



**Department of Homeland Security**  
**Office for Civil Rights and Civil Liberties**  
Fiscal Year 2011 Annual and 4<sup>th</sup> Quarter Report to Congress

*June 25, 2012*



**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 2011. This document also serves as the fourth quarterly 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 Daniel K. Inouye  
Chairman, U.S. Senate Committee on Appropriations

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

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

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

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

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

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

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

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

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

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



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

The Honorable Bennie G. Thompson  
Ranking Member, U.S. House of Representatives Committee on Homeland Security

The Honorable Mike Rogers  
Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable C.A. "Dutch" Ruppertsberger  
Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Lamar Smith  
Chairman, U.S. House of Representatives Committee on the Judiciary

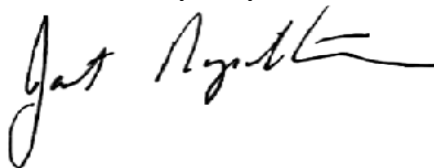
The Honorable John Conyers, Jr.  
Ranking Member, U.S. House of Representatives Committee on the Judiciary

The Honorable Darrell Issa  
Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings  
Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform

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

Yours very truly,

A handwritten signature in black ink, appearing to read "Janet Napolitano", with a stylized flourish at the end.

Janet Napolitano  
Secretary  
U.S. Department of Homeland Security

## Message from the Acting Officer, Tamara Kessler



I am honored to serve as the Acting Officer for Civil Rights and Civil Liberties at the Department of Homeland Security (DHS). The Office for Civil Rights and Civil Liberties is unique in the Federal Government, integrating civil rights and civil liberties protections into all of the Department's activities. The Nation this Department works to make secure is built around the core principles of our constitutional rights and liberties—freedom, fairness, and equality under the law.

This Annual Report details CRCL's priorities and activities in Fiscal Year (FY) 2011 under the leadership of former Officer Margo Schlanger. CRCL's activities focused on alignment with the Department's 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.

More information about CRCL is available at [www.dhs.gov/crcl](http://www.dhs.gov/crcl). Please direct inquiries regarding this Report to [crcl@dhs.gov](mailto:crcl@dhs.gov) or call us 866-644-8360 (TTY 866-644-8361).

Respectfully submitted,

A handwritten signature in blue ink that reads "Tamara J. Kessler". The signature is fluid and cursive.

Tamara J. Kessler  
Acting Officer  
Office for Civil Rights and Civil Liberties  
U.S. Department of Homeland Security

## Executive Summary

In response to Congressional requirements, this Annual Report details CRCL's priorities and activities in Fiscal Year 2011 under the leadership of former Officer Margo Schlanger. DHS's Office for Civil Rights and Civil Liberties (CRCL) plays a key role in the Department's mission to secure the Nation while preserving individual freedoms through the Civil Rights and Civil Liberties Impact Assessment process and its advice on and review of programs and activities across the Department. It also engages with communities across the country on civil rights and civil liberties issues.

Highlights of CRCL's key accomplishments during FY 2011 include:

- Eliminating the Department's backlog of Equal Employment Opportunity (EEO) cases awaiting adjudication;
- Working with U.S. Immigration and Customs Enforcement (ICE) to improve the Secure Communities program;
- Partnering with the DHS Privacy Office (PRIV) and the Office of General Counsel (OGC) to conduct quarterly reviews of U.S. Customs and Border Protection's (CBP) and the Transportation Security Administration's (TSA) threat-based intelligence scenarios run by the Automated Targeting System;
- Participating in the first Universal Periodic Review to produce an assessment of the human rights record of each of the members of the United Nations Human Rights Council;
- Leading the Department-wide effort to develop a plan for providing meaningful access to homeland security programs and activities to people with limited English proficiency;
- Coordinating with TSA to develop new airport guidelines that make clear there is no security obstacle to providing service animal relief areas within secure areas of airports;
- Forming a DHS working group to ensure that lesbian, gay, bisexual, and transgender persons are treated equally in DHS activities;
- Working with TSA screening programs to ensure privacy and civil liberties are protected for travelers in the United States;
- Developing and conducting training for officials operating in fusion centers and for law enforcement working to counter violent extremism, covering key cultural and religious factors as well as guidance on effective community policing strategies without the use of ethnic profiling; and
- Participating in the Department-wide working group on unaccompanied alien children.

These efforts continue to reflect DHS's dedication to secure the country while protecting our freedoms, including core civil rights values of liberty, fairness, and equality under the law.



# DHS Office for Civil Rights and Civil Liberties Annual Report FY 2011

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# I. Legislative Language

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

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

**(a)** In general. The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall--

- (1)** review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;
- (2)** make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer;
- (3)** assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;
- (4)** oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;
- (5)** coordinate with the Privacy Officer to ensure that—
  - (A)** programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and
  - (B)** Congress receives appropriate reports regarding such programs, policies, and procedures; and
- (6)** investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.

### **(b)** Report

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



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

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

**(a) Designation and functions**

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

- (1)** assist the head of such department, agency, or element and other officials of such department, agency, or element in appropriately considering privacy and civil liberties concerns when such officials are proposing, developing, or implementing laws, regulations, policies, procedures, or guidelines related to efforts to protect the Nation against terrorism;
- (2)** periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that such department, agency, or element is adequately considering privacy and civil liberties in its actions;
- (3)** ensure that such department, agency, or element has adequate procedures to receive, investigate, respond to, and redress complaints from individuals who allege such department, agency, or element has violated their privacy or civil liberties; and
- (4)** in providing advice on proposals to retain or enhance a particular governmental power the officer shall consider whether such department, agency, or element has established—
  - (A)** that the need for the power is balanced with the need to protect privacy and civil liberties;
  - (B)** that there is adequate supervision of the use by such department, agency, or element of the power to ensure protection of privacy and civil liberties; and
  - (C)** that there are adequate guidelines and oversight to properly confine its use.

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

**(2) Civil liberties officers**

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

**(c) Supervision and coordination**

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

- (1)** report to the head of the department ...; and
- (2)** coordinate their activities with the Inspector General of such department ... to avoid duplication of effort.

**(d) Agency cooperation**

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

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

...

**(f) Periodic reports**

**(1) In general**

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

**(A) (i)** to the appropriate committees of Congress, including the Committee on the Judiciary of the Senate, the Committee on the Judiciary of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives;

**(ii)** to the head of such department, agency, or element; and

**(iii)** to the Privacy and Civil Liberties Oversight Board; and

**(B)** which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

**(2) Contents**

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

**(A)** information on the number and types of reviews undertaken;

**(B)** the type of advice provided and the response given to such advice;

**(C)** the number and nature of the complaints received by the department, agency, or element concerned for alleged violations; and

**(D)** a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of the activities of such officer.

**(g) Informing the public**

Each privacy officer and civil liberties officer shall—

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

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

**(h) Savings clause**

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

## II. Background

### A. Mission

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

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

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

### B. Authorities

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

### C. Leadership

During FY 2011, the Officer for Civil Rights and Civil Liberties was **Margo Schlanger**, who was appointed by President Obama in January 2010 to lead CRCL; she served in that role until December 31, 2011.

On January 1, 2012, **Tamara Kessler** became DHS's Acting Officer for Civil Rights and Civil Liberties. Before then, she served as CRCL's Deputy Officer for Programs and Compliance. Prior to her appointment at DHS, Ms. Kessler spent 20 years at the Department of Justice (DOJ). Ms. Kessler first served as an Assistant U.S. Attorney in Philadelphia; then as a trial attorney in the Criminal Section of the Civil Rights Division; and finally as Investigative Counsel to the Inspector General and Associate Counsel at the Office of Professional Responsibility.

**Veronica Venture** is the Deputy Officer for Equal Employment Opportunity and Diversity, and DHS's EEO Director. She has spent her career promoting equal employment in the Federal Government, most recently as the EEO Director for the Federal Bureau of Investigation (FBI).

## D. Organization

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

At the close of FY 2011, CRCL had 109 staff and three contractors on board; staffing costs are about two-thirds of the Office's FY 2011 budget. Table 1 details the Office's operating budget and staff for each fiscal year since 2004, the first year for which figures are available.

**Table 1: CRCL Operating Budget and Staffing, FY 2004-FY 2011**

<b>Fiscal Year</b>	<b>Operating Budget</b>	<b>Federal Staff</b>	<b>Contract Staff</b>
2004	\$13,000,000	20	23
2005	\$13,000,000	24	34
2006	\$12,870,000	35	31
2007	\$13,090,495	45	12
2008	\$14,397,217	62	7
2009	\$18,417,000	75	10
2010	\$21,104,000	99	10
2011	\$20,367,056	109	3

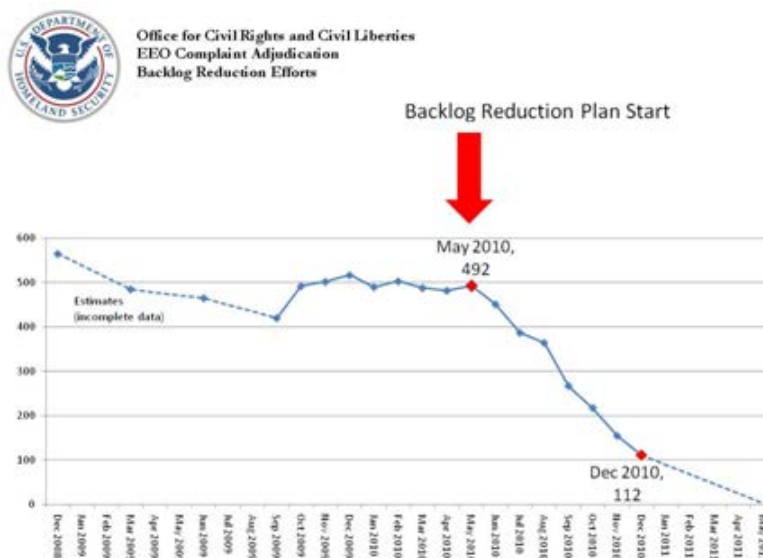
The following pages provide an overview of major accomplishments in FY 2011, followed by detailed information about each CRCL functional unit's activities during the year.

### III. 2011 Highlights

#### A. EEO and Diversity Backlog Elimination

The CRCL EEO and Diversity Programs Division achieved an important milestone in FY 2011. Since its inception, DHS had a significant backlog of cases pending merit Final Agency Decision (FAD) within the CRCL EEO complaints adjudications program. During late FY 2008, the CRCL EEO adjudications program transitioned from a primarily contractor-based resource model to a federal staffing model. This progression to permanent staffing enabled CRCL to maintain a consistent,

well-trained workforce and establish long-term strategic planning and performance goals for this section of CRCL. In January 2009, the backlog of this category of cases within the CRCL EEO Division numbered about 500, many of which were older than DHS itself. Through a combination of staffing and resource initiatives, streamlined processes including the implementation of digital initiatives, enhanced performance requirements, and strategic goal-setting, CRCL reduced its adjudications inventory by 23% during FY 2009, by 41% during FY 2010, and eliminated its inventory of cases awaiting adjudication by May 2011, several weeks ahead of an already aggressive June 30, 2011 target date. The backlog elimination is a real success story, not just for CRCL, but for the entire DHS EEO program and its customers. The DHS EEO adjudication program will henceforth concentrate resources toward issuing an increasing number of FADs within regulatory timeframes, and continuing to partner with DHS component EEO offices to maximize EEO complaint process efficiencies and effectiveness.



