



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

Fiscal Year 2009 and 4th Quarter 2009



**Homeland  
Security**

# FOREWORD

In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, I am pleased to present this Report to Congress on the Department of Homeland Security Office for Civil Rights and Civil Liberties: Fiscal Year 2009. This document also serves as the fourth quarter (July 1, 2009 to September 30, 2009) report.

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

**The Honorable Joseph R. Biden**

President of the Senate

**The Honorable Dianne Feinstein**

Chairman, U.S. Senate Select Committee on Intelligence

**The Honorable Christopher S. Bond**

Vice Chairman, U.S. Senate Select Committee on Intelligence

**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 Jeff Sessions**

Ranking Member, U.S. Senate Committee on the Judiciary

**The Honorable Nancy Pelosi**

Speaker of the House, U.S. House of Representatives

**The Honorable Silvestre Reyes**

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

**The Honorable Peter Hoekstra**

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

**The Honorable Bennie G. Thompson**

Chairman, U.S. House of Representatives Committee on Homeland Security

**The Honorable Peter T. King**

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

**The Honorable Edolphus Towns**

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

**The Honorable Darrell Issa**

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

**The Honorable John Conyers, Jr.**

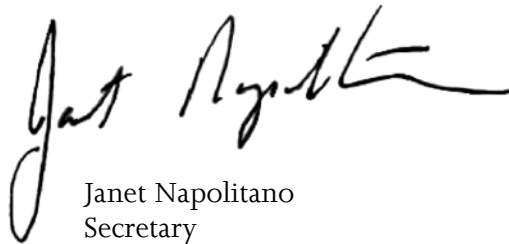
Chairman, U.S. House of Representatives Committee on the Judiciary

**The Honorable Lamar Smith**

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

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

Yours very truly,

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

Janet Napolitano  
Secretary  
U.S. Department of Homeland Security

# DHS OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES, ANNUAL REPORT FY 2009

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# I. MESSAGE FROM THE OFFICER, MARGO SCHLANGER

Although the activities and accomplishments of the U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) highlighted in this Annual Report to Congress occurred before January 2010, when I was appointed Officer for Civil Rights and Civil Liberties, I am pleased to provide this Report on the activities of the Office. Over Fiscal Year 2009, the Department's solid support for civil rights and civil liberties enabled CRCL to expand and improve its work, as described below. It is my great privilege to lead these efforts going forward.

The period that has followed this report's time frame has been very important for CRCL. As the Department analyzed and refined its mission sets in the February 2010 Quadrennial Homeland Security Review, we correspondingly aligned CRCL's activities to those missions—Preventing Terrorism and Enhancing Security; Securing and Managing Our Borders; Enforcing and Administering Our Immigration Laws; Safeguarding and Securing Cyberspace; and Ensuring Resilience to Disasters. The resulting adjustment to CRCL's organization is described below in Part II.E. Full details on new initiatives and activities will be provided in the FY 2010 Annual Report.

Recent months have also seen growing involvement by CRCL in many of DHS's activities. We are collaborating with U.S. Immigration and Customs Enforcement (ICE) on its detention reform initiatives. We are working with the Transportation Security Administration to ensure that civil rights and civil liberties are protected while aviation security measures are enhanced to meet evolving threats. We are expanding our training capacity and are working with the Office of Intelligence & Analysis to offer civil rights and civil liberties training sessions for state and local law enforcement who staff fusion centers; with the Federal Law Enforcement Training Center to improve civil rights and civil liberties training at DHS more broadly; and with a variety of federal, state, and local law enforcement agencies to provide cultural competency training that helps those agencies do smarter, more effective work that avoids racial and religious profiling.

Looking at CRCL's own processes, I have initiated a thorough review of DHS's civil rights and civil liberties complaint procedures, to improve both effectiveness and efficiency. In addition, I have augmented efforts to eliminate the longstanding backlog of DHS's Equal Employment Opportunity (EEO) complaints awaiting action by CRCL and prioritized work on the oldest and most serious allegations. I look forward to reporting the success of these efforts in the future. This Report and other information about CRCL are available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

## II. BACKGROUND

### A. Mission

The Department of Homeland Security Office for Civil Rights and Civil Liberties supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law.

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

- Promoting respect for civil rights and civil liberties in policy creation and implementation by advising Department leadership and personnel, and state and local partners.

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

## B. Authorities

The authorities under which CRCL supports the Department can be found in a variety of legal sources, including statutes passed by Congress, executive orders signed by the President, and directives and delegations issued by the Secretary of Homeland Security. Those authorities are highlighted below and are available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### Statutes:

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

### Regulations:

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

## Executive Orders:

- **Executive Order 12898—Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations.** Requires each federal agency to make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States.
- **Executive Order 13107—Implementation of Human Rights Treaties.** Requires the Secretary to designate a single official as the interagency point of contact for human rights treaties; the Secretary has so designated the Officer for Civil Rights and Civil Liberties.
- **Executive Order 13160—Nondiscrimination on the Basis of Race, Sex, Color, National Origin, Disability, Religion, Age, Sexual Orientation, and Status as a Parent in Federally Conducted Education and Training Programs.** Holds the Federal Government to the same nondiscrimination principles in educational opportunities as apply to the education programs and activities of state and local governments, and to private institutions receiving federal financial assistance.
- **Executive Order 13163—Increasing the Opportunity for Individuals with Disabilities to be Employed in the Federal Government.** Promotes increasing opportunities for individuals with disabilities to be employed at all levels and occupations of the Federal Government, and supports the goals articulated in section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791.
- **Executive Order 13166—Improving Access to Services for Persons with Limited English Proficiency.** Requires federal agencies to take reasonable steps to promote meaningful access to federally conducted and federally funded programs and activities to people with limited English proficiency.
- **Executive Order 13347—Individuals with Disabilities in Emergency Preparedness.** Promotes the safety and security of individuals with disabilities in emergency and disaster situations. The Executive Order also created an Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities, which is chaired by the Secretary of the Department of Homeland Security, who has designated the Officer for Civil Rights and Civil Liberties to carry out these duties.

## Directives and Delegations:

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

## C. Activities and Accomplishments

Throughout FY 2009, CRCL furthered the protection of civil rights and civil liberties in a variety of ways, from expanding training of government partners to improving civil rights and civil liberties oversight within the Department and strengthening Departmental coordination in furtherance of the Secretary's goal of a fully integrated "One DHS." Some highlights are listed here, and more details follow in subsequent pages of this Report.

***Intelligence and Analysis Product Review.*** In FY 2009, Deputy Secretary Lute directed that CRCL review the hundreds of intelligence products created by or in coordination with the DHS Office of Intelligence and Analysis (I&A) for distribution outside DHS to ensure that the products do not diminish civil rights or civil liberties. These efforts have greatly improved the focus on civil rights and civil liberties issues in I&A product development and dissemination. (The Privacy Office and the Office of the General Counsel also review the same products, ensuring their compliance with privacy and other legal requirements.)

***ICE Detention Reform.*** Following the announcement of ICE's detention reform efforts on August 6, 2009, CRCL has developed robust partnerships with ICE Office of Detention and Removal Operations, ICE Office of Policy, and ICE Office of Detention Policy and Planning to develop and implement detention reforms and to ensure that the civil rights and civil liberties of immigrant detainees are protected. CRCL provided key expertise on issues such as medical care complaints, sexual assault prevention and response, respect for religious practices, and detainee transfer policies.

***Civil Rights and Civil Liberties Impact Assessments.*** In accordance with the Implementing Recommendations of the 9/11 Commission Act and Title VII of the 2008 Omnibus Appropriations Act, in FY 2009 CRCL completed Impact Assessments for the state, local, and regional fusion centers program; the Northern Border Railroad Passenger and Cargo Screening Program; and the National Application Office. Impact Assessments examine civil rights and civil liberties impacts as the Department develops and implements policies and procedures, and recommend measures to further safeguard or enhance protections of civil rights and civil liberties.

***Improving Policy and Procedures Based on Civil Rights and Civil Liberties Complaints Filed by the Public.*** In FY 2009, CRCL's Compliance Branch closed 148 complaints, described in Appendices B and C of this Report. The investigations of these complaints produced a number of important policy recommendations to DHS Component agencies. For example:

- U.S. Customs and Border Protection (CBP) implemented CRCL's recommendations to provide reasonable accommodations for people with disabilities in pedestrian lines at the Port of Entry in San Ysidro, California, by designating sitting and waiting areas, training personnel on how to identify and provide reasonable accommodations for persons with disabilities, and allowing family or companions to proceed with persons with disabilities.



- The ICE Office of Detention and Removal Operations took steps to address concerns raised by CRCL regarding conditions of detention for ICE detainees being held at the Wakulla County (Florida) Jail, including posting contact information for translation services in the booking and medical areas of the facility, and improving sanitation and other environmental health and safety conditions.

***Hurricane Ike Response.*** In response to Hurricane Ike, CRCL developed the first ever “Special Needs Population Impact Assessment Source Document” to inform the Federal Emergency Management Agency (FEMA) of long-term impacts related to restoration of government and non-government support services on which vulnerable populations rely.

***Community Engagement Expansion.*** CRCL continues to build strategic partnerships between the government and ethnic and religious communities nationwide, and to facilitate inquiry and redress for individuals concerned about their civil rights and civil liberties. Beginning in FY 2009, CRCL expanded regular meetings between DHS officials and American Arab, Muslim, Sikh, and South Asian community leaders to Minneapolis/St. Paul and Columbus, Ohio, in addition to continuing regular meetings in Boston; Chicago; Detroit; Houston; Los Angeles; and Washington, D.C. Based on recommendations from these communities, CRCL has worked to improve the cultural competency of federal, state, and local law enforcement personnel, by creating and providing training for law enforcement and intelligence analysts.

***Employment Rights and Oversight for Local Immigration Enforcement.*** CRCL conducted substantial work in FY 2009 involving the employment rights of United States citizens and legal immigrants, particularly with respect to E-Verify, DHS’s employment eligibility verification program. The Office hosted various meetings with federal and non-governmental organizations, focusing on ensuring that civil rights and civil liberties of employees are incorporated into the E-Verify program. CRCL also trained new employees at the Verification Division of U.S. Citizenship and Immigration Services (USCIS) about the relevant civil rights and civil liberties issues.

In addition, CRCL participated in DHS’s revision of the Memorandum of Agreement for the ICE Section 287(g) program, which permits designated local officers to perform federal immigration law enforcement functions; provided technical assistance to the DHS Office of Inspector General during its audit of the Section 287(g) program; and provided input to the ICE Office for State and Local Coordination regarding civil rights and civil liberties issues within jurisdictions applying for participation in the program.

***Information Sharing.*** In FY 2009, CRCL continued to serve on the Department’s Information Sharing Coordinating Council to help shape policies and programs, such as the state and local fusion center program, in ways that protect civil rights and civil liberties. In addition, CRCL took an active role in all DHS Information Sharing Coordinating Committee activities, reviewing memoranda of agreement between DHS and external partners, and co-chairing the team charged with integrating information sharing environment related trainings Department-wide. CRCL has also played an integral role in DHS implementation of the Privacy and Civil Liberties Guidelines created by the Program Manager for the Information Sharing Environment.

***Fusion Center Training.*** CRCL successfully launched a national civil liberties and privacy training program for state, local, and tribal fusion centers. CRCL fulfilled its statutory training obligation under 6 U.S.C. § 124h(c)(4)(A) through a partnership with the DHS Privacy Office and the Department of Justice’s Bureau of Justice Assistance in which CRCL created and led an on-site training program that traveled to six states to conduct 11 day-long events at nine fusion centers. In addition, CRCL led the creation of a training web portal.

***Improving Accessibility Compliance.*** In a joint CRCL and the DHS Office of the Chief Information Officer effort, the Office of Accessible Systems & Technology (OAST) reviewed and ensured accessibility compliance for over \$3.87 billion in IT acquisitions. Through OAST testing and intervention, DHS web site accessibility improved 15 percent in FY 2009.

***Effective Processing of EEO Complaints.*** During FY 2009, CRCL achieved a 23 percent reduction in DHS's EEO complaint backlog, issuing 1,071 adjudications and reducing that backlog from 567 pending EEO complaints at the beginning of FY 2009 to 437 pending complaints 12 months later. We will continue working to reduce the backlog and to streamline the EEO process.

***Support to Departmental Diversity Initiatives, Including Commitment to Hiring Veterans and Disabled Veterans.*** CRCL Diversity Management supported the Office of the Chief Human Capital Officer in its outreach and recruitment strategy for the employment of veterans, with notable success. During FY 2009, DHS hired more than 6,800 veterans, increasing the number of veterans at the Department by over 2,500 and bringing the proportion of veterans in the DHS workforce to 25 percent.

## D. Leadership



CRCL experienced several leadership transitions during FY 2009. Then-Deputy Officer for Programs and Compliance Timothy Keefer served as the Acting Officer for Civil Rights and Civil Liberties from January 2009 to August 2009, and Stephen Shih, then-Deputy Officer for EEO and Diversity Programs, served as the Acting Officer through the remainder of FY 2009.

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

Ms. Schlanger is a leading authority on prisons and prisoner litigation. She was the reporter for the American Bar Association's revision of its Standards governing the Legal Treatment of Prisoners; served on the Vera Institute's blue ribbon Commission on Safety and Abuse in America's Prisons; and worked as an advisor on development of proposed national standards implementing the Prison Rape Elimination Act. She has testified about prison reform before Congress and the National Prison Rape Elimination Commission.

## E. Organization

Under 6 U.S.C. § 345, the Officer for Civil Rights and Civil Liberties reports directly to the Secretary, underscoring the Department's strong commitment to protecting civil rights and civil liberties in the homeland security effort. Ms. Schlanger is supported by two Deputy Officers, currently Tamara Kessler, Deputy Officer for Programs and Compliance, and Robert Abraham, Acting Deputy Officer for Equal Employment Opportunity and Diversity Programs.

At the close of FY 2009, CRCL had 85 staff on board; staffing costs are the majority of the Office's budget. Table 1 details the Office's operating budget and staff for each fiscal year since 2004, the first year for which figures remain available.

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

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

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

**Programs.** The Programs Branch of CRCL provides policy advice in the many subject matter areas within DHS that involve civil rights and civil liberties issues; conducts training of DHS personnel and state and local law enforcement partners; and coordinates outreach and engagement activities in communities whose civil rights and civil liberties are particularly affected by DHS programs. The Programs Branch has six sections—Community Engagement; Immigration; Disaster Preparedness (formerly titled Disability and Special Needs Policy); Intelligence, Security, and Information Sharing (formerly titled General Policy); Impact Assessments (formerly part of General Policy); and the Civil Rights and Civil Liberties Institute (formerly titled the Civil Liberties Institute). Relabeling of these sections was done after the close of the fiscal year to better align CRCL's policy sections with the Departmental missions set out in the Quadrennial Homeland Security Review, released February 2010. See Section III below for details about the activities of the Programs Branch sections.

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

**Equal Employment Opportunity (EEO) and Diversity.** This CRCL component issues final agency decisions on complaints of employment discrimination and leads the Department's efforts to ensure that all employees and applicants enjoy equal opportunity. See Section V, below.

**Office of Accessible Systems & Technology.** CRCL and the DHS Office of the Chief Information Officer together staff and support the DHS Office of Accessible Systems & Technology to implement Section 508 of the *Rehabilitation Act*, which requires the Federal Government to make information and data are accessible to persons with disabilities. See Section VI, below.

# III. TRAINING, POLICY ADVICE, OUTREACH (PROGRAMS BRANCH)

## A. Civil Rights and Civil Liberties Institute

Targeted and effective training helps to improve the Department’s capacity to protect America while respecting civil rights and civil liberties. In turn, this capacity helps to build public trust and fuel cooperation with the Department’s mission. In FY 2009, CRCL has continued to use training to assist DHS personnel to fulfill their roles and complete their missions while respecting civil rights and civil liberties. CRCL’s training section is the Civil Rights and Civil Liberties Institute. In FY 2009, the Institute collaborated with Department agencies and external federal and state partners to expand its offerings, creating new training products and offering classroom training.

### *i. Expanded Civil Rights and Civil Liberties Training for State and Local Fusion Centers*



Fusion centers are where state and local officials, alongside their federal partners, collaborate, coordinate, and share law enforcement and intelligence information in an effort to prevent future threats to the nation. CRCL provides training on civil rights and civil liberties for all DHS officers and intelligence analysts deployed to state and local fusion centers, and supports the training of all fusion center personnel. 6 U.S.C. § 124h(c)(4)(A).

In compliance with the Implementing Recommendations of the 9/11 Commission Act of 2007, DHS provides training on privacy, civil rights, and civil liberties for all DHS officers and intelligence analysts before they deploy to state, local, and tribal fusion centers and throughout their careers, as well as supporting the training of all fusion center personnel. To deliver this training and to fulfill its statutory obligations, CRCL has partnered with the Privacy Office to create a three-pronged program for the DHS fusion center program: (1) Training of DHS analysts deployed to the field; (2) On location trainings and web portal; and (3) Training of trainers. I&A provided additional funding to support the Privacy Office and CRCL partnership in the development and delivery of this FY 2009 pilot training program. Program details are below:

**Fusion Center Training Program Part 1—Training of DHS Analysts Deployed to the Field.** CRCL provides individualized civil rights and civil liberties training as each new Intelligence Operations Specialist is hired. Periodic refresher training is also offered. During FY 2009, about 20 DHS I&A analysts were trained and deployed to locations in 18 states. CRCL also provided a refresher training for the entire cadre of analysts at the National Fusion Center Conference in March 2009.

**Fusion Center Training Program Part 2—On-site and Web Portal.** CRCL and the Privacy Office collaborated with the Department of Justice Bureau of Justice Assistance in the creation of a multifaceted privacy, civil rights, and civil liberties training program to support the more than 70 fusion centers around the country. To maximize the impact of limited resources in this area, CRCL utilized a “toolkit” approach, which leverages existing materials and new materials to create customized training that covers core issues, but also responds to the needs of individual centers. The pilot period of this training program has been completed and the program is continuing.



## On-site Status

- Between April and September 2009, CRCL conducted training at 11 day long sessions, hosted by nine fusion centers, in six states.
- As a result of outreach, at the close of FY 2009, DHS had 25 training applications pending from fusion centers in 20 states and the District of Columbia. (During FY 2010, the number of requests for training had roughly doubled – a total of 46 requests from 36 states and the District of Columbia.)

## Highlights of the FY 2009 training events:

- Provided a three-day training to the Maryland Coordination and Analysis Center (MCAC) in order to accommodate MCAC's desire to train its entire staff. Eighty-nine individuals participated, including MCAC staff, staff from the three regional information centers in Maryland, and representatives of the Federal Bureau of Investigation, Internal Revenue Service, and the Maryland State Police. Reflecting the DHS/Department of Justice (DOJ) cooperation on this training program, the customized design for the Maryland training included a session on 28 C.F.R. Part 23, which deals with Criminal Intelligence Systems Operating Policies. CRCL also piloted an interactive First Amendment scenario exercise. (Woodlawn, Maryland)
- Traveled to Texas to provide an eight-hour training to 24 staff, sponsored by the North Central Texas Fusion Center. (McKinney, Texas)
- Trained 27 staff at the Texas State Fusion Center, as well as personnel from the San Antonio and Austin police departments. (Austin, Texas)
- Provided an eight-hour training to 35 staff at the Arizona Counter Terrorism Information Center and surrounding police departments, including representatives from the departments in Maricopa County, Phoenix, and Mesa, Arizona. Attendees included analysts, detectives, supervisors, a representative from the Central Intelligence Agency, and a representative from the Arizona Office of the Attorney General. During the session, CRCL covered civil rights and civil liberties considerations associated with the presence of Native American Tribes with which many jurisdictions in Arizona interact. (Phoenix, Arizona)
- Traveled to Seattle to train 16 staff, sponsored by the Washington State Fusion Center. (Seattle, Washington)
- Provided training at a daylong event hosted by the Commonwealth Fusion Center; the training was also attended by staff of the Boston Regional Intelligence Center (BRIC). (Maynard, Massachusetts)
- Provided training to 34 staff sponsored by BRIC. (Boston, Massachusetts)
- Provided a full-day training at the Missouri Information Analysis Center. (Jefferson City, Missouri)
- Provided the final training of FY 2009 at the Kansas City Regional Terrorism Early Warning Interagency Analysis Center. (Kansas City, Missouri)

The pilot phase of the on-site training program was well received and provided the feedback to modify the program and move forward on the design, materials, and delivery of the national privacy, civil rights, and civil liberties offerings. Both fusion center staff and the liaison officers supporting various fusion centers rated the training as “highly effective and useful.”

