilities and disabled veterans, 19 general recruitment events, and 9 job fairs. ICE's Reasonable Accommodation Program successfully transitioned from the Complaints Management Division to the Office of Diversity Management to better align program responsibilities and functions.

9. U.S. Secret Service

Infrastructure

During FY 2011, an additional EEO Specialist position was added to the EEO Office based on increased workload and related resource needs. One EEO Specialist position was successfully re-classified as an entry-level, upward-mobility position under a Schedule A appointment authority. The EEO Office also participated in the Balanced Workforce Strategy process by reviewing and assessing the professional services of several EEO contracts in order to identify whether some functions currently being performed by contractors should be converted to federal employee positions.

EEO Complaint Processing

During FY 2011, out of the total workforce population of 7,035 employees, 46 (less than 1 percent) individual pre-complaints were initiated. Of those 46 pre-complaints, 9 were either settled or withdrawn, and 3 were pending a decision. The remainder filed formal complaints. During the final quarter of FY 2011, the Office of Equal Opportunity conducted a follow-up of the FY 2010 EEO Assessment of the Office's internal program operations. The follow-up assessment revealed that the implementation of EEO program benchmarks, performance metrics, and certain management controls have resulted in significant improvements in the overall performance of the EEO program. Specifically, significant improvements were shown in areas of timely processing pre-complaints within 30 days and acknowledging all formal complaints within 1 to 5 days of receipt. Significant improvement was also made in accepting formal complaints within 30 days, because USSS no longer contracts this function to outside contractors. Prior to the implementation of these corrective measures, over half of pre-complaints took 90 days or longer to process in comparison to FY 2011, where only 5 percent of pre-complaints took 90 days or longer to process. In the area of timely conducting EEO investigations, USSS showed marked improvement in timely completion of investigations from FY 2010 to FY 2011. In FY 2010, USSS timely completed 18 percent — 2 of 11 investigations. In contrast, in FY 2011, USSS improved its timely completion rate to 42 percent — 8 of 19 investigations. Of the 8 timely-completed investigations, 6 investigations were initiated and concluded in FY 2011; notably, these 6 investigations were conducted in an average of 189 days. All cases files were submitted to EEOC in response to hearing requests or appeals within 15 days of notification.

Services and Proactive Engagement

During FY 2011, the Office of Equal Opportunity continued to conduct numerous EEO briefings. In particular, training was provided to managers, supervisors, and recruiters in the areas of reasonable accommodation and disability awareness. Training modules included information on Management Directive 715, reasonable accommodation for religion and

individuals with disabilities, valuing and managing diversity, affirmative employment program initiatives, special emphasis programs, prevention of sexual harassment, hostile work environment, alternative dispute resolution, and the Notification and Federal Employee Anti-Discrimination and Retaliation Act. Information was also provided on the Department of Defense, Computer Electronics/Accommodation (CAP) Program. The EEO Office also continued its role in providing training during the Cultural Diversity and Inclusion seminars that are sponsored four to six times during the calendar year by the Diversity Management Program.

The Human Resources and Training Recruitment Division established a Disability Working Group that consists of representation from the Recruitment Division, Personnel Division, and Equal Employment Opportunity Office. This group was established in response to issues noted by applicants with disabilities during the application and hiring process. The Disability Working Group is in the final stages of creating an internal video geared toward educating hiring officials and human resource personnel on how to overcome challenges associated with interviewing individuals with disabilities, especially those with targeted disabilities.

In support of Executive Order 13548, the USSS Director issued a new policy statement on Increasing the Employment of Individuals with Disabilities and Targeted Disabilities. Consistent with this policy statement, a five-year hiring initiative was established to increase the employment of individuals with targeted disabilities to a representation of two percent over the next five years in the Administrative, Professional, and Technical occupations. This objective has the potential to bring the representation of individuals with targeted disabilities into compliance with EEOC guidelines.

Guidance was also issued by the USSS Director encouraging hiring officials to support the Nation's eligible veterans by utilizing the various special hiring authorities to appoint qualified veterans. This also supports the Secretary's initiative to employ 50,000 veterans in the Department by the end of calendar year 2012.