#### B. Secure Communities

Throughout the fiscal year, CRCL has been closely involved in reforms to ICE’s Secure Communities program. Secure Communities uses information-sharing technology by which the fingerprints of those arrested for criminal offenses are checked through interoperability between the DHS Automated Biometric Identification System and FBI’s Integrated Automated Fingerprint Identification System databases. If there is a match, ICE reviews the information and makes an immigration enforcement decision. Secure Communities facilitates



ICE's ability to identify and remove aliens who pose a threat to public safety. Over the summer of 2011, ICE and CRCL announced several reforms which build additional civil rights protections into existing program protocols. They include:

- ***Briefings for State and Local Law Enforcement:*** ICE and CRCL have developed a new briefing program for state and local law enforcement agencies to provide more information to front-line officers about how Secure Communities works and how it relates to laws governing civil rights. The briefings are designed to tell front-line law enforcement officers what they need to know about Secure Communities to reduce confusion and foster effective community policing in immigrant communities. The briefing materials include a series of short downloadable videos, discussion guides with references to web-based resources for additional information, and job aids. The first training module, an introduction to Secure Communities for state and local law enforcement, is available on the [ICE Secure Communities website](#).
- ***Statistical Oversight:*** With the help of an expert statistician, ICE and CRCL have created an ongoing quarterly statistical review of the program to examine data for each jurisdiction where Secure Communities is activated to identify signs of racial or ethnic profiling or other forms of abuse. Statistical outlier jurisdictions will be subject to an in-depth analysis, after which DHS and ICE will take appropriate steps to resolve any civil rights issues.
- ***Civil Rights Complaints:*** DHS and ICE take allegations of racial profiling and other complaints relating to civil rights and civil liberties violations very seriously, and have agreed on a procedure for CRCL to take the lead in investigating complaints of civil rights violations connected to Secure Communities, with cooperation and assistance from ICE. Visit [www.dhs.gov/crcl](http://www.dhs.gov/crcl) for more information about reporting allegations of racial profiling, due process violations, or other possible violations of civil rights or civil liberties related to Secure Communities.
- ***Advisory Committee:*** At ICE's request, the Homeland Security Advisory Committee (HSAC) chartered a Task Force on Secure Communities, including law enforcement leaders, immigration advocates, criminal defense practitioners, academics and others to advise the Director of ICE on ways to improve Secure Communities, including making recommendations with respect to the best treatment of those arrested for minor misdemeanors. CRCL provided information and support to the Task Force, which issued a report, adopted by the HSAC, whose recommendations were considered by ICE and DHS. In April 2012, ICE released a response to the Task Force, accepting nearly all of the recommendations.
- ***Prosecutorial Discretion:*** ICE Director John Morton issued two memos (see also below) providing guidance for ICE law enforcement personnel and attorneys regarding their authority to exercise discretion when appropriate—authority designed to help ICE better focus on meeting the priorities of both the agency and Secure Communities to use limited





resources to target criminals and those who put public safety at risk. CRCL participated in an interagency working group to develop a procedure through which ICE began reviewing all incoming and pending cases beginning in December 2011. ICE's exercise of prosecutorial discretion in lower priority cases will free up capacity in the overburdened immigration courts and enable ICE to focus on higher priority cases. DOJ is cooperating with this review by temporarily and partially suspending the non-detained dockets in some of the Executive Office for Immigration Review's immigration courts and reassigning immigration judges to hear detained cases during the review.

- ***Protecting Victims and Witnesses of Crimes:*** At the direction of Secretary Janet Napolitano, ICE, in consultation with CRCL, developed a new policy specifically to protect victims of domestic violence and other crimes and to ensure these crimes continue to be reported and prosecuted. This policy directs ICE officers to exercise appropriate discretion to ensure victims and witnesses to crimes are not penalized by removal. ICE is also working to develop additional tools that will help identify people who may be a victim, witness, or member of a vulnerable class so officers can exercise appropriate discretion.

Over the summer of 2011, former CRCL Officer Margo Schlanger, CRCL Community Engagement staff, and ICE senior leadership traveled to eight major cities across the country to lead several information sessions with media, mayors and governors, nongovernmental organizations (NGO), and law enforcement describing the enhanced Secure Communities program.

## C. Automated Targeting System Review

In FY 2011, CRCL, in partnership with DHS PRIV and OGC, conducted quarterly reviews of CBP's and TSA's real-time, threat-based intelligence scenarios run by the Automated Targeting System (ATS), to ensure that civil rights, civil liberties, and privacy protections are in place. ATS is an intranet-based enforcement and decision support tool used by CBP to improve the collection, use, analysis, and dissemination of information that is gathered for the primary purpose of targeting, identifying, and preventing terrorist weapons from entering the United States. CRCL developed the standard operating procedure for the quarterly review process, which was executed by all parties in September 2011.

## D. Universal Periodic Review

Throughout the fiscal year, CRCL has been involved in the United States' first Universal Periodic Review (UPR). The UPR is a process for assessment of the human rights record of each of the 192 United Nations (UN) Member States. The review encompassed, among other things: protections against race and ethnicity



discrimination; conditions of detention, including immigration detention; freedom of speech, association, and belief; and civil liberties protections in the context of national security operations.

Over the year, CRCL assisted the Federal Government's reporting on implementation of our international human rights obligations. In preparation for the review, CRCL participated in several government-wide "consultations" with civil society to gather input on implementation efforts including those related to the International Covenant on Civil and Political Rights, the Convention on the Elimination of all forms of Racial Discrimination, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Following the UPR presentation in November 2010, the U.S. Government, including CRCL, consulted with interagency and civil society partners to determine which to accept of the record 228 recommendations issued by UN Member States during the review. The United States has since accepted 173 recommendations (99 in full and 74 in part).

## E. Department Efforts to Improve Access to Information for Individuals with Limited English Proficiency

DHS has many missions and functions that require the Department to effectively communicate with the public, including those who are limited English proficient (LEP). Over the fiscal year, CRCL led the Department-wide effort to develop a plan for providing meaningful access to Homeland Security programs and activities to LEP persons.

In developing the plan, CRCL engaged in outreach and training on the requirements of Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (LEP) (August 11, 2000), which requires, among other things, that each Federal department and agency "examine the services it provides to LEP persons and develop and implement a system by which LEP persons have 'meaningful access' to those services without unduly burdening the fundamental mission of the agency." CRCL will continue its efforts to conduct outreach and training on the requirements of the DHS Language Access Plan.

Early in FY 2011, the Department published guidance for recipients of DHS financial assistance in the Federal Register. The purpose of that guidance is to help those who carry out Department-supported activities to understand and implement their obligations under Title VI of the Civil Rights Act of 1964 to provide meaningful access for people with limited English proficiency. Title VI and its regulations forbid recipients of federal financial assistance to conduct their programs in a way that has the effect of subjecting persons to discrimination based on race, color, or national origin. Long-standing interpretations of the law and regulations mandate reasonable steps to offer language assistance, if necessary, to provide LEP persons with meaningful access to DHS-funded programs and activities, as part of the prohibition on national-origin discrimination. This requirement has existed for years, but the new guidance provides a coherent structure and straightforward recommendations to assist the thousands of agencies and organizations that receive financial support from DHS.

Following the completion of the guidance for recipients of federal assistance, CRCL led the Department-wide effort to assess its own current language needs and existing services. The

assessment found that DHS has numerous language services in place: CBP, for example, requires all Border Patrol agents to pass Spanish language courses at the Border Patrol Academy as a condition of employment. Similarly, U.S. Citizenship and Immigration Services (USCIS) provides information on immigration and naturalization in multiple languages, and TSA has signage available in eight languages. The Federal Emergency Management Agency (FEMA) has numerous non-English websites and trains disaster assistance employees on language needs, and ICE's new detainer form has a notice for detainees printed in several languages other than English. Many other language services and activities are in place throughout the Department; however, the Language Access Plan establishes a new policy on language access for the Department and a structure for improving the delivery of quality and timely language services to accomplish the mission and functions of DHS.

The DHS Language Access Plan was released in FY 2012 and will be discussed in detail in our next annual report.

## F. Service Animal Relief Areas at Airports

Air travelers with guide dogs (or other service animals) sometimes face difficulty if they need to transfer planes, because most airports only provide relief areas for animals outside the secure perimeter of the passenger terminals. Waiting for an escort, walking to the relief area, and getting back through security and to the connecting plane can take more time than is available. CRCL's former Officer Margo Schlanger coordinated with TSA to ensure that new guidelines were included in TSA's revised *Recommended Security Guidelines for Airport Planning, Design and Construction*. In FY 2011, TSA issued the new guidelines for airports that make clear that there is no security obstacle to providing service animal relief areas within the secure area. The guidance allows airports and airlines to establish service animal relief areas in sterile areas of the airport, and to provide escorted access to non-designated outdoor areas for the purpose of service animal relief.

A related development outside of DHS will help to make these relief areas available. The U.S. Department of Transportation (DOT) already requires U.S. and foreign airlines, in cooperation with airport operators and in consultation with local service animal training organizations, to establish service animal relief areas at U.S. airports they service. DOT has also recently issued a notice of proposed rulemaking that would, among other things, extend the obligation directly to U.S. airport operators.

This new TSA guidance should clarify for airlines and U.S. airports that they need to evaluate appropriate solutions to this problem; TSA and its rules pose no obstacle to developing appropriate answers. Travelers experiencing difficulty accessing service animal relief areas at U.S. airports may file a complaint with the DOT by using their [web form](#), or by sending



them a complaint form or letter, instructions for which may be found [here](#) for disability-related claims.

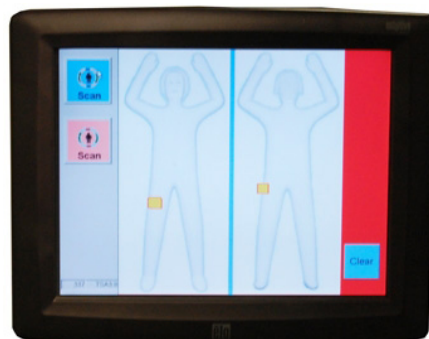
## G. Ensuring LGBT Equality at DHS

In keeping with the Administration’s commitment to equality for lesbian, gay, bisexual, and transgender (LGBT) persons, CRCL and the Office of the Secretary formed a DHS LGBT Issues Working Group. The purpose of the Working Group is to review, evaluate, and provide recommendations on a wide range of DHS technical, legal, and policy issues to ensure that LGBT persons are treated equally in DHS activities. Through the course of the fiscal year, the LGBT Working Group, which includes representatives from each Component and many Support Components, convened several times to identify areas of concern and ways the Department can increase equality for LGBT persons.

The Working Group convened cross-DHS listening sessions with several national LGBT groups and representatives from DHS Components. The listening sessions provided forums for DHS to listen to concerns of LGBT stakeholders—representatives voiced their concerns about detention facilities and treatment of LGBT detainees and those with HIV, visa petitions and the Defense of Marriage Act, room for improvement in the cultural sensitivity of DHS personnel interacting with LGBT travelers, and other issues. Based on these listening sessions, the Working Group is undertaking efforts to ensure that LGBT persons are treated equally in DHS activities, consistent with existing law. One early achievement was a USCIS policy change, bringing the agency in line with existing U.S. Department of State (DOS) guidance, on renewal of visas for household members of long-term non-immigrants, including same-sex partners as well as other dependents such as elderly parents.

## H. Community Outreach Regarding Airport Screening

Throughout the fiscal year, CRCL has been involved with TSA screening programs to ensure privacy and civil liberties are protected for travelers in the United States. CRCL and TSA leaders hosted a series of community outreach meetings with several ethnic and religious community leaders to discuss privacy and modesty concerns related to screening procedures. In July 2011, TSA announced enhancements to airport Advanced Imaging Technology (AIT) machines that will enhance privacy by eliminating passenger-specific images. AIT screens passengers for both metallic and non-metallic threats, including weapons and explosives, which may be concealed under a passenger’s clothing, without physical contact, to keep the traveling public secure. A new technology called Automated Target Recognition (ATR) detects items that could pose a potential threat using a generic outline of a person for all passengers, rather than an individual’s image on a screen (see illustration). The generic outline is identical for all passengers, alleviating concern about privacy and civil liberties implications of an earlier iteration of the AIT that generated passenger-specific





imagery. ATR improves throughput capabilities and streamlines the checkpoint screening process.

## I. Countering Violent Extremism

Violent extremism continues to pose a threat to our Nation's security. CRCL focuses on countering violent extremism (CVE) by working with communities and state and local law enforcement. Building strong partnerships between communities and law enforcement can reduce violent crime and inhibit ideologically motivated crime. In its efforts to increase cultural competency and awareness to state and local law enforcement, CRCL offered training for officials operating in fusion centers and for law enforcement working to counter violent extremism in FY 2011. Trainings will continue in FY 2012. CRCL's eight-hour course covers key cultural and religious factors as well as guidance on effective community policing strategies without the use of ethnic profiling. CVE training efforts underscore Secretary Janet Napolitano's message that our homeland security efforts begin with hometown security.

CRCL also continues to coordinate with interagency partners to develop domestic strategies to counter violent extremism. In August 2011, the U.S. Government published the first national strategy to address ideologically-inspired violent extremism in the homeland: *Empowering Local Partners to Prevent Violent Extremism in the United States*. The strategy emphasizes the need for government to empower diverse American communities to prevent violent extremism by sharing information about the threat of radicalization; strengthening cooperation with local law enforcement; and helping diverse communities to better understand and protect themselves against violent extremist propaganda, all while protecting civil rights and civil liberties of all individuals—a key facet of the work CRCL has undertaken since its inception.

## J. Unaccompanied Alien Children

In FY 2011, CRCL played an important role in the Department-wide working group on unaccompanied alien children. "Unaccompanied Alien Child" (UAC) is a legal term referring to a child who has no lawful immigration status in the US, has not attained 18 years of age, and has no parent or legal guardian in the U.S., or for whom no parent or legal guardian in the U.S. is available to provide care and physical custody (see Homeland Security Act of 2002, 6 U.S.C. §279(g)(2)). Several DHS Components encounter and are required to take custody of UACs, particularly when UACs arrive in the U.S. without a parent or legal guardian and are placed in temporary federal custody. CRCL chairs the UAC Working Group's subcommittee on short-term care and custody. As an action item of the subcommittee, CRCL staff worked with the DHS OCIO and DHS Blue Campaign staff to organize a day-long workshop on data tools for managing UACs. Staff from CRCL, the Blue Campaign, CBP, ICE, USCIS, and OCIO thoroughly examined the step-by-step processing of UACs, from the time that the children first encounter DHS personnel to their removal from the United States or completion of a benefits application. The lessons learned from this workshop will inform the subcommittee's recommendations to the full UAC Working Group (those recommendations have not yet been finalized). The subcommittee is in the process of compiling and reviewing CRCL complaints involving UACs in order to identify areas for necessary improvement.