**Rating of Overall Content Effectiveness of CRCL Fusion Center Training, FY 2009**



**Civil Liberties and Privacy Web Portal.** DHS identified a clear need for a single online “roadmap” to all the Federal materials on civil rights and civil liberties issues and resources and the Information Sharing Environment (ISE). To address this need, CRCL and the Privacy Office partnered with the DOJ Bureau of Justice Assistance and the Global Justice Information Sharing Initiative to launch a basic web portal to federal privacy, civil rights, and civil liberties resources in FY 2009.



The web portal, launched on April 1, 2009, at [www.it.ojp.gov/PrivacyLiberty](http://www.it.ojp.gov/PrivacyLiberty), contains:

- over 35 web pages of new content;
- more than 400 links to key Federal resources; and
- new issue-specific sections on topics added throughout 2010.

CRCL will continue to identify changes in the law, policy guidance, reports, and other materials on privacy, civil rights, and civil liberties issues. These newly identified materials and links will be added to the existing web pages of resources on privacy, civil rights, and civil liberties with links to key materials from across the Federal Government.

**Fusion Center Training Program Part 3—Training of Trainers.** The third prong of the CRCL Institute training program is the Training of Trainers (TOT) program, created to assist state and local fusion center staff in providing fusion centers with continuing training on privacy, civil rights, and civil liberties issues. Staff dedicated to providing technical assistance support, oversight, and coordination to fusion center personnel joined CRCL in September 2009. By the end of FY 2010, the TOT program will have provided skills-based subject matter training in privacy, civil rights, and civil liberties to officials from each of the 72 designated fusion centers. In turn, TOT attendees will be asked to conduct at least one privacy, civil rights, and civil liberties training session in each local jurisdiction within four to six months after the TOT.

**Additional FY 2009 Training and Outreach to Fusion Centers.** CRCL continued to provide periodic training support to fusion centers. For example, on March 5, 2009, CRCL presented on civil rights and civil liberties issues at the Indiana statewide training to over 130 liaison officers who are associated with the fusion center. During the 2009 National Fusion Center Conference, CRCL and the Privacy Office hosted a half day “Learning Lab” and distributed prepared training materials to conference participants.

**Fusion Center Training Status Summary.** In addition to developing and piloting the formal privacy, civil rights, and civil liberties training program during FY 2009, the DHS fusion center training initiative trained 256 fusion center staff as part of the intensive on-site training program and another 227 staff, liaison officers, and others associated with fusion centers as part of various workshops and other presentations. As a result of outreach, at the close of FY 2009, DHS had 25 training applications pending from fusion centers in 20 states and the District of Columbia. (During FY 2010, the number of requests for training had roughly doubled—a total of 46 requests from 36 states and the District of Columbia.)

*ii. CRCL Institute Training Products.* CRCL reviews training efforts by DHS Components and others in the Information Sharing Environment to ensure compliance with civil rights and civil liberties and to suggest ways to incorporate civil rights and civil liberties awareness. CRCL reviews various instructor guides, training modules, and classroom scripts and adds essential information about the rights and responsibilities of DHS personnel.

The CRCL Institute efforts involve the development, maintenance, and delivery of training using a broad range of tools. In FY 2009, the Institute updated two important and Department-wide mandatory courses: (1) Constitution Day and (2) “No FEAR Act” training. CRCL also disseminated the core training products described below to DHS personnel, other Federal agencies, non-governmental organizations, and the public:

- ***Asylum Seekers Overview.*** CRCL offers the Asylum Seekers Overview, an online- and CD-ROM-based training course that provides essential information related to asylum seekers in the United States. The course is designed to help DHS law enforcement officers and others perform their duties and carry out their agency’s missions while preserving the rights of asylum seekers. The course addresses a recommendation of the U.S. Commission of International Religious Freedom in its Report on Asylum Seekers in Expedited Removal. Specifically, the Commission recommended “specialized training to better understand and work with a population of asylum seekers, many of whom may be psychologically vulnerable due to the conditions from which they are fleeing.”
- ***Employment of People with Disabilities: A Roadmap to Success.*** CRCL completed this online course for DHS hiring managers in FY 2008; it provides a key resource for DHS managers seeking to increase employment of people with disabilities. The training will be updated and expanded in FY 2010 to support Secretary Napolitano’s goals to increase the number of veterans employed at DHS by assisting managers to recruit and hire veterans with disabilities. CRCL developed a targeted outreach plan that extended across the Federal Government via contacts with the cross-agency Federal Disability Workforce Consortium. As a result of this outreach in FY 2009, CRCL worked with three external Federal agencies and programs to adapt the course for their use.
- ***Introduction to Arab American and Muslim American Cultures for DHS Personnel.*** This hour-long training DVD provides insight from national and international experts on issues of concern to Arab American and Muslim American communities. It is designed for DHS personnel who interact with Arab or Muslim Americans and people from the Arab or Muslim world.

- **Guidance Regarding the Use of Race for Law Enforcement Officers.** This CD-ROM provides basic training on the DOJ 2003 guidance on the use of race and ethnicity by Federal law enforcement agencies.
- **CBP Supervisory Communications: Supporting the Cornerstone of Professionalism.** This interactive CD-ROM training, designed in cooperation with CBP’s Office of Training and Development, targets all CBP managers and supervisors and emphasizes professionalism, integrity, and communications with employees.
- **Educational Posters.** CRCL disseminates posters that provide guidance to DHS personnel on how to screen and, if necessary, search individuals in the course of their duties.



- **“Sikh Americans and the Kirpan” Poster.** An educational poster on how to screen those who carry a kirpan, a religious sword. Designed especially for those working at airports or federal facilities.
- **Head Coverings Posters.** Two posters depicting common Muslim American and common Sikh American head coverings guide DHS personnel on the appropriate ways in which to screen and, if necessary, search Muslim or Sikh individuals wearing various types of religious head coverings.

The posters are disseminated in hard copy and electronic form for web site use. They are also available on the CRCL web site [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### iii. Classroom Training Programs

The CRCL Institute and the CRCL Compliance Branch collaborated with the ICE Office of Professional Responsibility training unit at the Federal Law Enforcement Training Center to offer a two-hour training session on civil rights and civil liberties issues that arise in the context of DHS investigation of complaints from the public. The module is part of a week-long session that all ICE fact finders attend as part of their training on handling administrative investigations. In FY 2009, CRCL trained over 180 ICE employees. In FY 2010, CRCL’s goal is to train 200-300 ICE investigators over the course of eight to 12 training sessions to increase awareness of and ability to spot civil rights and civil liberties issues.

The CRCL Institute also continued to support the CRCL online and classroom courses offered to DHS personnel in a variety of ways, including:

- Reviewed and commented on CBP’s “Anti-Terrorism Passenger Training” course with a focus on the “cultural competence for law enforcement” portion.
- Conducted regular civil rights/civil liberties workshops at I&A’s Basic Intelligence and Threat Analysis course offered to DHS personnel from all Components.

Looking forward in FY 2010, the CRCL Institute will continue to help DHS build a culture that respects civil rights and civil liberties. In the coming year, CRCL plans to expand its training for fusion center personnel, as well as testing and expanding the civil rights and civil liberties training programs offered in conjunction with DHS Components.

## B. Community Engagement Section

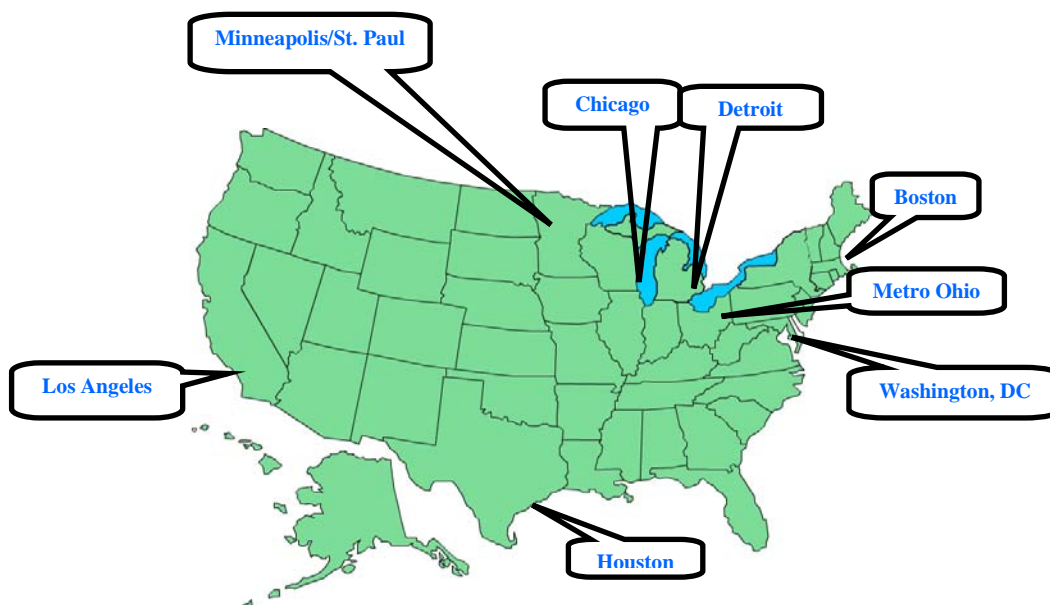
The Community Engagement Section facilitates sustained two-way communication with the public, both to share information and hear and respond to concerns—key facets to effective civil rights and civil liberties protection.



### ***Community Roundtables***

Local federal officials and community groups continue to look to CRCL for leadership on issues at the intersection of homeland security and civil rights and civil liberties. The core of this effort has been CRCL's coordination of roundtables with American Arab, Muslim, South Asian, and Sikh community leaders in Boston, Chicago, Detroit, Houston, Los Angeles, and Washington, D.C., to ensure that there are regular meetings between representatives from federal, state, and local government agencies and community leaders. In FY 2009, CRCL expanded engagement initiatives to other major cities, including Minneapolis/St. Paul and Columbus, Ohio. In FY 2009, CRCL conducted roundtable meetings in these eight cities and participated in dozens of additional meetings with ethnic and religious stakeholders throughout the country.

In FY 2009, CRCL focused particular attention on expanding outreach and engagement efforts involving immigrant communities, especially Somali American communities. CRCL hosted regular conference calls with Somali American leaders and federal partners to discuss community concerns, DHS policies and programs, and civic engagement, among other topics. CRCL also attended several meetings with Somali American leaders. For example, CRCL participated in the first Somali law enforcement advisory committee meeting Columbus, Ohio, in an effort to build communication between law enforcement and the Somali community.



Map of CRCL FY 2009 Roundtables

#### ***i. Youth Roundtables***

Outreach to youth from diverse religious and ethnic communities continued to be a priority for the Community Engagement Section. In FY 2009, CRCL hosted a roundtable on “Security and Liberty: Perspectives of Young Leaders Post 9/11” at the University of Southern California with young leaders from American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities.

In FY 2009, CRCL also attended the Muslim Public Affairs Council Young Leaders Summit to present on DHS engagement efforts and the importance of public service. In addition, CRCL attended the first Somali Youth Diaspora conference, distributing information about the Department's activities and functions.

**ii. National Security Internship Program**

In FY 2009, CRCL continued its support for the National Security Internship (NSI) program in partnership with the Federal Bureau of Investigation (FBI). The NSI is an intensive nine-week, full immersion summer program that combines Arabic



language, Homeland Security, Intelligence and Area Studies, and on-the-job-training experience at DHS or FBI Headquarters. The goal of the NSI program is to create a direct career path for DHS and FBI to some of America's best and brightest undergraduate and graduate college students who speak or are studying Arabic. The NSI is open to qualified applicants who are able to meet the requirements to be granted a Top-Secret clearance. In FY 2009, the NSI program received over 300 applicants. For additional information, please visit [www.nationalsecurityinternship.com](http://www.nationalsecurityinternship.com).

**iii. Other Domestic Engagement Activities**

- Presented on “Civil Rights and Muslims in America: Progress and Future Challenges” at the Muslim Public Affairs Council convention. (Long Beach, California)
- Interviewed on the topic of CRCL outreach and engagement with the Voice of Somali Service. (Minneapolis, Minnesota).
- Briefed the International Association of Chiefs of Police and the National Sheriff's Association concerning the protection of civil rights and civil liberties in a homeland security environment, as it relates to state and local law enforcement. (Denver, Colorado, and Ft. Lauderdale, Florida)
- Presented on engagement efforts with ethnic and religious communities at the State Department Foreign Service Institute “Transformation Diplomacy Seminar on Counterterrorism and Soft Power.” (Washington, D.C.)
- Briefed staff from the Senate Homeland Security and Governmental Affairs Committee on engagement efforts with Somali American communities in Ohio. (Washington, D.C.)
- Briefed staff from the House Committee on Homeland Security on CRCL engagement efforts with the Somali American communities in Minnesota. (Washington, D.C.)
- Participated in the Department of Defense (DOD) Global Sync Conference at the U.S. Special Operation Command headquarters. (Tampa, Florida)
- Participated in a panel discussion, “Strategic Communications in a Global Information Environment,” at the InfoWarCon 2009 conference. (Tampa, Florida)
- Presented at the Ethiopian Community Development Council's Annual Conference on African Refugees. (Arlington, Virginia)
- Participated in the annual convention of the American Arab Anti-Discrimination Committee; Deputy Secretary Lute provided keynote remarks. (Washington, D.C.)
- Attended the Islamic Society of North America Annual Conference, and engaged with Muslim Americans by participating in panels and staffing a booth to distribute materials and discuss resources. (Washington, D.C.)
- Attended the Citizen Corps 2009 National Conference on Community Preparedness and interacted with state and local law enforcement and first response personnel concerning inclusion of cultural, ethnic, and religious communities in emergency preparedness, response, and recovery programs. (Washington, D.C.)
- Attended several interfaith Iftars (the evening meal where Muslims break the day-long fast during the Islamic month of Ramadan) hosted by various CRCL federal partners and community stakeholders. (Washington, D.C.)

- Presented on CRCL outreach and engagement to the National Consortium for the Study of Terrorism and Responses to Terrorism at the University of Maryland. (College Park, Maryland)

*iv. International Engagement Activities*

CRCL continues to increase its international initiatives related to the protection of civil rights and civil liberties. DHS continues to place a high priority on strengthening relationships with foreign partners, as well as the international community in the United States. In FY 2009, CRCL continued its participation in meetings with the U.S.-United Kingdom (UK) Joint Contact Group (JCG), the official bilateral forum for DHS and UK security agencies. The JCG consists of multiple DHS offices and Components, including CRCL. The role of CRCL is to exchange information, best practices, and other relevant reports or activities with British Home Office counterparts who engage with key communities in the UK. The involvement of CRCL in the JCG continues to evolve as both British and American security officials seek innovative ways to approach security and preserve civil rights and civil liberties.

CRCL also participated in the inaugural meeting between DHS and the Security Cooperation Group (SCG) with the German Ministry of the Interior. The SCG is the official bilateral forum for DHS and German security agencies. CRCL plays a lead role in working groups concerning countering violent extremism, as well as integration and communication. In FY 2009, CRCL participated in bilateral meetings between DHS and Canadian agencies, as well as the Federal Government and the Government of the People’s Republic of China.

Additional highlights of CRCL’s international engagement activities include:

- Participated in the quarterly meeting of the Ambassadors’ roundtable with diplomatic staff from Arab and Muslim nations. (Washington, D.C.)
- Coordinated and led the Transatlantic Initiative, a project formed under the auspices of the U.S.-UK Joint Contact Group—the official bilateral engagement between DHS and UK counterterrorism officials. (London and Birmingham, United Kingdom)
- Participated in the USCIS-hosted Five Countries Citizenship Conference, which included officials from the governments of Canada, UK, Australia, New Zealand, and the United States. (Washington, D.C.)
- Presented at a convention on “Terrorism and Communication.” (Copenhagen, Denmark)
- Participated in a planning session with the U.S. State Department, Office of International Religious Freedom, for a conference with the Organization of Islamic Conference, on countering negative stereotypes of certain religious communities. (Washington, D.C.)
- Briefed a high level delegation of officials from the Organization of Islamic Conference on CRCL engagement activities. (Washington, D.C.)
- Briefed a delegation of Muslim civil society groups from the United Kingdom. CRCL shared best practices with British partners on engagement initiatives with Arab, Muslim, and South Asian communities in the United States. (Washington, D.C.)
- Discussed CRCL engagement programs with civil society with representatives from Indonesia. (Washington, D.C.)

## C. Disaster Preparedness Section

The Disaster Preparedness Section supports development of individual and community resilience to natural disasters, acts of terrorism, and other emergencies. This Section ensures that the varied perspectives, needs, and civil rights and civil liberties of disaster-impacted populations are integrated into the Federal Government's emergency management policy, planning, and procedures, and works to remove barriers to the full and equal access of groups that have often been subjected to discrimination. The result is improved safety and health for the community.

The Section facilitates communication among stakeholders through collaboration with federal, state, tribal, and local government partners, as well as community-based organizations. It is a resource for government partners to ensure that planning and response strategies respect the civil rights and civil liberties of all affected populations, including people with disabilities, people with limited English proficiency, and members of all racial and ethnic communities.

### *i. Implementation of Executive Order 13347, Individuals with Disabilities in Emergency Preparedness*

CRCL oversees the implementation of Executive Order (EO) 13347, Individuals with Disabilities in Emergency Preparedness. EO 13347 promotes the safety and security of individuals with disabilities in emergency and disaster situations. The EO created an Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities, chaired by the Secretary of Homeland Security; the Secretary in turn has designated the Officer for Civil Rights and Civil Liberties to carry out these duties. The ICC brings together senior leaders from more than 25 Federal departments and agencies, and has concentrated its work in nine major areas: (1) emergency communications; (2) emergency preparedness in the workplace; (3) emergency transportation; (4) health and human services; (5) homeland security policy and operations; (6) housing; (7) non-governmental outreach; (8) research; and (9) state, local, and tribal government outreach.

Disaster Preparedness Section staff lead the work of the ICC, convening principal and staff level ICC meetings, developing and disseminating a bimonthly ICC Update email newsletter, drafting the ICC Annual Report to the President, and managing a disability preparedness resource website—[www.disabilitypreparedness.gov](http://www.disabilitypreparedness.gov).

### *ii. Comprehensive Planning Guide 301*

In November 2008, the Disaster Preparedness Section received a Secretary's Team DHS Excellence Award along with the FEMA Planning and Assistance Branch with whom they collaborated to develop the "Comprehensive Preparedness Guide (CPG) 301: Emergency Management Planning Guide for Special Needs Populations." This award identifies outstanding team achievements by employees working in a group to advance the mission of DHS. CPG 301 is a tool for state, territorial, tribal, and local emergency managers use in the development of emergency operations plans that include the entire population in a jurisdiction of any size. It specifically provides recommendations for planning for vulnerable populations.



### *iii. Hurricane Ike Response*

On September 13, 2008, Hurricane Ike struck multiple jurisdictions in East Texas where recovery from Hurricane Rita of 2005 was just taking hold. Following Ike's landfall, the DHS Incident Management Planning Team developed a mission assignment plan to support FEMA's long-term recovery initiative.

As a result of that plan, Emergency Support Function 14 (Long-term Recovery) requested a CRCL mission assignment to the Joint Field Office in Austin, Texas, to ensure that individuals with disabilities were an integral part of the recovery process. Disaster Preparedness Section staff deployed to the Hurricane Ike Joint Field Office, and in collaboration with an array of federal, state, local, and community representatives, conducted an assessment of long-term impacts related to restoration of government and non-government support services on which many vulnerable populations rely. In December 2008, CRCL submitted to FEMA the “Special Needs Populations Impact Assessment Source Document,” the first federal assessment resource of its kind, to inform the overall Hurricane Ike recovery analysis. This coordination work in FY 2009 laid the groundwork for CRCL’s FY 2010 federal coordination efforts to ensure that the needs of individuals with disabilities are fully incorporated into the National Disaster Recovery Framework.

*iv. H1N1 Preparedness and Response*

In March 2009, a new H1N1 influenza A virus emerged in Mexico and the United States. On October 24, 2009, President Obama signed an official proclamation declaring a national emergency. CRCL participated in general pandemic preparedness planning activities prior to the H1N1 outbreak, contributing to the Department’s Pandemic Influenza (PI) working group as well as to the Intra-Departmental PI Tabletop Exercise of October 2008. In addition, CRCL contributed to response activities throughout the outbreak/pandemic; contributed to the development of DHS H1N1 workforce guidance; and took part in the Assistant Secretary-level H1N1 Exercise held in September 2009. Disaster Preparedness section staff also provided technical assistance to DHS Components regarding applicable civil rights and civil liberties laws affecting programs and activities with a public interface.

