



# Department of Homeland Security

## Office for Civil Rights and Civil Liberties

### Fiscal Year 2012 Annual Report to Congress

July 25, 2013



**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 2012. 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 Barbara Mikulski  
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 Nita M. Lowey  
Ranking Member, U.S. House of Representatives Committee on Appropriations



The Honorable Michael McCaul  
Chairman, U.S. House of Representatives Committee on Homeland Security

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

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

The Honorable C.A. “Dutch” Ruppberger  
Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Bob Goodlatte  
Chairman, U.S. House of Representatives Committee on the Judiciary

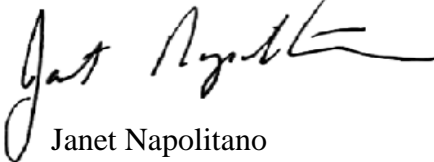
The Honorable John Conyers, Jr.  
Ranking Member, U.S. House of Representatives Committee on the Judiciary

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,



Janet Napolitano

## 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 (CRCL) 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.

It is my pleasure to present this Annual Report detailing CRCL's priorities and activities in Fiscal Year (FY) 2012, which 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.

As you will see from the highlights and key accomplishments outlined in this Report, CRCL has worked diligently to ensure civil rights and civil liberties protections through community engagement, complaints investigations, training, and a host of other civil rights programs and activities.

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 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 2012. 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.

Highlights of CRCL's key accomplishments during FY 2012 include:

- Dramatic improvements in issuing timely Equal Employment Opportunity (EEO) merit Final Agency Decisions within the regulatory timeline;
- Working with U.S. Immigration and Customs Enforcement (ICE) to develop an additional three video briefings (of a planned total of eight) for law enforcement on Secure Communities, work for which CRCL won the DHS Partner Award for superior dedication to teamwork in the execution of ICE's mission;
- Creating a community of IT testers throughout the Department to provide trusted analysis of Rehabilitation Act Section 508 programs and products;
- Participating alongside representative of several other federal agencies in the U.S. Government's (USG) 2010 Universal Periodic Review (UPR) before the United Nations (UN) Human Rights Council, in which our human rights record was comprehensively reviewed for the first time;
- Leading the development and release of the Department's first-ever Language Access Plan to provide meaningful access to homeland security programs and activities to people with limited English proficiency;
- Launching a social media presence through Facebook to broaden engagement efforts;
- Leading outreach efforts on Lesbian, Gay, Bisexual, and Transgender (LGBT) issues on U.S. Customs and Border Protection (CBP) and the Department of the Treasury initiating a rulemaking to expand the definition of "members of a family residing in one household" to include families headed by LGBT couples;
- Promoting diversity throughout the Department by creating a DHS Diversity and Inclusion Strategic Plan;
- Continuing efforts to counter violent extremism (CVE) by hosting CVE-specific engagement roundtables, speaker tours, and international exchange programs;
- Working as co-chair of the DHS Unaccompanied Alien Children (UAC) Working Group to create best practices for the Department's handling of UACs;
- Conducting a survey of the experience of Federal employees with disabilities during and following the 2011 Mid-Atlantic earthquake;
- Helping to draft the Department's ground-breaking draft regulations under the Prison Rape Elimination Act (PREA) and working with ICE on other significant reforms to address the threat of sexual assault in immigration detention;
- Completing two civil rights and civil liberties impact assessments, one on the Future Attribute Screening Technology and another on ICE and CBP policies governing border searches of electronic devices; and

- Providing civil rights review and time-sensitive recommendations for two Transportation Security Administration (TSA) screening efforts, Behavioral Detection Officer and the Behavioral Assessor initiatives.

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



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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 (HSA), 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 (amending section 705(a) of the HSA).*

**(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 (amending section 1062 of the National Security Intelligence Reform Act of 2004, Pub. L. No. 108-458, 118 Stat. 3688).

**(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's 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 Appendix A of this Report, and others are posted at [www.dhs.gov/crcl](http://www.dhs.gov/crcl).

### C. Leadership

During the first quarter of FY 2012, 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). At 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 EEO 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 (EEOD); 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 2012, CRCL had 96 staff and three contractors on board; staffing costs were about two-thirds of the Office’s FY 2012 budget. Table 1 details the Office’s operating budget and staff for each fiscal year since 2004, the first year for which figures remain available.

**Table 1: CRCL Operating Budget and Staffing, FY 2004-FY 2012**

<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
2012	\$22,500,00	96	3

The following pages provide an overview of major accomplishments in FY 2012, followed by detailed information about each CRCL functional unit’s activities during the year.

### III. 2012 Highlights

#### A. Timely Issuance of Final Agency Decisions

After eliminating a backlog of cases in FY 2011, CRCL began prioritizing issuing Final Agency Decisions (FAD), decisions adjudicating allegations of employment discrimination filed by DHS employees or applicants to DHS, within the timeframe required by Title 29, Code of Federal Regulations §1614.110(b), as follows: (1) within 60 days of receiving notification that a complainant has requested a decision from the agency, or (2) within 30 days of the end of the 30-day period for the complainant to request a hearing before the Equal Employment Opportunity Commission (EEOC) or a final decision by the agency where complainant has not requested either a hearing or a decision. In FY 2012, CRCL issued a total of 337 merit FADs, 163 of which (48%) were issued within the regulatory timeline, far exceeded its goal of issuing 25% within regulatory timelines. This accomplishment was possible through a combination of creative staffing and resource allocations and increased collaboration between CRCL and Component EEO offices.

#### B. Secure Communities

Throughout the fiscal year, CRCL has continued its close involvement with ICE’s Secure Communities program. Secure Communities uses an existing federal information-sharing partnership between ICE and the FBI to identify criminal aliens. For decades, local jurisdictions have shared the fingerprints of individuals who are arrested or booked into custody with the FBI to see if they have a criminal record. Under Secure Communities, the FBI automatically sends the fingerprints to DHS to check against its immigration databases. If these checks reveal that an individual is unlawfully present in the United States or otherwise removable due to a criminal conviction, ICE may take enforcement action – prioritizing the removal of individuals who present the most significant threats to public safety and those who have repeatedly violated immigration laws.



**Briefings for State and Local Law Enforcement:** In 2011, CRCL and ICE committed to providing actionable information to state and local law enforcement officers about civil rights and civil liberties issues arising in the context of Secure Communities and to increase the transparency of the Department’s active commitment to protecting the civil rights and civil liberties of all persons affected by DHS activities and programs. To that end, in FY 2012 CRCL and ICE produced three additional modules in the series of training/awareness briefings for front line state and local law enforcement agency personnel. The series includes:



- **Introduction to Secure Communities: What Law Enforcement Needs to Know:** This module provides an overview of Secure Communities for law enforcement. It emphasizes that Secure Communities imposes no new requirements on state and local

law enforcement, noting that law enforcement attention or action should not be based on race, ethnicity, immigration status, or limited ability to speak English. This module serves as the foundation for the remaining topics.

- ***Introduction to Secure Communities: What Law Enforcement in 287(g) Jurisdictions Need to Know:*** Under the 287(g) program, ICE and a state or local law enforcement entity may enter into a Memorandum of Agreement (MOA) that sets forth the terms and conditions for state or local law enforcement officers to function as immigration officers. (Please see additional information on the 287(g) program on page 25 of this report.) This module provides the same basic overview of Secure Communities as the first module, but has information specifically for state and local law enforcement partners in ICE's 287(g) program.
- ***Immigration Detainers: How to Respond:*** This module briefs law enforcement on the immigration detainer process, including the details of ICE's revised I-247 detainer form, and the role of law enforcement agencies when they receive detainers issued by ICE. In particular, this module highlights how detainees who allege a violation of their civil rights or claim U.S. citizenship can receive assistance.
- ***Consular Notification: Your Role When Detaining Foreign Nationals:*** This module discusses the legal obligations of law enforcement agencies with respect to consular notification when a foreign national is detained. It explains the importance of complying with the Vienna Convention on Consular Relations and the risks of failing to do so. Supplemental materials include U.S. Department of State job aids for use by law enforcement officials.
- ***Unlawful Retaliation by Private Actors:*** This module assists officers in identifying potential abuses by landlords, employers, or others who may be involved in conflicts with immigrants and may seek to manipulate police actions in retaliation as a result of these conflicts.

These briefings are designed to provide front-line law enforcement officers with 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; available on the [ICE Secure Communities website](#). Development and production for an additional four briefings will be completed in 2013:

- Community Engagement: Explaining Secure Communities to Your Community;
- Witnesses, Refugees, and Victims of Crime or Domestic Violence: Protecting Those in Need;
- Speaking Their Language: Working with Limited English Proficient Speakers; and
- Avoiding Racial Profiling.

***Secure Communities Statistical Monitoring:*** CRCL, in partnership with ICE, spent FY2012 developing a statistical monitoring approach for ICE's Secure Communities program. Working with an outside expert in criminology statistics, this unprecedented effort to identify trends in policing practices related to Secure Communities that could alert to the need for a more in-depth review of action that yielded an extensive understanding of the available statistical information and innovative approaches to data monitoring.



***ICE Director's DHS Partner Award:*** CRCL, along with ICE Enforcement and Removal Operations (ERO) received the ICE Director's DHS Partner Award from ICE Director John Morton for superior dedication to teamwork in the execution of ICE's mission. The award recognized the collaboration and hard work of CRCL in creating roll call videos for local law enforcement on topics related to Secure Communities, and revamping the Secure Communities website to better emphasize the DHS and CRCL/ICE-related activities. These collective efforts led to a more productive working relationship between CRCL and ICE, and protections of civil rights and civil liberties throughout all levels of law enforcement.

## C. DHS Trusted Tester Certification Program

In January 2012, the DHS Trusted Tester Certification program was launched to create a community of IT testers across DHS who could provide trusted analysis of Rehabilitation Act Section 508 programs and products in order to streamline repeatable processes for ensuring accessible information technology. This is the first and only training program of its kind in the Federal Government. To date, OAST has certified 112 trusted testers across DHS.

The Trusted Tester program will ultimately lessen redundancy and expense as more and more trusted testers share their results and analysis through a central repository that is accessible to all Section 508 coordinators across DHS. Since the launch of this program, there has been a surge in interest within the 508 community to open the program to testers outside of DHS. As a result, we partnered with the DHS Office of Procurement Operations to develop an online version of the Trusted Tester training so that it can be made available to other Federal partners. We also recently created a Trusted Tester Community of Practice to further coordinate and support these efforts. We expect to launch the online version of the Trusted Tester training in FY 2013.

## D. Universal Periodic Review

CRCL supported the Department in following up on the relevant recommendations accepted by the USG in the context of a UPR before the UN Human Rights Council, assessing the work of the Department to meet the USG's human rights commitments and obligations and implementing those recommendations where appropriate. The UPR was established the UN General Assembly in 2006 as a mechanism to review the human rights records of its 193 Member States and to assess the Member States' human rights records. CRCL and the DHS Office of Policy also led an interagency working group focused on the immigration-related UPR recommendations, and represented the Department on several interagency working groups focused on other thematic areas.

## E. Department Publishes First-Ever Language Access Plan for Individuals with Limited English Proficiency

DHS has many missions and functions that require the Department to effectively communicate with the public, including those with limited English proficiency (LEP). Following a Department-wide effort to assess current language needs and existing language services, CRCL

led the Department's efforts in publishing the first-ever [DHS Language Access Plan](#) (LEP Plan) in April 2012. The DHS LEP Plan helps the Department move towards achieving the goals of Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), and establishes a system within DHS to improve efforts to provide meaningful access to Homeland Security programs and activities for LEP persons. In addition to describing the Department's current language access activities, the DHS LEP Plan includes steps to improve and increase language services for LEP individuals in operations, services, activities, and programs across DHS. In keeping with the Department's commitment to provide meaningful access to LEP persons, the DHS LEP Plan and a letter from Secretary Napolitano are available online in 10 alternate languages.

Following the release of the DHS LEP Plan, CRCL established and now leads the DHS Language Access Working Group, which provides guidance to DHS Components in developing their individual language access plans. To further supplement language access efforts, CRCL also developed and released "I Speak" pocket guides, posters, and job aides for DHS personnel and law enforcement, which provide a visual reference for LEP individuals to point out the non-English languages they speak. These materials, along with the DHS LEP Plan and other language resources, can be found online at: [www.dhs.gov/crcl-lep](http://www.dhs.gov/crcl-lep). CRCL also participated in the planning and filming of an interagency video training vignette series on appropriate practices in providing meaningful language access. The project began in 2012, and continued through 2013.

## F. CRCL Launches Facebook Page

CRCL engages directly and regularly with the public. In an effort to deepen these connections and also reach a broader audience, CRCL launched its own [Facebook page](#) in January 2012. CRCL utilizes Facebook to connect with the public, community stakeholders, and Federal partners to provide up-to-date information about CRCL's community engagement efforts, information and resources on our civil rights and civil liberties training materials, and easy online access on how to file a civil rights complaint. We also share important information about DHS programs and policies and engage with our "friends" to receive feedback, and learn about civil rights and civil liberties issues occurring in communities throughout the country. Throughout the year, we continued to grow our community of "friends," and plan to increase opportunities for input and feedback through online conversations, with a particular emphasis on further engaging youth in diverse communities in FY 2013.

## G. Ensuring LGBT Equality at DHS

Since 2010, CRCL and the Office of the Secretary have co-chaired a DHS LGBT Issues Working Group to review, evaluate, recommend, and encourage policy development that ensures equal treatment for lesbian, gay, bisexual, and transgender (LGBT) individuals affected by the work of the Department. In 2012, the working group prepared a report for the U.S. Department of State on DHS's work on LGBT equality abroad, in response to President Obama's [Presidential Memorandum](#) on International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons. We were proud to report on U.S. Citizenship and

Immigration Services' (USCIS) extensive new training for all refugee and asylum officers on adjudicating refugee and asylum cases involving lesbian, gay, bisexual, transgender, and intersex claims, along with other achievements.

Following outreach work through the LGBT Issues Working Group, USCIS also released a [memorandum](#) significantly revising its policies affecting transgender individuals. Under the new policy memo, marriages involving transgender individuals can be appropriately recognized for immigration purposes, and transgender individuals can obtain updated USCIS identity documents to match the appropriate gender. Also in 2012, following the working group's outreach and work by CRCL's Compliance Branch, CBP and the Department of the Treasury published a [notice of proposed rulemaking](#) that would expand the definition of "members of a family residing in one household" on family customs declarations to better accommodate contemporary family structures, including families headed by LGBT couples as well as families including foster children and step-children. CBP anticipates completing that rulemaking in FY 2013. Additionally, the Federal Emergency Management Agency (FEMA) has revised the scripts and application forms for individual disaster assistance to make clear that families headed by same-sex couples are eligible for household assistance on an equal basis. Finally, in response to numerous inquiries, Secretary Napolitano announced in September 2012 that application of ICE's prosecutorial discretion criteria, which include attention to individuals' family ties to U.S. citizens and lawful residents, encompasses long-term, same-sex partners.

Additionally, CRCL again led a train-the-trainer session on LGBT issues and best practices for managers and lead staff of organizations that partner with the U.S. Department of State's 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. As well, CRCL has worked closely with ICE to expand training on LGBT issues for ICE's detention service managers.

## H. Promoting Diversity within DHS

In 2011, the President issued Executive Order 13583, *Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce*, which directs executive departments and agencies to develop and implement a more comprehensive, integrated, and strategic focus on diversity and inclusion as a key component of their human resources strategies. Accordingly, the Office of Personnel Management (OPM) tasked all Federal agencies with creating their own Diversity and Inclusion Strategic Plan.