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

The Programs Branch provides policy advice to the Department on civil rights and civil liberties issues, conducts training of DHS personnel and state and local law enforcement partners, and coordinates outreach and engagement activities in communities whose civil rights and civil liberties are particularly affected by DHS programs.

The Programs Branch consists of six sections:

1. Civil Rights and Civil Liberties Institute
2. Community Engagement
3. Disaster Preparedness
4. Immigration
5. Impact Assessments
6. Intelligence, Security, and Information Sharing

### A. Civil Rights and Civil Liberties Institute

In 2004, the Officer for Civil Rights and Civil Liberties established the first DHS civil rights and civil liberties training program. Since those early days, the Civil Rights and Civil Liberties Training Institute (CRCL-I) has flourished into a robust training enterprise focused on developing and delivering targeted and effective civil rights and civil liberties training that improves the Department's capacity to protect America, while respecting civil rights and civil liberties. In this role, CRCL-I helps to build public trust and to promote cooperation with the Department's mission.

#### Accomplishments in FY 2011

##### ***Fusion Center Training Program:***

State and major urban fusion centers serve as focal points for the receipt, analysis, gathering, and sharing of threat-related information among the Federal Government and state, local, tribal, territorial, and private sector partners. Throughout the fiscal year, CRCL-I continued to develop and deliver civil rights, civil liberties, and privacy training for personnel at fusion centers across the country. By the close of the year, CRCL-I completed the national implementation of its "training of trainers" program for privacy/civil liberties officers at fusion centers nationwide, training 68 officers at 77 fusion centers.



### ***Civil Rights and Civil Liberties Training for Department Personnel:***

CRCL-I continued to develop and deliver a variety of civil rights and civil liberties trainings for Department personnel. For example, CRCL-I visited the ICE Academy in Dallas, Texas, to deliver training to ICE Detention Service Managers (DSM) on the following topics: an overview of civil rights and civil liberties; sexual assault prevention and response; mental health issues in the detention environment; and, issues pertaining to other vulnerable populations. ICE established the DSM position to ensure that conditions of detention for ICE detainees are safe, secure, and humane.

In support of Executive Order 13548, “Increasing Federal Employment of Individuals with Disabilities,” CRCL-I partnered with CRCL’s EEO and Diversity Division to redesign and expand the Department-wide online training, “Employment of People with Disabilities: A Roadmap to Success.” The improved training for managers and supervisors includes seven new employee testimonial videos and focuses on hiring veterans with disabilities.

### ***“I Speak” Materials:***

CRCL-I developed the Department’s “I Speak” materials, which include multi-lingual posters, pocket guides, and job aides that individuals with limited English proficiency can use to point out the non-English languages they do speak. The materials assist DHS personnel and partners working directly with the public and encompass more than 85 languages, including several of the indigenous languages spoken in Central and South America. Upon request, CRCL will provide DHS personnel with customized, digital versions of the “I Speak” poster, pocket guide, and job aid, for the use of LEP persons who are not literate.

### ***287(g) Model Training:***

In ICE’s 287(g) program, state and local law enforcement entities enter into a formal partnership with ICE through a Memorandum of Agreement (MOA), through which the state or local entity receives delegated authority for immigration enforcement within its jurisdiction. CRCL-I and the Immigration Section delivered a “Civil Rights Issues” model training to program supervisors and line officers from state and local law enforcement agencies participating in the 287(g) program.

## **B. Community Engagement Section**

A top priority for CRCL is public engagement with the diverse American communities whose civil rights and civil liberties may be affected by DHS activities. CRCL’s Community Engagement Section responds to community concerns and provides information regarding DHS programs, activities, and issues by building trust and establishing a routine process for communication and coordination with diverse community leaders and organizations. In 2005, CRCL established regular roundtable meetings with American Arab, Muslim, Sikh, South Asian, and Middle Eastern community leaders in six cities throughout the country. Today, the Community Engagement Section leads a wide variety of outreach endeavors to diverse ethnic and community-based organizations, with core programs in 13 cities and other events throughout the country.

The Community Engagement program aims to:



- Communicate and share reliable information about federal programs and policies, including avenues for redress and complaints;
- Obtain information and feedback about community concerns and on-the-ground impact of DHS activities;
- Incorporate community ideas and issues relating to civil rights and civil liberties into the policymaking process; and
- Deepen channels of communication between communities, regional DHS leadership, and other federal officials to facilitate solutions to problems.

## Accomplishments in FY 2011

### *Community Roundtable Expansion:*

Community Engagement roundtables provide community leaders an opportunity to interface routinely and directly with DHS on issues most important to them. Roundtables are held quarterly in cities throughout the country, and are hosted by federal agencies and community organizations on an alternating basis. Attendees may submit questions beforehand so officials are prepared to respond and topics of discussion focus on concerns specific to each city's participants.

Information gathered at roundtables can play a vital role in helping to inform policy decisions and improve the effectiveness of policies and programs. For example, discussion and feedback from recent roundtable meetings resulted in improvements to CRCL's complaints process and in training improvements in several DHS Components.

In FY 2011, CRCL expanded its reach by establishing new roundtables in eight cities: Atlanta, Denver, Houston, Minneapolis, Portland (Maine), Seattle, Tampa, and Washington, DC, bringing our total to 13 roundtable cities. Through this expansion, CRCL has broadened its outreach to diverse ethnic and community-based organizations including Latino, Asian-American, and Somali-American communities.



Throughout the year, the ICE Secure Communities program, in particular, was a frequent topic of discussion at roundtables and other engagement events. The Community Engagement Section provided guidance and support in the Department-wide rollout of new policies related to the program in the summer of 2011. During the rollout, senior ICE and CRCL officials, including former CRCL Officer Margo Schlanger, met with community stakeholders and advocacy organizations to discuss recent changes to the Secure Communities program. Meetings were held in Atlanta, Boston, Chicago, Houston, Los Angeles, Miami, New York, and San Francisco.

### ***Removal of Designated Countries from NSEERS Registration:***

CRCL's Community Engagement policy guidance significantly contributed to the Department's official closing of the National Security Entry-Exit Registration System (NSEERS). NSEERS was first implemented in 2002 as a temporary measure in the aftermath of the September 11, 2001, terrorist attacks and was designed to record the arrival, stay, and departure of certain individuals from countries chosen based on an analysis of possible national security threats. NSEERS registration required approximately 30 minutes in secondary inspection, per person, per arrival, and NSEERS registrants were also required to register upon departure at one of the 118 designated ports of departure, limiting travel flexibility.

Since NSEERS was created, DHS has implemented several automated systems that capture arrival and/or exit information, making the manual entry of data via the NSEERS registration process redundant, inefficient, and unnecessary. The improved and expanded DHS and DOS systems capture the same information for visitors, regardless of nationality.

As a result of these advances, and with input from community groups and advocacy organizations collected by the CRCL Community Engagement Section, the Department announced that it has effectively ended the NSEERS registration process. This step will streamline the collection of data for individuals entering or exiting the United States, regardless of nationality.

### ***CRCL Activates the ICCT:***

The Incident Communication Coordination Team (ICCT) is a conference call mechanism for rapid communication with national community leaders when a particular incident calls for speedy engagement of this type. These calls are used to inform leaders on the Department's position and actions, and also to receive feedback regarding civil rights and civil liberties concerns of community members. CRCL convened two important ICCT calls in FY 2011: one following the death of Osama Bin Laden and one marking the tenth anniversary of the September 11, 2001, attacks.

### ***Additional Outreach Events:***

- Former CRCL Officer Margo Schlanger and USCIS Director Alejandro Mayorkas led several sessions at the first-ever White House Hispanic Leadership Conference, to discuss the Secure Communities program, immigration enforcement more generally, and reform efforts.
- Former CRCL Officer Margo Schlanger and ICE Director John Morton briefed the Congressional Hispanic Caucus, responding to questions about Secure Communities, prosecutorial discretion, and other issues.
- The Community Engagement Section conducted a Somali youth summit in Minneapolis, in coordination with the Hennepin County Sheriff and Somali-American youth and community organizations and leaders. The event had over 100 participants, including the U.S. Attorney and Representative Keith Ellison (D-MN). In testimony he gave during the House Committee on Homeland Security's hearing, "Radicalization in the U.S. Muslim Community," Rep. Ellison lauded CRCL's efforts.

- In FY 2011, CRCL organized a series of “American Communities” seminars for DHS leadership which focused on diverse American communities and homeland security issues. The goal of the seminars was to provide an overview by top experts in the field on demographic and cultural trends, diverse attitudes, and their relevance to homeland security issues. The sessions focused on the following American communities: Arab-American and Muslim communities, American Latinos, and Asian-American communities.

## C. Disaster Preparedness Section

The Disaster Preparedness Section supports individual and community resilience to natural disasters, acts of terrorism, or other emergencies. The Section ensures that the perspectives, needs, and civil rights and civil liberties of disaster-affected populations are integrated in the Federal Government’s emergency management planning, policies, and procedures. The result is improved safety and health for affected community members.

The Section facilitates the communication of critical information among stakeholders through collaboration with federal, state, tribal, and local government partners, as well as community-based organizations. It staffs the CRCL Officer’s role as chair of the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (ICC). The Section also serves as a resource for government partners to ensure that planning and response strategies respect the civil rights and civil liberties of all populations, including individuals with disabilities, racially and ethnically diverse communities, and LEP persons.

### Accomplishments in FY 2011

#### *Japan Earthquake Response:*

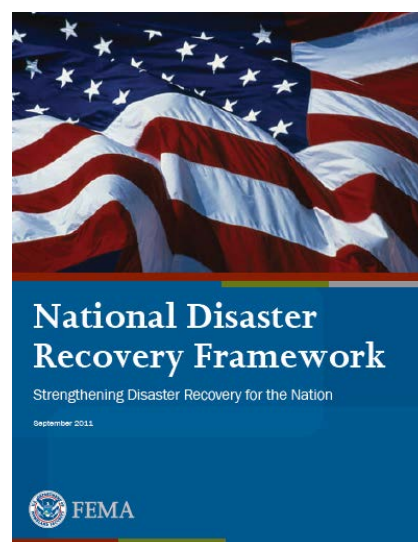
Following the devastating earthquake in Japan on March 11, 2011, CRCL led the formation of an ICC Federal working group including representation from DHS (CRCL and FEMA’s Office on Disability Integration and Coordination), DOS, the U.S. Agency for International Development, the U.S. Department of Health and Human Services (HHS), and the National Council on Disability. The working group convened a dialogue with the founder and president of the Asia Disability Institute to share information regarding the status of people with disabilities as Japan responded to the ongoing disasters within their country. At the request of the Japanese coalition partners, the U.S. working group sent technical assistance materials to Japan laying out the application of the Americans with Disabilities Act, the Rehabilitation Act, and Executive Order 13347 to individuals with disabilities in emergency preparedness, response, and recovery.

#### *Hurricane Irene and Tropical Storm Lee Response:*

CRCL led the ICC in several engagement endeavors with governmental and nongovernmental partners following Hurricane Irene (August 2011) and Tropical Storm Lee (September 2011). CRCL worked in tandem with the CRCL Immigration Section and FEMA to contact NGO partners in affected areas and serve as a resource for civil rights and civil liberties and other issues relating to individuals with disabilities or other populations that need functional support. Concerns that emerged were communicated to appropriate federal partners—ICC members—so that gaps in assistance could be closed.

### ***Shaping the National Disaster Recovery Framework:***

CRCL collaborated with FEMA and interagency partners to integrate core civil rights principles into the development of the National Disaster Recovery Framework, a guide designed to ensure coordination and recovery planning at all levels of government before and after a disaster to best meet the needs of states and communities in their recoveries. The Disaster Preparedness Section developed content to ensure full and equal access for racially and ethnically diverse communities, populations with limited English proficiency, immigrants, and individuals with disabilities. The chapter entitled “Community Considerations” is devoted almost exclusively to civil rights considerations and consists of language developed by CRCL, in collaboration with federal colleagues. With the recent public release of this national guidance, CRCL will remain active in roll-out activities as well as in the development of annexes and any related guidance.



### ***National Preparedness Goal:***

The National Preparedness Goal is the first deliverable required under Presidential Policy Directive (PPD) 8: National Preparedness, released in April 2011. The Goal sets the vision for nationwide preparedness and identifies the core capabilities and targets necessary to achieve preparedness across five mission areas laid out under PPD 8: prevention, protection, mitigation, response, and recovery. CRCL was instrumental in contributing to the development of the Goal by providing key civil rights and civil liberties principles to ensure that the perspectives and needs of disaster-affected populations are integrated in emergency management policy, planning, and procedures—including individuals with access and functional needs and racially and ethnically diverse communities, including those with limited English proficiency.