*v. Emergency Preparedness Training, Education, and Exercises*

Disaster Preparedness staff contributed to the development and evaluation of the U.S. Coast Guard-led exercise, Unified Support 2009, held in August 2009 along the Florida coastal waters. This exercise was based on addressing a potential mass migration event. CRCL provided subject matter expertise to integrate considerations related to civil rights and civil liberties, disability, and vulnerable populations including: identification and handling of individuals with disabilities, the elderly, and minors; apprehension of migrants; expedited removal and protection for asylum seekers; communicating with the public and outreach; communication to individuals with limited English proficiency; housing of migrants/detention standards; and medical care.

CRCL continues to provide subject matter expertise to the grantees of the FEMA Competitive Training Grants Program. This program awards funds to competitively selected applicants who demonstrate their capacity to develop and deliver innovative training programs addressing high priority national homeland security training needs. CRCL participated on review panels for courses developed by University of Illinois and Meals on Wheels aimed to better integrate disability and elderly populations into community planning and preparedness efforts. CRCL collaborates to make recommendations for revision of course materials which are then implemented by the grantees.

*vi. Outreach*

**Citizen Corps 2009 National Conference on Community Preparedness.** CRCL’s ongoing collaboration with Citizen Corps resulted in CRCL and its ICC partners making two significant presentations at the 2009 National Conference on *Community Preparedness: The Power of Citizen Corps*, hosted by FEMA’s Community Preparedness Division in August 2009. The conference brought together approximately 600 state and local elected officials, emergency management professionals, police and fire services, public health and emergency medical services, non-governmental organizations, private business and industry, advocacy groups, and members of the public. CRCL staff members presented “Planning for the Entire Community: A Function-Based Approach.” The speakers addressed the benefits of involving members and representatives of vulnerable populations at all levels of emergency management and encouraged

attendees to reach out within their own communities and engage these populations. In addition, representatives of the ICC conducted a panel presentation, coordinated by CRCL, providing an overview of their respective agency's work on emergency management and individuals with disabilities. Representatives from the Federal Communications Commission, the Department of Health and Human Services, the Department of Transportation, and the Department of Labor highlighted the importance of such work to the local community level. Panelists also provided resources that can be used to enhance the inclusion of individuals with disabilities in all phases of emergency management.

Below are additional highlights of outreach activities conducted in FY 2009:

- Presented at workshop on Partnerships in Emergency Preparedness: Faith-Based and Community Initiatives. (New York, New York)
- Participated in the Homeland Security Institute's Senior Leaders' Best Practices Summit. (Washington, D.C.)
- Presented at the DHS Ready Communities Partnership 2008 Symposium on Community/Business Resiliency and National Congress Planning Session. (Washington, D.C.)
- Presented at the Functional Needs, Mass Care, and Evacuation Planning Symposium. (Palatine, Illinois)
- Presented at a conference on Collaborating Agencies' Disaster Relief Effort, Together We Do Better. (San Jose, California)
- Presented at the 2nd Annual DHS Women's Leadership Forum: "Women Taking the Lead." (Washington, D.C.)

## D. Immigration Section

The Immigration Section works with government and non-governmental organizations to ensure that civil rights and civil liberties protections are incorporated into DHS immigration-related activities and policies; communicates with the public about immigration-related civil rights and civil liberties; and provides civil rights and civil liberties training to DHS Components.

### *i. Section 287(g) of the Immigration and Nationality Act*

In FY 2009, CRCL continued to assist the Department with programs involving state and local law enforcement, including the ICE Section 287(g) program, under which ICE may designate local law enforcement officers to perform immigration law enforcement functions. In FY 2009, CRCL participated in the DHS working group that created a new standard agreement for the program, which included new civil rights and civil liberties protections. CRCL also worked closely with the Office of Inspector General, providing technical assistance during that office's audit of the Section 287(g) program.

In addition, CRCL worked closely with the ICE Office for State and Local Coordination on Section 287(g). For example, Immigration Section staff participated on the ICE Executive Committee that recommends whether or not applicant jurisdictions may join the 287(g) program. In this capacity, staff gathered information from community sources and provided input regarding civil rights and civil liberties issues within the jurisdiction applying for participation in the 287(g) program. CRCL also coordinated with ICE to ensure receipt by CRCL of all civil rights and civil liberties complaints filed by the public regarding the 287(g) program. CRCL also organized and hosted a meeting in August 2009 with DHS senior leadership, ICE, and non-governmental organizations to discuss the 287(g) program.

**ii. *Secure Communities***

CRCL coordinated with the ICE Office for State and Local Coordination on the Secure Communities Program, which uses biometric information and services to identify removable criminal aliens in state prisons and local jails. In FY 2009, CRCL assisted with the development of the Secure Communities Memorandum of Agreement; reviewed standard operating procedures; and created a complaint form for community use for allegations of abuse. CRCL continues to work on this program in FY 2010.

**iii. *E-Verify***

CRCL works closely with USCIS on its E-Verify program, which employers use to verify the employment eligibility of new hires. In FY 2009, CRCL trained the USCIS Verification Division's review and compliance staff on the civil rights and civil liberties issues associated with electronic verification of employment eligibility and worked to strengthen the Division's monitoring and compliance unit. Additionally, CRCL teamed with USCIS to create educational brochures and videos on E-Verify worker rights and E-Verify employer responsibilities. Distribution of that material began in the second quarter of FY 2010.

**iv. *Detention Reform***

CRCL provides assistance and advice on immigration detention issues.

Following the announcement in August 2009 by DHS and ICE leadership of a major immigration detention reform effort, CRCL has worked closely with ICE Office of Detention and Removal Operations, ICE Office of Policy, and ICE Office of Detention Policy and Planning to develop and implement the reforms, and to ensure that the civil rights and civil liberties of immigrant detainees are protected. Detention reforms have so far included creation of an online detainee locator system, improving classification systems, and improving medical care and medical classification of detainees. CRCL has been an active member of the internal ICE working groups established in order to implement these reforms.

**v. *Other Activities***

CRCL worked on numerous working groups within the Department regarding immigration issues and civil rights and civil liberties in FY 2009, including stateless individuals in DHS custody and the Quadrennial Homeland Security Review on immigration and enforcement measures.

**vi. *Outreach***

CRCL engaged in several public outreach initiatives in FY 2009, including participation in the Immigrant Worker Roundtable (IWR). CRCL hosted several meetings of the IWR, a joint interagency and non-governmental organization working group dedicated to ensuring that civil rights and civil liberties considerations are fully incorporated into DHS policies and procedures that affect immigrant workers. CRCL also hosted a government-only meeting of the IWR with representatives from DHS, the National Labor Relations Board, the Department of Justice Civil Rights Division, and the Equal Employment Opportunity Commission to discuss ways to improve interagency communication when complainants or witnesses in civil rights and civil liberties-related agency investigations or legal action are in detention.

The Rights Working Group, a large consortium of non-governmental organizations interested in issues at the nexus of civil rights, civil liberties, immigration, and homeland security, has created a Civil Rights & Civil Liberties Committee that meets periodically with the Officer for Civil Rights and Civil Liberties, and with other CRCL staff. Several of these meetings were held in FY 2009, as in prior years.

Other public outreach activities by Immigration Section staff are highlighted below:

- Presented at E-Verify Information Sessions held by the USCIS Verification Division to educate federal contractors on the new Federal Acquisition Regulations rule that requires certain Federal contractors to use E-Verify on new hires and other workers. (Falls Church, Virginia)
- Spoke at a roundtable discussion on employment eligibility verification systems sponsored by the Center for American Progress and the Immigration Policy Center. (Washington, D.C.)
- Briefed staff from a number of House committees, including Judiciary, Education and Labor, and Appropriations, on civil rights and civil liberties issues associated with electronic worker verification. (Washington, D.C.)
- Participated in a number of panel discussions concerning immigrant detention, including the American Bar Association's midyear meeting. (Boston, Massachusetts)
- Discussed medical care for individuals in ICE custody and at a symposium hosted by Penn State University's Dickinson School of Law Center for Immigrants' Rights entitled "Immigration Enforcement and Security." (University Park, Pennsylvania)

## E. Impact Assessments

Each Civil Rights and Civil Liberties Impact Assessment provides a formal, written evaluation of a program to identify potential civil rights and civil liberties concerns. Below is a summary of the Impact Assessments completed and in process during FY 2009:

- The Impact Assessment on State, Local, and Regional Fusion Centers was mandated by Section 511 of the 9/11 Act. CRCL submitted this Impact Assessment to Congress in the first quarter of FY 2009. The statute also mandated a follow-up Assessment, which CRCL launched during the fourth quarter of 2010.
- The Impact Assessment on the Northern Border Railroad Passenger and Cargo Screening was mandated by Section 1523 (b)(1)(2) of the 9/11 Act. CRCL submitted the completed Impact Assessment to Congress in the first quarter of FY 2009.
- The Impact Assessment on the Interagency Threat Assessment and Coordination Group assessment was mandated by Section 521(c) of the 9/11 Act. The Assessment was coordinated with the DOJ Chief Privacy and Civil Liberties Officer and the Civil Liberties Protection Officer at the Office of the Director of National Intelligence, and was submitted to Congress in the fourth quarter of FY 2010.
- The Impact Assessment on the use of Border Search of Electronic Devices, directed by the Secretary upon implementation in August 2009 of new CBP and ICE policies governing electronic device searches, is nearing completion. CRCL is working with CBP to finalize its recommendations.
- An Impact Assessment of the Future Attributes Screening Technology (FAST), which examines the civil rights and civil liberties implications of DHS Science and Technology Directorate tests and evaluations of FAST technology for possible future use in DHS security screening activities, is in progress, and should be completed during FY 2011.



## F. Intelligence, Security, and Information Sharing

The Intelligence, Security, and Information Sharing Section of CRCL advises DHS senior leaders and program managers to ensure that such activities are conducted consistent with Constitutional, statutory, regulatory, and other legal and policy requirements relating to civil rights and civil liberties.

### *i. Intelligence and Analysis Product Review*

In FY 2009, Deputy Secretary Jane Holl Lute directed that CRCL, the Privacy Office, and the Office of the General Counsel review all I&A products that may impact privacy, civil rights, and/or civil liberties. During FY2009, CRCL reviewed hundreds of classified and unclassified I&A products, providing comments where appropriate and working with I&A management and analysts to quickly resolve civil rights and civil liberties issues while enabling the products to be disseminated in a timely fashion. CRCL analysts also provide training to I&A analysts before they are deployed to fusion centers and to all new I&A analysts who take the Basic Intelligence and Threat Analysis Course. These efforts have greatly improved awareness of civil rights and civil liberties issues in I&A product development and dissemination.

### *ii. Cybersecurity*

In FY 2009, CRCL ensured that protections of civil rights and civil liberties were integrated into the Department's efforts to advance the Comprehensive National Cybersecurity Initiative (CNCI). Specifically, CRCL focused on the activities of the Department's National Cybersecurity Division as it deployed cybersecurity intrusion detection technology (EINSTEIN) to Federal civilian executive branch departments and agencies. CRCL also worked with the DHS Privacy Office on many other cybersecurity issues, including an exercise under initiative 3 of the CNCI. The Office also participated in the White House Cybersecurity 60-Day Review working group for Civil Liberties and Privacy, helping to address civil rights and civil liberties issues arising in the interagency cybersecurity environment.

### *iii. Information Sharing*

#### *a. Coordinating Council*

CRCL continues to serve as an active member of the Information Sharing Coordinating Council (ISCC). Composed of members from various DHS Components, the ISCC coordinates DHS information sharing activities and implements tasks outlined from the Office of the Program Manager for the ISE. The ISCC meets bi-weekly and works to find common solutions to critical cross-cutting information sharing challenges facing DHS.

In addition to attending the ISCC bi-weekly meetings, CRCL participates in numerous integrated project teams (IPT) and other information sharing subgroups to ensure awareness of civil rights and civil liberties protections as essential elements of information sharing. CRCL staff work on IPTs and subgroups related to the development of Departmental information sharing agreement methodology and DHS participation in the Nationwide Suspicious Activities Reporting Initiative. CRCL co-chairs the IPT charged with ensuring that the Department meets the training requirements of the ISE Implementation Plan.

In FY 2009, CRCL also participated in developing, reviewing, and commenting on numerous information-sharing-related documents, including information-sharing standards, concepts of operations, and various internal and external reports. CRCL also participated in the Intelligence Shared Mission Community under the ISCC, which provides forums to address key mission information sharing challenges.

***b. Information Sharing Environment (ISE)***

In the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), Public Law No. 108-458, Congress created the ISE, a coordinated effort to share information related to terrorism within the Federal Government and between Federal agencies and state, local, and tribal law enforcement. In FY 2008 and 2009, the Program Manager for the ISE, working with the Department of Justice and DHS—including CRCL, the Privacy Office and other DHS offices—created guidelines to ensure the protection of privacy, civil rights and civil liberties in the ISE (hereafter “the ISE Guidelines”). In FY2009, CRCL worked closely with the DHS ISCC in order to ensure that the ISE Guidelines are followed in all DHS information sharing efforts. As part of its effort to accomplish this, CRCL reviews all information sharing memorandums of agreement executed between DHS and its external ISE partners. CRCL also conducts civil rights and civil liberties training for state and local fusion centers (as discussed in more detail in Section III.A of this Report), in order to ensure that the ISE civil rights and civil liberties requirements are followed by our state and local partners with whom we share and from whom we receive terrorism-related information.

***c. Interagency Collaboration***

CRCL collaborated with the DOJ Global Initiative and the ISE Privacy Guidelines Committee, heading an interagency sub-working group on civil rights and civil liberties issues. CRCL participates on the Global Privacy and Information Quality Work Group and collaborates with the DOJ Bureau of Justice Assistance in the development and implementation of a multi-faceted training program for the state, local, and tribal fusion centers. (See CRCL Institute Section for more detail on this program and its work to promote and facilitate information sharing while respecting civil rights and liberties.)

## **IV. PUBLIC COMPLAINTS (COMPLIANCE BRANCH)**

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

- Review and assess information alleging abuses of civil rights, civil liberties, and racial, ethnic, or religious profiling, 6 U.S.C. § 345(a)(1);
- Oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights or civil liberties of individuals affected by the programs and activities of the Department, 6 U.S.C. § 345(a)(4);
- Investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General, 6 U.S.C. § 345(a)(6); and
- Periodically investigate and review Department, Component, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering civil liberties in its actions, 42 U.S.C. § 2000ee-1(a)(2).

### **A. Issues Raised in Complaints**

***i. Conditions of Detention for Adult ICE Detainees.***

CRCL reviews complaints and conducts investigations regarding detention for ICE detainees. CRCL conducts such investigations and evaluates its findings with appropriate assistance, including from DHS/Division of Immigration Health Services (DIHS) and independent subject-matter experts. The

information gained in CRCL's complaint process has been useful to the ICE's major immigration detention reform effort, announced in August 2009 and described in more detail in part II, above.

*ii. Treatment of Unaccompanied Minors.*

During FY 2009, CRCL continued to receive and handle complaints involving the treatment of unaccompanied minors in DHS custody, opening 18 cases and closing 23 cases. CRCL presented its investigative findings and recommendations to leadership of the DHS Components responsible for unaccompanied minors and has worked with both headquarters and field-level management and staff to implement the recommendations and, subsequently, to review compliance. In addition, CRCL worked with ICE to revise policy regarding the treatment of families and policy impacting the air transport of unaccompanied minors. CRCL regularly reviews and comments on DHS Component policies and procedures impacting minors and provides input to DHS leadership regarding how this age group is handled while ensuring that their civil rights and civil liberties are protected.

*iii. Traveler Redress Inquiry Program.*

During FY 2009, CRCL helped to implement the DHS Travel Redress Inquiry Program (TRIP). CRCL receives DHS TRIP inquiries from travelers who believe they have been subjected to discrimination on the basis of race, disability, religion, gender or ethnicity by DHS employees. DHS TRIP serves as a single point-of-contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs. Travelers may contact DHS TRIP by email, postal mail, or via an online submission form at [www.dhs.gov/trip](http://www.dhs.gov/trip). When CRCL receives an inquiry from DHS TRIP, it is reviewed to determine whether the inquiry should be treated as a complaint. During FY 2009, DHS TRIP received 27,681 requests for redress. Of those, 1,193 individuals checked a box indicating they believed their screening difficulties were due to discrimination by DHS employees. During FY 2009, DHS utilized TRIP to conduct pre-investigations into 1,191 complaints and opened four full civil rights and civil liberties investigations.

## **B. Civil Rights and Civil Liberties Complaints Received and Closed**

In FY 2009, CRCL received 155 new complaints (compared to 157 in FY 2008) and closed 144 complaints (compared to 142 in FY 2008). Tables 2 and 3 summarize the complaints by Component and issue, dividing them into those that were retained for full investigation by CRCL and those that were referred to the relevant Component for fact investigation. (Seven complaints received by CRCL but retained by the Office of Inspector General are omitted.)

**TABLE 2: PRIMARY ALLEGATION BY COMPONENT FOR COMPLAINTS RECEIVED DURING FY 2009**

Primary Allegation	CBP 48		FEMA 0		ICE 78		TSA 22		USCIS 4		Multi-Component 10		Total 155		Total 155
	Retained	Referred			Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	
Abuse of Authority	1	4			1	9				1	6	1	8	15	23
Conditions of Detention					15	32							15	32	47
Discrimination		5				3	1	6	1				2	14	16
Due Process		1			1	5			1	1			2	7	9
Profiling		4						1			1		1	5	6
Treatment	2	13			1	5		14				1	3	33	36
Unaccompanied Minors	6	8				3					1		7	11	18
Watch List															
<b>Total</b>	<b>9</b>	<b>35</b>			<b>18</b>	<b>57</b>	<b>1</b>	<b>21</b>	<b>2</b>	<b>2</b>	<b>8</b>	<b>2</b>	<b>38</b>	<b>117</b>	<b>155</b>

**TABLE 3: PRIMARY ALLEGATION BY COMPONENT FOR COMPLAINTS CLOSED DURING FY 2009**

Primary Allegation	CBP 44		FEMA 1		ICE 75		TSA 12		USCIS 2		Multi-Component 9		Total 144		Total 143
	Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	Retained	Referred	
Abuse of Authority	1	3			4	7				1			5	11	16
Conditions of Detention					11	39					1		12	39	51
Discrimination	4	4		1	5	3	2	2					11	11	21
Due Process		2				2				1				5	5
Profiling	3	7				2		5				1	3	15	18
Treatment		4					2	1				1	2	6	8
Unaccompanied Minors		16			1	1					1	4	2	21	23
Watch List												1		1	1
<b>Total</b>	<b>8</b>	<b>36</b>		<b>1</b>	<b>21</b>	<b>54</b>	<b>4</b>	<b>8</b>		<b>2</b>	<b>2</b>	<b>7</b>	<b>35</b>	<b>109</b>	<b>143</b>

For a tally of all CRCL's complaints by Component and primary allegation from 2003 to 2010, please visit [www.dhs.gov/crcl](http://www.dhs.gov/crcl). As of September 30, 2009, the Compliance Branch had 212 open complaints. Of those, 55 were being retained within CRCL for investigation, 131 were referred to a DHS Component for investigation, nine were kept by the Office of Inspector General for investigation, and 17 were still under review by CRCL staff to decide whether to refer or retain.

## C. Examples of Complaints Resolved by CRCL

CRCL's Compliance Branch addressed a wide range of civil rights and civil liberties complaints in FY 2009. Appendix B of this Report summarizes all the complaints CRCL closed during FY 2009 that had been retained within CRCL for investigation. Appendix C summarizes the complaints closed in FY 2009 that CRCL had referred to Components for fact investigation. Below are examples of some of the most significant allegations raised in complaints and addressed by CRCL during FY 2009.

### *i. Conditions of Detention in an Alabama County Corrections Center.*

In July 2007, an ICE detainee complained of poor conditions of detention while in ICE custody at a county corrections center in Alabama. In January 2008, another detainee of the same facility alleged mistreatment by corrections officials and sexual assault by a detainee. CRCL had previously referred to ICE similar complaints involving five other detainees at the same facility. After conducting an investigation into all seven complaints, CRCL concluded in July 2009 that the facility had strong practices in place in the areas of grievance procedures and classification; however, a number of concerns remained regarding medical care, food service, use of force, and language assistance. In addition, excessive telephone long-distance rates were referred to ICE for further review. While corrections center staff confirmed that an incident of detainee-on-detainee sexual abuse had occurred in the past, CRCL determined that appropriate procedures were in place, including separating the aggressor from the victim. ICE no longer houses detainees at this facility, and the draft 2010 Performance Based National Detention Standards address many of the issues brought up in this investigation.