Diversity Management

Each year, the Human Resources and Training, Diversity Management Program (DMP) hosts its "Conference on Cultural Diversity and Inclusion" for employees within the Special Agent, Uniformed Division, and the Administrative, Professional, and Technical ranks. The conference consists of three 2 ½-day integrated employee-focused sessions and two supervisory sessions. This conference is held at the USSS headquarters building. During the conference, employees are provided an opportunity to heighten their diversity awareness and communication skills, thus allowing each individual to effectively connect with a variety of audiences so the agency's personnel are able to successfully communicate urgent issues, messages, and procedures. The conference also focuses on the key principle of inclusion and enables participants to identify behaviors and actions that support the agency's inclusion and engagement goals. At the end of these sessions, each attendee completes an Action Commitment Plan, which identifies measurable actions they commit to take in their jobs to support the USSS mission in a more effective manner.

During the month of July 2011, the USSS held its first annual Unity Day Program. Unity Day, established by the Office of Equal Opportunity, is a period of time set aside to recognize and

celebrate the unique diversities that make up the USSS workforce. Through this initiative, the agency has combined the federally recognized ethnic observances and other cultural events under one umbrella. As part of the Unity Day program, participants were educated using various information vehicles such as static displays, workshops, guest speakers, seminars, presentations, demonstrations, ethnic food samplings, and various other cultural activities. This event allowed the entire USSS team to fully participate in a wide variety of planned events. USSS Unity Day will be held annually with the support and involvement of the entire agency.

APPENDIX 1

DHS No FEAR Act Federal District Court Data for FY 2011

FY11 Annual No FEAR Act Report – Federal Court Cases
 Department of Homeland Security
 October 1, 2010 – September 30, 2011

*Number of Cases Filed in Federal Court,
 Pending or Resolved Under Section 724.302(a)(1)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Number of cases filed, pending, or resolved	143	51	0	31	0	4

*Number of Cases and Reimbursement by Status
 Under Section 724.302(a)(1-2)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Cases pending hearing	84	29	0	15	0	2
Cases heard/pending decision	9	2	0	2	0	1
Decision issued in favor of the Complainant (either in its entirety or partial)	1	0	0	0	0	0
Decision issued in favor of the Agency	41	14	1	13	0	2
Arbitration/ Mediation	0	0	0	0	0	0
Settlement	14	1	0	3	0	0
Appeal	3	1	0	1	0	0
Remand	0	0	0	0	0	0
Amount of Reimbursement	\$2,553,500.00	0	0	\$7,500.00	0	0
Amount of Reimbursement for Attorney Fees	\$336,000.00	\$10,000.00	0	\$135,000.00	0	0

Number of Employees Disciplined in Cases Under Section 724.302(a)(3)

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	1	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	0	0	0

***Number of Employees Disciplined, Whether or Not in Connection with Federal Cases
Under Section 724.302(a)(5) (i.e. Including EEO Administrative Cases)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	1	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	1	0	0	0	0	0

APPENDIX 2

**DHS No FEAR Final Year End EEO Data
for FY 2006-2011**

DHS Equal Employment Opportunity Data Posted

Pursuant to the No Fear Act:

**For 4th Quarter 2011 for period ending
September 30, 2011**

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-30
	2006	2007	2008	2009	2010	
Number of Complaints Filed	1083	1086	1145	1457	1194	1283
Number of Complainants	1010	1045	1099	1401	1136	1220
Repeat Filers	54	42	52	56	45	63
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-30
	2006	2007	2008	2009	2010	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	30
Race	326	368	298	361	386	379

Color	83	80	92	83	113	118
Religion	57	38	48	52	51	56
Reprisal	391	389	432	777	493	523
Sex	349	334	385	330	405	407
National Origin	193	158	175	516	187	199
Equal Pay Act	1	7	3	0	0	2
Age	336	283	321	314	339	372
Disability	258	260	238	223	295	334
Non-EEO	44	24	16	48	40	79
Pregnancy Discrimination Act	0	0	0	0	0	2
GINA	0	0	0	0	0	5
Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-30
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2006	2007	2008	2009	2010	
Appointment/Hire	45	57	57	36	28	72
Assignment of Duties	59	61	68	342	81	86
Awards	25	15	22	10	14	23
Conversion to Full-time	1	3	1	1	0	1
Disciplinary Action						
Demotion	6	18	11	8	8	7
Reprimand	19	50	46	41	51	73
Suspension	40	45	30	30	61	63
Removal	23	22	34	23	28	25
Other	28	1	14	10	16	18