## **D. Immigration Section**

U.S. citizens, lawful permanent residents, asylum seekers, refugees, nonimmigrant and immigrant visa holders, migrant workers, undocumented persons, and persons in detention are all affected by the Department’s immigration-related programs. The CRCL Immigration Section works with DHS Component offices and agencies to:

- Ensure that civil rights and civil liberties protections are incorporated into immigration-related programs, policies, and procedures throughout DHS;
- Communicate with and inform the public about the civil and human rights and civil liberties implications of DHS immigration programs, policies, and procedures—including rights and responsibilities; and
- Provide civil and human rights and civil liberties training to DHS Component offices and agencies.

## Accomplishments in FY 2011

### *Participation in DHS Working Groups:*

- CRCL joined forces with the DHS Blue Campaign—an initiative to coordinate and enhance DHS’s anti-human trafficking efforts—and the Federal Law Enforcement Training Center (FLETC), and provided subject-matter expertise to the DHS Human Trafficking Working Group to develop the second phase of specialized training for DHS personnel on human trafficking. The web-based course raises awareness of human trafficking, describes how Components may encounter and respond to trafficking victims, and provides information on the Blue Campaign.
- 
- CRCL participated in two ICE working groups. The first focused on the creation of new visitation policies for detention facilities, known as the “Stakeholder Procedures for Requesting a Detention Facility Tour and/or Visitation,” aimed toward increasing access to ICE detainees and detention facilities for NGOs and other stakeholders. CRCL initiated the second working group with the ICE Health Services Corps to improve ICE medical inspection processes and ensure processes address quality of care in addition to compliance with ICE’s detention standards. Throughout FY 2011, CRCL continued to be involved in updating immigration detention standards and worked closely with ICE on its 2011 Performance Based National Detention Standards.

### *Civil Rights and Civil Liberties Trainings:*

- CRCL partnered with FLETC and Citizenship and Immigration Services Ombudsman to develop a training course for DHS personnel on the Violence Against Women Act (VAWA). This course describes federal legislation concerning confidentiality and immigration remedies for immigrants who have been victims of domestic violence, trafficking, and certain other crimes.
- CRCL led a train-the-trainer session on LGBT issues and best practices for managers and lead staff of organizations that partner with the DOS Bureau of Population, Refugees & Migration to resettle refugees from overseas to locations across the United States. The training provided tools and techniques that leaders could share with their staff who work with lesbian, gay, bisexual, transgender, and intersex refugees. Similar trainings are scheduled to occur throughout FY 2012.
- CRCL’s Immigration and Community Engagement Sections partnered with USCIS to ensure that USCIS adjudicators ask about a person’s religious beliefs or practices only when they are relevant to determine the individual’s eligibility for a benefit. As a result, USCIS will be revising the Adjudicator Field Manual to codify this policy. In FY 2012, CRCL will work with USCIS to develop training to implement this policy.



***Other Notable Achievements:***

- CRCL assisted in creating the “Online Detainee Locator System,” by which family members, legal representatives, and other interested parties can locate detainees in the ICE detention system. This utility has broadly advanced ICE’s goals regarding transparency for its detention system.
- CRCL convened the first West Coast meeting of the NGO Civil Rights/Civil Liberties Committee in Los Angeles, California, to hear civil and human rights concerns of West Coast-based organizations.

## E. Impact Assessments Section

One of the ways in which CRCL advises the Department’s leadership is through Civil Rights and Civil Liberties Impact Assessments. A CRCL Impact Assessment may be required by statute, requested by Department leadership or staff, or initiated by the Officer for Civil Rights and Civil Liberties.



The CRCL Impact Assessments Section reviews various Department programs, policies, or activities to determine whether these initiatives have an impact on the civil rights or civil liberties of those affected by the initiative. CRCL policy analysts consider various civil rights and civil liberties questions when drafting and conducting an Impact Assessment. In the final written document, CRCL may make recommendations for change.

### Accomplishments in FY 2011

***Institutionalization of CRCL’s Impact Assessment Program:***

Impact Assessments were placed in their own CRCL section in FY 2010. In FY 2011, the Section has made great progress standardizing internal processes for conducting impact assessments and developing procedures for incorporating public input.

***FAST Impact Assessment Completed:***

The Future Attribute Screening Technology (FAST) program was designed by the DHS Science and Technology Directorate to develop innovative, non-invasive technologies to screen people at special events, airports, and other secure areas. The technology would help security personnel identify persons who intend to cause harm by analyzing psycho-physiological signals and behavioral attributes exhibited in near-real time.

The ultimate goal of FAST is to allow people to move freely while the system works discretely in the background, analyzing various aspects of human behavior and data to accurately assess and identify individuals who intend harm. The program is part of the Homeland Security Advanced Research Projects Agency and the Department’s Science & Technology Human Factors/Behavioral Science Division.

Based on CRCL’s review of the applicable constitutional, statutory, and regulatory authorities, we concluded that if its development is operationally successful, the FAST system can serve as a useful tool in DHS’s efforts to secure the nation’s borders and protect critical infrastructure, provided certain conditions are satisfied to maximize the protection of civil rights and civil liberties in deployment of the FAST system.

***Other Assessments in Progress:***

- *Border Search of Electronic Devices* – To secure U.S. borders from illegal activities, DHS has significant authority to search travelers, baggage, and containers, including electronic devices, entering the country. CRCL’s Impact Assessment is focused on the Department’s policies guiding the border search of electronic devices, how those searches occur, and related civil rights and civil liberties issues.
- *Updated Assessment of State and Major Urban Area Fusion Center Support* – Section 511 of the Implementing Recommendations of the 9/11 Commission Act requires CRCL to conduct a follow-up to the Fusion Center Impact Assessment released in December 2008. CRCL is working with the DHS Office of Intelligence and Analysis (I&A) State and Local Program Office to complete a new impact assessment that reflects current support for fusion centers. In FY 2011, CRCL conducted its first stakeholder listening session on fusion centers to solicit feedback to inform our civil rights impact assessment report to Congress. CRCL was joined by I&A and several community groups, advocacy organizations, legal scholars, and a fusion center representative. During the meeting, participants offered their thoughts on civil rights and civil liberties issues. Some attendees sought information, for example, about protections against what they perceived as unlawful racial or ethnic profiling being conducted by fusion centers; others spoke about the importance of ensuring fusion center compliance with the First and Fourth Amendments.
- *Updated Assessment of the Information Sharing Fellows Program* – This Impact Assessment examines a program designed to assign state, local, and tribal law enforcement officers and intelligence analysts to a temporary detail assignment at I&A in order to become familiar with I&A’s roles, products, and programs and with the missions and capabilities of the Department and other federal agencies.

## **F. Intelligence, Security, and Information Sharing Section**

The Intelligence, Security, and Information Sharing (ISIS) Section works with Department Components and Offices to ensure that civil rights and civil liberties protections are incorporated into the Department’s information and physical security programs, information sharing activities, and intelligence-related programs and products.

### **Accomplishments in FY 2011**

***“If You See Something, Say Something™” Campaign:***

ISIS was integrally involved in the development and review of many public materials promoting the Department’s “If You See Something, Say Something™” campaign.



The campaign aims to raise public awareness of indicators of terrorism and violent crime associated with terrorism, and to emphasize the importance of reporting suspicious activity to the proper law enforcement authorities. ISIS reviewed materials to ensure that they conformed to standards for reporting suspicious activity and did not diminish civil rights and civil liberties. CRCL also hosted a stakeholder listening session with DHS leadership to provide NGO representatives a briefing on the campaign and to hear thoughts on civil rights and related issues.



***Intelligence and Analysis Product Review:***

Since FY 2009, ISIS has reviewed thousands of classified and unclassified I&A products, providing comments and working with I&A management and analysts to quickly resolve civil rights and civil liberties issues. In FY 2011, CRCL standardized the intelligence review process and instituted new guidance to ensure the protection of civil rights and civil liberties in products serving the Department’s intelligence mission.

***Civil Rights and Civil Liberties Trainings:***

In addition to supporting ongoing fusion center and intelligence analyst training, ISIS developed Department-wide training on respecting civil rights and civil liberties as part of the Department’s overall Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI) training program. The NSI is part of an effort to establish a “unified process for reporting, tracking, and accessing” SAR in a manner that rigorously protects the privacy and civil liberties of the public. ISIS also began developing trainings on civil rights and civil liberties principles for United States Computer Emergency Readiness Team (US-CERT) cybersecurity operators, and by I&A intelligence analysts, which were delivered in early FY 2012.

***Information Sharing Access Agreements:***

ISIS, in collaboration with I&A, OGC, and PRIV, developed five Information Sharing Access Agreements to share DHS datasets with the National Counterterrorism Center (NCTC). These agreements represented a landmark moment in the DHS-NCTC information sharing relationship, enhancing both the U.S. Government-wide counterterrorism mission and the DHS screening and vetting missions, while ensuring that the information sharing relationships do not negatively affect civil rights and civil liberties.

***Coordination with DHS Components:***

- CRCL worked with its federal, state, and local partners to develop a written policy for nationwide law enforcement leadership when preparing for and responding to gatherings of groups or individuals exercising First Amendment-protected rights.
- CRCL conducted a comprehensive review of the *TSA Screening SOP [Standard Operating Procedure] on Travelers with Disabilities* and made a number of recommendations for improving the process and procedures.

***Other Notable Achievements:***

- CRCL participated in the White House-led interagency effort and helped draft the *National Strategy for Trusted Identities in Cyberspace*, which aims to make online transactions more

trustworthy. This participation resulted in the insertion of additional civil liberties language into the strategy.

CRCL crafted a new section on civil rights and civil liberties in a revised version of *The National Biometrics Challenge*, a publication by the National Science and Technology Council.

## V. Compliance Branch: Public Complaints

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

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

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

### Accomplishments in FY 2011

#### *Expert Recommendations for Ongoing Detention Facility Investigations:*

Each year, CRCL's Compliance Branch conducts site visits to ICE detention facilities to investigate alleged violations involving civil rights and civil liberties related to immigration detention. For many of these visits, CRCL engages the assistance of subject-matter experts to examine issues related to medical care, mental health care, security and operations, and environmental health and safety. The experts generate reports with their findings from the site visits and recommendations to address any deficiencies they identify to assist CRCL with its investigation. CRCL ultimately issues a report with recommendations on its investigation that relies on the expert reports, but during FY 2011, CRCL formalized a process of transmitting the expert reports to ICE—once they are completed to provide ICE leadership with the full benefit of the experts' work and inform leadership about potential policy issues at the earliest opportunity. ICE and CRCL then meet to discuss the experts' findings and recommendations and ICE ultimately sends a written response to CRCL that CRCL can incorporate into its final report with recommendations.

In 2011, CRCL sent expert reports to ICE following five site visits, to a state correctional institution in Louisiana and to county jails in Arizona, Ohio, New Jersey, and Texas. Each of these investigations is still currently open, and CRCL is in the process of discussing the expert reports and working toward resolution of the recommendation with ICE. CRCL anticipates that it will ultimately issue a final report with recommendations that will close each investigation.

### ***CRCL Expands Issues Reviewed in DHS TRIP:***

From February 2007 – June 2011, CRCL has reviewed all DHS Traveler Redress Inquiry Program (TRIP) records in which travelers alleged that they were discriminated against on the basis of race, ethnicity, religion, disability, or gender. In June 2011, at CRCL’s request, DHS TRIP expanded available options for civil rights issues listed on the DHS TRIP form to include: “I feel my civil rights have been violated because my questioning or treatment during screening was abusive or coercive,” and “I feel my civil rights have been violated because a search of my person or property violated freedom of speech or press.” Since this expansion, these CRCL issues have been implicated in approximately 10 percent of records received by the DHS TRIP program.

### ***CRCL Hosts Training Conference on Immigration Detention Issues:***

CRCL’s Compliance Branch hosted a training conference on immigration detention issues for DHS personnel from CRCL, ICE, the Secretary’s Office, and DOJ’s Civil Rights Division. The conference’s expert panel featured a forensic psychiatrist, a penologist, and the Deputy Assistant Director and Medical Director of ICE Health Service Corps (IHSC). The panelists addressed issues relevant to immigration detention, covering topics ranging from mental health care to sexual assault prevention and intervention to issues regarding the treatment of women in immigration detention. Panelists also discussed the role of IHSC and the provision of medical care to individuals in immigration detention.

### ***287(g) and Secure Communities Investigations:***

The 287(g) program allows a state or local law enforcement entity to enter into a partnership with ICE, under a joint MOA. The state or local entity receives delegated authority for immigration enforcement within their jurisdictions. In FY 2011, CRCL initiated its first 287(g) investigation. Significant documentation was requested and CRCL staff conducted its first site visit of the relevant jurisdiction in October 2011. CRCL continues to receive documentation and hopes to have the investigation completed in FY 2012. CRCL also initiated its first two Secure Communities investigations in FY 2011. Complainants have been interviewed and documentation has been requested of both ICE and local law enforcement agencies. CRCL has also made requests to both ICE and local law enforcement agencies to interview local officers. These investigations are still pending and CRCL is hoping to complete them during FY 2012.