### *ii. Conditions of Detention in Two Texas Detention Facilities:*

In April 2009, CRCL issued a Final Report and Recommendations to ICE regarding the treatment of a detainee at two local detention facilities in Texas. The complaint, filed in June 2007, alleged that the detainee was harassed and mistreated by a medical provider four months prior, and that proper medical treatment was not provided. CRCL concluded that the detainee likely did not receive appropriate follow-up diagnostics or a reasonable degree of privacy. The resulting recommendation was that ICE review the facility's management of detainee medical care requests and assess the ability of staff to appropriately treat and interact with detainees. In addition, CRCL recommended that ICE ensure timely follow-up care and necessary diagnostics, privacy during medical assessments, and continuity of care after transfers, all of which are required by ICE standards in addition to being necessary for detainee civil rights. In response, ICE reported that its Division of Immigration Health Services began aggressively recruiting additional primary care physicians, psychiatrists, dentists, mid-level providers, social workers, and pharmacists for the detention facilities in question. Upcoming revisions to the Performance Based National Detention Standards will address more comprehensively several of the issues raised by this complaint.

### *iii. Complaints Filed Under Section 504 of the Rehabilitation Act of 1973.*

CRCL closed complaints and issued Final Reports and Recommendations to the appropriate Components, as well as Findings of Fact, and Conclusions of Law and Remedy, to several complainants regarding disability discrimination under Section 504 of the Rehabilitation Act of 1973, as amended:

- a. CBP and Ports of Entry:* An individual with a disability seeking admission to the United States in August 2007 alleged in October of that year that CBP refused to provide her with a reasonable accommodation at the San Ysidro, California, Port of Entry, instead requiring her to wait along with others in the pedestrian line. The complainant had a physical condition that prevented her from standing or waiting in line for extended periods of time. Although accommodations had previously been granted to those claiming physical disability, the Port of Entry had recently changed to a "first come, first served" policy for everyone, including those with disabilities, although exceptions were available for those in obvious distress or in need of immediate medical

attention. CRCL investigated this complaint and concluded in February 2009 that CBP had failed to provide the complainant with a reasonable accommodation.

Another individual seeking admission to the United States in August 2006 via the pedestrian line of the Otay Mesa, California, Port of Entry claimed in October 2006 that her medical condition limited her ability to stand for long periods of time. She requested processing via the expedited processing line. The complainant claimed that she had previously utilized the expedited processing line, but in this case the officer required her to wait. After waiting briefly to speak with a supervisor, the complainant became agitated and attempted to cross into the United States without undergoing inspection. Consequently, she was restrained by a CBP officer, whom she alleged physically mistreated her. CRCL investigated and concluded in November 2008 that an accommodation should have been provided—whether expedited processing or a designated waiting area with seating. CRCL found that the complainant’s claim of physical mistreatment was unsubstantiated.

Based on the recommendations made in these two matters, CBP initiated an action plan to ensure equal access for travelers with disabilities at both the San Ysidro and Otay Mesa Ports of Entry. CBP installed new benches, new signage, and accessible water fountains and restrooms. In addition, CBP built a fence with an accessible gate around the pedestrian area on the United States side of the border. CBP also increased the number of open pedestrian lanes and expanded the Secure Electronic Network for Travelers’ Rapid Inspection (SENTRI) trusted traveler program to allow pedestrian access. Finally, CBP instituted training requirements for all supervisory CBP officers on providing reasonable accommodations and issued a directive with specific guidance on processing individuals with health concerns and/or disabilities.

**b. *Pennsylvania Detention Facility:*** A hearing-impaired detainee alleged in February 2006 that ICE refused his requests for repair of his broken hearing aids, depriving him of the ability to watch television or speak with his family by phone. He also claimed that he was physically assaulted by county correctional officers at the Pennsylvania detention facility. CRCL reviewed the case files and medical records and conducted interviews. The repair, replacement, and supplies for hearing aids, in addition to non-emergency hearing exams, were not covered benefits under ICE’s Covered Benefits Package, and CRCL concluded in August 2009 that ICE’s refusal to repair hearing aids caused a violation of Section 504 of the Rehabilitation Act of 1973, as amended. However, the claims of mistreatment by correctional officers were unsubstantiated. CRCL recommended that ICE develop and implement procedures to ensure that hearing aids and other assistive devices needed by detainees with disabilities are in good working order or, if necessary, replaced. New ICE policy now allows detainees to receive hearing aids when prescribed by a treating professional, and as a part of ICE’s broad detention reform efforts, ICE has also been working on other initiatives that will more effectively meet the needs of detainees with disabilities who require assistive devices.

**iv. *Screening of Traveler Returning from Religious Pilgrimage.***

CRCL issued a Final Report and Recommendations to CBP in November 2008 regarding a December 2005 complaint alleging that CBP discriminatorily screened an individual returning to the United States from Paris, France, because the traveler’s passport contained a Hajj visa from Saudi Arabia. During the primary inspection at the airport, the complainant alleged that he was referred immediately for secondary screening and was treated poorly. Following secondary screening, the individual was questioned by a roving officer, who conducted an examination of the complainant’s baggage. CRCL reviewed the documentation, spoke with CBP leadership at the Port of Entry, and found that secondary screening was justified by individual circumstances applicable to the complainant. In addition, the rover acted in compliance with CBP’s Passenger Processing Handbook. Thus CRCL concluded that CBP actions

did not discriminate against the complainant, and that CBP personnel complied with standard operating procedures.

CRCL and CBP have continued to take steps to address the concerns of citizens traveling to Saudi Arabia to participate in the Hajj. CRCL coordinated with CBP and TSA in FY 2009 to train staff regarding the Hajj, as well as other traditions and activities of Muslim travelers, such as attire, religious articles, and public prayer. CBP also created briefing materials for CBP officers to ensure the protection of civil rights and civil liberties without compromising security, and issued a memo providing “cultural context, situational awareness, and direction to officers encountering Muslims participating in the Hajj.”

**v. *Personal Search of Passenger.***

In December 2008, CRCL issued a Final Report and Recommendations to TSA regarding an April 2008 complaint alleging that TSA officials subjected a passenger to a strip search, in addition to a pat down and hand-held metal detector (HHMD) screening, after the passenger’s titanium hip implant alarmed a walk-through metal detector. TSA’s Office of Civil Rights and Liberties conducted the fact investigation and CRCL reviewed the findings. TSA’s investigation concluded that the Transportation Security Officers failed to follow the standard operating procedures, and CRCL concluded that TSA employees violated the passenger’s rights by conducting the strip search. As a result, TSA required several employees to undergo retraining in conflict management, alarm resolution and private screening, and the policies governing public discussions with transportation security officers. CRCL recommended that TSA amend its procedures to include notice to passengers stating: (a) the reason for a private screening; (b) how the alarm will be resolved; and (c) options for the screening location. Additionally, CRCL recommended that TSA reemphasize the importance of clear communication between personnel and passengers regarding HHMD resolution procedures and private screenings. TSA addressed the concerns by briefing staff on improved communication and screening of passengers with disabilities. Additionally, materials were developed to help travelers better understand their options and what to expect while undergoing security screening. TSA’s new screening Standard Operating Procedure, which went into effect in early FY 2011, further emphasizes clear communication with passengers.

**vi. *Traveler’s Treatment by CBP and ICE.***

In May 2009, CRCL issued a Final Report and Recommendations to CBP and ICE regarding a November 2007 complaint concerning the treatment of a woman who was denied entry into the United States and held in ICE custody for several days in March of that year before being removed. The complainant alleged that she was subjected to a strip search, as well as to sexual comments by male jail officers. CRCL concluded that CBP followed appropriate protocols in inspecting the complainant for admission to the United States and transferring her to ICE custody. However, while CRCL could not verify the allegations of verbal abuse, the strip search by county jail officials was unwarranted and violated the ICE detention standards. CRCL also expressed concern regarding the lack of personal privacy among female detainees placed in jail holding cells prior to transfer to the housing unit. CRCL recommended that CBP issue appropriate guidance to clarify exceptions to the repatriation of individuals denied admission to the United States after arrival by air transport. CRCL also recommended that ICE: (1) widely distribute CRCL training materials such as religious head covering posters and Arab/Muslim Cultures DVDs to ICE and other personnel in ICE detention facilities; (2) review compliance with strip search policies; and (3) ensure that female detainees housed at the jail in question are provided with appropriate clothing upon intake. CBP and ICE have implemented these recommendations.

## D. Enhanced Communication and Coordination Efforts with ICE

During FY 2009, CRCL and ICE Office of Detention and Removal Operations (DRO) (subsequently renamed Enforcement and Removal Operations, or ERO) instituted new notification procedures to facilitate CRCL's immediate notice to DRO about complaints alleging significant medical issues. Under the new procedures, upon receipt of information involving allegations of serious problems involving medical care, CRCL notifies DRO leadership to allow DRO to take timely and appropriate action. Additionally, CRCL may issue a data request to ICE regarding specific issues at any time, including following the death of a detainee. During the fiscal year, CRCL notified DRO of 24 significant medical issues.

## V. EQUAL EMPLOYMENT OPPORTUNITY & DIVERSITY

CRCL provides Departmental guidance for establishing and maintaining effective programs for diversity management and equal employment opportunity under various Federal laws and regulations, including Title VII of the Civil Rights Act of 1964 (as amended), 42 U.S.C. § 2000(e) *et seq.*, and Section 501 of the Rehabilitation Act of 1973 (as amended), 29 U.S.C. § 791 *et seq.* and 29 C.F.R. § 1614.102. The EEO & Diversity Division includes units responsible for developing program plans; providing training; monitoring implementation; and adjudicating EEO complaints. The EEO & Diversity Division also prepares and submits a variety of annual progress reports relating to DHS's EEO activities.

### A. EEO Leadership

The EEO & Diversity Division continued to provide leadership to DHS and its Components through coordination, policy guidance, training, complaint adjudication, and diversity management during FY 2009 and achieved numerous successes. The Division:

- Prepared and implemented a new Anti-Harassment Management Directive, consistent with the latest U.S. Supreme Court case law and Equal Employment Opportunity Commission (EEOC) guidance, to promote prevention and correction of harassment.
- Jointly led the Department's Diversity Planning and Policy Subcouncil, composed of Component diversity officials, to develop a new DHS Diversity Management and Inclusion Strategic Plan.
- Established a plan for an Interagency Agreement and cost-sharing for a new enterprise-wide database system for EEO complaint data and reporting. The Memorandum of Understanding between CRCL and DHS Components outlined the shared services to be provided, which has enabled implementation of a cross-Component system to standardize EEO complaint data collection and reporting, streamlining processes, and yielding economies of scale that are saving time and money. The new database came on-line in early FY 2011.
- Developed and delivered Department-wide No FEAR Act training, which provided DHS personnel information on rights, responsibilities, and remedies with respect to Federal anti-discrimination and whistleblower retaliation laws.



## B. Complaint Adjudication

During FY 2009, CRCL issued 1,071 adjudications, reducing DHS's complaint backlog from 567 pending EEO complaints at the beginning of FY 2009 to 437 open complaints 12 months later. CRCL has continued working to reduce the backlog in FY 2010 and beyond.

In the fourth quarter of FY 2009, CRCL closed 295 EEO complaints of employment discrimination. Of these complaints, 15 were resolved by withdrawal, 36 were resolved by settlement, and 244 were resolved by Final Actions (FA) issued by CRCL. Of the 244 FAs in the fourth quarter of FY 2009, 88 were Final Agency Decisions dealing with the merits of the EEO complaint; the others were resolved on procedural grounds. In comparison, CRCL issued 33 merits decisions during the fourth quarter of FY 2008. For all of FY 2009, CRCL closed 1,071 complaints of employment discrimination, and 303 of these closures were merits decisions. CRCL issued 105 merits decisions for all of FY 2008. Table 4, below, identifies the most commonly alleged issues and bases raised in EEO complaints from FY 2004-2009. The increases from FY 2008 to FY 2009 in complaints about non-sexual harassment, terms/conditions of employment, and assignment of duties are due to the closure of the FEMA Puerto Rico National Processing Services Center, which prompted the coordinated filing of 359 identical EEO complaints involving these issues. Other figures are generally consistent with Federal Government-wide trends.

**TABLE 4: ISSUES AND BASES, FY 2004-2009 DHS FORMAL EEO COMPLAINTS**

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total FY 2004 – 2009
<b>ISSUES</b>							
Non-Sexual Harassment	466	225	231	289	314	630	2155
Promotion/Non-Selection	606	250	277	277	248	257	1915
Terms/Conditions of Employment	358	81	116	142	108	421	1226
Termination	432	155	107	135	112	134	1075
Disciplinary Action	282	185	100	136	135	104	942
Assignment of Duties	159	65	53	61	68	346	752
Release from Temporary Position			20	35	44	301	400
Reduction in Force						345	345
<b>BASES (most common)</b>							
Reprisal	1027	390	346	389	432	761	3345
Age	707	269	296	283	321	317	2193
Sex—Female	536	212	207	229	256	210	1650
Race—Black	448	181	192	185	196	194	1396
Disability—Physical	385	209	156	231	206	189	1376
National Origin—Hispanic	247	115	106	95	104	445	1112
Sex—Male	349	163	76	105	129	120	942
<b>TOTAL COMPLAINTS</b>	<b>1254</b>	<b>1168</b>	<b>1015</b>	<b>1086</b>	<b>1145</b>	<b>1457</b>	<b>7125</b>

Note: Columns do not sum to total because complaints may raise multiple issues and bases.

Formal EEO complaints closed in FY 2009 included 23 with findings of discrimination (see Table 5). (Findings of discrimination are decisions that conclude that DHS violated an EEO statute, rendered either in a decision issued by CRCL or one issued by an EEOC Administrative Judge.) More formal EEO complaints were closed by settlement in FY 2009 than in FY 2008 (218 compared to 180) (see Table 6), but the money paid out based on findings and settlements decreased substantially, from approximately \$4.4 million to \$2.9 million (see Table 7).

**TABLE 5: FINDINGS OF DISCRIMINATION, FY 2004-2009, DHS FORMAL EEO COMPLAINTS**

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total FY 2004 – 2009
CBP	20	3	6		7	5	41
FEMA					1	4	5
FLETC				1			1
Headquarters							
ICE	18	3	6	4	1	3	35
TSA		4	5	6	7	11	33
USCG			2		5		7
USCIS	1	1	5	1			8
USSS							
<b>TOTAL</b>	<b>39</b>	<b>11</b>	<b>24</b>	<b>12</b>	<b>21</b>	<b>23</b>	<b>130</b>

**TABLE 6: SETTLEMENTS, FY 2004-2009, DHS FORMAL EEO COMPLAINTS**

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total FY 2004 – 2009
CBP	51	23	30	38	57	50	249
FEMA	17	9	14	23	19	18	100
FLETC	2	9	5	1	8	3	28
Headquarters	1		1	2		2	6
ICE	69	42	46	48	57	90	352
TSA	34	58	82	48	20	25	267
USCG	4	8	7	11	5	13	48
USCIS	17	23	15	16	11	10	92
USSS		4	4		3	7	18
<b>TOTAL</b>	<b>195</b>	<b>176</b>	<b>204</b>	<b>187</b>	<b>180</b>	<b>218</b>	<b>1160</b>

**TABLE 7: PAYMENTS (IN \$ THOUSANDS) ON FINDINGS AND SETTLEMENTS, FY 2004-2009, DHS FORMAL EEO COMPLAINTS**

	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total FY 2004 – 2009
CBP	\$252	\$89	\$157	\$240	\$724	\$238	\$1,700
FEMA	\$153	\$92	\$101	\$173	\$485	\$203	\$1,207
FLETC	\$0	\$8	\$19	\$294	\$2	\$1	\$324
Headquarters	\$10	\$0	\$0	\$10	\$0	\$5	\$25
ICE	\$1,299	\$449	\$1,935	\$560	\$1,352	\$1,587	\$7,182
TSA	\$1	\$790	\$256	\$764	\$1,471	\$599	\$3,881
USCG	\$31	\$71	\$120	\$35	\$323	\$104	\$684
USCIS	\$207	\$118	\$100	\$141	\$8	\$58	\$632
USSS	\$0	\$11	\$58	\$0	\$18	\$69	\$156
<b>TOTAL</b>	<b>\$1,953</b>	<b>\$1,628</b>	<b>\$2,746</b>	<b>\$2,217</b>	<b>\$4,383</b>	<b>\$2,864</b>	<b>\$15,791</b>

## C. Reporting

CRCL submitted the following reports, each of which is available on the CRCL EEO & Diversity webpage at [www.dhs.gov/crcl](http://www.dhs.gov/crcl). The No FEAR Act reports are also posted on [www.dhs.gov](http://www.dhs.gov).

- *Management Directive 715 Report*, submitted to the EEOC. This annual report reviews the progress of DHS's Title VII and Rehabilitation Act programs, and includes an agency self-assessment for the identification and removal of barriers to EEO.
- *Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Annual Report*, submitted to EEOC, Office of Personnel Management (OPM), Department of Justice, and various congressional committees, providing information on DHS EEO complaints and civil actions.

- *Federal EEO Statistical Report on Discrimination Complaints (EEOC Form 462 Report)*, submitted to EEOC, providing information on DHS's EEO complaints processing, which reflected DHS's significant FY 2009 progress in the total number and percentage of timely completed DHS EEO investigations. (Under 29 C.F.R. § 1614.107(e)-(f), timely completion varies from 180 days to 360 days after a formal EEO complaint is filed, depending on specific circumstances.) In FY 2008, DHS completed 787 investigations, of which 448 (57 percent) were timely completed; in FY 2009, DHS completed 861 investigations, of which 561 (65 percent) were timely completed.
- *Hispanic Employment Program Report*, submitted to OPM, on DHS efforts to promote the employment of Hispanic employees.
- *Historically Black Colleges and Universities (HBCU) Report*, submitted to the White House Initiative on HBCUs, providing information on DHS efforts to fund and enhance HBCU capacity.
- *Federal Equal Opportunity Recruitment Program (FEORP) Reports*, submitted to OPM, summarizing DHS efforts to promote the recruitment of women and minorities.
- *Disabled Veterans Affirmative Action Program Plan and Accomplishments*, submitted to OPM, providing information on DHS efforts to promote employment opportunities for disabled veterans.
- *Tribal Colleges and Universities (TCU) Report*, submitted to the White House Initiative on TCUs, providing information on DHS efforts to fund and build capacity for TCUs.
- *Report on Women and Girls*, submitted to the White House Council on Women and Girls, summarizing DHS efforts to improve the lives of women and girls, including: assisting women-owned businesses to compete internationally; increasing the participation of women in the science, engineering, and technology workforce; and ensuring that DHS programs and policies adequately consider impacts on women and girls.

## D. Diversity Management

During FY 2009, the CRCL Diversity Management unit activities included:

- Assisted in the preparation of the Department's FY 2009 *Annual Report on Hiring and Retention of Minority Employees in the Intelligence Community*.
- Assisted with the development of the Department's first Veterans Coordination Policy.
- Distributed a new DHS recruitment video to Minority Serving Institutions (HBCUs, TCUs, and Hispanic Serving Institutions), institutions of higher learning, and professional organizations.
- Reviewed and provided diversity data in response to Congressional inquiries.
- Coordinated Departmental-level policy and activities supporting the March 11, 2009 Executive Order establishing the White House Council on Women and Girls. The purpose of this Executive Order is "to establish a coordinated Federal response to issues that particularly impact the lives of women and girls and to ensure that Federal programs and policies address and take into account the distinctive concerns of women and girls, including women of color and those with disabilities."
- Responded to a GAO Audit on the Department's MD 715 Report and Program.

## E. Commitment to Hiring People with Disabilities

CRCL continued working with DHS Components to expand employment opportunities for people with disabilities. Several DHS Components achieved noteworthy results. For example, employees with disabilities comprised nine percent of the FLETC workforce in FY 2009. Five Components (DHS headquarters, FEMA, ICE, FLETC, and CBP) increased their hiring of individuals with all disabilities for permanent positions. Five Components (DHS headquarters, FEMA, ICE, U.S. Coast Guard (USCG), and U.S. Secret Service (USSS)) increased their hiring of individuals with targeted disabilities (i.e., disabilities the Federal Government has identified for special emphasis—deafness, blindness, missing extremities, partial paralysis, complete paralysis, convulsive disorders, psychiatric disabilities, intellectual disabilities, and distortions of limbs and/or spine). Six Components (DHS headquarters, FEMA, CBP, ICE, USSS, and USCG) increased the number of employees with targeted disabilities at the GS-13 and/or GS-14 levels.