In a collaborative effort, CRCL, the Office of the Chief Human Capital Officer (OCHCO), the Office of the General Counsel (OGC), and staff from each Component's Human Capital and EEO offices drafted the Department's Diversity and Inclusion Strategic Plan, which was being reviewed by Secretary Napolitano at the end of FY 2012. The Plan has three primary goals: to recruit a diverse workforce at all levels; to create inclusive workplaces to ensure that all employees reach their full potential; and to develop systems and processes to ensure sustainability through leadership commitment and management accountability. Provisions of

related Executive Orders are also incorporated into the Diversity and Inclusion Strategic Plan, including those referencing veterans and individuals with disabilities.

## I. Countering Violent Extremism

CRCL plays a pivotal role in the Department's CVE efforts by providing a platform for diverse communities and all levels of law enforcement to build strong partnerships that can assist in identifying behaviors, tactics, and other indicators of potential violent and terrorist activity. These partnerships have resulted in enhanced cultural competency and awareness that ultimately combats ideologically motivated crimes and other security threats.



In August 2011, the White House released the National Strategy on Empowering Local Partners to Prevent Violent Extremism in the United States and, at the start of FY 2012, a Strategic Implementation Plan (SIP) outlining how the government will support and help empower American communities and their local partners in their grassroots efforts to prevent violent extremism. The first objective of the SIP is to enhance “federal engagement with and support to local communities that may be targeted by violent extremists.” Within this broad goal are two sub-objectives:

- 1.1 “Improve the depth, breadth, and frequency of federal government engagement with and among communities on the wide range of issues they care about.”
- 1.2 “Foster community-led partnerships and preventative programming to build resilience against violent extremist radicalization.”

CRCL represents DHS in co-chairing the National Task Force on CVE Engagement. The task force works on fulfilling the sub-objectives by helping to coordinate federal community engagement efforts at the national level. The task force includes many departments and agencies involved in community engagement efforts and focuses on compiling local, national and international best practices and disseminating these out to the field. In its first six months, the task force served as an important clearinghouse for engagement-related information from different agencies.

Also in FY 2012, CRCL collaborated with the U.S. Department of State and international partners to coordinate a CVE community engagement exchange program, a CVE speaker tour, and a host of other engagement events:

- In the spring of 2012, CRCL coordinated and co-hosted a two-part CVE community engagement exchange program that involved a U.S. delegation comprised of community and civic leaders, law enforcement, and government officials from Chicago and Seattle traveling to Germany. During the first leg of the program, the U.S. delegation visited Berlin, Düsseldorf, and Hamburg to share CVE strategies and best practices to facilitate community resilience. For the second leg of the program, the German delegation traveled to Chicago, where they met with DHS Components, the FBI, Chicago Police

Department and local community organizations; visited various educational and faith-based institutions; and also participated in CRCL's quarterly roundtable.

- Throughout the year, CRCL coordinated several community engagement CVE speaker tours to the United Kingdom, Pakistan, Germany, and Spain. One of these tours involved a CRCL representative who presented a workshop on CVE engagement within Somali communities around the world at the U.S. Embassy in London, a program attended by Foreign Service officers from embassies around the world.

Radicalization remains a growing concern in Pakistan. In FY 2012, CRCL concentrated its CVE efforts in Pakistan by lending two of its policy advisors to on-the-ground engagement work there:

- One CRCL policy advisor was selected by the U.S. Department of State to complete a year-long detail to Pakistan and establish a Community Engagement Office at the U.S. Embassy there. As a Pakistani-American who speaks fluent Urdu, our advisor was uniquely positioned to develop on-the-ground CVE strategies that spoke directly to the Pakistani people. The Office began by conducting an assessment of each region of Pakistan to determine where radicalization was primarily taking place. The team then developed a targeted media campaign that included 26 media products ranging from billboards and newspaper advertisements, social media content, music and videos by popular Pakistani bands, and a dramatic webisode series and a forthcoming animated series; all of which were produced in Urdu and five additional regional languages. In addition, the Office also took steps to make existing U.S. Department of State programs more community-focused by employing a community engagement model based on CRCL's model that involved partnering with Pakistani community groups and stakeholders to reach the people. The number of citizens who saw the media products significantly increased over the year, while the efforts garnered a 30 percent increase in awareness and attitudes towards stopping violent extremism.
- The U.S. Embassy Community Engagement Office sponsored and oversaw a second CRCL policy advisor's two-week tour to Pakistan, where he met with numerous civil society leaders, academics, politicians, artists, activists and businesspeople to discuss the strategies DHS and the USG are using to combat intolerance and preserve civil rights and liberties. Our advisor's role was to encourage and educate Pakistanis about community participation, social activism, working with government, and ensuring that the protection of civil rights and civil liberties is an important part of a national discourse. Our advisor participated in 48 meetings and lectures in Islamabad, Lahore and Karachi, focused on a wide range of issues and topics including U.S. passenger and immigration screening. Our policy advisor was able to connect well with audiences. The visit received extensive media coverage, both on television and radio, and provided a purposeful platform for further engagement with Pakistani government and stakeholders.

As part of an integrated DHS effort, CRCL also continued its efforts to increase cultural competency and awareness to state and local law enforcement through its CVE training course. The 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 Napolitano's message that our homeland security efforts begin with hometown security. In FY 2012, CRCL delivered eight CVE trainings in seven states, in addition to the briefings offered to fusion center staff and liaison officers as part of the overall fusion center training program (described in detail in the Programs section, below). CRCL also worked closely with both internal and external working groups to review and develop various CVE and cultural competence-oriented trainings and background materials, including an extensive meta-analysis of terrorism plots foiled with the assistance of community members.

## **J. Unaccompanied Alien Children**

In FY 2012, CRCL continued to play an important role in the DHS Working Group on Unaccompanied Alien Children (UAC). "UAC" is a legal term referring to a child who has no lawful immigration status in the U.S., 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).).

During the first quarter of FY 2012, then-CRCL Officer Margo Schlanger and staff traveled to the Rio Grande Sector to observe firsthand the care and treatment of UACs in CBP custody. In February 2012, Acting CRCL Officer Tamara Kessler became one of the three co-chairs of the DHS UAC Working Group. Under her leadership, CRCL played a crucial role in DHS' response to an increase in UAC apprehensions during the spring and summer of 2012. In order to implement some of the lessons learned from the Working Group's efforts thus far, CBP began a pilot project for UACs in the Laredo and Del Rio Sectors. In August 2012, Acting Officer Kessler led a delegation from the DHS UAC working group to observe the CBP UAC pilot project. She and the delegation also met with other stakeholders such as ICE, the Mexican Consulate, the U.S. Department of Health and Human Services (HHS) Office of Refugee Resettlement (ORR), the DOJ Executive Office for Immigration Review, and certain non-governmental organizations (NGOs), to discuss ways to improve coordination and collaboration in the care and treatment of UACs. In addition, CRCL worked with the UAC Working Group to revamp ICE's annual training for its Field Office Juvenile Coordinators. The live training was delivered to ICE and CBP personnel in January 2013.

## **K. Earthquake Survey of Federal Employees with Disabilities**

In September 2011, CRCL conducted an on-line survey to examine the experiences of federal employees with disabilities during and following the August 23, 2011 earthquake in the Mid-Atlantic area. The survey questions were drafted by CRCL, finalized by the Workplace Subcommittee of the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities (ICC), and distributed by OPM through federal agency human capital offices throughout the mid-Atlantic region.

The Department of Labor's (DOL) Office of Disability Employment Policy, which serves as Chair of the ICC's Workplace Subcommittee, provided support in conducting the analysis of the data. A draft report was edited and approved by CRCL and presented to the ICC Workplace

Subcommittee in February 2012. CRCL staff then presented the survey report to the Joint Federal Committee of Emergency Managers within the National Capital Region. Following these presentations, CRCL prepared the final version of the report, including refining the explanation of the findings. In May 2012, CRCL transmitted the final report to FEMA in its role as Chair of the ICC.

The survey results point to the need for improvements in workplace emergency planning, communications, post-emergency assembly, and empowerment of employees with disabilities. Themes that arose from respondents' suggestions to improve emergency preparedness included (1) individualizing emergency plans for individuals with disabilities, (2) providing accommodations at assembly areas, (3) implementing training and drills on emergency procedures for employees with disabilities, (4) utilizing a system in which individuals with disabilities are assisted by other colleagues, and/or (5) empowering individuals to take charge of their own evacuation. In particular, the survey respondents' accounts of individuals with mobility disabilities point to the need for mass-evacuation planning in the mid-Atlantic region to address the possibility that numerous employees with disabilities could be left waiting in areas of refuge within multi-floor buildings, exceeding the rescue capacity of local first responders.

## L. OPM Adapts DHS Disabilities Course for All Federal Agencies

In FY 2012, CRCL redesigned and expanded the DHS online course, "[Employees with Disabilities: A Roadmap for Success](#)," which supports Executive Order 13548 (Increasing Federal Employment of Individuals with Disabilities). Subsequently, OPM's Office of Diversity and Inclusion collaborated with CRCL to adapt this course for use across the Federal Government. The course will be supplemented by an extensive set of online resources that can be inserted into each agency's intranet as an ongoing toolkit for staff. OPM plans to roll-out the course to all federal agencies in mid-2013.

## M. CRCL Works to Implement Immigration Detention Reform

In FY 2012, CRCL continued to provide leadership and expertise in addressing detention issues that impact the care, safety, and civil rights and civil liberties of immigration detainees. In support of ICE detention reform efforts, CRCL contributed to policy and guidance that promotes a civil detention system that ensures the security, safety, and well-being of immigration detainees. These efforts focused on:

***Training for ICE Detention Service Managers:*** For the third year, CRCL delivered civil rights and civil liberties training to ICE Detention Services Managers (DSMs) at the ICE training facility in Dallas, Texas. CRCL's training included an update on CRCL and complaint investigations related to detention, and the following modules:

- ***Monitoring Compliance with the Detention Standards: Requirements for Effective Communication with LEP Detainees:*** This session provided an overview of LEP, federal civil rights laws related to language access that apply in the detention environment, and Department-wide efforts underway to improve access for LEP persons across the

spectrum of DHS programs and activities. Following this background, the session focused on the language access requirements in ICE's Performance-Based National Detention Standards (PBNDS), with particular attention to those standards that relate to the health and safety of detainees and have other critical implications for detention management and detainee rights.

- *Working Effectively with LGBT Detainees:* This new training module was developed through collaboration between ICE, CRCL, and NGOs who advocated for improved treatment of LGBT persons in ICE custody. The training covers standards and best practices for working with LGBT people, including issues related to privacy and confidentiality, housing assignments, medical and mental health care, and addressing the increased vulnerability for sexual abuse and assault that LGBT persons might face in detention. This year's class of DSMs was the first to receive the new training on LGBT issues in the detention environment.
- *Monitoring Compliance with the Detention Standards: Sexual Assault and Abuse Prevention and Response:* ICE, in consultation with CRCL, promulgated a new directive on [sexual abuse and assault prevention and response](#) in order to comprehensively address and clarify procedures at the agency level relating to investigation, coordination, and response to sexual assault and abuse in immigration detention facilities. The training aimed to reinforce ICE personnel's knowledge of ICE's zero tolerance policy by reviewing elements in PBNDS 2008 and 2011 and the directive. ICE personnel learned that the directive complements the requirements of PBNDS 2011, specifies employee reporting responsibilities, establishes duties of an ICE Prevention of Sexual Assault Coordinator, and sets forth new training requirements, among other things.

***Technical Assistance and Training for ICE Chaplains:*** CRCL conducted a presentation at the annual training of the ICE Religious Services Program (RSP) chaplains in North Palm Beach, Florida, which covered detention reform and its impact on religious services for persons in ICE custody. CRCL also delivered training on the 2011 PBNDS on Religious Practices, which provides greater support for detainees' right to exercise their religion while maintaining the legitimate safety and security needs of detention facilities in accordance with constitutional and statutory requirements. The RSP, run by Church World Services and Jesuit Refugee Services, places on-site chaplains and religious services coordinators in several ICE detention facilities across the country to provide detainees with religious services and work with community volunteers to accommodate all religious beliefs. Following the presentation and training, CRCL and the ICE Public Advocate discussed ways to carry out work similar to that offered by the RSP in additional facilities across the country.



## 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.

In 2012, the Programs Branch consisted 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

The following pages discuss the structure of these sections and accomplishments in addition to those already described in the Highlights section.

### A. Civil Rights and Civil Liberties Institute

Since its establishment in 2004 as the first DHS civil rights and civil liberties training program, the Civil Rights and Civil Liberties Institute (CRCL-I) has flourished into a robust 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 promote cooperation with the Department's mission.

#### Accomplishments in FY 2012

##### *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. CRCL-I partners with the DHS Office of Intelligence and Analysis, (I&A), DHS Privacy Office and DOJ's Bureau of Justice Assistance in the development and delivery of civil rights, civil liberties, and privacy training for personnel at these centers, in fulfillment of the Department's obligation under the Implementing Recommendations of the 9/11 Commission Act of 2007. During FY 2012, CRCL-I undertook the following training projects in support of the national network of fusion centers:



- ***On-Site Training Project:*** CRCL-I conducted on-site, day-long intensive training events for fusion center personnel and liaison officers at 18 fusion centers in 17 states, with an overall quality rating of four on a five-point scale. In total, DHS has delivered training to 50 of the 78 currently recognized fusion centers since the pilot program began in 2009.
- ***Privacy, Civil Rights and Civil Liberties Web Portal:*** This web portal, operated jointly with the DOJ Office of Justice Programs, offers a single point of access to a variety of federal resources, guidance, and training on privacy, civil rights, and civil liberties. During FY 2012, CRCL-I updated the portal, which contains over 35 pages of new content and more than 400 links to key resources relevant to fusion center analysts and staff. The website can be accessed at [www.it.ojp.gov/PrivacyLiberty](http://www.it.ojp.gov/PrivacyLiberty).
- ***Privacy/Civil Liberties Officer Training and Technical Assistance Program:*** CRCL-I has separately trained the privacy/civil liberties officials from 68 of the 78 recognized fusion centers. To support the training work these officials do at their home centers, CRCL-I developed its Privacy/Civil Liberties Officer Module Series, which includes training modules and PowerPoint presentations, exercises, redacted Intel products, and trainer notes. This series was developed and written to allow the officials to present the material in customizable workshops to personnel at their own centers with emphasis on the local privacy policy, procedures, and issues. The series will be ready for deployment in early FY 2013.
- ***Pre-Deployment Training for DHS I&A Intelligence Officers:*** Prior to assignments to state and major urban area fusion centers, CRCL-I and the DHS Privacy Office provided individualized half-day pre-deployment training on critical privacy, civil rights, and civil liberties issues in the Information Sharing Environment to the newly appointed DHS I&A Officers.