## **A. FY 2011 Investigations**

CRCL receives complaints from a variety of sources including the general public and NGOs. This includes complaints received through mail, email, fax, DHS TRIP, and the CRCL telephone hotline. Incidents that might merit investigation are also forwarded to CRCL from other offices at DHS and other government agencies. For example, the HHS Office of Refugee Resettlement (ORR) sends reports (10 in FY 2011) regarding treatment of UACs by DHS personnel. DOJ also forwards complaints raising civil rights concerns that may fall within CRCL’s jurisdiction. Within DHS, potential complaints are forwarded to CRCL by CBP’s Office of Diversity and Civil Rights, by ICE, and by the Office of Inspector General (OIG). Further, since October 1, 2009, ICE has notified CRCL when there has been a death of an individual in ICE custody.

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

During FY 2011, CRCL received 298 new complaints. Of these, OIG retained 8 complaints forwarded by CRCL, and CRCL closed 219 complaints. Similarly, during FY 2011, OIG reported to CRCL the results of six complaints closed in FY 2011; the results involved two matters retained by OIG in FY 2008, three in FY 2009, and one in FY 2011. Upon review, CRCL determined that no additional work was needed in any of these matters, and closed them within our Office, as well.

Tables 2 and 3, below, summarize investigations CRCL opened and closed in FY 2011 and do not include matters retained and closed by OIG. Information about those complaints can be found in Appendix B of this Report. Additional tables in Appendix B detail OIG's retained matters, and the number of investigations per quarter, by Component and issue, dividing them into those that were retained for full investigation by CRCL, referred for fact investigation to the relevant Component, and expedited.

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

Summaries of all complaints the Compliance Branch closed during the reporting period that were retained for CRCL investigation and resulted in recommendations, along with examples of complaints referred to Components for investigation, are provided below.

**TABLE 2: COMPLAINTS RECEIVED FY 2011, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals	Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		
Abuse of authority/ misuse of official position	1	3	4				2	2	2										3	5	6	14	
Breach of confidentiality											1			1				1	0	1	2	3	
Conditions of detention		3	4				5	20	36									1	5	24	40	69	
Disability accommodation			3											1					2	0	0	6	
Discrimination/ profiling	24	5	8				2	2	9	4	4			1				1	4	26	12	26	
Due process	1	1	5					3	6			1						1	3	2	4	15	
Excessive force	1	8	5				1		4										2	8	9	19	
Fourth Amendment (search and seizure)			1				1	1	3										1	1	4	6	
Free speech/ association									1										0	0	1	1	
Human rights																	1		1	0	0	1	
Inappropriate questioning/ inspection conditions	2	3	1								1								2	3	2	7	
Intimidation/threat/ improper coercion			1						1										0	0	2	2	
Language access (limited English proficiency)	1								1					1					1	0	2	3	
Legal access			2				1		1										1	0	3	4	
Medical/mental health care	1	2	1				13	2	27									1	14	5	28	47	
Other								1											0	1	0	1	
Religious accommodation								1	2									1	0	2	2	4	
Retaliation		1							1										0	1	1	2	
Sexual assault/abuse		1	1				1		2										1	1	3	5	
TSAI AIT and TSA pat-downs			1				1			7	2								1	7	3	11	
<b>Total</b>	<b>31</b>	<b>27</b>	<b>37</b>				<b>27</b>	<b>32</b>	<b>96</b>	<b>11</b>	<b>9</b>			<b>4</b>				<b>2</b>	<b>5</b>	<b>9</b>	<b>60</b>	<b>75</b>	<b>155</b>



**TABLE 3: COMPLAINTS CLOSED FY 2011, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	All	
Abuse of authority/ misuse of official position	3	1	1						2											1			3	2	3	8
Conditions of detention		1	1				5	39	13														5	40	14	59
Disability accommodation			1								1	1		1								1	1	0	4	5
Discrimination/ profiling	1	14	2	1					1	7	2		1			1			1	2	1	4	25	6	35	
Due process								1	4			1		1						1		0	3	5	8	
Excessive force	1	12	1					1	1													1	13	2	16	
Fourth Amendment (search and seizure)										1													1	0	0	1
Free speech/ association																			1			1	0	0	1	
Human rights																			1			1	0	0	1	
Inappropriate questioning/ inspection conditions		8	1					1			2									1		0	10	3	13	
Inappropriate touch/search of person (not TSA-related)		5																				0	5	0	5	
Intimidation/threat/ improper coercion		1						1	1								1					0	3	1	4	
Legal access			1						1													0	0	2	2	
Medical/mental health care		1					5	12	11										1			6	13	11	30	
Other								1														0	1	0	1	
Religious accommodation		1						2	2													0	3	2	5	
Retaliation		1						1														0	2	0	2	
Sexual assault/abuse		1							2													0	1	2	3	
TSA AIT and TSA pat-downs	1		1							1	9	1							1			3	9	2	14	
<b>Total</b>	6	46	9	1			10	59	38	3	16	7	1	2	1		2		5	5	2	26	130	57	213	

## B. Complaints Resolved by CRCL with Operational Recommendations

The Compliance Branch addresses a wide range of civil rights and civil liberties complaints. The following summaries describe those complaints closed in FY 2011 with recommendations from CRCL to relevant DHS Components. These recommendations and the Components' response reflect the Department's continuing commitment to preserving civil rights and civil liberties while protecting the homeland.

### CBP

- 1. *CBP Land Border Security Procedures:*** In April 2009, a U.S. citizen entering the United States through a land border port of entry in California alleged mistreatment by CBP officers when his vehicle underwent secondary inspection several days earlier. The traveler was handcuffed while escorted into the Secondary Inspection Office (SIO), and subjected to a very thorough pat-down search. CRCL reviewed the complaint, along with relevant CBP policies, and could neither confirm nor reject the allegations of rude and abusive treatment. However, CRCL found the officers involved were not aware of the discretion available, as a matter of existing policy, with respect to handcuffing and, indeed, to escorting travelers whose vehicles were subjected to secondary inspection to a secure area. CRCL recommended in October 2010 that CBP train supervisors, who make decisions to move individuals from the designated waiting area to the SIO, to articulate and document the reason for handcuffing, reinforcing that this action is not mandatory, and reminding officers of the discretion that they possess when deciding whether or not to restrain an individual under escort, and the appropriate considerations that counsel in favor and against restraint during escort. CBP concurred and developed and distributed the training in January 2011.
- 2. *Alleged Racial Profiling at Port of Entry:*** In August 2009, CRCL received a complaint regarding two American citizens' detention for over five hours at a California port of entry that same month. The complaint alleged racial profiling in selecting the men for intensive scrutiny, inappropriate questioning, "torturous" conduct including application of a leg shackle, failure to provide food, and failure to allow the men to notify anyone of the delay in their admission. Concluding its investigation in September 2011, CRCL determined that the allegation of profiling was unfounded, and was unable to confirm or reject the allegations regarding inappropriate questioning. However, CRCL found that use of shackles and hold rooms at the port did not comply with CBP policy; pointed to a problem in detainee meal schedules at some ports; and found that CBP policy would benefit from clarification regarding citizens' rights to notify family when detained at the border for a protracted period. CRCL accordingly recommended that the port administer training on the appropriate use of shackles and reevaluate its hold room practices. CRCL further recommended changes to CBP's detainee meal policy and notification policy to avoid the sorts of issues presented in this complaint. CBP concurred with each of CRCL's recommendations, and is in the process of revising the relevant policy documents. CBP concurred with CRCL's recommendations and drafted an action plan addressing them.

3. ***Port of Entry Inspection:*** A U.S. citizen alleged he was profiled by a CBP officer in January 2007 on the basis of ethnicity when he presented his U.S. passport for admission. The traveler stated that CBP inquired inappropriately about his ancestry, and did so based upon his name and appearance. CRCL undertook a particularly thorough review of this complaint; we reviewed screening protocols and intelligence extant at the time of the inspection and determined the actions of the CBP officer were appropriate in that particular security context. CRCL has been working closely with CBP to review new screening protocols to ensure travelers' civil rights are respected. As a result of this complaint, CRCL recommended in October 2011 that CBP make this review more robust; CBP agreed and is working with CRCL on implementation.
4. ***CBP Apprehensions and Detentions in Arizona:*** In January 2010, an NGO submitted a complaint on behalf of eight individuals alleging physical and verbal abuse and or denial of food and medical care by U.S. Border Patrol agents in Arizona. CRCL referred the matter to CBP's Office of Internal Affairs for factual investigation. The investigation could neither confirm nor reject the allegations. While none of the allegations could be substantiated, the investigation pointed to room for improvement in certain types of record-keeping. CRCL investigators discussed the allegations with local management, who stated they were working to improve procedures, such as logging information on juveniles in detention and provision of meals to detainees covered under CBP policies. CRCL closed the complaint in October 2010, but continues to monitor Border Patrol's adherence to these commitments.
5. ***Treatment During US-VISIT Processing:*** In June 2010, two female tourists from Morocco presented themselves for admission at a New York airport. The women, who are not fluent in English, wore religious headscarves, also called hijabs. It was alleged that CBP personnel insisted the two women remove their headscarves to complete US-VISIT processing. Such insistence would violate CBP policy, which does not require travelers to remove religious headwear prior to or during US-VISIT processing, unless the headwear in some way obscures the face or makes positive identification impossible. CBP officers are trained to match the photos on the visa to the individual presenting themselves for admission, and ears are helpful for such matching; therefore, a traveler wearing the hijab may be asked to make her ears visible without removing the headscarf. CBP confirmed that the women removed their headscarves; however, the officer involved stated that (although he could not remember the particular incident) he would not have instructed women to remove their hijabs, but would have simply directed them to adjust their headscarves in order to reveal their ears. In order to prevent similar incidents in the future, CRCL recommended in June 2011 that CBP formally train all officers on DHS policies regarding the treatment of religious headwear during US-VISIT processing. CBP agreed, and CRCL is now working with CBP to create training materials to promote effective communication between CBP and the traveling public on this issue.
6. ***Treatment of International Traveler at Airport:*** A same-sex couple, married in Washington, DC, wrote to CRCL alleging discriminatory treatment when they re-entered the United States at a California airport. The couple alleged that CBP officers treated them rudely and unprofessionally because of their sexual orientation. CBP conducted an immediate factual review, and was unable to substantiate allegations of rude and unprofessional conduct. The

couple also asserted that as a married couple, they should be treated as a family when presenting themselves for admission to the United States, including through the filing of joint customs declaration forms. CRCL found that it does not violate the current regulatory framework to deny same-sex couples married under state law the ability to file a joint customs declaration form. However, to increase equality for all travelers, CRCL has recommended that CBP consider new regulations on this topic, and on March 27, 2012, CBP and the Treasury Department issued a Notice of Proposed Rulemaking (NPRM) that would allow same-sex couples and their children to jointly file a customs declaration form. CRCL has notified complainants of this NPRM.

## FEMA

- 7. *Effective Communication During Evacuation:*** In January 2007, the National Center for Law and Economic Justice filed a complaint concerning FEMA's failure to have procedures and policies in place to communicate effectively with deaf and hard of hearing evacuees who needed access to FEMA assistance or information following Hurricane Katrina in 2005. CRCL substantiated this complaint, and in November 2010 recommended that FEMA: (1) improve the notice it provides to the public about their rights under Section 504 of the Rehabilitation Act, including the process for requesting sign language interpretation; and (2) create a brochure focusing on Section 504 rights and practices. FEMA concurred, and has produced a leaflet addressing Section 504 rights and a poster to direct individuals with hearing impairments to appropriate interpretation resources.

## ICE

- 8. *Provision of Blankets in Holding Cells:*** In June 2009, a detainee in ICE custody at a Pennsylvania county jail asserted that: (1) he had been transported in a car which smelled of vomit; (2) he had been held in a cold and unsanitary holding cell for over 16 hours without a blanket; (3) he and other detainees were ignored when they complained about the conditions of detention; and (4) Mexican detainees were generally belittled and degraded. CRCL found that the first, third, and fourth allegations were either unfounded or unsubstantiated. CRCL substantiated the second allegation, that the detainee spent an unduly long period of detention in a cold holding cell without a blanket. Accordingly, CRCL recommended that ICE ensure that the jail increase its blanket inventory so that blankets are generally available for detainees who request them while in holding cells. ICE concurred with the recommendation and the facility has agreed to provide blankets to all detainees who request them.
- 9. *Medical Care in ICE Detention:*** In April 2010, a detainee in ICE detention alleged that his frequent transfers among ICE facilities had compromised treatment for his chronic medical condition. CRCL investigated and found that the detainee's care had been complicated by his frequent transfers. CRCL recommended in March 2011 that ICE minimize transfers of detainees with significant or chronic medical conditions under current active management. ICE concurred, and in January 2012 released a new transfer policy that calls for limiting such transfers.
- 10. *Death in Detention:*** In March 2009, CRCL was informed of the death of a detainee at a facility used by ICE. Based on the apparent facts, CRCL referred the matter to ICE for fact investigation. Following receipt of ICE's report of investigation, CRCL reviewed additional

documentation from the facility, including the detainee's full medical file while in ICE custody. After the death, ICE put in place new procedures to improve and strengthen its investigative procedures for detainee deaths. CRCL recommended that ICE's detainee death investigation reports require a doctor's review and approval and require medical analysis covering overall quality of medical care. In September 2011, due to concerns about the medical care that the facility provided, CRCL recommended that ICE take any appropriate personnel action based upon the report, and also that ICE review the medical system in place at the facility in order to address systemic and personnel challenges. Additionally, CRCL recommended training for medical employees on proper screening techniques and reporting procedures. ICE has concurred with the recommendations.