### *i. Veterans with Disabilities*

In July 2009, Secretary Napolitano signed the Department's first Veterans Coordination Policy on hiring and recruiting disabled and non-disabled veterans. The policy called for increasing veterans' employment opportunities; increasing training to Components in veteran hiring tools; increasing awareness of contracting opportunities for veteran-owned businesses; building stronger relationships with the veteran community, including Veterans Service Organizations, Military Service Organizations, the DOD, and the Department of Veterans Affairs (VA); and improving external communications. DHS established a Veterans Outreach Steering Committee to implement the new policy, and Secretary Napolitano announced at the American Legion's Annual Conference her vision and commitment to employing 50,000 veterans, including veterans with disabilities, by 2012.

DHS remains an active participant in DOD's Operation Warfighter Program (OWP), with DHS Components hosting a total of 59 service members, 14 of whom were permanent hires since the program began in FY 2005. During FY 2009, DHS hired 878 veterans with disabilities, 484 of whom were 30 percent or more disabled. Four of nine DHS Components met or exceeded the Federal Government-wide average (8.6 percent) for new hires of veterans with disabilities. In addition, DHS promoted 1,580 veterans with disabilities in FY 2009, including 740 veterans rated as 30 percent or more disabled.

### *ii. Internships and College Recruitment to Hire Individuals with Disabilities*

In FY 2009, DHS Components reported hiring 170 interns with disabilities from a variety of sources, including the Workforce Recruitment Program for College Students with Disabilities and the Microsoft Foundation-American Association of People with Disabilities Federal Information Technology Interns.

## F. Training

During FY 2009, CRCL's Diversity Management unit offered the following training:

- Provided a training session to DHS Component EEO and Diversity offices on the Federal Equal Opportunity Recruitment Program and the Disabled Veterans Affirmative Action Program. The objective of this training was to provide program assistance to personnel responsible for planning and reporting on their Component's Disabled Veterans Affirmative Action Program (DVAAP) and FEORP programs.
- Provided DHS Component EEO and Diversity offices training on MD 715. The training included an overview of reporting requirements, elements of a model EEO program, workforce analysis, and coordination of EEO and Human Capital functions
- Co-sponsored and participated in an All-Day Veterans Training Program hosted by the American Legion, Washington, D.C., with participation by Human Resources, Equal Employment Opportunity Specialists, and managers from all DHS Components. The program included information on the following: veterans preference hiring authorities; the Uniformed Services Employment and Reemployment Rights Act of 1994; accommodating veterans with post traumatic stress disorder/traumatic brain injuries; reasonable accommodations; DOD's Computer Electronic Accommodation Program; and updates on the DVAAP and National Expansion of OWP.
- Hosted a two-hour training session for 20 DHS Disability Program Managers, attorneys, and managers on providing accommodations to employees with disabilities.
- Hosted a two-hour training session on the "New ADA Amendment Acts." This program featured a senior attorney from the EEOC sharing insights on the Americans with Disabilities Amendments Act of 2008.
- Hosted a training program featuring Anselm Davis, Ph.D., Executive Director, Office of the White House Initiative on Tribal Colleges and Universities, on developing Component Five-Year Tribal Colleges and Universities Plan, and producing Annual Performance Report on Agency Action to Assist TCUs.
- Provided an overview on how to recruit from minority serving institutions to 75 recruiters during ICE National Recruitment Program Training Conference.

## G. Headquarters EEO Program

The headquarters EEO office provides operational EEO and diversity management services directly to all DHS headquarters offices and personnel. The office is specifically responsible for: developing EEO and diversity policies and procedures specific to headquarters; providing EEO and diversity guidance to all headquarters executives, managers, supervisors, and line employees; managing the headquarters EEO complaints process, including EEO counseling, alternative dispute resolution, and EEO investigations; promoting diversity management initiatives, including special emphasis program management to help headquarter Components recruit, hire, develop, and retain a diverse workforce; managing the headquarters reasonable accommodation process; and providing training on EEO and diversity.

During FY 2009, the headquarters EEO Office focused on proactive and strategic initiatives to increase the awareness of headquarters personnel about EEO rights and responsibilities, and on promoting diversity management. The office collaborated with the DHS Office of Chief Human Capital Officer to focus outreach efforts at recruitment events and with organizations (e.g., institutions of higher education, DOD) to help DHS recruit and hire from applicant pools with a deep level and diversity of

talent. The office also continued to provide EEO and diversity training to all headquarters new and existing managers, supervisors, and team leaders to help ensure EEO for all DHS employees and applicants.

The following provides some information on specific activities in which the headquarters EEO Office engaged to promote EEO and diversity:

### **Commitment to Hiring People with Disabilities, including Veterans and Spouses:**

- Participated in National Naval Medical Center briefings for veterans and specifically veterans with disabilities.
- Participated in “Meet the Employer” sessions at various military installations to provide information to potential future DHS applicants.
- Conducted three resume writing workshops, entitled “How to Apply for a Federal Position,” at DHS’s first Annual Veterans Job Fair.
- Briefed military service members at the DOD’s Transition Assistance Program, Family and Fleet Center, highlighting the benefits of Federal jobs; the variety of locations where positions are available; and the DHS headquarters focus on filling mission critical occupations. This event provided service members with an opportunity to explore career options and to obtain information on how to enhance their experience, skills, and marketability. Consequently, DHS headquarters experienced a significant increase in the number of resumes received from existing service members with military intelligence backgrounds.
- Attended the Ft. Meade Career Day Fair to provide information and materials on DHS careers and current employment opportunities.
- Conducted a workshop entitled “How to Find Your Federal Job,” at the American Legion Forum, as part of headquarters EEO Office’s continuing partnership with the American Legion to reach out to veterans. Over 70 attendees, 40 of whom were Wounded Warriors, learned more about the Department and its mission-critical career opportunities.
- Participated in the newly created DHS Veterans Organization Advisory Group. This Group invited various veterans and military service organizations to attend and share in this important endeavor. The goal of the group is to share best practices and coordinate the efforts to increase employment of veterans.

### **Providing Effective and Reasonable Accommodation and Accessibility Services for Individuals with Disabilities:**

- Collaborated with CRCL’s Office of Accessible Systems & Technology to develop a database tracking system for reasonable accommodation requests.
- Provided guidance on standard evacuation procedures for individuals with disabilities and visitors with disabilities located in office buildings within the Washington Metropolitan Area.
- Provided advice and guidance on appropriate language to incorporate within evacuation plans for DHS-leased office space.
- Conducted research with the District of Columbia Office for Emergency Response and the Unified Response Center in order to assist the local first responders with pertinent employee information.
- Facilitated requests for on-call sign language interpreters assigned to assist applicants and employees, and as needed for official functions sponsored by headquarters program offices.

### **Women and Girls Outreach and Training:**

The headquarters EEO Office reviewed policies, procedures, and data to continue identifying and removing barriers to EEO, including to the employment and advancement of women. The headquarters EEO Office also specifically conducted the following outreach and training activities:

- Sponsored the Third Annual DHS Agency Forum during the Federally Employed Women's National Training Program in partnership with other DHS Components.
- Coordinated the Second Annual Women's Leadership Forum for over 150 employees.
- Hosted quarterly Lunch and Learn Programs
- Hosted a series of Women's Leadership Webinars, geared at educating the workforce on leadership skills.
- Conducted outreach at the School of Professional Studies at Trinity University. This was the first in a series of upcoming outreach efforts at local colleges to educate the students on DHS career and student intern opportunities. Following the meeting, headquarters EEO representatives presented an information sharing session to over 40 Master of Business Administration level students.
- Met with representatives of a local middle school in support of the White House Initiative on Women and Girls. Plans are underway to form a partnership between the school, students, and DHS leadership.

### **Equal Employment Opportunity and Anti-Harassment Training**

The headquarters EEO Office delivered training to over 1,000 new employees, providing new employees with information on their rights and responsibilities with respect to applicable EEO laws and regulations, Merit Systems Principles, and the No FEAR Act. Through these training sessions, the headquarters EEO Office also disseminated information regarding the products and services provided by the headquarters EEO Office.

The headquarters EEO Office conducted Anti-Harassment Training for numerous headquarters Components, providing personnel with the most current information on DHS's Anti-Harassment Policy, as well as applicable case law.

## **VI. OFFICE OF ACCESSIBLE SYSTEMS & TECHNOLOGY**

CRCL and the Office of the Chief Information Officer (CIO) continue to work together on the implementation and enforcement throughout the Department of Section 508 of the Rehabilitation Act of 1973, 29 U.S.C. § 794d, as amended by the Workforce Investment Act of 1998, Pub. L. 105-220 (August 7, 1998). CRCL and CIO jointly created the Office of Accessible Systems & Technology (OAST), which is responsible for Department-wide Section 508 compliance.

### **Accessibility Helpdesk**

The DHS Accessibility Helpdesk received 1,164 requests from 17 DHS Components, three government agencies outside of DHS (Veterans Affairs, Office of Personnel Management, and Treasury), and eight public entities. OAST provided assistance in the following areas: Technical Assistance (363), Application Reviews (255), Document Reviews (312), IT Requests (159), Enterprise Architecture Reviews (49), and 504 Reasonable Accommodations (26). Component Section 508 Programs processed an additional 509 Section 508 related technical assistance requests.

## **Document Accessibility**

OAST reviewed and remediated 312 electronic document files including forms, memorandums, informational pamphlets, flyers, and reports, including the DHS Chief Financial Office Congressional Justification Budget document—comprising over 1 500 document pages consisting primarily of spreadsheets. Additionally, OAST trained 213 individuals across DHS on how to create accessible documents.

## **Training**

OAST successfully trained a total of 650 DHS employees during FY 2009 through online, classroom, and one-on-one trainings. Notable training achievements include providing the first teleconference training for employees of the Emergency Management Training Institute and the U.S. Fire Administration in Emmitsburg, Maryland. Additionally, OAST combined the “Web Accessibility” and “Application Testing Process and Tools” trainings into a single training, allowing OAST to maximize training resources while providing participants with additional information over the course of two days.

In August 2009, OAST began providing Section 508 training for the Change Request and Interim Change Control Board (ICCB) Process to Implementation Managers. OAST also created a Short Guide to Section 508 for Change Requests. OAST provided the guide to the Configuration Branch to be incorporated into the ICCB Handbook. OAST also converted to training for the Implementation Managers. To date, OAST has trained 90 personnel in the Implementation Managers and 20 on the ICCB process.

## **Web and Application Accessibility Assessments**

OAST evaluates DHS web sites quarterly for accessibility. In FY 2009, the list included 123 URLs and 256,144 pages; accessibility improved 15 percent compared to FY 2008. Overall, by the end of FY 2009, DHS website accessibility had improved 50 percent since the first evaluation conducted in FY 2007. Components that continued to receive perfect website accessibility scores included ICE, USSS, National Protection and Programs Directorate (NPPD), and USCIS. OAST continues to work with Components to identify non-compliant sites and to provide remediation assistance to ensure Section 508 compliance.

OAST evaluated 94 Web applications for accessibility. Of those evaluated, 65 applications failed for Section 508 compliance and needed remediation, which was successfully completed. OAST also evaluated 161 Commercial-Off-the-Shelf products for Section 508 compliance. Of those evaluated, 80 passed, 53 passed with exceptions, and 28 applications failed and were not allowed on the network.

Additionally, OAST initiated a pilot of server-based testing tools for Microsoft SharePoint and supplemented existing workstation tools; pilot tested NetCentric’s Enterprise Compliance Management Framework, an automated testing tool that scans non-HTML content for accessibility; and coordinated successful Section 508 compliance remediation of major IT projects with several Components (Electronic System for Travel Authorization, Secure Flight, and Idea Factory).

## **Compliance Reviews**

OAST processed 49 Enterprise Architecture Reviews comprising 34 Technical Insertions and 15 Program Alignments. OAST personnel also reviewed 434 acquisition packages for Section 508 compliance totaling over \$3.87 billion. During the fourth quarter of FY 2009, OAST created, vetted, and posted online standardized Section 508 related Exceptions forms. These forms will streamline the exception application process and allow for better visibility and tracking of exceptions.



## **Outreach**

OAST staff participated in various outreach activities throughout the year. Highlights include:

- Assisted the USCG Section 508 Coordinator at the USCG Innovation Conference. (Virginia Beach, Virginia)
- Attended a meeting with Kareem Dale, Special Assistant to the President on Disability Policy, along with Section 508 representatives from GSA, the Internal Revenue Service, and Social Security, to ensure accessibility is integrated into the White House's information technology policy. (Washington, D.C.)
- Developed several promotional materials to highlight accessibility at DHS.
- Participated on the US Access Board's Telecommunications and Electronic Information Technology Advisory Committee and the subsequent Information and Communication Technology Ad Hoc Committee responsible for drafting the next generation Section 508 Accessibility Technical Standards. The draft standards are now being prepared for vetting and issuance of a Notice of Proposed Rulemaking. (Washington, D.C.)

## VII. CONCLUSION

Office for Civil Rights and Civil Liberties employees work with dedication and vigor each day to protect homeland security and the civil rights and civil liberties that form a crucial part of our Nation's way of life. For more information, including prior quarterly and annual reports, Congressional testimony, training materials, civil rights and civil liberties impact assessments, and many other items, see the Office's website, at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

## APPENDIX A: ACRONYMS

BRIC	Boston Regional Intelligence Center
CBP	U.S. Customs and Border Protection
CNCI	Comprehensive National Cybersecurity Initiative
CRCL	Office for Civil Rights and Civil Liberties
CPG	Comprehensive Planning Guide
DHS	Department of Homeland Security
DIHS	Division of Immigration Health Services
DOD	Department of Defense
DOJ	Department of Justice
DRO	Office of Detention and Removal Operations
DVAAP	Disabled Veterans Affirmative Action Program
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
EFSP	Emergency Food and Shelter Program
EO	Executive Order
FA	Final Action
FAST	Future Attributes Screening Technology
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FEORP	Federal Equal Opportunity Recruitment Program
FPS	Federal Protective Service
FLETC	Federal Law Enforcement Training Center
GAO	Government Accountability Office
GSA	General Services Administration
HBCU	Historically Black College and University
HHMD	Hand-held Metal Detector
IA	Internal Affairs
I&A	Office of Intelligence & Analysis
ICC	Interagency Coordinating Council
ICCB	Interim Change Control Board
ICE	U.S. Immigration and Customs Enforcement
IPT	Integrated Project Teams
IRTPA	Intelligence Reform and Terrorism Prevention Act of 2004
ISCC	Information Sharing Coordinating Council
ISE	Information Sharing Environment
IWR	Immigrant Worker Roundtable
JCG	Joint Contact Group
MCAC	The Maryland Coordination and Analysis Center
NIISO	National Immigration Information Sharing Operation
NPPD	National Protection and Programs Directorate
NSI	National Security Internship
OAST	Office of Accessible Systems & Technology
OPM	Office of Personnel Management
OPR	Office of Professional Responsibility
ORR	Office of Refugee Resettlement
OWP	Operation Warfighter Program
PI	Pandemic Influenza
SCG	Security Cooperation Group

SENTRI	Secure Electronic Network for Travelers Rapid Inspection
TCU	Tribal Colleges and Universities
TOT	Training of Trainers
TRIP	Travel Redress Inquiry Program
TSA	Transportation Security Administration
UK	United Kingdom
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
USSS	U.S. Secret Service
VA	Department of Veterans Affairs
VAWA	Violence Against Women Act

## APPENDIX B: CLOSED RETAINED COMPLAINT SUMMARIES

This appendix summarizes all investigations completed by CRCL during FY 2009. (Appendix C summarizes the complaints closed during FY 2009 that CRCL had referred to Components for fact investigation.) The number of items in these lists does not match the number of retained complaints listed in Table 3 because some complaints were consolidated for investigation, due to similarities in the nature of the allegations and/or location of the incidents. Additional information about a few of these complaints is highlighted in Part IV above.

### CBP

- 1. Allegation of Disability Discrimination by CBP Officer at Virginia Airport:** An individual who used a wheelchair alleged in January 2007 that CBP officers discriminated against him on the basis of disability during his airport screening in September 2006, by failing to provide a requested accommodation. In its findings, made in July 2009, CRCL did not find discrimination, but provided technical assistance and encouraged CBP to ensure that during the course of screening, persons with disabilities are accommodated to the extent possible.
- 2. Allegation of Disability Discrimination at Two California Ports of Entry:** Two individuals, who had physical conditions preventing them from standing for long periods of time, were required in August 2006 and August 2007, respectively, to stand in line for an extended period while seeking admission to the United States. Both complaints, filed several months after the incidents, alleged a failure by CBP to provide accommodations required under Section 504 of the Rehabilitation Act of 1973, as amended. CRCL concluded in November 2008 and February 2009 that there had indeed been a failure to provide reasonable accommodations. CBP responded with an action plan based on CRCL recommendations, to ensure equal access for travelers with disabilities at the two ports of entry, such as installing new benches, new signage, and accessible water fountains and restrooms. CBP also instituted training for all supervisory CBP officers on providing reasonable accommodations and issued a directive with specific guidance on processing individuals with health concerns and/or disabilities that may impact the clearance process.
- 3. Allegation of Disability Discrimination at a California Port of Entry:** A person who was hearing-impaired, mute, and illiterate alleged disability discrimination by CBP during her inspection exam in 2003 because CBP relied on her 11-year-old son for interpretation rather than providing a qualified Mexican sign language interpreter. The complaint was filed in 2004. CRCL concluded in February 2009 that CBP had not discriminated under Section 504. Although CBP should make all attempts to avoid this practice, the son in this case provided an effective means of communicating.
- 4. Screening of Traveler Returning from Religious Pilgrimage:** A Muslim traveler alleged that he was racially/religiously profiled by CBP as he was returning in December 2005 from the Hajj religious pilgrimage in Saudi Arabia. Individual circumstances called for secondary screening under standard operating procedures. CRCL therefore concluded in November 2008 that CBP actions did not discriminate against the complainant but recommended that CBP continue its efforts to promote policies and training of DHS officers regarding the Hajj.
- 5. Allegation of National Origin Discrimination Along the Southwest Border:** Eight U.S. citizens born in India, Egypt, Morocco, Libya, Lebanon, and Jordan alleged discrimination based on national origin after CBP referred them for secondary screening in 2004 and 2005 at two different land

border ports of entry. In addition, six of the eight complainants complained that they were inappropriately fingerprinted and photographed. On investigation, CRCL determined that the fingerprinting and photographs were improper under extant CBP policy, and recommended in August 2009 that CBP re-emphasize current policies and procedures regarding photographing and fingerprinting of U.S. citizens in the two field offices mentioned in the complaints. CBP agreed to do so. CRCL also concluded that the referrals occurred solely because of the citizens' country of birth; the referrals complied with written DHS policies and extant procedures, but not with the verbal descriptions of policy provided by CBP headquarters. Subsequent CBP policy development has clarified the matter; U.S. citizens' country of birth may not be the sole reason for a referral to secondary screening, and any use of country of birth as relevant in the screening process is required to be based on recent intelligence, reviewed regularly both by CBP and CRCL.

## ICE

6. ***Allegation of Disability Discrimination by FPS:*** The complainant, who was removed from USCIS offices in August 2004 due to the presence of a service dog, alleged that an FPS area commander threatened to take away her driver's license and discriminated against her based on disability. CRCL concluded in December 2008 that the complainant did not have a disability, and therefore that neither USCIS nor FPS (then a part of ICE) discriminated in violation of Section 504 of the Rehabilitation Act.
7. ***Allegation of Disability Discrimination at ICE Detention Facilities:*** In three separate matters filed between 2005 and 2007, deaf complainants alleged that officials at their ICE detention facilities inappropriately limited their use of TTY devices to less than 10-20 minutes at a time. One of the complainants also alleged that ICE failed to provide a sign language interpreter during medical visits. CRCL made recommendations to ICE between December 2008 and June 2009 with regard to enhancing communications with detainees who are deaf or hard of hearing and ensuring the adequacy of TTY access and medical care. ICE subsequently notified all field offices regarding appropriate TTY access for deaf detainees.
8. ***Allegation of Disability Discrimination at ICE Detention Facility:*** A hearing-impaired detainee alleged in February 2006 that ICE discriminated based on disability by refusing to repair his broken hearing aids. Because there was no legitimate penological reason for ICE not to repair the hearing aid, CRCL concluded in August 2009 that ICE had violated Section 504 and recommended procedures to ensure the maintenance and replacement of hearing aids and other assistive devices for detainees who are hearing-impaired. New ICE policy now allows detainees to receive hearing aids when prescribed by a treating professional, and as a part of ICE's broad detention reform efforts, ICE has also been working on other initiatives that will more effectively meet the needs of detainees who require assistive devices.
9. ***Conditions of Detention in Alabama:*** CRCL consolidated into one investigation 16 conditions of detention complaints from a particular Alabama county jail. The complaints were filed between November 2005 and March 2006. CRCL concluded in November 2008 that the allegations of civil rights violations relating to medical care, food service, retaliation, correspondence, and other mail were unsubstantiated. However, CRCL found merit in the complaints and made recommendations to ICE regarding: access to legal materials; recreation; religious practices; exchange of clothing; voluntary work program; and telephone access. ICE no longer uses this facility; in addition, the draft 2010 Performance Based National Detention Standards address many of the issues brought up in this investigation.