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

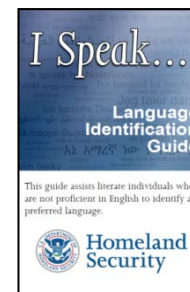
CRCL-I continued to develop and deliver a variety of civil rights and civil liberties trainings for Department personnel; which included its annual and biennial development cycles for the following courses:

- ***No FEAR Act:*** To meet the statutory requirement for all federal agencies, DHS personnel are trained on the federal anti-discrimination laws and whistleblowers protections every two years. In FY 2012, CRCL-I and the EEO and Diversity Division adapted and significantly expanded the No FEAR Act course, which includes an innovative scenarios-based game that teaches the protections of DHS’ anti-harassment policy, as well as federal anti-discrimination laws.
- ***Constitution Day:*** Each year in observance of Constitution and Citizenship Day (September 17), DHS is required by 36 U.S.C. § 106 to provide training for all its federal employees on the U.S. Constitution. In FY 2012, CRCL-I recreated its online DHS-wide course, which now uses interactive scenarios to guide users through contemporary constitutional issues and court decisions.
- ***Sexual Abuse and Assault in ICE Detention:*** In partnership with ICE, CRCL substantially adapted an external course through creation of a new DHS-specific instructional design. CRCL rebuilt the course platform and completed a significant portion of the content for this multi-part, interactive, video-based course, which will be deployed in 2013 as the mandatory foundational course for ICE personnel “who have contact with detainees in ICE custody,” per the requirements of ICE Directive 11062.1.

CRCL-I also supports DHS Components by developing specialized modules on civil rights and civil liberties issues that are integrated into various Component training courses. In FY 2012, CRCL-I developed such modules for the DHS Basic Intelligence Threat Analysis course; the pre-deployment briefing for DHS personnel; and ICE’s Factfinders course for internal complaints investigators.

**“I Speak” Materials:**

CRCL-I supported the deployment of its “I Speak” materials, which were first developed in FY 2011. The “I Speak” products include multi-lingual posters, pocket guides, and job aides that individuals with limited English proficiency can use to identify the non-English languages they speak. The materials have been used by the DHS Blue Campaign, CBP, and TSA. Upon request, CRCL will provide DHS personnel with customized, digital versions of the “I Speak” materials. In FY 2012, CRCL deployed more than 2,000 “I Speak” pocket guides and posters to CBP, ICE, U.S. Coast Guard (USCG), and U.S. Secret Service (USSS).



## B. Community Engagement Section

Public engagement with diverse American communities remains a top priority for CRCL as it supports the Department’s mission to secure our nation while protecting the civil rights and civil liberties of those who may be affected by DHS programs and 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. Since 2005, CRCL has convened regular roundtable meetings with American Arab, Muslim, Sikh, South Asian, and Middle Eastern community leaders in multiple cities across the country. In recent years, the Community Engagement Section has expanded their demographic to include Latino, Somali, and Asian/Asian Pacific Islander communities, and leads a wide variety of outreach endeavors, with core programs in 15 cities working with all segments of society.

As mentioned above in the CVE section of this report, much of CRCL’s engagement work benefits efforts to counter violent extremism in the United States and abroad. CRCL roundtables and other engagement activities are the model of the good governance programs called for expressly in the National CVE Strategy, “including those that promote immigrant integration and civil engagement, protect civil rights, and provide social services, [and] which may also help prevent radicalization that leads to violence.”

The Community Engagement Section aims to:

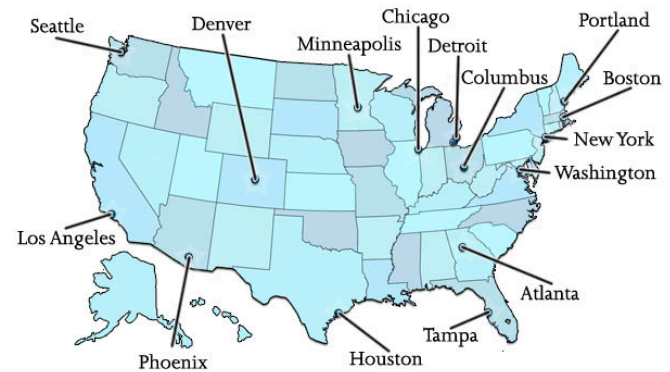
- Communicate and share reliable information about federal programs and policies, including avenues for redress and complaints;
- Obtain information and feedback about community concerns and on-the-ground impact of DHS activities;

- 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 2012

### ***Community Roundtable Expansion:***

Community engagement roundtables provide community leaders an opportunity to interface routinely and directly with DHS and other federal, state, and local partners 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 are focused 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 roundtable meetings have resulted in improvements to CRCL’s complaints process and in training improvements in several DHS Components, as well as solicitation of impressions on travel experiences for a DHS task force.

In FY 2012, CRCL expanded its geographic and demographic reach by establishing new quarterly roundtables in New York City and Phoenix, bringing our total to 15 cities. New York is a particularly challenging city for our roundtable efforts due to its size and sophistication. Therefore, the Community Engagement Section is conducting up to three separate roundtables throughout the greater New York City metropolitan area each quarter.

Additionally, CRCL has expanded its engagement to new immigrant “gateway communities.” These unique engagement events incorporate CRCL townhall-style meetings, particularly in the Midwest and Southeast regions of the country where many of these communities are located. Most of these events are issue-specific and follow the expanded demographic format in bringing together many diverse communities, with strong participation by civil rights and civil liberties and immigrant advocacy organizations.

### ***Broaden Intra-Agency Coordination and Participation:***

Throughout FY 2012, the Section took steps to improve substantive visibility of community engagement events throughout the USG, often by co-hosting or working closely with our Federal partners. These events included:

- Participation in several White House Hispanic Community Action Summits, which allowed the Section to reach several hundred community members to discuss and provide

information on the Deferred Action for Childhood Arrivals process, Secure Communities, and airport security;

- Working closely with the White House National Security Staff (NSS) on engagement efforts with the Pakistani, Syrian, and Tunisian communities by informing the NSS and the interagency partners on CBP and TSA policies related to international entry and exit screening procedures and immigration practices, and USCIS benefits related to certain countries;
- Close coordination with DHS Components on their national-level public outreach efforts, including ICE's newly created Office of the Public Advocate; and
- Provision of several forums to U.S. Attorney's Offices to facilitate their implementation of CVE-focused engagement with local community stakeholders.

Additionally, the Community Engagement Section coordinated and participated in nearly 200 engagement events in FY 2012, encompassing 72 standing roundtables held in 15 cities across the country, 82 secondary meetings and events associated with standing roundtables, and 42 individual engagement events.

***CRCL Activates the ICCT in the Aftermath of the Sikh Gurdwara Shooting in Wisconsin:***

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. The ICCT nationwide call is the only tool of its kind available for rapid-incident communications between the federal government and diverse communities in the aftermath of an incident of national significance.

In August, CRCL conducted an ICCT call following a shooting at a Sikh Gurdwara (place of worship) in Oak Creek, Wisconsin. During the call, leaders from Sikh, Hindu, Jewish, Muslim, and interfaith communities and organizations discussed the shooting with senior government officials from the White House Office of Public Engagement, DOJ's Civil Rights Division and Community Relations Service, FBI's Counterterrorism Division, DHS Office of Infrastructure Protection, and DHS Center for Faith-based & Neighborhood Partnerships. More than 100 participants from across the country joined the ICCT call. Government officials shared information about response activities and resources available to communities to promote safety and security in places of worship. Community leaders expressed concerns and offered suggestions ranging from how government can increase efforts to improve security at local and community levels to opportunities for senior Administration officials to show solidarity with diverse interfaith community partners.

## 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. In addition, 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;
- Supports the CRCL Officer's role as chair of the Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities; and
- 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 2012

#### *Transitioning Leadership of the ICC:*

On January 4, 2012, Secretary Napolitano issued a Memorandum transferring leadership of the ICC from CRCL to FEMA. The transfer to FEMA recognizes the high priority pledged by Administrator Fugate and builds upon the many capabilities being developed by FEMA's Office of Disability Integration and Coordination. CRCL transmitted all key historical ICC files and provided advice to FEMA on the way forward. The transfer of the ICC function enables CRCL to expand its focus on the specific civil rights issues across disaster-impacted populations.

#### *Shaping the National Preparedness System:*

CRCL collaborated with FEMA and interagency partners to integrate core civil rights principles into the National Planning Frameworks and Interagency Operational Plans developed under Presidential Policy Directive #8 – National Preparedness. These critical elements of Homeland Security doctrine aim to ensure coordination at all levels of government, within the areas of prevention, protection, mitigation, response, and recovery. The Disaster Preparedness Section developed content to ensure full and equal access for racially and ethnically diverse communities, LEP populations, immigrants, and individuals with disabilities.

#### *Civil Rights Foundations of Emergency Preparedness:*

In August 2012 CRCL, in collaboration with the DOJ and HHS, hosted two community stakeholder listening sessions focused on the topic of Civil Rights Foundations of Emergency Preparedness. The sessions provided stakeholders with an opportunity to share their experiences and perspectives on the disaster-related application of Title VI of the Civil Rights Act of 1964, including the application to immigrant communities and individuals with limited English

proficiency. Additionally, the sessions were used to solicit perspectives related to any barriers to equal access to response and recovery assistance for disaster-impacted populations, ways to reduce or eliminate these barriers, and promising practices to ensure equal access to critical assistance. Feedback from participants will be used to inform future civil rights related guidance for use by state, local, and tribal partners in emergency preparedness. The second session held added importance, as Hurricane Isaac was expected to impact the Gulf Coast within the next day; this provided those stakeholders who may be impacted with an opportunity for direct dialogue with federal partners having responsibility for ensuring civil rights compliance during disasters.

***National Level Exercise 2012:***

In April 2012, the Director of CRCL Programs and staff participated in the National Level Exercise 2012 DHS Tabletop Exercise (TTX). The goal of the exercise was to improve departmental-level awareness of the role of DHS in the National Cyber Incident Response Plan. Discussions on information-sharing, incident management coordination, and continuity of operations during a cyber incident were part of the TTX. CRCL's role within the exercise was to ensure that individual's civil rights and civil liberties were not diminished by cybersecurity efforts, activities, and programs aimed at securing the homeland.

***National Disaster Recovery Planning:***

In July 2012, CRCL staff presented during the first ever Training Academy for FEMA Federal Disaster Recovery Coordinators (FDRCs), which focused on all dimensions of the coordinated federal response under the National Disaster Recovery Framework (NDRF), and took place over a two-week period in Washington, D.C. The NDRF names CRCL as a Primary Agency during disaster recovery. CRCL's remarks focused on how the FDRCs can get a clear picture of the whole community.

***Responding to Disasters:***

As part of its role in providing proactive policy advice regarding civil rights and civil liberties, CRCL provided coordination and guidance to governmental and NGO stakeholders in the lead up to and aftermath from several major disasters during 2012:

- *Midwest Tornadoes* (March 2012) — A series of severe thunderstorms and resulting tornadoes caused widespread damage across the Tennessee and Ohio River Valleys. CRCL coordinated with FEMA and other federal partners to ensure that affected state and local governments were aware of their obligations regarding nondiscrimination in disaster relief.
- *Colorado Wildfires* (June 2012) — Following disastrous wildfires in Colorado, CRCL coordinated with the DHS Center for Faith-based & Neighborhood Partnerships to support FEMA's Voluntary Liaison cadre on the ground in the impacted areas. Efforts were aimed at outreach to faith-based organizations supporting the relief efforts.
- *Mid-Atlantic Storms* (June 2012) — Following a wave of severe storms that swept through the Mid-Atlantic region, CRCL coordinated with FEMA's Office of Disability Integration and Coordination (ODIC) regarding the extensive damage and prolonged power outages. CRCL's efforts were aimed at ensuring that the Federal government

released public information that was accessible to individuals with disabilities and LEP populations.

- *Hurricane Isaac* (August 2012) — Prior to and following the storm, CRCL staff met daily to address potential civil rights and civil liberties concerns involving Hurricane Isaac. CRCL supported ICE in developing a statement addressing immigrant communities impacted by the storm. ICE and CBP released a joint message which affirmed that there would be no immigration enforcement initiatives associated with evacuations or sheltering related to the storm. CRCL staff worked diligently to translate the message into Spanish, Vietnamese, and Haitian Creole, which was disseminated to CRCL’s stakeholder list (including community partners and immigration advocates) and [posted on CRCL’s webpages](#). The message and translations were also shared with FEMA’s ODIC for further distribution to their disability stakeholders involved in emergency preparedness. CRCL participated in the daily National Incident Communication Conference Line (NICCL) calls among federal communicators, and shared the message with FEMA External Affairs and other NICCL call participants.

## D. Immigration Section

U.S. citizens, lawful permanent residents, asylees, refugees, non-immigrants visa holders, migrant workers, undocumented aliens, 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 2012

#### *Improving Interactions with Criminal Justice Systems:*

The Immigration Section facilitated a series of discussions between ICE, court administrators, and criminal defense attorneys to address some unintended complications that ICE enforcement activities may have on criminal justice proceedings. To address many of the concerns, ICE ERO has posted a trained officer in each ERO field office to respond to case inquiries by defense lawyers and to provide appropriate information. Contact information for each field office is posted at [www.ice.gov/contact/ero](http://www.ice.gov/contact/ero). Attorneys or other representatives requesting information about a client are encouraged to obtain an ICE privacy waiver ([Form 60-001](#)), though other proof of an attorney-client relationship may also be sufficient.



***Protection Under the Fair Housing Act and ICE Prosecutorial Discretion:***

The Immigration Section worked with ICE and the U.S. Department of Housing and Urban Development (HUD) to develop language to address the concerns of individuals who have filed or are considering filing a complaint with HUD under the Fair Housing Act but may be worried that they or their family members may be reported to ICE in retaliation for filing such a complaint. The jointly developed language, featured in HUD's Frequently Asked Questions on Immigration Status and Housing Discrimination, notes that "it is illegal to coerce, intimidate, threaten, or interfere with a person's exercise or enjoyment of rights granted or protected by the Fair Housing Act. This includes threats to report a person to ICE if they report housing discrimination to HUD." It advises such individuals to consult ICE's policy on prosecutorial discretion for individuals pursuing legitimate civil rights complaints, and asks them to let ICE know that they are pursuing a Fair Housing Act complaint if they come into contact with ICE after the filing of the complaint.

***287(g) Program:***

Under the 287(g) program, ICE and a state or local law enforcement entity may enter into a Memorandum of Agreement (MOA) that sets forth the terms and conditions for state or local law enforcement officers to function as immigration officers. The Immigration Section worked with ICE to recommend revisions to the 287(g) MOA; it also participated in ICE Program Advisory Board meetings to review applications from state and local law enforcement entities to participate in the program, and to determine whether or not to recommend continuing the 287(g) program in participating jurisdictions upon the expiration of existing MOAs. Additionally, the Section worked with ICE's Office of Professional Responsibility regarding effective auditing of services to persons with limited English proficiency by 287(g) program participants. In late 2012, ICE, after conducting a national review of the 287(g) task force program, considering performance, cost, operational benefit, and the ability to achieve similar results through other programs, allowed all 287(g) task force agreements to expire.

***Collaboration with DHS Components:***

- The Section worked with DHS Components to ensure protections for the public regarding the expanded use of IDENT data by law enforcement, including helping design an evaluation to identify any potential civil rights or civil liberties concerns in new proposed uses.
- The Section worked with various DHS Offices and Components to develop internal departmental guidance on the treatment of individuals previously subject to the reporting and registration requirements of the National Security Entry Exit Registration System (NSEERS). This guidance clarifies the Department's policy on the treatment of individuals who were previously subject to, but failed to comply with, these requirements.
- Immigration Section staff worked with the Assistant Director for ICE's Office of Detention and Policy Planning to create a Quick Reference Guide and a lengthier Resource Guide for ICE officers attempting to ascertain whether an individual falls into a vulnerable population for purposes of ICE's Risk Classification Assessment.
- The Section organized and hosted a high-level, interagency meeting to discuss important issues surrounding the U visa (for certain alien victims of crimes), which led to important

collaboration between the EEOC and DHS Components. The meeting also included representatives from the CIS Ombudsman's Office and USCIS.