## **TSA**

**11. *Language Barrier During Airport Screening:*** In January 2008, CRCL received a complaint from a non-profit organization in New York City, alleging that TSA violated its own policies and the Fourth Amendment of the United States Constitution by subjecting an Indian national to a strip search and requiring him to remove his religiously mandated headwear, and then scanning the headwear using X-ray. The complaint claimed TSA failed to communicate with the traveler in a language he could understand and did not properly advise him of his screening options. CRCL conducted a site review in April 2008, and concluded that TSA failed to follow its standard operating procedures in some areas, but that the infractions did not rise to the level of a civil rights violation. TSA requested that the passenger remove his turban; however, the passenger apparently believed he was being requested to take off his pants. It appears this was the result of a miscommunication, not an intentional strip search. CRCL could not determine whether TSA mishandled the religious headwear, but did find that there was no mirror in the secondary screening area to facilitate passengers replacing of their headwear. CRCL concluded that many of the issues arose because of the existence of a language barrier. Accordingly, CRCL recommended that TSA develop a language access plan, including provisions relating to searches of people with limited English proficiency. CRCL recommended that TSA ensure that areas in which travelers are asked to remove headwear are equipped with a mirror to facilitate the re-donning of those items. TSA concurred with the recommendations and provided an action plan for implementation. CRCL will continue to monitor the progress of the action plan on a quarterly basis until all recommendations are implemented.

## **USCIS**

**12. *Sign Language Interpretation During Citizenship Interview and Ceremony:*** A hearing-impaired complainant alleged discrimination by USCIS based on the agency's failure to provide a sign language interpreter, as requested, for his citizenship interview and ceremony in June 2009. CRCL investigated and concluded that provision of an interpreter was required by Section 504 of the Rehabilitation Act as well as by a new USCIS policy and Standard Operating Procedures (SOP) regarding receipt and processing of requests for disability accommodation that went into effect shortly after the incident in question. In February 2011, CRCL recommended that USCIS: (1) ensure that all Field Office Directors train their staff regarding persons with disabilities, compliance with Section 504, and implementation of the new policy and SOP; (2) ensure that each field office has a designated employee to receive and process accommodation requests and that this employee has received all required

training; and (3) conduct periodic reviews to assess how well the new policy and SOP are working to address needs. USCIS concurred, and is currently developing responsive training (and providing regular updates to CRCL). USCIS has designated and trained an employee to handle accommodation requests at each field office and reports that the new process is working well and will be assessed annually to determine if any improvements are needed.

## Multi-Component

**13. *Alleged Civil and Human Rights Violations:*** In August 2010, CRCL received a complaint from an individual working as a consultant for an NGO, who alleged numerous human rights violations, mostly in recent DHS-issued regulations and Systems of Records. After receiving clarification from the complainant that his previously-submitted comments to six Notices of Proposed Rule Making and two Systems of Records Notices (SORN) contained the substance of all but one of his complaints, CRCL examined each complaint both procedurally and on merit. The complaint was not an allegation of violations of a specific individual's civil or human rights, so CRCL did not investigate any particular facts. CRCL considered each identified concern, separating nine discrete issues. All but one of these issues had been previously examined in the course of rulemaking and SORN proceedings. The complainant's first concern was the handling of a matter the complainant submitted to TSA's Office of Civil Rights and Liberties. The remaining eight concerns were with six DHS-issued rules and two Systems of Records that the complainant alleged violate the U.S. Constitution, U.S. statutes, and/or the U.S. Government's international treaty obligations, including but not limited to those under the International Covenant on Civil and Political Rights. CRCL found no instance of a human rights violation in any of the issues we analyzed in the complaint, but did find two instances of unduly narrow description of the scope of relevant human rights protections. CRCL is working to ensure better coordination with DHS Components and offices with respect to human rights matters in regard to human rights issues that arise in the regulatory or Privacy Act contexts. The matter was closed in September 2011.

## C. Complaints Investigated by CRCL Without Operational Recommendations

The following summaries are representative of complaints investigated or reviewed by CRCL that did not result in recommendations to DHS Components. These summaries reflect a wide range of allegations of civil rights and civil liberties violations relating to Department programs and activities.

### CBP

**1. *Pat-Down at Port of Entry:*** In October 2010, a traveler alleged that CBP unjustifiably selected him for inspection and touched his groin area inappropriately during the pat-down at a Texas port of entry. CBP's inquiry included a review of the inspection and its compliance with CBP policy. CBP determined officers followed and complied with applicable inspection policy but found possible deficiencies in pat-down approval procedures at the port of entry and ordered an audit. As a result of this complaint, CBP required additional training regarding pat-downs at the local port of entry and strengthened supervisory oversight to ensure that inspections comply with policy. CRCL reviewed the report of investigation



provided by CBP and agreed with the finding that CBP could not substantiate the traveler's allegations.

2. ***Profiling at Port of Entry:*** In December 2008, a traveler alleged, via DHS TRIP, that CBP officers unjustifiably selected him for inspection, reviewed private pictures in his camera without consent, and conducted an inappropriate partial body search. CBP reviewed current policy and the traveler's entry record to determine if the inspection and body search were performed according to policy. CBP found that officers targeted flights from the traveler's itinerary because the flights coincided with a marijuana-related festival. CBP also found that the officers had followed and complied with policy, and had obtained supervisory approvals for the search of the camera that led to the discovery of images of persons consuming drugs. Officers also obtained supervisory approval for the partial body search. CRCL reviewed the report of investigation that CBP provided, and agreed with their findings.
3. ***Denial of Admission to the United States:*** In January 2010, a Canadian national alleged he was subjected to racial and ethnic discrimination by CBP officers conducting preclearance inspections at a Canadian international airport. He alleged he was subjected to additional screening based on his skin color, and that white travelers were allowed to proceed without being stopped for extra screening. The traveler also claimed that he was wrongly denied admission to the United States. CBP officers followed procedures and policy and selected the traveler for inspection based on behavioral analysis and denied his admission due to his failure to overcome the presumption that he was an intending immigrant. The investigation did not substantiate any allegations of unprofessionalism or racial/ethnic discrimination. CRCL reviewed the report of investigation that CBP provided, and agreed with their findings.
4. ***Unaccompanied Minor at the California Border:*** In January 2010, CRCL received a report from HHS ORR alleging that a Border Patrol agent attempted to slap a 17-year-old female unaccompanied minor and that a female agent poked at her and called her names during a strip search. CBP conducted an internal investigation, located and attempted to interview the minor, and interviewed all agents involved. CBP found no witness, record, or other information to indicate the minor was mistreated, verbally abused, or strip searched. In addition, video of the minor's arrival and processing at the Border Patrol station showed no indications of mistreatment or that she underwent any type of body search. During a phone call with the minor, she did not provide investigators with any information to support her allegations and did not respond to CBP's subsequent requests for an interview. CRCL agreed with CBP's findings and closed the matter in April 2011.
5. ***Unaccompanied Minor at the Texas Border:*** In February 2010, a *pro bono* legal services program filed a complaint with CRCL, alleging mistreatment of a 14-year-old female unaccompanied minor by a Border Patrol agent in Texas. The minor stated the agent used excessive force against her during apprehension, fell on her and hit her in the head with his knee causing her bruising and pain, and that other aliens in her company stated the same agent hit a woman named "Norma." When the minor reported the incidents of abuse to another agent, the agent informed the minor that she could file a complaint. The ICE Office of Professional Responsibility (OPR) and CBP conducted an investigation, located and

interviewed the female named “Norma” and interviewed the minor in the presence of her attorney. Due to multiple inconsistencies reported by “Norma” and the minor regarding details of the apprehension, and different descriptions and names of the agents previously reported, ICE OPR and CBP did not substantiate the allegations; however, the investigation did reveal that both the minor and “Norma” were offered and refused emergency medical care. ICE OPR and CBP concluded that agents acted in accordance with policy and procedure. CRCL agreed and closed the matter in March 2011.

## FPS

- 6. *Screening of Service Animals:*** In November 2010, an individual with a disability and who required a service dog, complained of mistreatment on the basis of his disability during his visitor access processing at DHS Headquarters. The individual alleged that DHS officers were reluctant to allow him and his service dog access to the DHS Nebraska Avenue Complex even though the individual was cleared and had an appointment. CRCL determined that DHS security officers did not have a policy for the screening of service animals and were unfamiliar with Section 504 of the Rehabilitation of 1973. CRCL worked with the DHS Office of Security to develop a policy for the screening of service animals and provided Section 504 training for Office of Security staff. The individual agreed that the complaint had been informally resolved after he was given the opportunity to review the new policy and was advised of the training initiative. CRCL closed the matter in February 2011.

## ICE

- 7. *Medical Care at an ICE Contract Facility:*** In February 2008, CRCL received a complaint from a detainee with diabetes who alleged that he was not receiving adequate medical care and that his grievances regarding his concerns were not being addressed. ICE was referred the complaint for investigation and forwarded its report to CRCL for review. The report found concerns regarding the provision of medical care; however, it noted that corrective action was taken by the medical staff, and the incident was fully documented and reviewed internally. Overall, the report found that the medical care provided to the detainee met the ICE National Detention Standards (NDS). Additionally, the report found that grievances, facility records, and the detainee’s medical records were handled in a manner consistent with the NDS. Upon review of ICE’s findings, CRCL concurred and closed the matter in February 2011.
- 8. *Conditions of Detention in a County Facility:*** In September 2007, CRCL received a complaint alleging that a detainee did not receive various detainee services including: access to the law library, telephones, and orientation handbooks. The detainee also alleged he was inappropriately placed in segregation, that his legal documents were ruined by the facility, and that medical care was inadequate throughout his detention at the facility. The detainee was eventually released under an order of supervision and CRCL received an ROI from ICE detailing its inquiry into the above-referenced matter. Following receipt of the ROI, CRCL requested further documentation from ICE. CRCL was informed that the facility is no longer being used for ICE detention, and closed the matter as effectively moot in January 2011.

## TSA

- 9. *Pat-Down at an Airport:*** In November 2010, a complainant alleged that his civil rights or civil liberties may have been violated at a Virginia airport. He claimed that he was selected for secondary screening, not provided proper screening options in regards to screening his turban, intimidated into removing his turban in public by a Transportation Security Officer (TSO), subjected to a “prison-style” pat-down, and not provided a private screening area to remove his turban. A joint investigation conducted by CRCL and TSA’s External Compliance and Public Outreach Division found that screening personnel did inform the complainant of screening procedures and his rights to a private screening. The complainant was not directed to remove his turban in public; rather he abruptly and voluntarily removed his turban without having been directed to do so. He then placed it in the hands of a TSO, who in turn made an effort to ensure that the complainant’s turban did not touch the floor. The complainant was subjected to a pat-down because he had an Explosive Trace Detection alarm which, in accordance with standard procedures, requires that a passenger undergo an enhanced pat-down. The complainant was searched in accordance with the procedures described in the enhanced pat-down SOP. CRCL agreed with TSA’s findings, and closed the matter in August 2011.
- 10. *Screening at an Airport:*** In February 2011, a complainant who identifies as transgender alleged she had been disrespected and humiliated by TSA employees at a California airport. The complainant stated that because of her height, broad shoulders, short hair, and non-conforming attire she is often perceived as a man. She claimed that a male TSO conducted a pat-down search of her body and during the search touched her breast. She also claimed that she was subjected to a pat-down search even though she passed through the metal detector without setting off the audible alarm. TSA’s External Compliance and Public Outreach Division (ECPOD) and airport management investigators were unable to identify any documentation regarding this screening. However, CRCL recognized that this complaint highlighted the need for training on how to treat transgender and other gender non-conforming passengers. Subsequently, the ECPOD informed CRCL that it had discussed with the complainant her concerns regarding the way in which TSA accommodates transgender individuals, reviewed training protocols, and developed and implemented additional training materials to address transgender travelers. CRCL closed the matter in September 2011.