**10. Conditions of Detention in Florida:** CRCL received several complaints in 2007 and 2008 relating to conditions of detention at a county jail in Florida. Among other issues, detainees alleged inadequate medical care and improper use of force, especially use of TASER devices. Shortly after the complaint was filed, the county sheriff issued a new policy prohibiting the use of TASERs at the facility. Following an on-site investigation, in June 2009 CRCL found non-compliance with detention standards in a number of areas, including the provision of medical care, and also communicated concerns related to other issues such as environmental health and safety. The Florida jail has since been inspected by ICE and rated “acceptable”; CRCL is working with ICE on its medical evaluations, to ensure that inspections examine quality of care as well as technical compliance with standards on policies and procedures.

**11. Conditions of Detention in Alabama:** Seven ICE detainees complained of poor conditions of detention while in an ICE-contracted detention facility, including mistreatment by corrections officials. One detainee alleged he had been sexually assaulted by another detainee. The complaints were filed between September 2006 and January 2008. CRCL concluded in several reports written between November 2008 and July 2009 that the facility had sound practices in place in the areas of recreation, grievance procedures, and classification; however, deficiencies were evident in medical care, food service, use of force, and staff-detainee communication. CRCL also concluded that appropriate procedures were used to separate the aggressor from the victim in the sexual assault matter. Policy improvements in the areas with deficits will be accomplished through the 2010 Performance Based National Detention Standards, and ICE has substantially augmented monitoring of this and other facilities.

**12. Conditions of Detention in Washington State:** Two ICE detainees made a number of allegations against personnel at a detention center in Washington State including inferior conditions, mistreatment, harassment, retaliation, religious discrimination, and denial of access to religion. The complaints were filed in December 2006 and February 2007, respectively. CRCL did not substantiate the specific allegations; however, after an on-site review, CRCL in June 2009 made wide-ranging recommendations regarding such issues as staff-detainee communication, the grievance process, visitation, clothing, and onsite monitoring and reporting. ICE and the detention center have resolved many of the issues raised by the complaints and implemented CRCL’s recommendations.

**13. Conditions of Detention in Wisconsin:** In February 2006, an ICE detainee alleged sexual abuse and harassment by non-ICE female inmates with whom she was housed in a county jail. While CRCL did not substantiate the allegations, CRCL recommended in February 2009 that ICE ensure proper distribution of its detention standards on sexual abuse and assault prevention and on intervention to the jail employees and contractors, and that the detainee handbook be revised to clarify the grievance appeals process. ICE has since posted sexual assault prevention awareness information in each of the units that house ICE detainees. The jail’s Inmate Handbook has been revised to explain grievance procedures more fully.

**14. Medical Care for ICE Detainee:** A complainant detained at two local detention centers in Texas alleged harassment, mistreatment, and improper medical treatment by a medical provider in February 2007. The complaint was filed in June 2007 and closed in April 2009. CRCL concluded that the detainee may not have received appropriate follow-up diagnostics or a reasonable degree of privacy. CRCL recommended that ICE conduct a review of the clinical director and the facility’s management of detainee medical care requests, in addition to ensuring timely follow-up care, necessary diagnostics and privacy during assessments and continuum of care after transfers. In response, ICE reported that the Division of Immigration Health Services (DIHS) began recruiting

additional primary care physicians, psychiatrists, dentists, mid-level providers, social workers, and pharmacists for the detention facilities in question.

- 15. *Entry by ICE Agents:*** In August 2007, a complainant alleged that ICE agents abused her brother-in-law's civil rights by threatening to forcefully enter their Connecticut home and then apprehending him inside. Although the investigation did not substantiate the forced entry allegations, a local police officer's statement while seeking entry, that law enforcement had a warrant, was misleading. CRCL concluded in June 2009 that the arrest operation was valid, as was the search; although ICE had failed to obtain a search or arrest warrant, the officers obtained consent prior to entering the house. CRCL emphasized the importance of ICE's extant policy that ICE Fugitive Operations Teams obtain a signed I-205 Warrant of Removal/Deportation prior to entering private residences.
- 16. *Entry by ICE Agents:*** A complainant alleged in November 2007 that ICE agents and local police, in search of a suspected illegal alien at a private residence in June of that year, violated the Fourth Amendment; targeted the family based upon its Arab-American, Muslim, and Syrian ancestry; were threatening and disrespectful; and failed to disclose their identity. CRCL concluded in September 2009 that consent to enter the home was granted, and that the ICE operation was valid and not conducted based on race or ethnicity. Whether the consent was revoked and whether some type of search of the home occurred were unresolved questions, and the allegation of a Fourth Amendment violation could not be resolved due to conflicting accounts of available witnesses. CRCL provided several procedural and behavioral recommendations to ICE to help avoid future incidents during similar operations.
- 17. *FPS Guard "Uniform and Grooming Policy" (Religious Discrimination):*** In separate complaints filed in November 2005 and January 2006, respectively, two FPS contract guards alleged religious discrimination because FPS policy prohibited guards from wearing their beards or turbans. A Sikh American guard was dismissed for wearing a turban, and a Muslim American was regularly sent home because he had a beard. CRCL concluded in November 2008 that these FPS policies were inappropriate. As a result, FPS has released an updated "Uniform and Grooming Policy" that requires reasonable accommodations for religious practices of contract security guards.
- 18. *Treatment of Unaccompanied Minors in Texas:*** A complaint alleged in December 2007 that a seven-year-old girl was forcibly separated from her mother in October of that year when ICE transferred the mother to another facility, leaving the child without parental supervision for three to four days. As a result of CRCL's inquiry and ICE DRO's responsiveness and cooperation, DRO leadership agreed to make appropriate changes to policy on the separation of families, provide guidance to the field, and initiate training for employees of family detention facilities regarding the separation of families in detention and the inherent civil rights and civil liberties concerns. Subsequently, in June 2009, CRCL closed this complaint.

## TSA

**Reasonable Accommodation during TSA Airport Screening:** An individual who used a wheelchair argued that her pat down during airport screening in February 2008 constituted disability discrimination. CRCL concluded in July 2009 that the screening methods used were reasonable, and that TSA did not discriminate based on disability.

- 19. *Search of Airline Passenger:*** A passenger alleged that TSA subjected her to an inappropriate strip search in March 2008 after her titanium hip implant triggered the walk-through metal detector. CRCL, with the assistance of TSA's Office of Civil Rights and Liberties, concluded in December 2008 that TSA employees failed to follow standard operating procedures for screening, and that the strip



search violated the passenger's rights. CRCL made a number of recommendations to TSA relating to reevaluating its standard operating procedures (SOPs) and training. TSA addressed the concerns by briefing staff on improved communication and screening of passengers with disabilities. Additionally, under its new SOPs, TSA now provides more and more consistent information to travelers about what to expect while undergoing security screening.

**20. *Treatment of a Passenger during Airport Screening:*** A couple alleged in August 2006 that their daughter was treated in an inappropriate manner by TSA officials during screening at a Montana airport. They alleged that she was the subject of invasive searches, inappropriate questioning and unexplained detention by TSA officials and city police officers, causing her to miss her flight. CRCL's resulting investigation found that TSA had discovered a double-edged knife in the daughter's carry-on bag, which prompted her referral to secondary screening and the subsequent interview by law enforcement officers. As a result, the complainants requested in December 2008 that CRCL cease any further processing of the complaint.

## Multi-Component

**21. *Treatment of Unaccompanied Minors along Texas Border:*** An unaccompanied El Salvadoran 17-year-old male alleged in July 2006 that he was abused by CBP and Border Patrol agents en route to a checkpoint in the Rio Grande Valley and faced poor conditions of detention in an ICE facility for several days. In a report finalized in November 2008, CRCL identified several concerns regarding the use of seatbelts during transport, inadequate hold room conditions, and other indicators that CBP and ICE did not comply with DHS standards governing the treatment of minors. In response to a draft of CRCL's report in this matter and others, CBP issued a comprehensive hold room policy in June 2008, which improves policy relating to the treatment of minors. In addition, whenever possible, minors are now given seatbelts.

**22. *Treatment by CBP Officers and ICE Agents:*** A photography student who took photographs of canal locks in Washington State in May 2004 alleged two months later that DHS officers abused his civil liberties and engaged in racial profiling. While privacy concerns were raised because the ICE agent photographed the student during the incident, CRCL concluded in February 2009 that both CBP and ICE followed appropriate procedures in approaching and interviewing the complainant, and the racial profiling allegation was not substantiated.

**24. *Traveler's Treatment by CBP and ICE:*** In March 2007, a complainant was denied entry into the United States and held in ICE custody for several days before being removed. She alleged eight months later that she was subjected to a strip search and verbal abuse involving sexual content by male jail officers. CRCL concluded in May 2009 that CBP followed appropriate protocols in inspecting her and transferring her to ICE custody. However, the strip search was unwarranted and violated ICE detention standards; more generally, a lack of personal privacy was evident among female detainees at the detention facility. CRCL recommended that ICE distribute training materials (already developed by CRCL) relating to religious head coverings; review the detention facility's compliance with strip search policies; and ensure that female detainees housed at the jail in question be provided with appropriate clothing upon intake. ICE agreed and carried out all these recommendations.

## APPENDIX C: CLOSED REFERRED COMPLAINT SUMMARIES

This appendix summarizes the complaints CRCL closed during FY 2009 that had been referred to Components for fact investigation. (Appendix B summarizes all matters that were retained by CRCL for investigation and closed during FY 2009.) The number of items in these lists does not match the number of referred complaints listed in Table 3, because some complaints were consolidated for investigation, due to similarities in the nature of the allegations and/or location of the incidents. Additional information about a few of these complaints is highlighted in Part IV, above.

### CBP

- 1. *Treatment at the Texas Border:*** A person seeking to enter the United States in October 2008 alleged verbal and physical abuse by CBP officers. He also asserted that concerns for his safety were disregarded, and that CBP offered him a polygraph exam without providing him an opportunity to obtain legal representation. The complaint was referred to CBP, and investigated by its Office of Internal Affairs (IA); that investigation revealed that CBP had opened an investigation of the complainant prior to the border crossing in question, and that the complainant was offered the option to submit to a polygraph exam during the course of the initial investigation. CRCL recommended in September 2009 that in the future: (1) CBP contact CRCL prior to offering a polygraph exam to an individual with an open CRCL complaint; and (2) if a polygraph is offered, CBP communicate that the exam is voluntary and the result of an ongoing CBP IA investigation. CBP agreed, and is currently drafting policy sensitive to these concerns.
- 2. *Treatment at a Washington State Port of Entry:*** An individual entering the United States from Canada in November 2008 alleged, in a complaint filed four months later, that he was verbally abused and threatened with imprisonment and physical violence by a CBP officer and subsequently denied admission to the United States. In addition, the complainant alleged an officer shouted at him when he went to retrieve his heart medication. CRCL referred the case to CBP, which found on review that the complainant was properly refused entry but was unable to substantiate the individual's allegations. Both CBP and CRCL provided the complainant information on reapplying for entry through the U.S. Embassy or Consulate and closed the matter in May 2009.
- 3. *Treatment by CBP Officers at Michigan Port of Entry:*** A person seeking entry into the United States in April 2008 alleged that he was inappropriately handcuffed, searched thoroughly, fingerprinted, and photographed by CBP officers. CBP investigated and reported that the complainant was processed in compliance with CBP policies and procedures; the matter was closed November 2008.
- 4. *Treatment at a California Airport:*** A passenger using a walker alleged in September 2008 that a CBP officer treated him disrespectfully and failed to adhere to DHS policies regarding screening people with disabilities. Upon referral, CBP's investigation found that this passenger did not request assistance or use the lanes set aside for people with special needs. CBP encouraged the complainant to consider using these lanes, which are staffed by specialized personnel, in the future. CBP also concluded that the behavior of the officer in question was unacceptable, and took appropriate remedial actions. The matter was closed in June 2009.
- 5. *Treatment at a Texas Airport:*** A passenger arriving from South Asia in July 2008 alleged, in a complaint filed a few months later, that CBP officers discriminated against him and treated him harshly and disrespectfully as he arrived by airplane at the Port of Entry. The CBP Service Port Director investigated the incident and concluded that the allegations were unfounded, and that there

was no evidence of improper actions or abuse of authority by the officers; CRCL closed the matter in May 2009.

- 6. *Treatment by CBP Officers on a Bus at the Vermont Border:*** A lawful permanent resident alleged racial discrimination by CBP officers during a bus border crossing from Canada in May 2008. She claimed the four or five African-American passengers were questioned extensively and sent inside the building, and that the white passengers were treated better. Following CRCL's referral to CBP, the Acting Area Port Director investigated the incident and concluded that the allegations were unfounded. Follow-up questions are commonly asked of passengers with visas, and I-94s are only processed inside the building. Nevertheless, as a result of this complaint, CBP reminded the officer in question that he must conduct inspections in a professional manner at all times, and reissued the instructions to all Area Port employees. CRCL closed this matter in November 2008.
- 7. *Treatment at a California Port of Entry:*** An individual alleged in April 2009 that he was the subject of an interview by CBP personnel because of his national origin. Upon investigation, CRCL found some lack of clarity in the standard operating procedures under which the complainant had been referred to secondary screening, and recommended clarification and training; CBP agreed.
- 8. *Treatment by CBP Officers at a California Port of Entry:*** The complainant alleged in June 2007 that he was mistreated by CBP officers in February 2007 when he applied for asylum based on his sexual orientation and HIV status. He stated that the inspectors refused to process him and told him to apply for asylum back at the U.S. Consulate in Mexico. CBP Internal Affairs investigated and found that asylum procedures were not properly followed. As a result, CBP reissued a memorandum to port directors in the San Diego Field Office regarding appropriate processing and referral to a credible fear interview. In addition, a muster topic was developed for all CBP officers on their responsibilities for processing of individuals requesting asylum or expressing a fear of persecution. CBP also reported to CRCL on the use of language services, oversight mechanisms, and specific training, mentoring, and quality assurance programs in place at the Port of Entry. The complaint was closed in June 2009.
- 9. *Treatment at a New Mexico Border Patrol Station:*** A U.S. citizen alleged in April 2009 that two Border Patrol agents harassed and discriminated against her based on her accent when they asked her improper questions and directed her to secondary screening at a Border Patrol checkpoint in June 2008. Following the referral from CRCL, CBP investigated and found that the Border Patrol agents had acted in accordance with CBP policies and procedures. CRCL closed the matter in August 2009.
- 10. *Treatment by CBP Officers at Airports in California, New York and New Jersey:*** A U.S. citizen seeking admission into the United States alleged in July 2008 that she had been subjected to increased scrutiny and dehumanizing treatment. She also claimed that the officers were rude and disrespectful to her mother when she stopped to rest. CBP investigated and found that the complainant's inspection was conducted in accordance with current CBP policies and procedures. Further, CBP reported that the complainant and her mother were treated with respect and professionalism throughout their inspection. Relevant concerns regarding misidentification were addressed using DHS TRIP, and CRCL closed the matter in August 2009.
- 11. *Treatment by CBP Officers at a Virginia Airport:*** An individual alleged ethnicity-based discrimination and mistreatment of her elderly parents in July 2008. She claimed that, prior to issuance of their visas, her parents were detained for three hours at an airport without explanation, access to interpreters, or a place to sit and rest. Upon referral, CBP investigated and found that the couple was properly referred to secondary screening. Due to the volume at the airport, delays on the day in question were lengthy, but a records review demonstrated that referrals were processed in the

order received. It was unclear why the couple was unable to be seated, as this airport had adequate seating available. CBP found no evidence of mistreatment based on ethnicity. CRCL provided DHS TRIP information to the complainant in the event that her parents wished to seek resolution of screening issues in the future and closed the matter in February 2009.

- 12. *Treatment by CBP Officers at a Minnesota Airport:*** A U.S. citizen filed a complaint in October 2008 on behalf of a woman seeking admission to the United States alleging that the traveler was detained and interrogated by CBP officers, denied medical attention, refused contact with her embassy, threatened with incarceration, and deported. Upon referral, the incident was investigated by the regional CBP Director of Field Operations. The investigation found that the complainant had made numerous misleading statements under oath to CBP officers. The threat of incarceration is an inherent part of informing individuals of the possibility of prosecution for perjury. Regarding the request for embassy contact, CBP policy does not allow for contact with third parties during inspection and processing; however an individual deemed inadmissible may contact a third party, and there was no record that the individual made a request to make a phone call at that time. CBP directed the traveler to her U.S. Consulate to apply for admission with a valid visa; CRCL closed the matter in April 2009.
- 13. *Treatment by CBP Officers at a Minnesota Airport:*** The complainant, formerly a lawful permanent resident, alleged in November 2008 that CBP officers coerced him into signing Form I-407 (Abandonment of Lawful Resident Status form), and that he did not fully understand the conversation because he was not afforded the services of a translator or legal counsel. CBP investigated and found that, during his secondary inspection, the complainant never indicated that he did not understand the CBP officer or the forms provided, nor did he request a translator. According to CBP's investigation, the complainant abandoned his LPR status voluntarily and without coercion. CRCL closed the matter in July 2009.
- 14. *Treatment by CBP Officers at a Michigan Port of Entry:*** A man alleged in February 2009 that when he arrived at a Michigan Port of Entry, 20 CBP officers pointed guns and threatened him if he moved. He further alleged that he was handcuffed, escorted inside the Port of Entry, imprisoned, and then released following his fingerprinting and photographs. CBP's regional Director of Field Operations investigated and found that the complainant's name query resulted in a misidentification. Appropriate steps had been taken to ensure that the misidentification did not recur. CBP's investigation concluded that officers properly followed DHS policies and procedures, appropriately referred the complainant to secondary screening, conducted the inspection with professionalism, treated the complainant and his family with respect, and never used unnecessary force or techniques to intentionally cause humiliation or distress. CRCL closed the matter in September 2009.
- 15. *Treatment by CBP Officers at a Florida Airport:*** A man seeking admission to the United States alleged in January 2009 that CBP held him without reason in an uncomfortable small room with unsanitary restrooms and cold temperatures for 11 hours, half of that time without food. In addition, the complainant alleged that he could not eat because he was Muslim and was not offered halal food. CBP's investigation found that extended secondary inspection was appropriate due to individual circumstances which took some time to evaluate. CBP found that the complainant was approached several times by staff, and food and water were offered to him, but he never expressed that he was hungry, thirsty, or uncomfortable. CRCL closed the matter in June 2009.
- 16. *Treatment of an Unaccompanied Minor by Border Patrol Agents at a California Port of Entry:*** An unaccompanied 12-year-old girl alleged in September 2007 that she was placed into a van with 17 undocumented aliens, and that she was terrified when Border Patrol agents held a gun to the heads of the driver and a passenger. She also alleged that she and the other 17 individuals had their hair

pulled by agents as they were pulled from the van. Upon referral from CRCL, CBP IA's investigation, which included sworn affidavits from the agents involved, found that the allegations were unsubstantiated; all 18 of the individuals were apprehended without incident. The matter was closed October 2008.