***Combating Human Trafficking Through the DHS Blue Campaign:***

- The Immigration Section continued to join 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) to provide subject-matter expertise in the development of a live, week-long training for the interagency called Advanced Human Trafficking Training. This training was designed for experts who investigate and prosecute human trafficking crimes, and will be replicated in the future.
- Toward the end of FY 2012, CRCL provided funds for an important project that the Immigration Section began working on with the Blue Campaign and FLETC: the creation of a roll call video for local law enforcement to better explain their role in the U visa certification process and in requests for Continue Presence. This video is to be completed in FY 2013.
- The Section also collected and analyzed the Department's best cultural sensitivity practices, with an eye toward expanding such practices throughout DHS' anti-human trafficking efforts.
- The Section—along with the Institute—worked with the Blue Campaign to adopt and modify the “I Speak” pocket guide and poster. These tools can be used by DHS personnel and law enforcement to identify the language of the people they are talking to. Law enforcement officers and others can show the “I Speak” pocket guide or poster to potential victims of human trafficking.

***Human Rights Treaty Reporting:***

Throughout the year, the Immigration Section continued its work with DHS Components and Offices, the NSS, and other federal agencies to contribute relevant information on DHS programs and policies for the USG's periodic reports on implementation of the Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment; the International Convention on the Elimination of all Forms of Racial Discrimination; follow-up to the periodic report on the International Covenant on Civil and Political Rights; and preparation on the U.S. presentation on its periodic report concerning the two Optional Protocols to the Convention on the Rights of the Child. In addition, the Immigration Section led DHS participation in the Equality Working Group, an interagency effort to enhance the government's domestic implementation of our international human rights obligations and commitments relating to non-discrimination and equal opportunity.

***Inter-American Commission on Human Rights:***

In October 2011 and March 2012, the Immigration Section facilitated the appearances of the CRCL Officer and representatives of other DHS Components and Offices at a number of hearings and working meetings of the Inter-American Commission on Human Rights. These meetings addressed the Department's resumption of removals to Haiti and human rights at the southwest border, among other topics.

## 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. In conducting Impact Assessments, CRCL 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. In the final written document, CRCL may make recommendations for change.



After substantial efforts in 2010 and 2011 to standardize internal processes for conducting impact assessments and developing procedures for incorporating public input, in FY 2012 the function of the Section was absorbed into the Programs Division as a whole.

### Accomplishments in FY 2012

#### ***Border Search of Electronic Devices Impact Assessment Completed:***

To secure U.S. borders from illegal activities, DHS has significant authority to search travelers, baggage, and containers, including electronic devices, entering the country. In August 2009, Secretary Napolitano announced revised ICE and CBP policies with respect to electronic device searches in response to public and congressional concern, and as a part of the continuing evolution of border security. At the same time, she directed that CRCL assess those policies to ensure that civil rights and civil liberties concerns are appropriately addressed. CRCL undertook the impact assessment, analyzing not only legal authorities and issues, but also a substantial amount of data supplied by CBP for statistical analysis. The Impact Assessment made several recommendations to improve accountability, oversight, and notice to travelers about their options for redress.

#### ***Assessment in Progress:***

- *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. Following a stakeholder listening session in FY2011, this impact assessment moved into the final stages toward completion in FY2012.

## 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 2012

#### *Aviation Security:*

CRCL's continued involvement in reviewing and advising on proposed aviation security efforts ensured that policymakers considered civil rights and civil liberties concerns at the outset while DHS continues to work with global partners as they explore new programs or enhance existing ones concerning aviation security. Work by ISIS in this area, in partnership with the TSA, included reviews of standard operating procedures and training materials for TSA's behavioral detection programs and activities; negotiation and policy-making on risk-based domestic screening; and field visits to observe security screening methods and to provide guidance on preserving individual rights in those activities.

#### *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. ISIS's product review function is an ongoing real-time operational service for the Department, requiring round-the-clock monitoring of communications and quick response to I&A's requests for review of intelligence products drafted to respond to immediate threats and planned intelligence requirements. ISIS reviewed hundreds of products in FY 2012, ensuring that the intelligence I&A delivered to state and local partners did not violate, or encourage partners to violate civil rights and civil liberties.

In addition to its daily review of a number of intelligence products published by I&A, CRCL provided extensive guidance on means to address potential civil rights and civil liberties issues in a training program on prison radicalization aimed at federal, state and local prison guards and officials during this reporting period. Also in FY 2012, CRCL worked with I&A to craft and deliver a pilot program for training and certifying DHS intelligence enterprise reports officers responsible for raw reporting, as well as policy establishing a product post-release audit process for Intelligence Information Reports scheduled for full implementation upon completion of the intelligence enterprise training and certification program.

#### *Cybersecurity:*

Working with United States Computer Emergency Readiness Team (US-CERT) managers, the US-CERT Oversight and Compliance Officer, and National Protection and Programs Directorate (NPPD) Privacy Office to identify training needs, CRCL delivered training on civil rights and civil liberties principles for US-CERT cybersecurity operators. The training covered over 92% of US-CERT personnel, with 212 attendees in nine small group sessions, and was assessed by participants with an average overall rating of 4.44 out of 5.

### ***Information Sharing:***

ISIS, in collaboration with I&A, OGC, and the DHS Privacy Office, developed a body of work designed to ensure appropriate protections for civil rights and civil liberties are included when DHS shares, for national security purposes, a number of the datasets it collects. In addition to developing a broad statement of principles governing the sharing of bulk datasets, CRCL developed a framework of six vital factors the Department must consider in determining appropriate periods for DHS data retention, including for refugee and asylee data.

### ***Coordination with DHS Components:***

- ISIS, in collaboration with the Federal Protective Service (FPS), crafted a number of policies improving the FPS protections for individual rights in their regular protective activities. For example, in FY2012, CRCL worked with FPS to issue guidance on the use of gender-specific facilities (such as restrooms) and on accommodating the use of service animals in FPS-protected buildings. ISIS also worked closely with FPS on its “Prohibited Items Program” Directive that, in part, documents FPS policies and procedures for possibly allowing otherwise prohibited items into a federal facility to accommodate a religious belief, medical need, disability, or other civil rights and civil liberties. Under this Directive, FPS will not enforce a prohibition of any item that by its nature and use would be allowed in a federal facility under federal law, such as Title VI of the Civil Rights Act, the Americans with Disabilities Act, the Rehabilitation Act and the Religious Freedom Restoration Act.
- CRCL worked with US-VISIT to establish policy governing a pilot program to allow the Florida Department of Law Enforcement, Florida Regional Domestic Security Task Force use of DHS databases in support of specific non-arrest law enforcement encounters during national security events. The policy requires Task Force officers to be trained on privacy and civil rights and civil liberties protections and to complete a thorough questionnaire covering the details of each encounter where DHS databases were used, so the Department can determine whether DHS records are being accessed and used appropriately.
- CRCL advised NPPD concerning their Chemical Facility Anti-Terrorism Standards Personnel Surety Program. CRCL identified concerns that the public notice provided several years ago did not sufficiently inform the affected public of the recurrent nature of DHS screening protocols or NPPD’s risk assessment role in this program. ISIS advice and guidance contributed to the agreement to issue an updated program impact assessment that will provide increased transparency for the program.

### ***Other Notable Achievements:***

- CRCL, in collaboration with the DHS Screening Coordination Office, engaged in the interagency comment process during the review and revision of USG policy governing watch-listing. During that engagement, CRCL provided civil rights and civil liberties-focused comments and advice as part of the discussion of those revisions.

## V. Compliance Branch: Public Complaints

The Compliance Branch investigates complaints from the public alleging violations of civil rights or civil liberties by DHS personnel, programs, or activities. Such complaints may include allegations about:

- racial, ethnic, or religious profiling;
- disability discrimination prohibited by the Rehabilitation Act of 1973;
- discrimination based on race, ethnicity, national origin, religion, gender, sexual orientation, gender identity;
- physical or other abuse;
- inappropriate conditions of confinement;
- 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 8 U.S.C. § 1367 and the Violence Against Women Act (VAWA); and
- any other civil rights or civil liberties violation related to a Department program or activity, including human rights complaints.

### Accomplishments in FY 2012

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

Each year, CRCL's Compliance Branch conducts site reviews at ICE and ICE-contracted detention facilities to investigate alleged violations of civil rights and civil liberties related to immigration detention. In FY 2012, CRCL conducted site visits to 20 detention facilities, including a service processing center in New York and county jails in Alabama, California, Georgia, Louisiana, Massachusetts, New Jersey, New Mexico, New York, Pennsylvania, Texas, Virginia, and Wisconsin where ICE houses immigration detainees under contract. For many of these reviews, CRCL engages the assistance of subject-matter experts to examine issues related to medical care, mental health care, correctional security and operations, and environmental health and safety. CRCL ultimately issues a final report with recommendations based upon its investigation and expert opinions. During the past year, CRCL has enhanced this process by expediting the ability of facilities to make important changes. Now, prior to the issuance of the final report, CRCL transmits the expert recommendations to ICE leadership to inform them about identified problems, suggested changes, and potential policy issues at the earliest opportunity. During this period, CRCL engages in a collaborative process with ICE to discuss the experts' findings and recommendations. ICE ultimately sends a written response to CRCL, which we can incorporate into our final report.

#### *Quality of Medical Care Inspection Tool:*

Over the course of FY 2012, CRCL worked with ICE and its ICE Health Service Corps (IHSC) to develop an inspection tool that IHSC can use to assess the quality of medical care provided in immigration detention facilities. The inspection tool focuses on aspects of medical care where errors pose a significant risk of harm to patients, and the tool will be used as an adjunct to other inspections and assessments that look at the structural elements of care. CRCL engaged the

assistance of one of its medical experts to develop the tool, which was completed in collaboration with IHSC. The tool was then pilot tested during a CRCL site visit attended by CRCL's expert and six IHSC personnel, and was refined based on feedback from the pilot test. CRCL continues to work with ICE and IHSC on the expanded use and implementation of the inspection tool.

***Sexual Assault Investigation and Work on ICE Policy and DHS Regulations:***

In FY 2012, CRCL was actively involved in a wide variety of work related to the prevention of sexual abuse and assault of individuals in DHS custody. The Compliance Branch, with the assistance of one of its corrections experts, worked on an investigation regarding an allegation that a detainee was sexually assaulted while in ICE custody. Several CRCL personnel then participated in ICE's working group on sexual abuse and assault prevention to draft and implement an ICE-wide policy and procedure that address the duties of agency employees for reporting, responding to, investigating, and monitoring incidents of sexual abuse or assault.

In addition, following the President's May 17, 2012 memorandum "Implementing the Prison Rape Elimination Act" (PREA), which directed all agencies with Federal confinement facilities to propose rules or procedures setting standards to prevent, detect, and respond to sexual abuse and assault in confinement facilities, CRCL participated in DHS's drafting of proposed PREA regulations.

***Medical Referral Process:***

As CRCL receives allegations from the public related to the treatment of individuals held in ICE custody, some of these allegations relate to the provision of medical care and may present life-threatening concerns that require immediate attention or may indicate systemic problems with detainee medical care. In order to best collaborate with ICE on these complaints, CRCL developed a more streamlined process for referring medical complaints to ICE and its IHSC to ensure fast action where necessary, and review by medical professionals. This process has been highly successful in ensuring that individuals who report serious medical concerns are assessed in a timely and thorough fashion. Additionally, this new system allows for better oversight and tracking of concerns by CRCL and has been a very successful collaboration with ICE.

***Memorandum of Agreement with the Transportation Security Administration:***

In December 2011, CRCL entered into a MOA with TSA regarding the processing of disability-related complaints filed by members of the traveling public that raise or allege discriminatory conduct, practices or policies by TSA that could violate Section 504 of the Rehabilitation Act of 1973, as amended. The MOA memorializes the respective duties and obligations of CRCL and TSA when processing external disability discrimination complaints. This has resulted in enhanced information sharing and the establishment of consistent standards for Section 504 complaint handling and collaboration in the development of a format and legal framework for complaint analysis.

## A. FY 2012 Investigations

CRCL receives complaints from a variety of sources, including the general public and NGOs. Incidents that may merit investigation are also forwarded to CRCL by other DHS Offices and Components as well as other government agencies. For example, HHS' Office of Refugee Resettlement sends reports regarding treatment of unaccompanied alien children by DHS personnel. The U.S. Department of Justice also forwards public complaints raising civil rights concerns that may fall within CRCL's jurisdiction. Within DHS, potential complaints are forwarded to CRCL by CBP, ICE, and the Office of Inspector General (OIG). CRCL also identifies complaints through review of DHS Traveler Redress Inquiry Program (TRIP) records. Further, since October 1, 2009, ICE has notified CRCL whenever 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 DHS OIG. OIG then determines whether or not it will investigate the complaint. If OIG declines to investigate the complaint, it is returned to CRCL for appropriate action, at which point CRCL determines whether the complaint should be retained for CRCL's own investigation or referred to the relevant DHS Component(s) for fact-finding investigation. If a complaint is referred, CRCL provides the relevant Component with guidance on questions and issues to address during their factual investigation, and 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 appropriate recommendations for improving policy, practice, or training. CRCL also notifies the complainant of the results. CRCL asks DHS Components to formally concur or non-concur with its recommendations, and to provide concrete action plans for implementing accepted recommendations or basis for non-concurrence.

During FY 2012, CRCL received 253 new complaints, of which OIG kept three for investigation, and closed 279. Tables 2 and 3, below, summarize complaints CRCL received and closed in FY 2012 and do not include matters kept by OIG for investigation and closed by OIG in FY 2012. Information about those complaints can be found in Appendix B of this Report. Additional tables in Appendix B detail complaints kept by the OIG in FY 2012 for investigation. The tables also describe the number of CRCL complaints received per quarter, by Component and issue, dividing them into those that were retained for full investigations by CRCL, referred for fact investigation to the relevant Component, and investigated as short-form complaints by CRCL.