## USCIS

- 11. *Issuing a Notice to Appear for an Adjustment of Status Hearing:*** In July 2008, the American-Arab Anti-Discrimination Committee alleged, on behalf of an individual, that USCIS had delayed the individual’s adjustment of status hearing as a result of bias and prejudice by refusing to file his Notice to Appear with the immigration court. CRCL referred the matter to USCIS for investigation and learned that ICE is responsible for filing notices to appear, including those issued by USCIS. CRCL also investigated the alleged delay by ICE in filing a Notice to Appear and was unable to substantiate the claim that ICE’s delay was the result of bias or prejudice. CRCL closed the matter in August 2011.
- 12. *Provision of Sign Language Interpreters During Naturalization Interview:*** In May 2011, the brother of a candidate for U.S. citizenship alleged that USCIS discriminated against his

brother and violated his rights under Section 504 of the Rehabilitation Act of 1973 by failing to provide a sign language interpreter at his naturalization interview. CRCL investigated and learned that USCIS had failed to provide the interpreter but also had rescheduled the interview to a time when an interpreter would be provided. CRCL later confirmed that the interpreter was provided at the second interview. USCIS and the complainant agreed that the complaint had been informally resolved as a result of the steps taken by USCIS. CRCL closed the matter in July 2011.

## VI. Equal Employment Opportunity and Diversity Division

The EEO and Diversity Division leads the Department's efforts to ensure that all employees and applicants are provided equal opportunity, by maintaining effective EEO programs and diversity management under various federal laws and regulations, including:

- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.
- Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq.
- The Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 et seq.
- The Equal Pay Act of 1963, 29 U.S.C. § 206(d)(1)
- Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. 2000ff et seq.
- Executive Order 11478 (as amended by Executive Orders 13087 and 13152) prohibiting discrimination based on sexual orientation or status as a parent
- 29 C.F.R. § 1614.102

The EEO and Diversity Division includes units responsible for: adjudicating EEO complaints; developing and monitoring program plans; and administering EEO and diversity programs for the Headquarters unit of DHS and its 6,435 employees. The Division also prepares and submits a variety of annual progress reports relating to DHS's diversity and EEO activities.

### A. Complaints Management and Adjudications Section

CRCL's EEO Programs Complaints Management and Adjudication Section (CMAS) leads the processing of EEO complaints throughout the Department. CMAS prepares final actions on all formal EEO complaints filed by DHS employees, former employees, and applicants for employment who allege discrimination in violation of Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Genetic Information Nondiscrimination Act of 2008, and executive orders prohibiting discrimination on the bases of parental status and sexual orientation. CMAS also prepares the following Departmental reports:

- Annual Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 ("No FEAR Act") Report;
- Quarterly No FEAR Act data postings;
- Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints ("462 Report").

Highlights of the Section's FY 2011 accomplishments include:

#### ***Paperless Initiatives:***

The EEO and Diversity Division has instituted various electronic initiatives over the past three fiscal years that have enhanced timely workflow and processing efficiencies. Most recently, CRCL engaged in a pilot program offered by the Equal Employment Opportunity Commission (EEOC) that permits DHS Components to submit electronic ROI and other documentation to the

EEOC for hearings before Administrative Judges and for cases appealed to the EEOC's Office of Federal Operations. This program maximizes efficiency in the transmission of voluminous records and will eliminate costly and time-consuming duplication of complaint records by DHS Components. CRCL continues to lead the Department in developing additional accessibility initiatives at all Component EEO offices, including efforts currently underway to produce accessible ROIs.

CMAS also refined its adjudication procedures to ensure that final actions are in compliance with Section 508. This effort built upon the Section's continued focus on process efficiencies following the elimination of the complaints backlog. CMAS plans to increase its efforts to produce accessible ROIs and other vital documents.

***Tracking and Reporting:***

During FY 2010, CRCL and Components worked together on the procurement and implementation of enterprise-wide data systems to better track and report EEO and diversity information. The DHS/TSA Integrated Project Team played a lead role in implementing these new Departmental EEO applications—iComplaints (EEO complaints tracking) and eVersity (workforce analysis). The separate and successful launches of these applications in late FY 2010 and FY 2011, respectively, were contingent on addressing procurement, compliance, policy, technical, and change-management issues at DHS and Components. As a result of iComplaints implementation, DHS will produce data from this automated system for its filing of FY 2011 annual reports. DHS expects to realize unprecedented efficiencies, consistency, and accuracy of reporting for FY 2011 and beyond.

## **B. Diversity Management Section**

CRCL's Diversity Management Section (DMS) directs the Department's diversity initiatives by providing analysis of workforce trends to ensure equal opportunity and the achievement of Model EEO Program Status, as defined by the EEOC. DMS is also responsible for preparing EEO and Diversity policy guidance for Department personnel, supporting special emphasis programs that increase awareness of diversity issues throughout the Department, preparing Department-wide workforce data tables to identify anomalies that may be tied to EEO or diversity issues, and preparing the Department's mandated EEO and diversity reports.

In FY 2011, DMS submitted a variety of required reports (available on CRCL's website, [www.dhs.gov/crcl](http://www.dhs.gov/crcl)):

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



Throughout the fiscal year, DMS was active in advancing many of the Department's diversity initiatives, including these highlights:

***Disabilities Program:***

DHS strives to be a model employer of individuals with disabilities, including those with targeted disabilities. In FY 2011, DMS collaborated with the DHS Chief Human Capital Office to develop a comprehensive Disabilities Program Plan to improve recruiting, hiring, accommodating, and retaining federal workers with disabilities at DHS. The DHS Disabilities Program Plan includes setting Department-wide goals, implementing program plans to hire and retain workers, and track accomplishments for employing individuals with disabilities.

***Development of CPRO Data System:***

DMS was successful in establishing the Department's Consolidated Personnel Reporting Online Data System (CPRO) data system. CPRO allows users to rapidly access workforce data to identify trends and discover why they are occurring. The system also improves record-keeping and tracking of major diversity initiatives and reports, such as changes in representation by ethnicity and race identity, gender, or disability. The system allows users to easily identify the appearance of unequal opportunity in hiring, promotions, and awards, as well as discovering differential trends by group in resignations or adverse actions. CPRO allows users to track the impact of education, age, veteran status, and other variables on employment trends.

***Improved Support to Components:***

DMS focused on providing significant program support to Components throughout the fiscal year. Most notably, DMS met regularly with Component points of contact for the EEOC Management Directive 715 (MD-715) report (which includes information regarding the Department's work to create effective equal employment opportunity programs for employees as required by Title VII and the Rehabilitation Act) to ensure they understood program requirements, new data made available through CPRO, and possible "triggers" (data anomalies) in their data. DMS provided Components comprehensive training on E-Versity, a system that supports the development of MD-715 plans and accomplishment tracking.

## **C. Headquarters Office of Equal Opportunity**

The Headquarters Office of Equal Opportunity (HQ EEO) aims to prevent and address employment discrimination, including unlawful harassment, to ensure the Department's Headquarters employees have a working environment that will support them in their efforts to protect the homeland.

***Commitment to Hiring Veterans and Individuals with Disabilities:***

HQ EEO provides operational EEO and diversity management services to all DHS Support Components and personnel and helps offices to recruit, hire, develop, and retain a diverse workforce to include special groups such as veterans and individuals with disabilities. In FY 2011, HQ EEO provided training and one-on-one coaching on résumé writing and interviewing skills for securing federal jobs to over 75 veterans through their participation in the second annual Wounded Warriors conference and the U.S. Department of Defense's (DOD) Transition Assistance programs. As members of an advisory board, HQ EEO staff assisted the U.S. Office

of Personnel Management and the U.S. Department of Labor in making recommendations on a web-based training course for federal disability program managers and selective placement coordinators, and worked with the CRCL Institute to update “The Road to Success,” a web-based training course that offers Department managers and supervisors strategies, techniques, and resources to successfully hire and manage employees with disabilities.

***Women’s Leadership Program:***

HQ EEO continued its efforts to increase the retention and professional development of women working for the Department through its Women’s Leadership Program. The program includes the annual DHS Women’s Leadership Forum (attended by over 150 women employees in FY 2011); a series of leadership webinars that focus on career advancement; the quarterly Lunch and Learn series; and a monthly focus group that provides women employees a forum to discuss career goals and share information on training, education, and professional development opportunities.

***Reasonable Accommodation Services:***

In FY 2011, HQ EEO staff conducted three workshops on laws governing reasonable accommodations (RA) for persons with disabilities and best practices throughout the Federal Government. The office processed 30 RA requests, including services for the Office of the Secretary, applicants for employment, and employees seeking advice and guidance on the RA process and types of available accommodations. The office processed 84 requests for sign language interpreting services, which required coordination with programs offices and contractors, and also assisted the National Protection and Programs Directorate in establishing a contract for sign language interpretation services.

***Training and Technical Assistance:***

HQ EEO continued to provide training and technical assistance to HQ employees. Trainings included “Communicating to Avoid EEO Complaints” and “New Employee Orientation,” providing pertinent information regarding employees’ rights to equal employment opportunity.

## VII. Office of Accessible Systems and Technology

Every DHS employee and customer, including individuals with disabilities, must be able to readily access information and data relevant to their job or needs. Section 508 of the Rehabilitation Act of 1973 (as amended) requires all federal departments and agencies to ensure that their electronic information & technology (EIT) is accessible to people with disabilities. To meet these requirements, OCIO and CRCL jointly created the Office of Accessible Systems & Technology.

OAST is dedicated to guiding and supporting all DHS Components in removing barriers to information access and employment of qualified individuals with disabilities in accord with Section 508 requirements. OAST strives to ensure that EIT procured, developed, maintained, or used is accessible to DHS employees and customers with disabilities through a range of policy, training, technical assistance, and compliance activities.

### Accomplishments in FY 2011

#### *New Programs and Technologies:*

- OAST launched the new Accessibility Compliance Center of Excellence that will provide services to assess Section 508 compliance of DHS Programs, audit for Section 508 compliance during program reviews, and serve end users with advice on achieving Section 508 compliance.
- OAST developed an “Accessibility Panel” in the Trusted Agent Federal Information Security Management Act data collection system to document Section 508 compliance for all 600-plus IT systems Department-wide. OAST developed and released an online learning course to provide system owners, information systems security officers, and Section 508 coordinators with information about the panel and how to provide the information requested. Results will be used to track overall Section 508 compliance of IT systems.
- OAST launched a DHS Component Section 508 Program Dashboard to assist in tracking Section 508 activities across Components.

#### *Trainings and Component Outreach:*

- OAST established an OCIO Computer Training Facility in Washington, DC, with 20 computer stations, with the capability for users to access trainings in the facility remotely.
- OAST conducted two outreach sessions for deaf, hard of hearing, low vision, and blind DHS employees. These sessions provided employees the opportunity to identify and share areas in which there is a lack in accommodations for the two disability groups.
- OAST integrated CBP’s Contracting Officer’s Technical Representative and Program/Project Managers course into the new CBP Information Technology Program Manager Certification course curriculum. The first training occurred in October 2011.

- OAST partnered with DHS's Enterprise Services and Development Office (ESDO) to increase Section 508 compliance of ESDO projects, affecting specific Component projects. Thus far, OAST has increased awareness of the need for accessibility, supported and integrated Section 508 into daily processes and templates, and increased use of OAST services. OAST has also learned about ESDO's business and customer engagement processes and learned how to apply the templates and process to functional software development teams.

***Other Notable Achievements:***

- OAST established an MOA between DHS, DOD, the Federal Acquisition Institute, and the Defense Acquisition University to standardize 508 testing procedures for all new and updated e-learning courses posted on DOD's learning management system. The MOA will help alleviate interagency management problems related to differing interpretations of Section 508 compliance in the future.

OAST completed data collection and submission for a biennial DOJ Section 508 Compliance Survey. Data collected from all Components covered a range of compliance topics, including policy and programmatic support, EEO activities, overall acquisition support, and compliance of web applications and sites.

## VIII. Conclusion

The staff of the Office for Civil Rights and Civil Liberties works with dedication and vigor each day to secure the country while protecting our freedoms, including core civil rights values of liberty, fairness, and equality under the law. For much more information, including prior congressional reports, testimony, training materials, civil rights and civil liberties impact assessments, and many other items, see the Office's website at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

## Appendix A: DHS Civil Rights and Civil Liberties Authorities

### Statutes:

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

### Regulations:

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



## Executive Orders:

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

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

**Delegations and Directives:**

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

## Appendix B: Complaints Tables

In FY 2011, CRCL received 298 new complaints (compared to 195 in FY 2010) and closed 219 complaints (compared to 118 in FY 2010). Data tables B-1A and B-1B describe: (1) matters retained by the OIG during FY 2011 and (2) matters retained and referred by CRCL, both received and completed, during FY 2011, by quarter. (Appendix C summarizes all matters retained by CRCL for investigation and closed during FY 2011, and Appendix D the complaints closed during FY 2011 that CRCL had referred to Components for fact investigation.)

As of September 30, 2011, the Compliance Branch had 335 open complaints. Of those, 106 are retained within CRCL for investigation, 120 using “short-form” investigations to facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and therefore require limited investigation. The short-form process makes it easier to open and close complaints, allowing speedier resolution. Cases that prove to require additional work are converted to standard investigations. In FY 2011, 99 complaints were referred to a DHS Component for investigation, and 10 were retained by OIG for investigation.