- 17. *Treatment of an Unaccompanied Minor by Border Patrol Agents on the Texas Border:*** An unaccompanied minor illegal alien alleged in September 2007 that he was handcuffed to a pole with his arms elevated, deprived of his personal property (which was never returned), and verbally and physically assaulted, requiring hospitalization. In its investigation of the matter, CBP Office of Internal Affairs found that the complainant's only documented medical complaint involved a sore throat, and that he showed no signs of trauma, bruises, or lesions. According to CBP, the minor's personal property was turned over to his sister. The matter was closed February 2009.
- 18. *Treatment of an Unaccompanied Minor by Border Patrol Agents on the Texas Border:*** An unaccompanied minor alleged in October 2008 that during an apprehension, Border Patrol agents fired a gun to get him to stop running and placed him in handcuffs that were so tight that they numbed his hand. In addition, he complained that he was not provided food or water for five hours at the Border Patrol station, and two agents insulted him and other aliens by calling them derogatory names. The sector evidence team investigated and found no evidence to support the allegations. The minor was being held at the Border Patrol station for less than 28 hours, and all detainees were provided with food and water upon their arrival. A new computer-based detention logging system is now in place at the facility. The matter was closed April 2009.
- 19. *Treatment of an Unaccompanied Minor by a Border Patrol Agent in Texas:*** In March 2008, an unaccompanied minor alleged that an agent dressed in civilian clothing questioned the minor in his office about being a smuggler, using abusive methods. The minor also alleged that he was provided with only "water and cookies" while other detainees received "real food on a tray." CRCL referred the complaint to CBP IA, which investigated and found that the minor, who was arrested on a beach in California, had been previously apprehended 14 times and was previously identified as an alien smuggler foot guide. No evidence was found to substantiate the claim of abusive interrogation. The matter was closed January 2009.
- 20. *Treatment of an Unaccompanied Minor by a Border Patrol Agent on the Texas Border:*** A juvenile alleged in January 2008 that he was "hit by the police on the head" with a gun while trying to cross the border from the United States into Mexico in November 2007. The minor reported that he was still experiencing headaches as a result. Following referral by CRCL, CBP's Sector Evidence Team conducted an investigation, which included interviews of Border Patrol agents under oath. No evidence was found to support the allegations and the matter was closed October 2008.
- 21. *Treatment by Border Patrol Agent on the Texas Border:*** An unaccompanied minor alleged in February 2009 that during an arrest, a Border Patrol agent threatened to harm him if he did not give him money, so the minor agreed to give the agent several hundred dollars in return for being released. Upon referral, CBP investigated and was unable to substantiate the allegation; the agent named by the minor was on duty in another state on the date of the alleged incident. As a result, CRCL closed the complaint in June 2009.
- 22. *Alleged Incident by Border Patrol Agents on the Texas Border:*** An unaccompanied minor alleged in December 2008 that when he and his brother were intercepted after crossing the Texas Border, his brother fled and was shot and killed by Border Patrol agents in July 2008. In addition, the minor alleged that agents threatened him and caused him to fear that he would also be harmed. CBP IA investigated and found no substantiation for the allegations, which may have been related to

psychological delusions. A search for information was conducted regarding the shooting allegations using the Integrated Computer Assisted Detection database; and there were no documented incidents such as shots fired, deaths, or a response by emergency medical services on the date of the minor's apprehension. The matter was closed in May 2009.

**23. *Treatment of an Unaccompanied Minor:*** An unaccompanied female minor reported in October 2007 that a male Border Patrol agent made inappropriate advances and comments, making her feel uncomfortable. The CBP Sector's Internal Affairs Office investigated and obtained a sworn statement from the agent, who did not recall the incident; the minor's apprehension had occurred six months prior. Noting that the agent had no history of disciplinary actions in his career, and the minor had not complained while at the Border Patrol station or during the transfer, CBP concluded in December 2008 that there was insufficient evidence to support the allegations, and CRCL closed the matter.

**24. *Treatment of an Unaccompanied Minor in Arizona:*** A complaint, filed in March 2008 on behalf of an unaccompanied juvenile in Border Patrol custody along the Arizona Border, alleged that the minor had been in custody for two days the month before but received only crackers and juice, once daily. Upon referral by CRCL, CBP conducted an investigation and submitted an Administrative Inquiry Report from the Sector Investigations Team, which found that due to transportation issues and limited bed space with HHS/ORR in the sector, the minor necessarily remained in Border Patrol custody for two days until an ORR shelter bed was available for the minor's placement. At the station, the feeding logs could not be located, but since that time, meals have been enhanced for all aliens, and the station has implemented a computer tracking system to keep more accurate records of meals and other items. The matter was closed October 2008.

**25. *Treatment of an Unaccompanied Minor in Arizona:*** An unaccompanied minor being held at a Department of Health and Human Services/Office of Refugee Resettlement (HHS/ORR) shelter for unaccompanied minors alleged in June 2008 that Border Patrol did not provide him with adequate medical care when he reported stomach pain and asked for medication in April of that year. According to the minor, the officers responded that he did not have the right to request medicine, and his request was denied. The pain eventually subsided, and the individual was transferred to the HHS/ORR facility the next day. CBP IA investigated, was unable to substantiate the allegations; the matter was closed in January 2009.

**26. *Treatment of an Unaccompanied Minor by Border Patrol Agents on the Arizona Border:*** A minor female detainee alleged in November 2007 that she was ordered to lie face down on the floor with her hands behind her neck by Border Patrol agents, was kicked in the face, and was subjected to an unduly intrusive search by a female officer who touched her breast inappropriately. The complainant was apprehended as she attempted to hide along with 41 illegal aliens in a home being used for human smuggling operations. The Sector Investigations Team investigated the matter and did not find witnesses to support the minor's allegations regarding being kicked in the face. One agent indicated that the search was chaotic, and it was quite possible that the complainant was inadvertently kicked in the head by either an agent or other aliens who were lying on the floor. According to CBP, none of the people interviewed by the Special Response Team described abuse or mistreatment. CBP was also unable to substantiate the allegation of inappropriate search technique. The matter was closed in October 2008.

**27. *Treatment of Unaccompanied Minors by Border Patrol Agents on the Arizona Border:*** Three unaccompanied juveniles, in separate complaints filed in November 2007 and June 2008, made allegations of physical abuse by Border Patrol agents. One of the complainants alleged that the agent struck him in his side and held a gun to his head during an apprehension. The second alleged that he was slammed against a wall and door several times. The third minor alleged that after running

and falling to the ground during an apprehension, an agent kicked him in the head several times and pulled him off the ground by his shirt collar. Upon referral by CRCL, CBP IA investigated, did not substantiate any abuse; CRCL closed the cases in October 2008, December 2008, and March 2009, respectively.

**28. *Treatment of Unaccompanied Minors by Border Patrol Agents along the Arizona Border:*** Two unaccompanied minors alleged that they were physically and verbally abused during their March 2008 arrest by Border Patrol agents on horseback and four-wheel vehicles. Both minors also alleged that they were denied appropriate food and bedding at a Border Patrol station and that they were forced to sign documents that they did not understand and that were not explained to them. By the time of the investigation by CBP IA, none of the agents involved could recall the circumstances surrounding the apprehension of the group including the two minors. None of the complaints could be substantiated. The station established a cleaning contract for blankets prior to the closing of this case in June 2009.

**29. *Treatment of an Unaccompanied Minor on the Arizona Border:*** An unaccompanied minor alleged in February 2008 that a Border Patrol canine chased her, dragged her down, and bit into her backpack during her apprehension. In addition, she alleged that she was fed only juice and crackers for three days while in Border Patrol custody. CBP found no evidence to support the allegation that canines were used during the complainant's apprehension. Regarding the feeding allegation, CBP found that the minor was fed at least four times while in Border Patrol custody. At the time of the incident, the relevant Border Patrol Station did not have feeding logs, but electronic logs have since been established at CRCL's urging. The matter was closed in October 2008.

## FEMA

**30. *Treatment by FEMA Personnel:*** In June 2006, A Florida resident alleged that FEMA discriminated based on race in the distribution of disaster assistance funds under the Stafford Act, when officials refused to reimburse her for a generator she had purchased. However, FEMA subsequently granted the requested reimbursement; therefore, after the referral by CRCL, FEMA OER found no evidence that assistance was withheld in a discriminatory manner. CRCL closed the matter in March 2009.

## ICE

**31. *Conditions of Detention at a Virginia Regional Jail:*** The complainant alleged in June 2008 that ICE detainees were mistreated and were denied recreation and locked down for extended periods of time in April 2008, and that jail officials failed to respond to detainee requests and were inaccessible at night and during emergencies. ICE Office of Professional Responsibility (OPR) concluded that each of the allegations was unfounded except that the facility had failed to provide appropriate opportunity to exercise on a number of occasions due to staff shortages. After CRCL closed the matter in December 2008, ICE's annual inspection found the facility to be satisfactory, including with respect to exercise and recreation.

**32. *Conditions of Detention at a Virginia Regional Jail:*** Four ICE detainees made a number of allegations, in separate complaints in 2007, against a regional jail in Virginia. Deficiencies were alleged in the areas of staff-detainee communication, recreation, voluntary work programs, food service, access to telephones, access to legal materials, availability of detainee handbooks, medical care, use of force, lock downs, rude and abusive treatment; and discrimination based on race and perhaps against non-English speaking detainees. The four complaints were referred to ICE OPR, which concluded that the jail was in compliance with the relevant detention standards and found no evidence of discrimination. CRCL closed the matters in January and March 2009.

- 33. *Conditions of Detention at a Southeastern Virginia Regional Jail:*** Two ICE detainees alleged, in separate complaints filed in May and September of 2007, that a regional jail in Virginia had several deficiencies, including inappropriate grievance procedures and inadequate access to medical care, legal materials, and legal mail. One of the detainees complained that he was denied eyeglasses after his glasses were broken, and that he then requested and was denied assistance in reading legal and religious texts. CRCL referred the cases to ICE OPR for investigation, but also visited the jail in question and reviewed the conditions of detention, which were largely in compliance with relevant detention standards. CRCL noted several concerns and is monitoring implementation of improvements to the facility. These matters were closed in January and February 2009.
- 34. *Treatment at an ICE Detention Facility in New England:*** A complainant alleged in September 2008 that his son, whose mental health was deteriorating, did not receive appropriate psychiatric medication while housed at an ICE detention facility in Rhode Island. In addition, she alleged that an ICE agent coerced his son into signing a detainer while he was sedated and without a translator. ICE OPR was unable to substantiate the allegations of employee misconduct or coercion. ICE reported that for two weeks, the subject took his medication only sporadically, but that for the subsequent six months, he took the medication twice daily without incident. CRCL closed this matter in September 2009.
- 35. *Treatment of an ICE Detainee in California:*** An ICE detainee alleged in April 2008 that officials at a detention facility violated his rights by denying his requests for new eyeglasses, repair of his dentures, religious books, and transfer to a facility closer to his family. He also alleged that his food was cold every day, and that he was forced to choose between a medical and religious diet. ICE OPR found the facility to be in compliance with each of the relevant detention standards, and the matter was closed in June 2009.
- 36. *Conditions of Detention at an ICE Detention Facility in New Jersey:*** A complainant, along with 35 other detainees at a county correctional center, complained in February 2007 of a number of deficiencies regarding the detainee handbook, food service, medical care, staff-detainee communication, religious practices, and access to telephones and legal materials. ICE OPR found the facility to be in compliance with the relevant detention standards regarding religious practices and access to legal materials and telephones, but noted several areas needing improvement including documentation of staff-detainee communication and confirmation of receipt of the detainee handbook. In addition, several food service-related health deficiencies were found. While the particular medical care allegations could not be substantiated, OPR found deficiencies in patient confidentiality, communication to ICE regarding medical issues, notification to medical staff when detainees were scheduled to depart the facility, and tracking for suicide watches and hunger strikes. After the matter was closed in October 2008, CRCL subsequently visited the center and began monitoring implementation of necessary improvements.
- 37. *Treatment at a County Correctional Facility in New Jersey:*** An ICE detainee alleged that jail officers verbally and physically abused her in February 2008 while searching her personal property in front of a local inmate with whom she had an earlier disagreement, and improperly confiscated her property. During the period that followed the incident, she alleged that she was denied access to the law library and access to the grievance process. The complaint was filed in April 2008 and closed in May 2009. On investigation, ICE OPR found her complaints unfounded.
- 38. *Treatment of an Unaccompanied Minor by ICE Officers in California:*** CRCL received a Significant Incident Report in September 2007 from the HHS/ORR regarding an unaccompanied minor who stated that during transport to a staging facility for deportation, ICE left him in a hot van with the



windows up and the doors locked for long enough that he began to remove his clothes for relief from the heat. At the staging facility, he claimed he was kept in a jail cell with only a bed and a toilet, was verbally harassed, and was shackled during ground and air transport, which was in violation of DRO policy. ICE DRO investigated and did not substantiate the allegations regarding the minor's treatment in the vehicle and at the staging facility. DRO did find, however, that the minor was handcuffed during ground transport conducted by ICE, and that he was likely shackled during a segment of his air transport, which was carried out by the U.S. Marshals Service. Accordingly, CRCL requested that DRO issue a field guidance directive to all field office directors, instructing them to provide regular reminders and updates to all officers, contractors, and field staff regarding DRO policy on the transportation of minors, which prohibits restraint without articulable and documented reason. Based on the information revealed in this investigation, CRCL also expressed general concerns to ICE about the shackling policies of the Marshals Service, which often assumes custody of unaccompanied minors from ICE for transport. CRCL and ICE DRO held discussions with the Marshals Service to develop mutually acceptable procedures regarding the air transport of unaccompanied minors that conform to ICE policies. ICE's air transport policies have since changed significantly, including discontinuation of use of the Marshals Service flight program that had required shackling. CRCL closed the matter in December 2008.

**39. *Treatment at a County Detention Center in Alabama:*** A Muslim ICE detainee claimed religious discrimination in December 2008 when the county corrections center allegedly turned off the water during prayer, making it impossible to perform ritual washing, and also would not allow him to eat lamb in observance of Eid al-Adha. The complaint was filed in January 2009 and closed three months later. ICE DRO determined that the meal request was denied because it was untimely and that a wash basin was available for use all day in the dining hall where religious services were held. It therefore found no religious discrimination.

**40. *Conditions of Detention at a County Jail in Florida:*** A detainee alleged in December 2007 that the county jail in which he was housed was inadequate in the areas of food and general sanitation, medical care, religious diets and services, visitation, personal toiletries, pest control, telephone service, indoor and outdoor recreational space and equipment, space for personal property, access to law-related materials, and privacy. The detainee also claimed that women officers frequently observed male detainees in the bathroom, and that X-rated movies were permitted late at night over the objections of Muslim detainees including the complainant. ICE OPR found most of the claims unfounded, but did substantiate the allegation concerning the lack of recreation time. ICE therefore took corrective actions to ensure that the facility offered a minimum of one hour of recreation daily, five days per week, as required by the detention standards. Additionally, the pornographic channel that had been accessible to detainees in common spaces was removed. CRCL closed the matter in July 2009.

**41. *Treatment by ICE Officers at a Resource Center in Florida:*** An attorney filed a racial profiling complaint in March 2008 on behalf of an employer who had picked up a day-labor worker, was followed closely by an unmarked car, pulled over (allegedly without probable cause), and confronted by 6 to 12 plain-clothed officers with guns. He alleged that the ICE officers interrogated, intimidated, threatened him with criminal action, and accused him of lying. Ultimately, he was released without criminal charges. ICE OPR investigated and found that the agents questioned the employer pursuant to an approved operational plan, and therefore that the racial profiling allegation was unfounded. CRCL closed the matter in March 2009.

**42. *Medical Care during Transfer:*** An individual filed a complaint in October 2007 on behalf of her father who was in ICE custody. The complainant alleged that ICE officials denied the detainee his hypertension medication for two days during transport from a Georgia detention center to a service

processing center in Florida. As a result, he was hospitalized for high blood pressure, and other complications were found as well. Upon referral to ICE OPR, the resulting investigation found that appropriate medical care was provided, including the referral to the local hospital for treatment as well as the provision of follow-up medication and five medical appointments at the processing center in Florida. CRCL, following its review of OPR's report, notified ICE of concerns regarding the administration of medication during transportation and closed the matter in June 2009. Since then, CRCL has worked with ICE to address the issue of administering medication during transportation through collaboration on new detention standards and a new transfer directive.

- 43. *Treatment by ICE Officers in Maryland:*** A complaint was filed by a U.S. Senator's office on behalf of 24 workers who were allegedly questioned during a January 2007 "open-air immigration raid." The workers claimed they were racially profiled by ICE officers who entered a parking lot where day laborers waited for potential employers and gathered only the Latino workers for questioning. Some Latino pedestrians were allegedly questioned as well, and 24 individuals in total were taken into custody. According to the complaint, the parking lot was private property and the agents did not have permission to conduct a raid there. ICE OPR investigated, with the involvement of a CRCL investigator at CRCL's request. OPR concluded that the racial profiling allegation was unsubstantiated. As a follow-up, however, CRCL made recommendations regarding: (1) training on racial profiling for ICE officers and (2) the need to establish and communicate a clear and proper chain-of-command during enforcement actions. ICE responded by noting that two racial profiling trainings were already mandatory for all officers. Additionally, ICE distributed a memo to remind the field office about relevant sections of the Deportation Officer's Field Manual such as delegations of authority and chain-of-command during field operations. CRCL closed the matter in June 2009.
- 44. *Conditions of Detention at a Federal Detention Facility in New York State:*** In July 2007, an ICE detainee alleged that detention facility officials denied him adequate medical care for sleep apnea, ignored his grievances, and inappropriately segregated him from the general population. ICE OPR's investigation found that medical staff consistently treated and monitored the complainant for sleep apnea, and that he was appropriately housed in a general population unit. Regarding the complainant's grievances, OPR did confirm several instances of non-response. CRCL closed the matter in June 2009. ICE has since implemented numerous improvements to grievance procedures, and the facility passed both the 2009 and 2010 ICE annual inspections.
- 45. *Conditions of Detention at a Regional Detention Center in Illinois:*** Investigating a complaint by an ICE detainee of inadequate medical care at a regional detention center, ICE OPR found that the complainant received adequate and timely care. The case was opened in July 2008 and closed five months later.
- 46. *Treatment by County Jail Officials in Illinois:*** An ICE detainee alleged in December 2007 that, when he was transferred into ICE custody at a county jail for an 18-month stay, his dentures were taken from him and were never returned. As a result, he claimed, he suffered severe pain and was unable to eat an adequate amount of food. ICE OPR reported that a different detention center had failed to return the detainee's dentures, and that a dental review found that the complainant was able to maintain sufficient caloric intake with a normal, unmodified diet. The complainant was referred to the relevant sheriff's office to inquire about his dentures, and the complaint was closed in October 2008.
- 47. *Treatment at a County Detention Center in Texas:*** An ICE detainee alleged that in June 2007, he was pushed from his bunk and forced into a physical altercation between several detainees and detention center officers, then repeatedly tackled by officers and subjected to an unnecessary use of force, resulting in injuries that included substantial bleeding. He also alleged that he was not

provided with timely medical care. The complaint was filed in July 2007. ICE OPR investigated the incident and found that the complainant received timely medical care after being injured; OPR's investigation did not substantiate the allegations against the officers. CRCL closed the matter in May 2009.

- 48. *Treatment by ICE Officials at a Texas Processing Center:*** An attorney, whose client had allegedly been in custody for 11 days at a Texas processing center without bond or a hearing, complained in March 2008 that the client was denied due process by an ICE deportation officer who failed to provide a Notice to Appear (NTA) to the attorney's law firm pending the client's removal proceeding. The attorney alleged that he had repeatedly faxed Form G-28, Notice of Entry of Appearance as Attorney or Representative, to the processing center. ICE OPR's investigation found that the delay was due to the attorney's failure to sign the G-28. In addition, the detainee alleged that the officer verbally abused him. OPR's investigation did not substantiate the allegation regarding verbal abuse, which the officer denied. CRCL closed the matter in December 2008.
- 49. *Conditions of Detention at a Texas Detention Center:*** A complainant alleged in August 2008 that a detention center in South Texas had a number of deficiencies in the areas of food service, commissary, water temperature, opportunity for exercise, shakedowns, mail service, medical care, hygiene, and law library access. ICE OPR investigated the complaint and found the center to be in compliance with the relevant detention standards. CRCL closed the matter in February 2009.
- 50. *Conditions of Detention at a South Texas Detention Facility:*** A detainee alleged in May 2008 that ICE was not delivering books mailed to him by his family. ICE and facility officials escorted the complainant to property storage to view the books he had been sent, and explained that, for security reasons, policy allowed detainees to receive books only directly from the publisher. The complaint was closed in October 2008.
- 51. *Conditions of Detention at a Louisiana Correctional Center:*** An ICE detainee alleged that ICE officials retaliated against him in July 2008 for assisting other detainees with Spanish-to-English translation by placing him in segregation and delaying his removal from the United States. The complaint was filed in August 2008 and closed July 2009. ICE OPR found that the complainant was appropriately placed in segregation based on his disruptive behavior. OPR also concluded that the detainee's deportation was unavoidably delayed due to mandatory hurricane evacuations along the coast.
- 52. *Treatment at a County Detention Center in Arizona:*** Two ICE detainees, in separate complaints filed in October 2007 and April 2009, alleged deficiencies in various conditions of detention at a county detention center in Arizona. One detainee alleged that the center violated the ICE detention standards with respect to the detainee handbook, transfers, hunger strikes, correspondence, telephone access, recreation, and visitation. Upon review, ICE OPR concluded that the facility was in compliance with the standards for each of these issues. Another complainant alleged that center officials read and confiscated legal mail he intended to send to the immigration court, and as a result, he was unable to meet a request by the court. CRCL conducted its own preliminary investigation related to the mail complaint and notified ICE DRO of several inconsistencies in the center's handbook relating to mail. Since then, improvements have been implemented, and the facility passed both the 2009 and 2010 ICE annual inspections. The matters were closed in May and September 2009.
- 53. *Conditions of Detention at a County Facility in New Mexico:*** An ICE detainee complained in October 2007 of poor conditions at a county detention facility, including inadequate access to medical care, telephones, food service, recreation, legal materials, legal mail, and grievance forms.