("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 2012, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total	
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form		All
Abuse of authority/misuse of official position			1				3		7									1		1	4	0	9	13		
Breach of confidentiality									2						1						1	0	2	3		
Conditions of detention	3		3				9	12	29											3	12	12	35	59		
Disability accommodation			3												1						0	0	4	4		
Discrimination/profiling	2		3				1	1	3		1	2									3	2	8	13		
Due process	1		2						3											2	1	0	7	8		
Excessive force	5	2	13				4	1	12												9	3	25	37		
Fourth Amendment (search and seizure)	1		2				2		1												3	0	3	6		
Free speech/association									1	1							1					1	0	2	3	
Human rights																					2	0	0	2	2	
Inappropriate questioning/inspection conditions			4				1															1	0	4	5	
Inappropriate touch/search of person (non-TSA)	1																					1	0	0	1	
Intimidation/threat/improper coercion			1				2		2													2	0	3	5	
Language access (limited English proficiency)		4	2						1													0	4	3	7	
Legal access							1	1	4													1	1	4	6	
Medical/mental health care	2		1				4	4	53													6	4	54	64	
Religious accommodation			1						4	1												1	0	5	6	
Sexual assault/abuse								1	5													0	1	5	6	
TSA AIT and TSA pat-downs										1		3											1	0	3	4
Monitoring ongoing criminal proceedings			1																			0	0	1	1	
<b>Total</b>	15	6	37				27	20	127	3	1	5				1	2	1			8	47	27	179	253	

**TABLE 3: COMPLAINTS CLOSED FY 2012, PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form		All	
Abuse of authority/ misuse of official position		3					3	1	2												2	1	4	6	3	12	
Breach of confidentiality									1		1	1		1									1	0	3	4	
Conditions of detention	2	2					19	20	28														21	22	28	71	
Disability accommodation			3											1									0	0	4	4	
Discrimination/profiling	5	21	8		2		3	2	5	1	1	3	1	2				1	1	2			13	27	18	58	
Due process	1		2				5	2	4	1			1								1	2	8	3	8	19	
Excessive force	2	4	7				5	2	3														7	6	10	23	
Fourth Amendment (search and seizure)			1				2	2	1					1									2	3	2	7	
Free Speech/association										1				1										1	1	0	2
Human rights																						1	0	0	1	1	
Inappropriate questioning/ inspection conditions		2	4				1	1				1											2	3	4	9	
Intimidation/threat/ improper coercion			1				1		1														1	0	2	3	
Language access (limited English proficiency)			1						1														0	0	2	2	
Legal access							1	1	3														1	1	3	5	
Medical/mental health care	1	3					7	2	27														8	5	27	40	
Religious accommodation							2		1	1													3	0	1	4	
Retaliation							1	1	1														1	1	1	3	
Sexual assault/abuse			1					1	1														0	1	2	3	
Treatment																	1						0	0	1	1	
TSA AIT and TSA pat-downs										2	1	4											2	1	4	7	
<b>Total</b>	11	35	28		2		50	35	79	6	2	8	4	4	2			1	1	4	6	75	80	124	278		

## 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 2012 with recommendations from CRCL to DHS Components, in which Components have responded to the recommendations. These recommendations and the Components' responses reflect the Department's continuing commitment to preserving civil rights and civil liberties while protecting the homeland.

### CBP

- 1. Mistreatment of Unaccompanied Alien Children:*** Over the course of two years, CRCL received seven Significant Incident Reports from HHS ORR, and two complaints from an Arizona-based immigrant rights organization, alleging mistreatment of 14 unaccompanied minors by the Tucson Sector Border Patrol. The complaints specifically alleged inadequate provision of meals, holding cell temperatures, blankets and sleeping mats, medical care, and interpretation and translation services. Certain complaints also claimed excessive time spent in Border Patrol holding cells. CRCL retained the complaints and conducted an onsite investigation in February 2010 and an additional follow-up review in August 2010. CRCL concluded there were inadequacies in the following areas: provision of food, blanket provision, execution and extent of medical screening, post-screening medical care and documentation, language services, recordkeeping and, in one location, appropriate holding room facilities for juveniles. CRCL recommended changes in all those areas and the enhanced use of electronic record keeping monitoring progress. CBP concurred with the recommendations and has taken steps to implement them. This includes renovating one facility for enhanced compliance, implementing electronic tracking systems across the Tucson Sector, and providing additional training for agents during musters.
- 2. Minors Traveling with a Temporary Guardian or Rendered Unaccompanied at the Border:*** In February 2012, CRCL received a complaint from an NGO alleging that two U.S. citizen (USC) children were denied admission by CBP to return to the United States at the Otay Mesa Port of Entry in San Diego, California. The children were accompanied by an adult USC family friend to cross into the U.S. The guardian had a letter, certified by a notary public, from the children's mother authorizing him to escort the children into the U.S., in addition to proof of the children's U.S. citizenship. CBP referred the guardian to secondary inspection, temporarily separating the guardian from the children, and subsequently denied entry to all three citizens. CRCL found that CBP did not have policies or procedures in place for USC minors who travel without a parent or legal guardian. CRCL recommended CBP develop policies and procedures regarding encounters with USC minors traveling without parents, including guidance on the documentation that guardians traveling with USC minors should present in order to enter the country. CRCL also recommended that CBP develop policy and procedures addressing situations in which USC minors are rendered unaccompanied based on issues related to admissibility or insufficient documentation of the adult accompanying them. CBP concurred with CRCL's recommendation and issued guidance in a memorandum to all Field Office Directors, operators and training offices.

3. ***Access to Asthma Inhalers in CBP Hold Rooms:*** CRCL received a complaint in 2011 from a NGO on behalf of three women held together at a Border Patrol facility in Arizona. The allegation stated that the three women observed another woman in their cell who was coughing badly until she vomited. The Border Patrol agents allegedly refused to do anything. The women further stated that they found out the woman had asthma and that her inhaler had been confiscated. CRCL referred this complaint to CBP and reviewed CBP's ROI. Based on this review, CRCL recommended that CBP improve access to inhaler medication for individuals who are held in custody. This recommendation also covers the concerns raised in a separate complaint, from the mother of a young man who stated that her son had "serious asthma," but was not allowed access to his inhaler while in CBP custody. CBP concurred with the recommendation and will coordinate with CRCL on policy changes stemming from this recommendation.
4. ***Family Customs Declarations Upon Readmission to the United States:*** In November 2010, CRCL received a referral from CBP on behalf of the complainant. The complainant alleged that in October 2010, he and his same-sex partner, who are married under state law and share the same address, approached primary inspection at an airport in Texas with one customs declaration form, as "members of a family traveling together" are permitted to do. The complainant alleged that they received disparate treatment when re-entering the U.S. and that CBP officers were rude and unprofessional when, because of their sexual orientation, the complainant and his partner were denied the ability to be processed as a family using a single declaration. CBP conducted an immediate factual review, and was unable to substantiate allegations of rude and unprofessional conduct. Although CRCL found that it did not violate the current regulatory framework to deny same-sex couples married under state law the ability to file a joint customs declaration form, CRCL recommended that CBP consider new regulations on this topic to further equality for all travelers. CBP concurred with this recommendation and, in conjunction with the U.S. Treasury Department, published a Notice of Proposed Rulemaking to revise the categories of travelers permitted to file a joint declaration, including same-sex domestic partners returning to a joint address.
5. ***Racial Profiling in Border Inspections:*** A traveler alleged that CBP officers conducted a border inspection on the basis of racial profiling and that excessive force was used during the inspection. CRCL found that the traveler was misidentified in a National Crime Information Center (NCIC) database lookout but found no evidence that the CBP officer improperly profiled the traveler, or that CBP officers used inappropriate escorting techniques when walking the traveler to the secondary inspection area. CRCL did recommend, based on information discovered through this complaint, that CBP continue its work to eliminate incidents of misidentification. CBP has concurred with this recommendation.

## ICE

6. ***Racial Profiling in Immigration Enforcement Action:*** In September 2011, CRCL received a copy of a report written by a Tennessee-based NGO alleging that an ICE agent, working with a local probation office, produced a list of "Hispanic sounding names" of probationers to be targets for an immigration enforcement action. The report further alleged that the ICE agent admitted to the wrongdoing at a public meeting. CRCL's investigation concluded that certain aspects of the NGO report were not accurate, and that no wrongdoing occurred in the

creation of the list of probationers in the area. While determining that nothing inappropriate occurred, CRCL recommended that ICE make reminders to the field about ICE's policy on profiling, and also suggested training modifications to enhance understanding of current practices. ICE concurred with these recommendations and is working to implement them.

7. ***Mental Health Care at ICE Facility in Texas:*** In April 2009, CRCL received a detainee complaint alleging inappropriate mental health care at a detention facility in Texas. The complaint came at the same time that CRCL was conducting a site visit to the facility, and CRCL interviewed the detainee and the facility's mental health personnel. At the time of the site visit, CRCL did not have a mental health expert to consult. In May 2011, however, CRCL conducted additional investigative work with the assistance of a mental health subject matter expert who examined the issues raised in 2009. CRCL did not identify any concerns specifically related to the complainant, but CRCL's expert identified specific aspects of the facility's mental health care for improvement. CRCL made three recommendations relating to the mental health caseload, mental health screening, mental health policies and procedures, and mental health treatment plans. ICE concurred with these recommendations and made changes that adequately addressed each issue.
8. ***Disciplinary Procedures in ICE Detention:*** CRCL received a complaint signed by 11 detainees at a county jail in Illinois who alleged a wide range of problems, from the conditions of voluntary work programs to improper disciplinary procedures and medical treatment. CRCL referred the complaint to ICE OPR, who reported back that nine of the ten allegations were unfounded, but sustained the allegation regarding improper disciplinary procedures. CRCL agreed with OPR's conclusions and determined that the facility violated the National Detention Standards (NDS) when it punished an entire housing unit for the actions of a few detainees. It further violated the NDS and its own policies by failing to go through its formal disciplinary process before placing the entire housing unit on a 15-day lockdown. CRCL recommended that the facility revise its policies and procedures to comply with the NDS on disciplinary segregation and the disciplinary process; that ICE should provide guidance regarding the use of lockdown as an administrative or security tool, but not as a disciplinary measure; and that ICE should provide guidance that group discipline without individual adjudication of culpability is inappropriate. ICE has concurred with and implemented these recommendations.
9. ***Medical Care at ICE Facility:*** In July 2010, CRCL received a complaint from an ICE detainee, housed at the time at a facility in Georgia, alleging that the facility medical staff failed to diagnose his cancerous throat tumor. The detainee also alleged that he experienced a delay before surgery that made successful treatment less likely. CRCL recommended that ICE investigate the underlying cause of the delays in diagnosis and treatment and review relevant medical records, and that the clinician involved be counseled about the delay in treatment and for the delay in attention to the detainee's symptoms. CRCL also recommended that ICE conduct a review of a random sample of records of detainees with similar significant health conditions at the facility to ensure the standard of care has been met. As a result, ICE took several steps, which included: review of the detainee's records; recommendations to the facility about the standards of care; and recommendations to the facility to correct the facility's clinical practice guidelines to improve treatment, referral and

diagnosis of potentially serious medical conditions. ICE has had discussions with appropriate personnel at the facility regarding its clinical practice guidelines and counseled the provider on the standard of care issues in this specific instance and on ICE expectations on quality and appropriateness of care overall.

- 10. *Conditions of Detention in Louisiana:*** In July and August 2009, CRCL received complaints about the conditions of detention in an ICE facility in Louisiana. CRCL conducted a site review of the facility in February 2010. During that site review, CRCL engaged the assistance of two medical experts, an expert penologist, and an environmental health and safety expert. As a result of that site review, CRCL's subject matter experts identified specific concerns regarding the facility and CRCL made recommendations to ICE and the facility to address those concerns. In May 2011, CRCL provided a memorandum to ICE, requesting a concurrence or non-concurrence to the recommendations. In FY 2012, ICE concurred with the recommendations and has addressed all concerns raised.
- 11. *Conditions of Detention in Oklahoma:*** On September 2010 and April 2011, CRCL received correspondence from an NGO and a number of detainees at a county jail in Oklahoma alleging a variety of condition of detention violations, including no access to a detainee handbook, law library, court or legal representation, and outdoor recreation. Additionally, the detainees made allegations that they were unable to make free phone calls to counsel, and that food was limited and unpalatable. CRCL conducted a site review of the facility in September 2011. During that site review, CRCL engaged the assistance of a medical doctor, an expert penologist, and an environmental health and safety expert. As a result of that site review, CRCL's subject matter experts provided specific concerns regarding the facility and CRCL made recommendations to ICE and the facility to address those concerns. Each of the issues has been remedied following a collaborative process between ICE and CRCL.
- 12. *Use of Force in ICE Detention:*** In September 2009, CRCL received a complaint from a NGO regarding the care of an ICE detainee who was, at the time, detained in ICE custody at a county jail in California. The complaint alleged that the detainee had been physically assaulted by a correctional officer at the facility, was injured as a result, and did not receive adequate medical care for his injuries. CRCL referred the complaint to ICE for investigation. In February 2010, CRCL received information from ICE regarding its investigation. CRCL reviewed ICE's ROI and made recommendations to bolster ICE's access to internal affairs reports as they relate to ICE detainees and to review use of force incidents and policy at the facility involved. ICE concurred with these recommendations, and conducted a review and worked with the facility to implement an updated use of force policy.
- 13. *Photographing and Videotaping ICE Operations:*** CRCL received a complaint from an NGO alleging profiling and abuse of authority by ICE agents in California. The complainants alleged that ICE violated their constitutional rights when ICE agents intimidated the complainants by asking for their identification and place of birth, then grabbed their video camera and deleted footage they had just taken of an ICE workplace enforcement action. CRCL conducted an investigation but could not substantiate the allegations. CRCL identified and recommended addressing the apparent absence of policy and training for officers on the topic of appropriate responses to people videotaping or taking

photographs of ICE operations. ICE concurred and issued a formal reminder to all Special Agents In Charge (for distribution to all personnel) outlining the rights of citizens to videotape law enforcement actions and the rights of agents to enforce the law free of undue interference.

**14. *Conditions of Detention at an ICE Facility in New Jersey:*** CRCL received a complaint from a number of detainees at a detention facility in New Jersey concerning the conditions at the facility. In the complaint, the detainees made allegations on a wide range of issues, from the provision of writing instruments to timely medical care. CRCL referred the complaint to ICE OPR for investigation and, in November 2010, ICE OPR provided its report to this Office. CRCL asked for, and received, supplemental information from OPR about the complaint in February and March 2011. Based upon OPR's investigation, CRCL made two recommendations, one regarding the provision of blankets, and another regarding sick call accessibility. ICE concurred with CRCL's recommendations and issued a new policy at the facility on the provision of blankets. ICE also informed CRCL that a new policy for all ICE Health Services Corps (IHSC) providers, who staff the facility in question, is being implemented to address the sick call issues.

**15. *Identification Documentation in ICE Detention:*** CRCL received a complaint from an employee at an ICE detention facility in Georgia alleging that the due process rights of detainees at the facility were being undermined because officials were accepting deficient documentation and improperly processing detainees. The complainant also alleged that the lack of an immigration judge and ICE staff at the facility resulted in delays in issuing Notices to Appear, and that he had experienced retaliation by ICE officials for raising these issues. CRCL referred the complaint to ICE OPR for investigation. Based on a review of ICE's ROI, CRCL made recommendations to improve the processing of detainees at the facility, to improve relevant policy, and to review the facility's processing of detainees and implement quality control measures if deemed necessary. ICE concurred with CRCL's recommendation and re-issued guidance on detainee transfers to ICE field agents. Further review of local policies will be forthcoming.

## **USCG**

**16. *Safety Zone Enforcement and First Amendment Protections:*** CRCL received correspondence from a resident of Seattle, Washington, alleging that the USCG had violated his civil rights since 2000, when he was legally operating vessels in Elliott Bay, Washington, to protest the U.S. Navy's arrival at the Seafair Festival. He asked CRCL to review the USCG's "proposed No-Protest zone" (a temporary final rule establishing a regulatory safety zone around the Navy vessels); the USCG's past enforcement actions at Seafair; and the process of developing the proposed rule, specifically the failure to hold a public hearing after receiving 10 statements against the rule. CRCL's investigation focused on whether USCG's process for imposition of safety zones associated with special events, including but not limited to Fleet Week, is appropriately protective of free speech rights. CRCL recommended that the USCG work more closely with interested community groups prior to the implementation of exclusion zones, and that appropriate First Amendment concerns be carefully weighed before the creation of exclusion zone rules. The Coast Guard concurred with these recommendations and is implementing them.