Duty Hours	14	22	15	14	18	26
Evaluation Appraisal	36	38	40	57	67	83
Examination/Test	8	8	5	3	5	4
Harassment						
Non-Sexual	282	289	314	599	378	434
Sexual	51	37	33	46	48	34
Medical Examination	14	8	10	9	6	7
Pay (Including Overtime)	28	25	27	20	19	31
Promotion/Non-Selection	287	277	248	241	227	218
Reassignment						
Denied	28	34	34	31	17	23
Directed	30	29	28	40	39	50
Reasonable Accommodation	34	43	47	40	35	53
Reinstatement	4	4	2	7	5	6
Retirement	4	5	2	5	7	7
Termination	136	135	112	137	164	154
Terms/Conditions of Employment	116	142	108	404	151	204
Time and Attendance	42	36	54	29	41	37
Training	29	26	23	22	31	29
Other	28	35	44	373	0	14
Processing Time	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-30
	2006	2007	2008	2009	2010	
Complaints pending during fiscal year						
Average number of days in investigation	406	311.5	249.9	248	257	238.03

Average number of days in final action	326	428.1	296	310	411	263.49						
Complaint pending during fiscal year where hearing was requested												
Average number of days in investigation	338	242.5	259.4	349	231	235.25						
Average number of days in final action	48	72.5	64	399	24	28.99						
Complaint pending during fiscal year where hearing was not requested												
Average number of days in investigation	413	347.3	312.8	755	275	240.13						
Average number of days in final action	443	587.6	660.5	971	577	377.76						
Complaints Dismissed by Agency	Comparative Data											
	Previous Fiscal Year Data										2011Thru09-30	
	2006	2007	2008	2009	2010							
Total Complaints Dismissed by Agency	304	187	247	204	550						163	
Average days pending prior to dismissal	254	257	220	241	385						154	
Complaints Withdrawn by Complainants												
Total Complaints Withdrawn by Complainants	81	96	109	77	92						96	
Total Final Agency Actions Finding Discrimination	Comparative Data											
	Previous Fiscal Year Data										2011Thru09-30	
	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	29	100	12	100	21	100	23	100	17	100	13	100
Without Hearing	4	14	2	17	0	0	1	4	1	6	2	15

With Hearing	25	86	10	83	21	100	22	96	16	94	11	85
Findings of Discrimination Rendered by Basis	Comparative Data											
	Previous Fiscal Year Data										2011Thru09-30	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	2006		2007		2008		2009		2010			
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	29		12		21		23		17		13	
Race	21	72	3	25	7	33	8	35	2	12	4	31
Color	2	7	0	0	3	14	3	13	0	0	2	15
Religion	1	3	1	8	5	24	3	13	1	6	2	15
Reprisal	10	34	6	50	5	24	11	48	8	47	4	31
Sex	10	34	7	58	7	33	8	35	4	24	1	8
National Origin	1	3	1	8	8	38	4	17	0	0	1	8
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	5	17	2	17	4	19	5	22	3	18	1	8
Disability	3	10	0	0	2	10	5	22	6	35	4	31
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings After Hearing	25		10		21		22		16		11	
Race	18	86	2	50	7	100	8	100	2	100	4	36

Color	1	50	0	0	3	100	3	100	0	0	2	18
Religion	1	100	1	100	5	100	3	100	1	100	2	18
Reprisal	10	100	4	67	5	100	11	100	8	100	2	18
Sex	10	100	5	71	7	100	8	100	3	75	1	9
National Origin	1	100	1	100	8	100	4	100	0	0	1	9
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	5	100	2	100	4	100	5	100	3	100	1	9
Disability	3	100	0	0	2	100	4	80	6	100	4	36
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings Without Hearing	4		2		0		1		1		2	
Race	3	14	2	50	0	0	0	0	0	0	0	0
Color	1	50	0	0	0	0	0	0	0	0	0	0
Religion	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	2	33	0	0	0	0	0	0	2	100
Sex	0	0	2	29	0	0	0	0	1	25	0	0
National Origin	0	0	0	0	0	0	0	0	0	0	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	0	0	0	0
Disability	0	0	0	0	0	0	1	20	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	0	0	0	0
Findings of Discrimination	Comparative Data											
	Previous Fiscal Year Data										2011Thru09-	