ICE OPR's investigation substantiated only his claim of limited access to the law library and legal materials but determined the other allegations to be unfounded. In addition, ICE no longer utilizes this facility for the detention of removable aliens; a separate and newly rebuilt facility opened in 2008 to solely accommodate ICE detainees. CRCL closed this matter in February 2009.

**54. *Conditions of Detention at an Oklahoma Municipal Jail:*** An ICE detainee alleged in April 2007 that a facility had many deficiencies, including with respect to food service; medical care; staff-detainee communication; environmental health and safety; hygiene; use of force; access to legal materials, funds, and personal property; telephone access; religious services; visitation; and correspondence. In addition, he alleged that facility officials retaliated against detainees in November 2006 for complaining about conditions, and that food deprivation was used as a form of punishment. ICE OPR's investigation found the detention facility to be in compliance with local procedures and the relevant detention standards and found all 23 allegations to be unsubstantiated. Because staff-detainee communication was noted as a deficiency at the facility during DRO's annual review, DRO had begun to visit the facility at least twice weekly to alleviate these concerns. CRCL closed the matter in November 2008.

**55. *Conditions of Detention at a County Detention Center in Oklahoma:*** Two ICE detainees made a number of allegations in separate complaints in February and April 2008, relating to the same county detention center in Oklahoma. The allegations related to isolation, medical care and special diets, access to legal materials and telephones, recreation, detainee handbooks, religious services, and mail. ICE OPR concluded that the detention center was in compliance with all of the ICE detention standards with the exception of those governing mail service, access to legal materials, and access to non-legal telephone calls, and that the center improperly administered segregation policies and procedures with respect to one complainant. This detention center is no longer used to house ICE detainees. CRCL closed out the complaints in February and June 2009.

**56. *Treatment by ICE Officers at a Processing Center in Colorado:*** An ICE detainee alleged in July 2006 that ICE officials verbally abused him in November 2005, repeatedly used racial slurs against him, threatened and intimidated him, and segregated him in lockdown as a form of retaliation for earlier complaints of poor treatment. ICE OPR concluded that the allegations were unfounded, and the matter was closed in August 2009.

**57. *Treatment at a Municipal Detention Facility in Colorado:*** An ICE detainee alleged in February 2008 that supervisory personnel at a municipal contract detention facility segregated detainees based on race and used racial slurs and epithets toward detainees. ICE OPR concluded that verbal misconduct and possible discriminatory actions by staff toward detainees occurred prior to the beginning of a new warden's tenure. The new warden had taken swift action to resolve allegations of staff misconduct and impropriety, including alleged discrimination, including by implementing a mandatory annual diversity awareness and sensitivity training program for all personnel. OPR found no evidence of ongoing discrimination, and CRCL closed the matter in February 2009.

**58. *Conditions of Detention at a County Detention Center in Colorado:*** In January 2007, two ICE detainees complained of poor conditions at a county detention center that ranged from inadequate medical and dental care to denial of proper access to the law library and legal materials. ICE OPR found the facility to be in compliance with the relevant detention standards, and CRCL closed the matter in May 2009.

**59. *Treatment by ICE Officials in Massachusetts:*** An ICE detainee suffering from diabetes, hypertension, and other ailments alleged in January 2008 that he was denied proper medical treatment in November 2007, including medication and dialysis for his medical conditions,

resulting in a nine-day hospitalization. He also alleged that while in medical segregation, he was required to lie on a mattress on a cement floor, and his eyeglasses were taken from him. ICE OPR confirmed that the detainee was not provided his required medication or dialysis treatment during or immediately after his transfer from the Federal Bureau of Prisons to the ICE facility, and concluded that the deficiency did indeed violate applicable detention standards. OPR concluded, however, that medical segregation conditions were appropriate. After review of the OPR findings, CRCL informed ICE of its concerns such as notification regarding the issue of the administration of medication for ICE detainees during transportation and the need to appropriately provide a receiving facility with all necessary medical information. As a result, ICE issued a memo to the Boston Field Office requiring employees to repeat the Virtual University training course on the detention standard relating to medical transfers. The matter was closed in August 2009. ICE has also since done substantial work across its facilities to improve oversight and review of detainee medical care, and CRCL continues to collaborate in these efforts.

**60. *Treatment at an ICE Detention Facility in Alabama:*** In separate complaints filed in April and July 2008, two detainees alleged poor treatment at a county detention center in Alabama relating to failure to protect, improper classification, and failure of the facility to provide telephone access, recreation, clean clothing, and appropriate food and water. The incidents were said to have occurred in January and June 2008, respectively. After a referral from CRCL, ICE investigated and found that the facility was compliant with the relevant detention standards. CRCL closed the matters in May and June 2009.

**61. *Treatment During an Arrest in North Carolina:*** A complainant alleged in June 2007 that an ICE agent violated the provisions of the Violence Against Women Act (VAWA) in March 2007 by: (1) relying on the information provided by an alleged abuser to arrest the complainant, without independently verifying the information; (2) disclosing this information during the arrest process; and (3) arresting the complainant during a domestic violence proceeding. CRCL and ICE OPR worked cooperatively on the investigation of this complaint. The investigation found several areas of concern, and also revealed that while ICE had issued a memorandum following the incident to provide VAWA guidance for officers, the memorandum was not widely disseminated to field agents and was not widely understood. The resulting CRCL recommendations to ICE, made in July 2009, included: additional training for all new ICE employees, officers, and field staff on relevant VAWA issues; and enhanced communication systems and technologies to ensure that ICE agents know when aliens have VAWA applications pending with USCIS and that the aliens are treated in accordance with VAWA requirements. CRCL continues to work with ICE and USCIS to implement the proposed training and communications improvements.

**62. *Investigation into the Death of an ICE Detainee in New England:*** CRCL received information through a media report and habeas petition about the August 2008 death of an individual who had been detained at two New England county detention facilities. It was reported that ICE failed to provide the detainee with adequate and timely medical care for pain from medical issues that eventually led to his death; his attorneys requested a full investigation. ICE OPR investigated, and CRCL offered policy advice and investigative support. Findings revealed substandard medical care, a lack of communication regarding the detainee's healthcare needs between medical and security personnel at the detention facility, repeated failures to provide reasonable accommodations, and improper denial of access to counsel. In addition, the guards and medical staff failed to adhere to the use of force policy. The matter was closed in March 2009. Following the investigation, ICE terminated its agreement to house detainees in the facility.

CRCL referred 75 complaints to ICE between FY 2005 and FY 2007. In eight of these cases, ICE categorized the referred complaints as either "management referrals" or "information only," rather than

as “administrative inquiries.” Under ICE’s standard operating procedures, “management referrals” and “information only” matters differ from administrative inquiries in that they do not require a written investigative report. Accordingly, although ICE conducted investigations into five of the eight complaints, no timely reports were provided to CRCL, and CRCL was therefore unable to carry out normal evaluation of these complaints. When this issue came to light in November 2007, CRCL and ICE resolved that the ICE would classify all future complaints referred by CRCL as “administrative inquiries,” thus ensuring that ICE will submit to CRCL a formal written report of investigation. In October 2008, CRCL and ICE OPR determined that the significant amount of time that had passed since the filing of these complaints would make fuller investigation all but impossible. As a result, CRCL closed the complaints and advised the complainants to contact ICE OPR directly for additional information. The eight affected matters are summarized below:

- 63. *Treatment at an ICE Processing Center in Texas:*** In July 2006, an ICE detainee alleged that his deportation officer failed to communicate with him while he was detained at a processing center, that a security guard verbally and physically abused him, and that officials at the facility were unresponsive to his complaints due to discrimination. ICE conducted an administrative investigation, during which all witnesses stated that no mistreatment of the detainee had occurred. ICE documented this complaint as unsubstantiated in an internal memorandum in 2006.
- 64. *Conditions of Detention at Two Parish Detention Centers in Louisiana:*** An ICE detainee alleged that a parish detention center was deficient in conditions of detention such as access to religious materials and provision of bedding and clothing, and a detention center in another parish failed to provide safe transportation for detainees or adequate medical care in May 2005. The complaint was opened in May 2006 and closed in October 2008 due to lack of information. In February 2009, ICE OPR conducted a compliance inspection at one of the facilities and identified several areas of noncompliance. Later ICE inspections found that corrective actions were taken on many of the deficiencies identified. Additionally, many of these issues will be addressed in ICE’s new detention standards.
- 65. *Conditions of Detention at a California Correctional Facility:*** In two separate complaints filed in August 2005 and February 2008, ICE detainees made a number of allegations related to their mistreatment at a California municipal correctional facility, including discriminatory treatment; verbal abuse; segregation without meals and with minimal water; unnecessary use of force; threats of torture and retaliatory treatment by the facility’s officers; and denial of medical care, personal hygiene items, telephone, religious services, and food service. Sixteen female detainees who were interviewed by a civil rights organization alleged that the guards had retaliated against them by placing the entire pod of female detainees on lockdown, searching their cells, and questioning them about who else was involved. Both complaints were referred to ICE OPR for investigation. In its investigation of one complaint, OPR found the facility in compliance with relevant detention standards and did not find any evidence of retaliatory treatment. (The one minor exception was that the facility was found not to have responded timely to a detainee’s request for a Bible and communion.) The other complaint was referred to ICE DRO management, and ICE management determined that the allegations were unfounded.
- 66. *Treatment at a Pennsylvania Federal Correctional Facility:*** An ICE detainee’s wife alleged in December 2005 that since 9/11, ICE and DOJ had targeted and persecuted her husband, along with other Muslims and Moroccan immigrants, because of religious identity and national origin. CRCL referred the complaint to ICE OPR but closed the case in October 2008 without a report of investigation; subsequently, ICE conducted an investigation and concluded that the allegations were unsubstantiated.

**67. *Conditions of Detention in Virginia:*** A detainee who had been held by ICE for three years at a regional jail in Virginia complained in July 2005 of discriminatory treatment by jail employees, inadequate access to legal materials, inadequate telephone access, excessive force, and retaliation. CRCL first referred the case to ICE OPR for investigation, but then visited the jail, reviewed the conditions of detention, noted several concerns, and is monitoring implementation of improvements at the facility.

**68. *Treatment by Jail Official at an ICE Contract Facility in Illinois:*** An ICE detainee alleged in February 2006 that she was subjected to physical abuse by a jail officer when she resisted being placed in lockdown, and that she received inadequate medical care for the treatment of injuries resulting from this alleged physical abuse. ICE conducted an administrative inquiry and found the allegations of abuse to be unfounded.

**69. *Treatment by an ICE Officer and Conditions of Detention at a County Jail in Florida:*** An ICE detainee alleged in January 2007 that an ICE officer abused him verbally and that the conditions of detention at the facility were inadequate, focusing on access to legal material; religious practices; medical and dental care; detainee grievance procedures; food service; environmental health and safety; correspondence; recreation; telephone access; visitation; issuance and exchange of clothing, bedding, and towels; and overcrowding in dorms. CRCL referred the complaint to ICE OPR but closed the case without a report of investigation. OPR subsequently conducted an Administrative Inquiry into the verbal abuse allegations and found them to be unsubstantiated. After investigating complaints received from other detainees at the same jail, CRCL issued a Final Report and Recommendations in July 2009 stating that ICE had sufficiently addressed all but a medical related concern raised by this complaint. ICE has since done substantial work across its facilities to improve oversight and review of detainee medical care, and CRCL continues to collaborate in these efforts.

## TSA

**70. *Treatment at New York Airport:*** A passenger alleged in August 2006 that TSA employees mistreated him by asking him to remove his T-shirt because the Arabic words on the shirt offended several of the other passengers. While the complaint was pending, a civil lawsuit was filed and settled, leading the complainant to withdraw the complaint. However, because the issues raised by the complaint caused concern, TSA's Office of Civil Rights and Liberties recommended training on Arab-American and Muslim cultures for all Transportation Security Officers and aviation security inspectors at that airport, and TSA instituted mandatory annual training for its workforce on American Arab and Muslim cultural awareness. This matter was closed in February 2009.

**71. *Treatment at Several Airports:*** Six complaints, filed separately on behalf of Sikh American passengers departing from several airports in 2006 and 2007, alleged discrimination by TSA on the basis of religion. One complaint alleged that a number of women were asked by transportation security officers to remove their veils and place them on the conveyer to be x-rayed. Another complaint alleged that a Sikh man was subjected to additional screening of his turban after he passed through the metal detector and "air blower" test without incident. A third complainant focused on additional screening of the complainant's turban after his kara, a type of bracelet often worn by Sikh Americans, caused an alarm to sound, and a chemical test on his hands solicited an alarm on the chemical detection equipment. A fourth complaint, on behalf of three Sikh men, complained that a Transportation Security Officer inappropriately squeezed their turbans. Finally, the fifth and sixth complaints alleged not only that the screening of turbans itself was discriminatory, but that it was done abusively—in one instance rudely, and in the other, using the same gloves as were used to search shoes and other items. Each of these complaints was referred to TSA Office of Civil Rights and Liberties, which found that none of the incidents was abusive, but noted that a number of recent

changes in screening procedures, including religious head coverings, addressed the concerns of the traveling public, while preserving security. In particular, policy allows passengers to wear any type of clothing or head covering through the security checkpoint, although it does subject bulky clothing to additional evaluation, in private at the request of the traveler. CRCL closed out these complaints between January and July 2009.

## USCIS

**72. *Violence Against Women Act Complaint:*** An individual who was denied a fee waiver by USCIS in May 2008 alleged two months later that a copy of her denial letter was sent to her abusive ex-husband and that USCIS had thereby violated the confidentiality provisions of VAWA. The complaint was opened in July 2008. Upon investigation by USCIS, the complainant's attorney explained that a miscommunication had occurred between her and the complainant, and no denial letter had in fact been mailed to the complainant's ex-husband. This complaint was accordingly withdrawn in April 2009.

**73. *Treatment during Adjustment of Status Interview:*** A man applying with his wife for an adjustment of status in August 2005 alleged that USCIS officials asked inappropriate questions and did not grant him access to a restroom during an interview at a USCIS district office. CRCL referred the matter to USCIS for investigation. However, due to a misunderstanding in the transmission process, the USCIS Office of Security and Integrity Investigations Division waited more than three years to begin the investigation. Due to the lapse of time since the incident, the complainant's attorney withdrew the complaint, which was closed in August 2009.

## Multi-Component

**74. *Treatment by DHS Officials at a New York Port of Entry:*** A complaint was filed in April 2008 on behalf of a Muslim man and his family who were stopped and detained for 90 minutes by DHS officials at the border as they were returning from Canada. The complainant, a law enforcement officer, alleged that he was profiled, harassed, and driven to a detention facility for questioning. His car and wallet were also searched, and he was asked for his Social Security card. He claimed that he was treated in a rude and harsh manner until the officer noticed his police badge. At that point, he alleged, the tone of the conversation improved dramatically. CRCL referred this complaint to both CBP Office of Internal Affairs and ICE OPR, and ICE investigated the complaint as an administrative inquiry. CBP and ICE concluded that the complaint was unfounded; CRCL concurred with these findings. The matter was closed July 2009.

**75. *Treatment by CBP Officials at a New York Port of Entry:*** A person seeking entry into the United States in March 2007 alleged that he was questioned for three hours by CBP officers at a New York airport about his ties to the Middle East. Several months later, the complainant alleged that he was again questioned for three hours at a California airport. The complaint was filed in January 2008 and closed in February 2009. CBP IA investigated the matter and found that individual circumstances justified the questioning.

**76. *Treatment by ICE Agents at a Colorado Home:*** The complainant claimed that she and her fiancé were victims of profiling in March 2007 based upon their race, religion (Muslim), and ethnicity, and that her mistreatment was a form of retaliation for a previous complaint. In particular, ICE arrested her fiancé and removed him even though he had a Notice to Appear that allowed him to stay in the United States after the date of the arrest. The complaint was opened in May 2007, and CRCL referred it to ICE OPR, which concluded that ICE agents treated the complainant in accordance with DHS policies and procedures. CBP's Office of Field Operations also examined the allegations



and echoed ICE's findings, stating that CBP officials had followed relevant policies and procedures. The matter was closed in March 2009, and the complainant then filed an inquiry under DHS TRIP.

**77. *Treatment of Unaccompanied Minors by CBP and ICE Officials in Texas:*** Four unaccompanied minors in Texas alleged in September 2007 that they were physically abused by Border Patrol agents; spent long periods of time in overcrowded cells with little privacy and little or no food; and had their personal property confiscated. The case was referred to CBP IA, whose investigation found that the minors were in Border Patrol custody for 4-7 days, longer than the 24 hours during which policy requires the transfer of minors to the Department of Health and Human Services' Office of Refugee Resettlement (HHS ORR). CBP explained that HHS ORR lacked readily available placement shelters for the number of juveniles apprehended by CBP during the high apprehension season, which resulted in transfer and placement delays. CBP stated that the minors were provided with hot and cold meals in accordance with Border Patrol policy, and that no personal property was confiscated (although documentation of those matters was absent in some instances). Before closing the complaint in October 2008, CRCL found that other concerns were fully addressed or were in the process of being addressed in accordance with Border Patrol's revised hold room policy, which was disseminated in June 2008. Along with this revised policy, CBP has implemented a new electronic system for documenting and tracking meal provisions, medical care, transport times, and other information pertaining to unaccompanied minors.

**78. *Treatment of an Unaccompanied Minor by ICE Agents in Texas:*** A 16-year-old unaccompanied minor alleged in November 2007 that temperatures were inappropriately low during his initial detention by CBP, and that he was pressured more than once by CBP personnel to sign papers he did not understand. He also alleged that he was held for a substantial period of time in an adult ICE facility. ICE DRO determined that the allegation regarding the CBP hold room temperature was unfounded. Blankets were available if needed, and room temperatures were controlled by the building manager and could not be changed by agents or supervisors. The investigation did not corroborate the allegation that the complainant was intimidated into signing documents, and CBP records indicated that a translator was utilized during the time the minor was in CBP custody. However, the allegation that he was held in an adult facility was substantiated; the complainant was held for over a month in an adult detention facility because he said he was an adult when he was interdicted, and his attorney of record did not augment the record. When ICE received a faxed passport that indicated the complainant's minor status, ICE kept him housed in an adult facility for an additional week until the original passport could be received. As a response to this investigation, the ICE Field Office made the decision to reserve space at the detention center at all times for those instances when a purported adult turns out to be a minor, to facilitate speedy response. The matter was closed in August 2009.

**79. *Processing of an Unaccompanied Minor as an Adult by DHS Officials in Arizona:*** A 17-year-old unaccompanied minor alleged in June 2008 that Border Patrol agents, when apprised of her true age, told her that if she were processed as a minor, she would be in prison for seven months and it would take her a long time to be deported home. Accordingly, she lied about her age and date of birth, claiming that she was 18 years old. As a result, ICE placed her into an adult detention facility for seven days. CBP and ICE both investigated and found no evidence to support the allegations that the minor was encouraged by DHS officials to lie about her age. The CBP sector investigations team interviewed the agents under oath, and no one recalled the incident in question. ICE OPR found that the complainant consistently maintained her claim to be 18 years of age throughout her time in ICE custody. Six days after her apprehension, the consulate for her country of origin conducted an interview during which she stated her true age of 17. Upon receipt of a copy of her birth certificate from the consulate, the complainant was quickly processed as a minor and transferred to an appropriate juvenile detention facility. The matter was closed in May 2009.

**80. *Treatment of an Unaccompanied Minor by DHS Officials in Arizona:*** An unaccompanied minor alleged in October 2007 that when he was taken into custody in August 2007, Border Patrol agents were verbally abusive towards him and others while they were awaiting placement at an HHS/ORR facility. The group of detainees was allegedly called derogatory names, and the officers awoke them repeatedly without reason during sleep. Both CBP and ICE looked into the incident and found no evidence to support the allegations. The Border Patrol agents did not recall any unusual issues or circumstances. The complaint was closed in January 2009.

**81. *Treatment by DHS Personnel at a Texas Airport:*** A U.S. citizen alleged in September 2007 that he and his family were harassed, intimidated, and humiliated at airports in the midst of being referred to secondary screening. He stated that he had received letters from DHS and TSA stating that he was “clear and clean” and he had been verbally assured by the FBI that he was not considered a threat. Nonetheless, he complained, he and his family were regularly subjected to 3 or more hours of detention at airports when on international travel, along with questioning and a search of his travel documents and wallet. After a careful review, CBP reported that its officers acted in accordance with all established procedures. TSA informed the complainant that DHS TRIP would be the appropriate method to address the issues he raised, and provided him with the necessary forms, and CRCL closed the matter in August 2009.