## USCIS

**17. Procedures for Interviewing an Applicant for Citizenship:** CRCL received a complaint from an attorney alleging that USCIS committed a number of procedural violations when his client appeared at a field office for a naturalization oath ceremony. USCIS investigated the allegations and found that an agent interviewed the applicant without the presence of his attorney and without notice to his representative, despite the presence of a G-28 Notice of Entry of Appearance in his case file. This resulted in a violation of USCIS regulations and the Adjudicator's Field Manual. Also in violation of proper procedures, the agent failed to note in the case file that the applicant had been removed from an oath ceremony prior to questioning. To address these violations, CRCL recommended that USCIS provide individual counseling and group training to the field office to ensure that such procedural violations do not recur. USCIS agreed with these recommendations and provided individual counseling and training for the Field Office involved.

**18. Sign Language Interpretation During I-485 Interview:** In March 2011, USCIS informed CRCL of allegations that a USCIS Field Office had discriminated against an applicant on the basis of his disability (deafness). In March 2009, the applicant had requested that USCIS provide him with a sign language interpreter for his Form I-485 interview. The interview, with a sign language interpreter provided by USCIS, did not occur until December 2010, more than 18 months after the accommodation request. The investigation revealed that after an unreasonable delay of approximately eight months, good faith efforts on behalf of USCIS to procure a sign language interpreter ensued, but were strictly internal. CRCL concluded that USCIS failed to effectively communicate with the applicant's counsel on the status of their efforts, the reasons for the delays, or to engage in a discussion of what might have been an acceptable alternative accommodation. CRCL concluded its investigation of this complaint and determined that USCIS discriminated against the complainant on the basis of his disability in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794(a), and DHS's Section 504 regulation, 6 C.F.R. Part 15. Consequently, CRCL recommended that USCIS undertake measures to expedite the processing and consideration of the complainant's Form N-400, utilizing appropriate accommodations for the applicant's disability, as well as expedited scheduling for naturalization once he is eligible. CRCL also recommended that all Field Office Directors provide training to their staff regarding persons with disabilities, compliance with Section 504, and implementation of USCIS policies and procedures for processing requests for accommodations. CRCL also recommended that each field office have a designated employee to receive and process accommodation requests. USCIS concurred with CRCL's recommendations and fully implemented them. USCIS also provided each Field Office Region with four Section 504 training sessions between May 2012 and August 2012 that covered compliance requirements, procedures for vetting denials, guidance for interacting with individuals with disabilities and reiteration on the policy of designating specific staff members to handle accommodation requests and to approve requests for interpreters or for off-site visits.

**19. Confidentiality Provisions of 8 U.S.C. § 1367:** CRCL received a letter from an attorney alleging violations of the confidentiality provisions of 8 U.S.C. § 1367, which protect from disclosure information relating to beneficiaries of applications for T and U visas and immigration benefits under VAWA. The complaint alleged that employees of USCIS



violated 8 U.S.C. § 1367 in one VAWA self-petition and one T-visa application filed by her clients, which put the applicants at potential risk for harm as a result of the improper handling of their designated safe addresses. CRCL referred the complainant's allegations to USCIS's Office of Security and Integrity (OSI) for investigation. OSI concluded that VAWA/T/U-protected information was released improperly. CRCL concurred and has collaborated with USCIS. USCIS provided a robust response and demonstrated a willingness to work to eliminate weaknesses in its systems regarding confidentiality. USCIS has instituted enhanced safeguards to better protect VAWA/T/U applicants' personal information. CRCL also recommended that USCIS review all complaints regarding breaches of § 1367 confidentiality (whether filed with USCIS or CRCL) on a yearly basis to assess whether current systems and processes are successfully protecting the privacy of such applicants, and if not, make additional changes to policies and procedures as necessary. USCIS has concurred with this recommendation and subsequent to each review will address any identified weaknesses or failures in the systems and processes within a reasonable time.

**20. *Appropriate Behavior When Investigating I-140 Petitions:*** CRCL received a complaint from an individual alleging that USCIS officers intimidated his prospective employer into withdrawing an Immigrant Petition for Alien Worker (I-140), made on the individual's behalf. CRCL referred the complaint to USCIS for investigation. USCIS's OSI reported information regarding interviews with USCIS Fraud Detection and National Security (FDNS) officers who had contact with the petitioner. CRCL conducted additional investigation in order to resolve the allegations. CRCL recommended that USCIS policy explicitly forbid using threats or discussions of future enforcement activity to pressure its applicants or petitioners, and that USCIS should provide FDNS guidance and training on appropriate conduct. USCIS concurred with these recommendations, proposed specific language for insertion into policy in response to CRCL's recommendation, enhanced the relevant sections of relevant training modules and addressed the issue broadly in a monthly teleconference with all FDNS Regional Offices, Field Offices and Service Center staff.

## C. Complaints Investigated by CRCL with Open Operational Recommendations

The following summaries describe complaints that were investigated or reviewed by CRCL and closed in FY 2012 with recommendations that are under discussion and being monitored by CRCL. The information provided here is basic and general, as CRCL and the Components continue to deliberate solutions.

- 1. *Appropriate Use of "Tips":*** In October 2011, CRCL received a complaint from an NGO on behalf of a detainee alleging profiling and discrimination in an enforcement action. CRCL requested and reviewed information from CBP. CRCL has issued recommendations regarding policies and procedures for the use of informational "tips" that are provided to CBP.
- 2. *Infant Death in CBP Secondary Screening Area:*** CBP headquarters informed CRCL of the death of an infant accompanied by a parent and a nurse while in customs screening. CRCL made recommendations about CBP's policies and procedures for expediting medical care upon arrival in the United States.

## D. Complaints Investigated by CRCL Without Operational Recommendations

The following summaries are representative of complaints investigated or reviewed by CRCL that did not result in formal 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. *Pedestrian Access for Individuals with Disabilities at a Port of Entry:*** In February 2011, an individual with a prosthetic leg alleged that disabled pedestrians using a California land port of entry are not given reasonable accommodation in compliance with Section 504 of the Rehabilitation Act. The complainant said that he had difficulty walking long distances, and therefore experienced difficulty in using the port's facilities due to the distance he was required to walk without assistance. CRCL worked with CBP to resolve the issue. CBP made an operational change to the port of entry by opening an access road to enable travelers to, upon request, be picked up by vehicles just beyond the processing area, which substantially limits the amount of walking necessary to access the facility. Further, in early 2012, signs were posted in English and in Spanish at the entrances of the facility that read: "If you are a person with a disability and need assistance, please ask for a CBP Supervisor."
- 2. *Racial Profiling During Car Stops:*** CRCL received a complaint from an immigration advocate alleging that Border Patrol agents were engaging in racial profiling when stopping, questioning, arresting, and detaining individuals in a northern New York community. According to the complainant, agents were targeting local businesses frequented by Latinos; trespassing on private property and places of worship; stopping and questioning Latino customers and residents without warrants or cause; and separating parents and their dependent children during arrests, while leaving the children abandoned on the side of the road or in the care of strangers. CRCL and CBP Internal Affairs conducted a joint onsite investigation. Based on our interviews with Border Patrol Sector leadership and agents, the complainant, and area residents, CRCL and Internal Affairs concluded that Border Patrol did not violate any DHS policy or procedure or federal law. However CRCL provided several on-the-spot recommendations to improve the relationship between local farmers, residents, and Border Patrol. During that discussion, Sector leadership agreed to take several proactive steps to improve the relationship.

### ICE

- 3. *Use of Force and Appropriate Medical Care in ICE Detention:*** CRCL received correspondence from an ICE detainee at a facility in Florida who alleged inadequate medical care and excessive use of force resulting in physical injury. CRCL received subsequent correspondence from the detainee alleging that ICE officers again assaulted him in February 2011, resulting in a stroke and fractured ribs. CRCL forwarded the detainee's file to a medical expert who found that the detainee had received adequate monitoring and treatment for his conditions, but should be more aggressively monitored and treated for diabetes deterioration, weight gain, and bleeding related to his chronic hepatitis C infection. This

recommendation was communicated to ICE. ICE responded by stating that the detainee had been seen by the facility medical provider and would be treated under his direct supervision, and that the detainee's treatment regimen would be modified appropriately. Regarding the excessive use of force allegation, CRCL consulted with a correctional expert who reviewed the videotape of the incident, the use of force policies at the facility, and conducted a phone interview with the detainee with CRCL on the line. During the interview, the detainee stated that his medical care had improved, and that he wished to withdraw his complaint regarding the use of force incident.

4. ***Provision of Medication in ICE Detention:*** In January 2012, CRCL received a complaint from a detainee at a facility in Minnesota, who alleged that he did not receive his HIV medication for two days. CRCL asked IHSC to investigate the complaint. IHSC reviewed the detainee's medical records and substantiated the allegation. IHSC made recommendations to the facility regarding its intake screening process, including additional training for facility staff and posting a sign in the intake area advising detainees to inform facility staff if they have a medical condition. CRCL concluded that the complaint was addressed appropriately by ICE and no further operational recommendations were required.
5. ***Provision of Kosher Meals in Detention:*** In November 2011, CRCL received a phone call request for assistance from an ICE official in California regarding ICE's obligation to provide religious meals. Two detainees were refusing to eat, complaining that meals being served to them were not authentically kosher. Although the ICE official reported that the facility's food service managers and a rabbi who worked with detainees at the facility confirmed the kosher meals were acceptable, the official was seeking other helpful options. CRCL researched the matter; provided ICE with websites and contact information for local food vendors advertising delivery of certified kosher meals; and suggested that ICE officially record all efforts to address the detainees' requests, and involve medical personnel if the detainees continued to refuse food.
6. ***Death in ICE Detention:*** In November 2011, CRCL closed a complaint involving the death of a detainee at a detention facility in Utah. Upon the detainee's death, ICE forwarded CRCL all records and other information associated with the individual's detention at the facility and CRCL submitted those to an expert medical consultant for review. Based on the expert's opinion, CRCL immediately contacted ICE ERO and recommended that ICE detainees not be held at the facility until the medical care being provided was in alignment with ICE Detention Standards. ICE removed all detainees from the facility and agreed to no longer hold detainees there without first notifying CRCL that the facility had completed the necessary improvements and had undergone the recertification process.

## **TSA**

7. ***Employee Behavior During Screening:*** A complainant alleged that her civil rights were violated at an airport in California, when TSA employees allegedly touched her numerous times in her groin area, made rude and insensitive remarks, and subjected her to an overly aggressive pat-down as a retaliatory measure for her responses to the TSA employee's questions. The investigation conducted by TSA's Disability and Multicultural Division found that Office of Civil Rights and Liberties found that TSA employees followed proper

screening protocols in place at the time of the complainant's screening. However, it was discovered that a TSA employee did make inappropriate comments to the complainant during her screening process. A TSA supervisor corrected the employee on the spot and the employee apologized to the complainant.

8. ***Screening of Transgendered Travelers:*** A transgender complainant alleged that she had been humiliated by TSA employees at a California airport. The complainant stated that because of her height, broad shoulders, short hair, and gender-non-conforming attire, she is often perceived as a man. She alleged that a male Transportation Security Officer (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 and airport management investigators were unable to identify any information regarding this screening. However, TSA's Disability and Multicultural Division External Compliance and Public Outreach Division advised CRCL that they contacted the complainant and discussed her concerns about the way TSA accommodates transgender individuals. The Division reviewed TSA training protocols and, based on the issues raised, were developing additional training materials to address transgender travelers. TSA also provided additional guidance to the complainant should a similar issue arise in the future. The investigation concluded that this incident was isolated and not indicative of a widespread misunderstanding of TSA policy procedures by TSOs.

## USCIS

9. ***Sign Language Interpretation for USCIS Applicant:*** In May 2012, CRCL received correspondence from an NGO on behalf of a U.S. citizen who was sponsoring an I-485 petition for his spouse. The individual believed, based on his reading of an I-797C form, that he would be required to provide his own sign language interpreter for an interview at the USCIS field office, in violation of Section 504 of the Rehabilitation Act. CRCL clarified to the NGO that the language on the form —“If you do not speak English fluently, you should bring an interpreter” — is meant to address limited English proficiency (for which no language assistance is provided by the government), not disability (for which reasonable accommodations are provided). Consequently, the complainant's concern was due to a misunderstanding of the I-797C form, not a violation of the Rehabilitation Act. After clarifying the meaning of the form, the individual contacted the USCIS National Customer Service Center to arrange for a certified deaf interpreter to assist with interpretation at his I-485 interview. CRCL also contacted USCIS to ensure that the individual would have a sign language interpreter. After the interview, USCIS confirmed that it provided an interpreter for the individual at the interview.

10. ***Denial of Naturalization Applications:*** The complainant alleged that an employee at USCIS improperly denied her application for naturalization based on race. The complainant also asked that the thirty-day appeal process timeline be extended. This complaint was referred to USCIS. After reviewing the complaint, USCIS determined that the case was adjudicated in accordance with appropriate laws, regulations, and guidance and that the complainant's N-400 was properly denied for lack of English proficiency and knowledge of U.S. history and government.

## USSS

**11. *Use of Force and Personal Information:*** A complainant alleged that she was subjected to excessive physical force when, in June 2011, an employee of the U.S. Secret Service allegedly placed her in a choke hold while she was trying to exit an area near the White House. The complainant also alleged that she feared the information gathered by the USSS might be entered into a data system for suspicious activity reporting. The information gathered during the investigation conducted by USSS, and reviewed by CRCL, indicated that USSS personnel acted in accordance with standard operating law enforcement procedures, because the complainant did not comply when given a lawful order to stop. The USSS report described the force used by the officer as the minimum amount of force necessary at that time to maintain control of the complainant. CRCL determined during our inquiry that the information gathered from the complaint was appropriately used to check law enforcement records for any active warrants for the complainant and to prevent misidentification, and was not being used for any information database for suspicious activities.

## Multi-Component

**12. *Enforcement Actions at Transportation Hubs:*** DHS Headquarters requested that CRCL review a blog post questioning why TSA and CBP undertook an operation at a public transportation hub that was not located on the border and detained, questioned, and deported a group of 21 Hispanic individuals, including teenagers on their way to school. The blog especially focused on the removal of the three juveniles and asked the Administration and DHS leadership to address the event. CRCL opened a complaint on the matter and conducted an onsite investigation. When CRCL arrived, Border Patrol leadership had already resolved the issues related to the three juveniles and required all sector agents to immediately receive training on the applicable laws and policies with regard to juveniles. Border Patrol had also paroled the three juveniles back into the United States. Aside from those concerns related to the juveniles, CRCL did not substantiate the allegations that the operation fell outside of the DHS's authority to conduct enforcement activities at transportation hubs.

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

CRCL continues to develop and implement a compliance program to enforce the Department's Title VI implementation of regulations and ensure nondiscrimination on the basis of race, color, and national origin in programs receiving financial assistance from the Department. Major program components include pre- and post-award compliance reviews and monitoring, complaint processing, training for recipients and Department staff, and technical assistance and outreach to recipients on fulfilling Title VI requirements.

CRCL routinely coordinates with DHS Components and grant-making offices as an active participant in the Title VI Interagency Working Group (IWG), for the purpose of developing and implementing a standardized approach to enforcement, including language access requirements. CRCL leads the IWG committee on interagency coordination, focusing on identifying ways in which the federal community can share information and coordinate on compliance activities to enhance Title VI enforcement across the Federal Government. In FY 2012, the committee developed a catalog of existing interagency agreements and delegations around Title VI compliance and enforcement. CRCL also co-leads the LEP IWG's Enforcement subcommittee. During the fiscal year, the subcommittee designed and implemented a project to gather detailed information on how federal agencies incorporate language access requirements into their grant-making processes. CRCL plans to integrate best practices identified through this project to enhance the Department's own pre-award process.