Rendered by Issue	2006		2007		2008		2009		2010		30	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	29		12		21		23		17		13	
Appointment/Hire	4	14	1	8	2	10	0	0	1	6	1	8
Assignment of Duties	1	3	1	8	1	5	2	9	3	18	0	0
Awards	1	3	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	2	9	0	0	0	0
Reprimand	2	7	0	0	0	0	1	4	0	0	1	8
Suspension	0	0	1	8	0	0	0	0	3	18	0	0
Removal	0	0	0	0	2	10	1	4	0	0	0	0
Other	0	0	1	8	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	2	15
Evaluation Appraisal	2	7	0	0	0	0	0	0	1	6	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	9	31	2	17	5	24	10	43	3	18	3	23
Sexual	2	7	0	0	0	0	0	0	2	12	0	0
Medical Examination	1	3	0	0	0	0	1	4	0	0	0	0
Pay (Including Overtime)	1	3	1	8	0	0	1	4	0	0	0	0
Promotion/Non-Selection	10	34	2	17	11	52	5	22	6	35	0	0

Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	2	17	0	0	1	4	1	6	0	0
Reasonable Accommodation	1	3	0	0	0	0	1	4	2	12	5	38
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	5	17	2	17	2	10	4	17	2	12	1	8
Terms/Conditions of Employment	3	10	2	17	2	10	2	9	1	6	2	15
Time and Attendance	1	3	2	17	0	0	1	4	1	6	0	0
Training	0	0	0	0	0	0	1	4	2	12	0	0
Other - User Defined	0	0	1	8	0	0	5	22	0	0	0	0
Findings After Hearing	25		10		21		22		16		11	
Appointment/Hire	4	100	1	100	2	100	0	0	1	100	0	0
Assignment of Duties	1	100	1	100	1	100	2	100	3	100	0	0
Awards	1	100	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0
Disciplinary Action												
Demotion	0	0	0	0	0	0	2	100	0	0	0	0
Reprimand	2	100	0	0	0	0	1	100	0	0	0	0
Suspension	0	0	1	100	0	0	0	0	3	100	0	0
Removal	0	0	0	0	2	100	1	100	0	0	0	0

Other	0	0	1	100	0	0	0	0	0	0	0	0
Duty Hours	0	0	0	0	0	0	0	0	0	0	2	18
Evaluation Appraisal	1	50	0	0	0	0	0	0	1	100	0	0
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	5	71	2	100	5	100	10	100	3	100	3	27
Sexual	2	100	0	0	0	0	0	0	1	50	0	0
Medical Examination	1	100	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	1	100	1	100	0	0	0	0	0	0	0	0
Promotion/Non-Selection	10	100	2	100	11	100	5	100	6	100	0	0
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	0	0
Directed	0	0	2	100	0	0	1	100	1	100	0	0
Reasonable Accommodation	1	100	0	0	0	0	1	100	2	100	5	45
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	5	100	0	0	2	100	4	100	2	100	1	9
Terms/Conditions of Employment	3	100	2	100	2	100	2	100	1	100	2	18
Time and Attendance	0	0	2	100	0	0	1	100	1	100	0	0
Training	0	0	0	0	0	0	1	100	2	100	0	0
Other - User Defined	0	0	1	100	0	0	5	100	0	0	0	0

Directed	0	0	2	100	0	0	0	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0	0	0	0	0	0	0	0
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	0	0	0	0	0	0	0	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	0	0	0	0	0	0
Time and Attendance	1	100	0	0	0	0	0	0	0	0	0	0
Training	0	0	0	0	0	0	0	0	0	0	0	0
Other - User Defined	0	0	0	0	0	0	0	0	0	0	0	0

Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-30
	2006	2007	2008	2009	2010	
Total complaints from previous Fiscal Years	2096	1411	1382	1350	1246	1794
Total Complainants	1758	1315	1280	1390	1162	1661
Number complaints pending						
Investigation	480	147	164	128	104	64
ROI issued, pending Complainant's action	0	0	0	0	0	6
Hearing	574	438	468	536	561	588
Final Agency Action	683	679	649	546	328	63
Appeal with EEOC Office of Federal Operations	188	147	164	217	253	251
Complaint Investigations	Comparative Data					
	Previous Fiscal Year Data					2011Thru09-

	2006	2007	2008	2009	2010	30
Pending Complaints Where Investigations Exceed Required Time Frames	154	367	375	525	315	249