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

### Office of Inspector General

CRCL initially refers all complaints to OIG, which retains a relatively small number of those complaints for its own investigation. See 6 U.S.C. § 345(a)(6). As of September 30, 2011, the CRCL Compliance Branch had 10 open complaints that were retained by OIG; of these, eight were opened in FY 2010. OIG closed six complaints, which included two matters retained by OIG in FY 2008, three in FY 2009, and one in FY 2011.

Table B-1A tallies complaints, by quarter and Component, that were retained for investigation by OIG. Table B-1B tallies the six complaints OIG closed.

**TABLE B-1A: CRCL COMPLAINTS RECEIVED AND RETAINED BY OIG, FY 2011**

Primary Allegation	CBP				FEMA				ICE				TSA				USCIS				USSS				Multi-Component				Sub-Totals				Total					
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4	
Abuse of authority/ misuse of official position											1																										1	1
Discrimination/ profiling				1																																	1	1
Excessive force	2								1																		1		2	1	1						4	4
Inappropriate questioning/ inspection conditions		1																																	1		1	1
Medical/mental health care									1																								1	0			1	1
<b>Total</b>	2	1		1					2	1																	1		2	3	1	2					8	8

**TABLE B-1B: CRCL COMPLAINTS CLOSED BY OIG, FY 2011**

Primary Allegation	CBP				FEMA				ICE				TSA				USCIS				USSS				Multi-Component				Sub-Totals				Total					
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4		Q1	Q2	Q3	Q4	
Abuse of authority/ misuse of official position		1							1																												2	2
Conditions of detention											1																										1	1
Excessive force				1					1																								1	1			2	2
Medical/mental health care											1																								1		1	1
<b>Total</b>		1		1					2	2																							3	3			6	6

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

Pursuant to 42 U.S.C. § 2000ee-1, tables B-2A, B-2B, B-3A, B-3, B-4A, B-4B, B-5A, and B-5B summarize, by quarter, the year's complaints received and resolved, dividing them into those retained for full investigation by CRCL, those referred for fact investigation by a Component, and those processed within CRCL via short form. (Note that many Components also receive and resolve civil rights complaints; these tables deal only with those in which CRCL has played a role.)

### First Quarter FY 2011

**TABLE B-2A: COMPLAINTS RECEIVED Q1 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		All
Abuse of authority/ misuse of official position	1		2																			1	0	2	3	
Breach of confidentiality															1								0	0	1	1
Conditions of detention		2	2				2	6														0	4	8	12	
Discrimination/profiling		1	1					3		3									1	2		0	5	6	11	
Due process	1		2				1	1														1	1	3	5	
Excessive force		4	1					3														0	4	4	8	
Fourth Amendment (search and seizure)								1														0	0	1	1	
Human Rights																		1				1	0	0	1	
Inappropriate questioning/ inspection conditions		2	1																			0	2	1	3	
Intimidation/threat/ improper coercion			1																			0	0	1	1	
Language access (limited English proficiency)								1						1								0	0	2	2	
Legal access			1					1														0	0	2	2	
Medical/mental health care		1					2	1	5													2	2	5	9	
Religious accommodation								2														0	0	2	2	
Retaliation		1																				0	1	0	1	
TSA AIT and TSA pat-downs							1			2	1											1	2	1	4	
<b>Total</b>	2	11	11				3	4	23	5	1			2				1	1	2	6	21	39	66		

**TABLE B-2B: COMPLAINTS CLOSED Q1 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		All	
Abuse of authority/ misuse of official position	1																							1	1		
Conditions of detention		1					2	1																3	1	4	
Discrimination/profiling		5		1																				1	5	6	
Due process																						1			1	1	
Excessive force	1	1					1																	1	2	3	
Inappropriate questioning/ inspection conditions		2																				1			3	3	
Inappropriate touch/ search of person (not TSA-related)		3																							3	3	
Medical/mental health care								2																	2	2	
Sexual assault/abuse								1																	1	1	
TSA AIT and TSA pat-downs									1																1	1	
<b>Total</b>	2	12		1			3	4	1													2		4	17	4	25



**Second Quarter FY 2011**

**TABLE B-3A: COMPLAINTS RECEIVED Q2 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
Abuse of authority/ misuse of official position		3	1					1	1													0	4	2	6
Breach of confidentiality											1											0	0	1	1
Conditions of detention		1	1				1	18	12										1			1	20	13	34
Disability accommodation			1																			0	0	1	1
Discrimination/profiling	22	3	2					1	4		1	2			1							22	5	9	36
Due process		1	2					1	1			1						1			1	1	2	5	8
Excessive force		3	4																			0	3	4	7
Fourth Amendment (search and seizure)							1	1	1													1	1	1	3
Free speech/association									1													0	0	1	1
Inappropriate questioning/ inspection conditions	1	1																				1	1	0	2
Medical/mental health care		1	1				2		13													2	1	14	17
Sexual assault/abuse							1		2													1	0	2	3
TSA AIT and TSA pat-downs			1								4											0	4	1	5
<b>Total</b>	23	13	13				5	22	35		5	4			1			1	1	1	29	41	54	124	

**TABLE B-3B: COMPLAINTS CLOSED Q2 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
Abuse of authority/ misuse of official position		1																				0	1	0	1
Conditions of detention							2	5	4													2	5	4	11
Discrimination/profiling		5	2														1				1	0	6	3	9
Due process								1														0	1	0	1
Excessive force		4																				0	4	0	4
Free speech/association																		1				1	0	0	1
Inappropriate questioning/ inspection conditions		3																				0	3	0	3
Inappropriate touch/search of person (not TSA-related)		2																				0	2	0	2
Intimidation/threat/ improper coercion		1							1								1					0	2	1	3
Legal access			1						1													0	0	2	2
Medical/mental health care								6	1													0	6	1	7
Religious accommodation								1														0	1	0	1
Retaliation		1																				0	1	0	1
TSA AIT and TSA pat-downs											1											0	1	0	1
<b>Total</b>		17	3				2	13	7		1					2		1		1	3	33	11	47	

**Third Quarter FY 2011**

**TABLE B-4A: COMPLAINTS RECEIVED Q3 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
Abuse of authority/ misuse of official position							2															2	0	0	2
Conditions of detention			1				4		7													4	0	8	12
Disability accommodation			2												1						1	0	0	4	4
Discrimination/profiling	1						2		1			1									1	3	0	3	6
Due Process									2												1	0	0	3	3
Excessive force	1	1					1															2	1	0	3
Fourth Amendment (search and seizure)			1																			0	0	1	1
Inappropriate questioning/ inspection conditions	1											1										1	0	1	2
Intimidation/threat/ improper coercion									1													0	0	1	1
Language access (limited English proficiency)	1																					1	0	0	1
Legal access			1				1															1	0	1	2
Medical/mental health care	1						8		5										1			9	1	5	15
Other								1														0	1	0	1
Religious accommodation																			1			0	1	0	1
Sexual assault/abuse			1																			0	0	1	1
TSA AIT and TSA pat-downs										1	1											0	1	1	2
<b>Total</b>	5	1	6				18	1	16	1	3				1				2	3		23	5	29	57

**TABLE B-4B: COMPLAINTS CLOSED Q3 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
Abuse of authority/ misuse of official position			1																		0	0	1		1
Conditions of detention			1				1	8	2												1	8	3		12
Disability accommodation											1	1									1	0	1		2
Discrimination/profiling	1	2								1	2								1	2	3	4	2		9
Due process									2		1										0	0	3		3
Excessive force		6	1																		0	6	1		7
Inappropriate questioning/ inspection conditions		2	1																		0	2	1		3
Medical/mental health care								1	4												0	1	4		5
Religious accommodation		1						1	1												0	2	1		3
Sexual assault/abuse		1																			0	1	0		1
TSA AIT and TSA pat-downs											2										0	2	0		2
<b>Total</b>	1	12	4				1	10	9	1	2	4	1					1	2		5	26	17		48

**Fourth Quarter FY 2011**

**TABLE B-5A: COMPLAINTS RECEIVED Q4 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	
Abuse of authority/ misuse of official position			1				1	1													0	1	2	3	
Breach of confidentiality																	1				0	1	0	1	
Conditions of detention									11												0	0	11	11	
Disability accommodation																		1			0	0	1	1	
Discrimination/profiling	1	1	5				1	1			1									1	1	2	8	11	
Due process			1				1	2													1	0	1	4	5
Excessive force								1														0	0	1	1
Fourth Amendment (search and seizure)								1														0	0	1	1
Medical/mental health care						1	1	4														1	1	4	6
Religious accommodation							1															0	1	0	1
Retaliation								1														0	0	1	1
Sexual assault/abuse		1																				0	1	0	1
<b>Total</b>	1	2	7			1	5	22			1									1	3	2	8	33	43

**TABLE B-5B: COMPLAINTS CLOSED Q4 FY 2011: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form	Retained	Referred	Short Form		All	
Abuse of authority/ misuse of official position	2								2												1	2	1	2	5		
Conditions of detention							2	24	6													2	24	6	32		
Disability accommodation			1											1								1	0	0	3		
Discrimination/profiling		2							1		7			1									0	10	1	11	
Due process									2					1									0	1	2	3	
Excessive force		1							1														0	1	1	2	
Fourth Amendment (search and seizure)										1													1	0	0	1	
Human rights																					1		1	0	0	1	
Inappropriate questioning/ inspection conditions		1						1				2											0	2	2	4	
Intimidation/threat/ improper coercion								1															0	1	0	1	
Medical/mental health care		1					5	5	4												1		6	6	4	16	
Other								1															0	1	0	1	
Religious accommodation									1														0	0	1	1	
Retaliation								1															0	1	0	1	
Sexual assault/abuse									1														0	0	1	1	
TSA AIT and TSA pat-downs	1		1								6	1										1		2	6	2	10
<b>Total</b>	<b>3</b>	<b>5</b>	<b>2</b>				<b>7</b>	<b>33</b>	<b>18</b>	<b>1</b>	<b>13</b>	<b>3</b>		<b>2</b>	<b>1</b>					<b>3</b>	<b>1</b>	<b>1</b>	<b>14</b>	<b>54</b>	<b>25</b>	<b>93</b>	



## Appendix C: Acronyms

AIT	Advanced Imaging Technology
ATR	Automated Target Recognition
ATS	Automated Targeting System
CBP	Customs and Border Protection
CMAS	CRCL Complaints Management and Adjudication Section
CPRO	Consolidated Personnel Reporting Online Data System
CRCL	DHS Office for Civil Rights and Civil Liberties
CRCL-I	Civil Rights and Civil Liberties Institute
CVE	Countering Violent Extremism
DHS	U.S. Department of Homeland Security
DMS	CRCL Diversity Management Section
DSM	ICE Detention Service Managers
DOD	U.S. Department of Defense
DOJ	U.S. Department of Justice
DOS	U.S. Department of State
DOT	U.S. Department of Transportation
DSM	Detention Service Managers
ECPOD	TSA External Compliance and Public Outreach Division
EIT	Electronic Information & Technology
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
ESDO	Enterprise Services and Development Office
FAD	Final Agency Decision
FAST	Future Attribute Screening Technology
FBI	Federal Bureau of Investigation
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Center
FY	Fiscal Year
HBCU	Historically Black College and University
HHS	U.S. Department of Health and Human Services
HSAC	Homeland Security Advisory Committee
HQ	Headquarters
I&A	DHS Office of Intelligence & Analysis
ICC	Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities
ICCT	CRCL Incident Community Coordination Team
ICE	Immigration and Customs Enforcement
IHSC	ICE Health Services Corps
ISIS	CRCL Intelligence, Security, and Information Sharing Section
LEP	Limited English Proficiency
LGBT	Lesbian, Gay, Bisexual, and Transgender
MD	Management Directive
MOA	Memorandum of Agreement

NCTC	National Counterterrorism Center
NDS	National Detention Standards
NGO	Non-Governmental Organization
NSEERS	National Security Entry-Exit Registration System
NSI	Nationwide Suspicious Activity Reporting (SAR) Initiative
OAST	Office of Accessible Systems & Technology
OCIO	DHS Office of the Chief Information Officer
OGC	Office of the General Counsel
OIG	DHS Office of Inspector General
OPR	Office of Professional Responsibility
ORR	HHS Office of Refugee Resettlement
PPD	Presidential Policy Directive
PRIV	DHS Privacy Office
RA	Reasonable Accommodations
ROI	Report of Investigation
SAR	Suspicious Activity Report (or Suspicious Activity Reporting)
SIO	Secondary Inspection Office
SOP	Standard Operating Procedure
SORN	Systems of Records Notices
TRIP	Travel Redress Inquiry Program
TSA	Transportation Security Administration
TSO	Transportation Security Officer
UAC	Unaccompanied Alien Child
UN	United Nations
UPR	United Nations Universal Periodic Review
US-CERT	United States Computer Emergency Readiness Team
USCIS	U.S. Citizenship and Immigration Services
USSS	U.S. Secret Service
VAWA	Violence Against Women Act