### Accomplishments in FY 2012

#### ***DHS Language Access Working Group Implements Language Access Requirements:***

Following the release of the DHS LEP Plan, CRCL took leadership of the new DHS Language Access Working Group, which was established to coordinate implementation across the Department. Representatives of the working group implemented language access activities within their respective Components and shared resources and promising best practices.

#### ***ICE Immigration Health Services Corps Implements "I Speak" Materials:***

In partnership with IHSC, CRCL customized the "I Speak" materials for use at immigration detention facilities across the country; the customized materials, along with a letter from the IHSC Acting Assistant Director, were sent to all Health Services Administrators. The letter emphasized the importance of having competent interpreter and translation services in the provision of health care for ICE detainees. As a result, several other ICE offices and DHS Components began integrating "I Speak" materials into their daily operations.

#### ***Use of Border Patrol Agents as Language Interpreters for Local Law Enforcement:***

CRCL continued to engage DHS leadership on concerns raised by stakeholders related to the use of Border Patrol agents as Spanish language interpreters in support of local law enforcement and other agencies. The issue has been a focus at CRCL community engagement activities, including the quarterly Seattle roundtable where NGOs on the northern border have raised serious concerns to CRCL about the provision of interpretation assistance.

In early FY 2013, CBP released guidance limiting the use of Border Patrol as interpreters for other law enforcement organizations. Subsequently, CRCL provided technical assistance to local law enforcement and CBP officers in Washington state, which offered strategies and resources to ensure language access in accordance with Federal civil rights requirements. In addition, held two listening sessions with community groups (one in Port Angeles and the other in Bellingham), and our quarterly Seattle roundtable to continue engagement efforts with community members on the issue.

#### ***Outreach and Technical Assistance to DHS Recipients***

- CRCL developed new materials and resources to assist Department recipients in understanding their obligations under Title VI, including a list of Frequently Asked Questions, a list of sources for obtaining data on LEP populations, and program specific resources to assist recipients in meeting their language access obligation.
- CRCL staff provided training and technical assistance to colleges and universities receiving funding through the Department's Academic Research Initiative grant program and conducted a listening session, in collaboration with the USCIS Office of Citizenship, around engaging LEP individuals for approximately 20 organizations receiving funding through the Citizenship and Integration Services Grant Program. CRCL staff also presented on DHS Title VI requirements at the East-West Gateway Council of Governments Title VI Workshop in St. Louis, Missouri. Many of the participants were local government entities that receive DHS funding through a state or county agency.
- CRCL staff presented on civil rights requirements in federally assisted programs at the second annual Financial Assistance Symposium hosted by the DHS Office of Financial Assistance and Policy Oversight. Many of the participants were grant managers and staff involved in the administration of the Department's numerous grants programs.

#### ***Development of Pre-Award Compliance Process***

CRCL, in coordination with FEMA and the Title VI Working Group, developed the foundation for a civil rights pre-award process to evaluate applicants for DHS assistance and better ensure nondiscrimination in Department-assisted programs. CRCL leveraged expertise from HHS and numerous other agencies to build a model program that integrates best practices in data collection, evaluation, and tracking.

## VII. Equal Employment Opportunity and Diversity Division

The Equal Employment Opportunity 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, regulations, Executive Orders and Directives, 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
- EEOC Management Directive 110
- EEOC Management Directive 715

The Division is responsible for adjudicating EEO complaints for all DHS Components; developing and monitoring EEO and diversity program policies, plans and guidance; and delivering training, conducting oversight, and administering EEO and diversity programs for DHS Headquarters and its 6,970 employees. In addition, the Division also prepares and submits a variety of annual progress reports relating to the Department's diversity and EEO activities.

In April 2012, the Division, in coordination with the DHS EEO Council (comprising the Deputy Officer for CRCL and the EEO and Diversity Directors of each DHS Component), launched the Diversity and EEO Professional Development Council (EEOPDC). EEOPDC was created as an appointed task-oriented monitoring and recommending body to assist CRCL and DHS Components in assessing the current competency levels of diversity and EEO professionals DHS-wide; determining the competencies necessary to perform at the highest levels; and facilitating the attainment of additional skills and capabilities. By July 2012, the Council finalized a list of core competencies desired of all diversity and EEO personnel across the Department. In September 2012, the Council partnered with OCHCO and OPM, who agreed to conduct a competency assessment of DHS's Diversity and EEO staff in FY 2013. EEOPDC will then develop a plan for implementing a variety of training opportunities based on this assessment, to include developmental assignments and online learning across all DHS Component EEO and diversity programs.

The Division also led the Alternative Dispute Resolution (ADR) Committee's efforts to develop and implement an enterprise-wide ADR program to support the needs of all DHS Components. To support this work, the Committee created sub-committees on Policy and Leadership, Procedures, and Funding to compile and analyze best practices in ADR programs within DHS.



In September 2012, these subcommittees provided recommendations for the DHS enterprise-wide ADR program. The Committee plans to continue its coordination efforts with the OGC and eventually, with the Secretary's approval, launch the Department-wide ADR program in FY 2013.

## A. Complaints Management and Adjudication Section

The Division's Complaints Management and Adjudication Section (CMAS) leads the processing and adjudication 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")

### Accomplishments in FY 2012

#### *icomplaints*<sup>®</sup> Train the Trainer Sessions:

Throughout FY 2012, CMAS delivered three "Train the Trainer" sessions for the *icomplaints*<sup>®</sup> enterprise database; one to FLETC staff at their Headquarters in Glynco, Georgia, and two at DHS Headquarters in Washington, DC. These intensive trainings were designed to enhance understanding among systems administrators for immediate application across their own organizations, as well as to increase substantial contributions to the Department's enterprise system and knowledge base.

The training focused on three areas: troubleshooting questions and resolving system-wide problems; producing the 462 Report and the No FEAR Act Quarterly Reports, as well as creating *ad hoc* and data integrity reports; and training and coaching Component EEO staff members in the most efficient and effective use of the enterprise database system. This training also reinforced participants' understanding of the critical links between the individual DHS Components' data input and CRCL's data input, thereby strengthening the integrity of the Department's overall reporting capabilities. CRCL realized many positive results from this training; most notably, the number of requests for CRCL assistance gradually diminished and the information gleaned from the training was shared by the newly-certified trainers through guidance and coaching.

### ***Training and Guidance Support to Component EEO Offices:***

During the fiscal year, CMAS provided training and guidance support to Component EEO Offices, which further aligned the Departmental EEO program with mutual objectives and the sharing of knowledge and resources, including:

- On-site training on hostile work environments and reprisal law and theory to CBP's Office of Diversity and Civil Rights;
- Guidance on complaints remanded for supplemental investigation to ICE's Office of Diversity and Civil Rights; and
- On-site EEO training to new investigators at ICE's Office of Diversity and Civil Rights.

CMAS staff also provided staffing support and assistance to Components by serving in various capacities in the Headquarters EEO office, and conducted EEO briefings at orientations for new DHS Headquarters employees.

### ***Harnessing the Advantages of Technology:***

CMAS engaged in several proactive and pioneering initiatives concerning the intersection of technological advances with EEO and diversity. In early 2012, CMAS staff briefed the EEO Director's Council on social media's impact on the EEO landscape, and later provided a follow-up briefing to ICE's Office of Diversity and Civil Rights. CMAS also launched a presence on the U.S. Office of Management and Budget's MAX Federal Community, an online portal that provides relevant and useful EEO case law. Finally, CMAS coordinated with the EEOC's Office of Federal Operations in the ongoing deployment of the EEOC File Exchange (EFX), a web-based EEO case processing and document conveyance portal. CMAS has been engaged with EEOC from the outset of this government-wide effort and has continued to provide valuable input and feedback into its developments and improvements.

## **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 DHS personnel, supporting special emphasis programs that increase awareness of diversity issues throughout DHS, 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 2012, DMS submitted the following required reports (available on CRCL's website, [www.dhs.gov/crcl](http://www.dhs.gov/crcl)):

- EEOC Management Directive 715 (MD-715) Status Report

- Annual Federal Equal Opportunity Recruitment Program Accomplishment Report and Plan Certification for FY 2011, including the Annual Report to the President on Hispanic Employment in the Federal Government
- 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.

## Accomplishments in FY 2012

### ***Disabilities Program:***

DHS strives to be a model employer of individuals with disabilities, particularly those with certain targeted disabilities. In FY 2012, DMS collaborated with the OCHCO to develop a comprehensive plan to implement Executive Order 13548, *Increasing Federal Employment of Individuals with Disabilities*; and improve recruiting, hiring, accommodating, and retaining federal workers with disabilities throughout the Department. The DHS Disabilities Program Plan sets Department-wide goals, which include: increasing overall recruiting, hiring, training, employment and retention strategies for individuals with disabilities; providing reasonable accommodations and accessibility; and ensuring emergency preparedness considerations for individuals with disabilities are in place. In addition:

- CRCL, along with OCHCO's Office of Diversity and Inclusion, co-sponsored the second DHS Disability Forum. Attendees shared their ideas and program initiatives, and leveraged resources. As a result of the forum, OPM plans to launch a modified version of CRCL's *Employment of Individuals with Disabilities* online training program as mandatory training for hiring managers throughout the Federal Government.
- CRCL provided a series of expert training programs to DHS Components on the topics of reasonable accommodations and tracking and reporting systems, removing barriers to accessibility in buildings, the role of selective placement coordinators, and recruiting students with disabilities for internships and permanent employment.
- In 2005, CRCL led the Department's efforts as one of the initial launch agencies for the Operation Warfighter (OWF) pilot program within the Washington, DC metropolitan area. OWF is a temporary assignment/internship program, developed by the Department of Defense (DoD), which provides meaningful activities for service members that are convalescing at military treatment facilities that assists with their transition back to the military or civilian workforce. In FY 2009, DoD invited DHS to launch the national expansion of OWF, which also brought FLETC into the program. Currently, CRCL provides training and guidance to DHS Component OWF Program Managers, maintains an OWF webpage within the Veterans Program website, and manages a dedicated email inbox to receive and respond to inquiries about DHS's OWF program. As of March 30, 2012, DHS has placed 250 OWF veterans, and permanently hired 36 OWF veterans into its workforce.

### ***Utilization of CPRO Data System:***

During the fiscal year, DMS utilized the DHS Consolidated Personnel Reporting Online Data System (CPRO). DMS rapidly accessed workforce data to identify trends and run reports, such as changes in representation by ethnicity and race, gender, or disability. DMS also used the system to determine if there was unequal opportunity in hiring, promotions, and awards, as well as discover differential trends by group in resignations or adverse actions. Lastly, DMS used CPRO to track the impact of education, age, veteran status, and other variables on employment trends.

### ***Improved Technical Guidance to Components:***

DMS focused on providing significant program support to Components throughout the fiscal year. Most notably, DMS held bi-weekly meetings with Components for the EEOC MD-715 Status 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" (or anomalies) in their data. This year, DMS focused specifically on hiring in major occupations; trends for individuals with targeted disabilities; promotions and diversity by grade and in the Senior Executive Service; and separations, resignations, and retirements.

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

The DHS Headquarters EEO Office (HQ EEO) aims to prevent and address employment discrimination, including unlawful harassment, to ensure a fair and equitable workplace that supports Headquarters employees in their mission to protect the homeland.

### **Accomplishments in FY 2012**

#### ***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. During FY 2012, HQ EEO staff participated in three mock interview sessions with disabled veterans, which were conducted in partnership with the Office of Veteran Services and took place at OPM Headquarters. HQ EEO staff participated on a panel discussion on federal disability program managers and selective placement coordinators, which was sponsored by OPM and DOL.

#### ***Women's Leadership Program:***

In FY 2012, Headquarters EEO continued its efforts to increase the retention and professional development of women working for the Department through its Fifth Annual Women's Leadership Program. The theme of this year's forum was "Trailblazers: Leadership, Mentoring, and Advocacy." DHS Senior Counselor Alice Hill gave opening remarks to the more than 70 attendees, and shared Secretary Napolitano's message to seek out new challenges and "stretch" themselves professionally in order to grow and achieve success. The program included presentations from noted experts on the impact of mentoring and coaching on professional

development, and concluded with an executive panel that featured Chief Human Capital Officer Catherine Emerson and CRCL Deputy Director Veronica Venture.

***Reasonable Accommodation Services:***

In FY 2012, HQ EEO staff conducted two workshops on laws governing reasonable accommodations for persons with disabilities and best practices throughout the Federal Government. HQ EEO processed 40 reasonable accommodations requests, which included services for the Office of the Secretary, applicants for employment, and employees seeking advice and guidance on the reasonable accommodations process and types of available accommodations. These reasonable accommodations requests are separate from IT equipment requests that OAST processes for Headquarters employees.

Also during the fiscal year, the HQ EEO processed 104 requests for sign language interpreting services, which required coordination with programs offices and contractors, and assisted NPPD in establishing a contract for sign language interpretation services, which included a bridge contract for FPS.

***Training and Technical Assistance:***

Headquarters EEO provided training and technical assistance to employees throughout FY 2012, which included EEO training and participation in OCHCO's New Employee Orientation program. In addition, HQ EEO training was integrated into the "HR Essentials for Managers" course, which provides training for managers and supervisors.

## VIII. 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 and technology is accessible to people with disabilities. To meet these requirements, OCIO and CRCL jointly created the Office of Accessible Systems and Technology.

### ***Governance:***

OAST is dedicated to guiding and supporting all DHS Components in removing barriers to information access and employment of qualified individuals with disabilities in accordance with Section 508 requirements. OAST strives to ensure that all electronic information and technology 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.

OAST works diligently to ensure that Section 508 requirements are fully integrated into all relevant DHS IT governance processes. It participates in the IT Service Governance Board and with three different Department-wide Change and Configuration Management governance bodies: the Review and Approval Committee, the Infrastructure Change Control Board, and the Change & Configuration Management Integrated Project Team. OAST also participates in four Headquarters-level governance bodies: the Technical Review Board, the Federal Approval Board, Software/Hardware Exception Request, and the Customer Relations Management Division. In FY 2012, OAST conducted 5,759 governance-related reviews; 6.4 percent of the applications reviewed resulted in changes being made in order to make them Section 508 compliant.

Additionally, OAST is also active in the Enterprise Architecture Center of Excellence, the Data Management Working Group, the Advanced Distance Learning Working Group, and the Systems Engineering Work Group.

### **Accomplishments in FY 2012**

#### ***DHS Accessibility Helpdesk:***

The DHS Accessibility Helpdesk serves as a single point of contact for all electronic and information technology accessibility and accommodation needs. Helpdesk services include:

- Information and referral for disability-related services;
- Technical assistance for Section 508 compliance;
- Training to improve the usability and accessibility of websites, IT systems and applications, e-Learning, and multimedia;
- Assistance technology needs assessments; and
- Support for DHS and Component Helpdesk assisting people with disabilities.

In FY 2012, OAST processed a total of 2,289 requests through the DHS Accessibility Helpdesk; which came from across the Department, as well as several other federal agencies and public entities.

***Testing and Training:***

- OAST tested 204 IT and web-based applications, 257 electronic documents, and remediated over 8,000 pages of content ranging from simple PDF text-only documents to complex and detailed documents consisting of numerous charts and tables, to ensure Section 508 compliance.
- In a related effort, OAST worked closely with FEMA in developing testing protocols and a plan for remediation of approximately 80,000 pages of management directives and instructions.
- Through the Section 508 Awareness Training Program, OAST offers both online and hands-on instructor-led training, including *Introduction to Section 508*, *Section 508 for CORs, Program & Project Managers (CPPM)*, *Trusted Tester Training*, *Creating Accessible PDFs*, and more advanced trainings such as *Introduction to Accessible Multimedia* and *Creating Accessible Fillable Forms*. In FY 2012, OAST trained 939 DHS personnel.
- OAST completed development of instructional materials on how to create accessible e-surveys using SharePoint and Vovici products. This information is posted on the OAST internal website for use across the Department.

***Component Outreach:***

- OAST participated in a webinar, *Top Ten Things a CIO Needs to Know*, for the Federal CIO Council Accessibility Committee Best Practices subcommittee with an audience of approximately 400 personnel. Topics focused on Section 508 compliance tests and best practices, and the role of Section 508 coordinators, among others.
- OAST staff presented “Know Your Technology, Know Your Standards” to approximately 25 conference attendees at the annual Rehabilitation Engineering and Assistive Technology Society of North America conference in Baltimore, Maryland. Topics presented included emerging assistive technologies in the mobile arena, and how accessibility standards are useful in evaluating such emerging technologies for people with disabilities.
- Participated in the USSS Unity Day event which provided an opportunity to showcase diverse cultures across the USSS. This is the second year that OAST was asked to participate in the event. OAST offered Section 508 awareness information and provided assistive technology demonstrations in support of the USSS Section 508 and 504 programs.
- Presented a Section 508 overview to new IT hires at the inaugural *One DHS IT Immersion* program. There were approximately 35 participants from various Components and DHS Headquarters.

- Participated in the annual Interagency Disability Education Awareness Showcase (IDEAS) Conference held at the U.S. Department of Agriculture. IDEAS is the Federal Government's conference on accessibility, assistive technology and accommodations. At the conference, OAST Executive Director William Peterson presented on "DHS's Department-wide Governance of 508 Compliance." The session discussed how OAST orchestrates Section 508 compliance across a large department with 14 Component CIOs, and highlighted development of the "DHS Component Section 508 Dashboard" used to monitor and measure progress of Section 508 programs across DHS.
- Participated in the Target Center's 20<sup>th</sup> anniversary program, themed *Mobile Technology as Assistive Technology*. OAST presented on the accessibility of Android 4.0 and Apple iOS 6.0, third-party applications that could be loaded on Android and Apple devices that replace traditional assistive technology, the challenges of using mobile devices as assistive technology and how those challenges can be overcome, and the future of NFC technology on smart devices.



## IX. Conclusion

The staff of the Office for Civil Rights and Civil Liberties works with dedication and vigor each day to secure the country while protecting 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, 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 Orders 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).** Establishes an Advisory Commission as well as a White House Initiative on Asian Americans and Pacific Islanders, and requires participating agencies, including DHS, to prepare plans to increase those populations' participation in federal programs where they may be underserved.

**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 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 19003,** Delegation to the Officer for CRCL for Matters Involving CRCL, Including EEO and Workplace Diversity.

## Appendix B: Complaints Tables

In FY 2012, CRCL received 256 new complaints (compared to 298 opened in FY 2011) and closed 281 complaints (compared to 219 closed in FY 2011). Data tables B-1A and B-1B describe: (1) matters retained by the OIG during FY 2012 and (2) matters retained and referred by CRCL, both received and completed, during FY 2012, by quarter. Data tables B-2A through B-5B summarize complaints retained by CRCL and referred to DHS Components by quarter in FY 2012.

As of September 30, 2012, the Compliance Branch had 356 open complaints. Of those, 81 are retained within CRCL for investigation, 185 using “short-form” investigations to facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and therefore require a more limited investigation. Cases that prove to require additional work may be converted to standard investigations. In FY 2012, 75 complaints were referred to a DHS Component for investigation, and 15 were retained by OIG for investigation.

For a tally of all CRCL’s complaints by Component and primary allegation from 2003 to 2011, 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, 2012, the CRCL Compliance Branch had 15 open complaints that were retained by OIG; of these, three were opened in FY 2012. In FY 2012, OIG closed two complaints, which included one matter retained by OIG in FY 2010, and one in FY 2011.

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

**TABLE B-1A: CRCL COMPLAINTS RECEIVED AND RETAINED BY OIG, FY 2012**

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				
Excessive force	1			2																																	1			2	3
<b>Total</b>	1			2																													1			2	3				

**TABLE B-1B: CRCL COMPLAINTS CLOSED BY OIG, FY 2012**

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				
Excessive force			1									1																											1	1	2
<b>Total</b>			1									1																							1	1	2				

## 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 complaints that CRCL had a role in investigating.)

### First Quarter FY 2012

**TABLE B-2A: COMPLAINTS RECEIVED Q1 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position									2										1			1	0	2	3
Breach of confidentiality									2													0	0	2	2
Conditions of detention			2				6	6	11													6	6	13	25
Discrimination/profiling			1				1	1	2			1										1	1	4	6
Due process			1						1													0	0	2	2
Excessive force	2		4						1													2	0	5	7
Free speech/association										1												1	0	0	1
Inappropriate questioning/ inspection conditions			3				1															1	0	3	4
Intimidation/threat/ improper coercion			1				1															1	0	1	2
Language access (limited English proficiency)			1																			0	0	1	1
Legal access							1	1	1													1	1	1	3
Medical/mental health care	1						1		6													2	0	6	8
Religious accommodation			1						1	1												1	0	2	3
Sexual assault/abuse									3													0	0	3	3
<b>Total</b>	<b>3</b>		<b>14</b>				<b>11</b>	<b>8</b>	<b>30</b>	<b>2</b>		<b>1</b>						<b>1</b>			<b>17</b>	<b>8</b>	<b>45</b>	<b>70</b>	

**TABLE B-2B: COMPLAINTS CLOSED Q1 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form		All	
Abuse of authority/ misuse of official position		1							1											2			0	3	1	4	
Conditions of detention							2	10	8														2	10	8	20	
Discrimination/profiling	4	21	1				2		2			1										1	6	21	5	32	
Due process							2	2	2	1			1							1			4	3	2	9	
Excessive force	1	1	1					1																1	2	1	4
Fourth Amendment (search and seizure)								1	1															0	1	1	2
Inappropriate questioning/ inspection conditions		2	1																					0	2	1	3
Intimidation/threat/ improper coercion									1															0	0	1	1
Medical/mental health care	1						1	2	9														2	2	9	13	
TSA AIT and TSA pat-downs										1		2												1	0	2	3
<b>Total</b>	6	25	3				7	16	24	2		3	1							3	1		16	44	31	91	



**Second Quarter FY 2012**

**TABLE B-3A: COMPLAINTS RECEIVED Q2 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position							1		4													1	0	4	5
Conditions of detention	1		1				1	4	11												1	2	4	13	19
Disability accommodation			3																			0	0	3	3
Discrimination/profiling									1		1											0	1	1	2
Due process	1								2												2	1	0	4	5
Excessive force	2		1						3													2	0	4	6
Fourth Amendment (search and seizure)	1		1				1		1													2	0	2	4
Free speech/association														1								0	0	1	1
Intimidation/threat/ improper coercion									1													0	0	1	1
Legal access									2													0	0	2	2
Medical/mental health care	1		1				1	3	9													2	3	10	15
Sexual assault/abuse								1	1													0	1	1	2
<b>Total</b>	<b>6</b>		<b>7</b>				<b>4</b>	<b>8</b>	<b>35</b>		<b>1</b>			<b>1</b>							<b>3</b>	<b>10</b>	<b>9</b>	<b>46</b>	<b>65</b>

**TABLE B-3B: COMPLAINTS CLOSED Q2 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total		
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form		All	
Abuse of authority/ misuse of official position							1																	1	0	0	1
Conditions of detention							3	3	5															3	3	5	11
Discrimination/profiling			3						2	1	1	1								1				1	2	6	9
Due process			1						1														2	0	0	4	4
Excessive force			1				2		1															2	0	2	4
Fourth Amendment (search and seizure)			1																					0	0	1	1
Free speech/association													1											0	1	0	1
Inappropriate questioning/ inspection conditions							1																	1	0	0	1
Language access (limited English proficiency)									1															0	0	1	1
Legal access									1															0	0	1	1
Medical/mental health care									4															0	0	4	4
Sexual assault/abuse								1																0	1	0	1
TSA AIT and TSA pat-downs										1	1													1	1	0	2
<b>Total</b>			6				7	4	15	2	2	1		1						1	2		9	8	24	41	

**Third Quarter FY 2012**

**TABLE B-4A: COMPLAINTS RECEIVED Q3 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position			1				1												1	1	0	2			3
Conditions of detention	1						2	2	3										2	3	2	5			10
Disability accommodation														1								0	0	1	1
Discrimination/profiling	1		2																		1	0	2		3
Due process			1																			0	0	1	1
Excessive force		2	3				2	1	3												2	3	6		11
Fourth Amendment (search and seizure)			1				1														1	0	1		2
Free speech/association									1													0	0	1	1
Human rights																			1	0	0	1			1
Inappropriate questioning/ inspection conditions			1																			0	0	1	1
Inappropriate touch/search of person (non-TSA)	1																				1	0	0		1
Intimidation/threat/ improper coercion							1		1												1	0	1		2
Language access (limited English proficiency)		4	1						1												0	4	2		6
Legal access									1												0	0	1		1
Medical/mental health care							1	1	20												1	1	20		22
Religious accommodation									1												0	0	1		1
TSA AIT and TSA pat-downs										1		2									1	0	2		3
Monitoring ongoing criminal proceedings			1																		0	0	1		1
<b>Total</b>	<b>3</b>	<b>6</b>	<b>11</b>				<b>8</b>	<b>4</b>	<b>31</b>	<b>1</b>		<b>2</b>			<b>1</b>					<b>4</b>	<b>12</b>	<b>10</b>	<b>49</b>		<b>71</b>

**TABLE B-4B: COMPLAINTS CLOSED Q3 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total			
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form		All		
Abuse of authority/misuse of official position							1																		1	0	0	1
Breach of confidentiality												1			1										0	0	2	2
Conditions of detention							7	1	5																7	1	5	13
Disability accommodation			3																						0	0	3	3
Discrimination/profiling			2					1				1		2							1				0	3	4	7
Due process			1																						0	0	1	1
Excessive force	1		1																						1	0	1	2
Free speech/association										1															1	0	0	1
Inappropriate questioning/inspection conditions			3																						0	0	3	3
Intimidation/threat/improper coercion							1																		1	0	0	1
Legal access							1																		1	0	0	1
Medical/mental health care							4		3																4	0	3	7
Religious accommodation										1															1	0	0	1
Retaliation							1		1																1	0	1	2
Sexual assault/abuse									1																0	0	1	1
<b>Total</b>	1		10				15	2	10	2		2		2	1						1				18	4	24	46

**Fourth Quarter FY 2012**

**TABLE B-5A: COMPLAINTS RECEIVED Q4 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position							1		1													1	0	1	2
Breach of confidentiality															1							1	0	0	1
Conditions of detention	1								4													1	0	4	5
Discrimination/profiling	1										1											1	0	1	2
Excessive force	1		5				2		5													3	0	10	13
Human rights																					1	0	0	1	1
Medical/mental health care							1		18													1	0	18	19
Religious accommodation									2													0	0	2	2
Sexual assault/abuse									1													0	0	1	1
TSA AIT and TSA pat-downs											1											0	0	1	1
<b>Total</b>	3		5				4		31			2			1						1	8	0	39	47

**TABLE B-5B: COMPLAINTS CLOSED Q4 FY 2012: PRIMARY ALLEGATION BY COMPONENT**

Primary Allegation	CBP			FEMA			ICE			TSA			USCIS			USSS			Multi-Component			Sub-Totals			Total
	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position		2					1	1	1												1	2	3	2	6
Breach of confidentiality									1				1									1	0	1	2
Conditions of detention	2	2					7	6	10													9	8	10	27
Disability accommodation														1								0	0	1	1
Discrimination/profiling	1		2	2			1	1	1				1					1				6	1	3	10
Due process	1						3		1													4	0	1	5
Excessive force		3	4				3	1	2													3	4	6	13
Fourth Amendment (search and seizure)							2	1						1											4
Human rights																					1	0	0	1	1
Inappropriate questioning/ inspection conditions								1					1									1	1	0	2
Intimidation/threat/ improper coercion			1																			0	0	1	1
Language access (limited English proficiency)			1																			0	0	1	1
Legal access								1	2													0	1	2	3
Medical/mental health care		3					2		11													2	3	11	16
Religious accommodation							2		1													2	0	1	3
Retaliation								1														0	1	0	1
Sexual assault/abuse			1																			0	0	1	1
Treatment																	1					0	0	1	1
TSA AIT and TSA pat-downs											2											0	0	2	2
<b>Total</b>	4	10	9	2			21	13	30			2	3	1	1			1	1		2	32	24	45	100

## Appendix C: Acronyms

CBP	U.S. 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
DOD	U.S. Department of Defense
DOJ	U.S. Department of Justice
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
ERO	ICE Enforcement and Removal Operations
FAD	Final Agency Decision
FBI	Federal Bureau of Investigation
FDNS	USCIS Fraud Detection and National Security
FEMA	Federal Emergency Management Agency
FLETC	Federal Law Enforcement Training Center
FPS	Federal Protective Service
FY	Fiscal Year
HBCU	Historically Black Colleges and Universities
HHS	U.S. Department of Health and Human Services
HQ EEO	DHS Headquarters Equal Employment Opportunity Office
HUD	U.S. Department of Housing and Urban Development
I&A	DHS Office of Intelligence & Analysis
ICC	Interagency Coordinating Council on Emergency Preparedness and Individuals with Disabilities
ICCT	CRCL Incident Community Coordination Team
IDEAS	Interagency Disability Education Awareness Showcase
ICE	U.S. Immigration and Customs Enforcement
IHSC	ICE Health Services Corps
ISIS	CRCL Intelligence, Security, and Information Sharing Section
IWG	Interagency Working Group
LEP	Limited English Proficiency
LGBT	Lesbian, Gay, Bisexual, and Transgender
MD	Management Directive
MOA	Memorandum of Agreement
NCTC	National Counterterrorism Center
NDRF	National Disaster Response Framework
NDS	National Detention Standards
NGO	Non-Governmental Organization
NICCL	National Incident Communication Conference Line
NPPD	National Protection and Programs Directorate

OAST	Office of Accessible Systems & Technology
OCIO	DHS Office of the Chief Information Officer
OCHCO	DHS Office of the Chief Human Capital Officer
ODIC	FEMA Office of Disability Integration and Coordination
OGC	Office of the General Counsel
OIG	DHS Office of Inspector General
OPM	Office of Personnel Management
ORR	HHS Office of Refugee Resettlement
OWF	Operation Warfighter
PBNDS	2011 ICE Performance-Based National Detention Standards
ROI	Report of Investigation
RSP	ICE Religious Services Program
TSA	Transportation Security Administration
TSO	Transportation Security Officer
TTX	Tabletop Exercise
UAC	Unaccompanied Alien Child
UPR	United Nations Universal Periodic Review
US-CERT	United States Computer Emergency Readiness Team
USCIS	U.S. Citizenship and Immigration Services
USG	U.S. Government
USSS	U.S. Secret Service
VAWA	Violence Against Women Act