



# U.S. Department of Homeland Security

## Office for Civil Rights and Civil Liberties

Fiscal Year 2013 Annual Report to Congress

July 18, 2014



Homeland  
Security

# Foreword

July 18, 2014

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 2013.

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  
Chairwoman, U.S. Senate Committee on Appropriations

The Honorable Richard Shelby  
Ranking Member, U.S. Senate Committee on Appropriations

The Honorable Thomas R. Carper  
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Tom Coburn  
Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Dianne Feinstein  
Chairwoman, 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

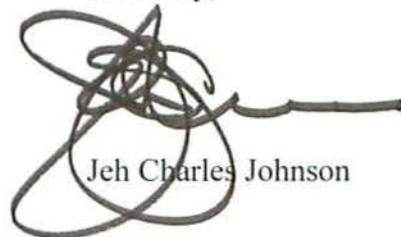
The Honorable John Conyers, Jr.  
Ranking Member, U.S. House of Representatives Committee on the Judiciary

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).

Sincerely,



Jeh Charles Johnson

## Message from the Officer, Megan H. Mack

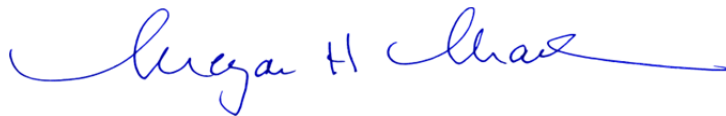
It is my honor to serve as Officer for Civil Rights and Civil Liberties at the Department of Homeland Security (DHS). The Office for Civil Rights and Civil Liberties (CRCL) is unique in being the first civil rights oversight office established within a Federal Government agency. Since the Department's inception in 2003, CRCL has worked to make the Nation more secure while integrating the core principles of our constitutional rights and liberties—freedom, fairness, and equality under the law—into DHS programs and activities.

I am pleased to present this Annual Report detailing CRCL's priorities and activities in Fiscal Year (FY) 2013, 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.

We are proud of the vital work that we've accomplished over the past 10 years. 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 at 866-644-8360 (TTY 866-644-8361).

Respectfully submitted,



Megan H. Mack  
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 FY 2013. 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 2013 include:

- Establishing a program to improve Department-wide compliance with Section 504 of the Rehabilitation Act of 1973, as amended, to provide full inclusion and equal opportunity for individuals with disabilities;
- Completing the online video briefing series and supplemental materials that provide training and awareness for front-line law enforcement on Secure Communities;
- Implementing the confidentiality provisions of the Violence Against Women Act (VAWA);
- Drafting, in coordination with U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), the final rule to implement the Department's responsibilities under the Prison Rape Elimination Act of 2003 (PREA);
- Working with ICE to promulgate a Directive that establishes the principle that immigration enforcement should not unnecessarily disrupt the parental rights of alien parents or legal guardians of minors;
- Coordinating policy to ensure proper treatment of unaccompanied alien children (UAC)<sup>1</sup> apprehended at the border and held in custody;
- Developing a proposal and white paper to implement a Department-wide Alternative Dispute Resolution (ADR) program;
- Assisting the Department in ensuring privacy and civil liberties protections are integrated into cybersecurity and protecting the nation's critical infrastructure; and
- Collaborating with the U.S. Social Security Administration to develop a harmonized testing process for Section 508<sup>2</sup>-compliant software and web accessibility that increase efficiency and reduce duplicative efforts.

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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<sup>1</sup> "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. (Homeland Security Act of 2002, 6 U.S.C. §279(g)(2)).

<sup>2</sup> Section 508 of the Rehabilitation Act of 1973, as amended, requires that the Federal government ensure information, information systems and data are accessible to persons with disabilities.



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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 (EEO) 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

On October 23, 2013, **Megan H. Mack** joined the Department as Officer for Civil Rights and Civil Liberties. Prior to her appointment, Ms. Mack was the Director of the American Bar Association Commission on Immigration, a position she held from 2009 to 2013, having also served as Associate Director from 2005 to 2009. Other previous positions include Supervisor of Legal Services for Hogar Hispano, Catholic Charities Diocese of Arlington in Falls Church, Virginia; Litigation Associate at Foley Hoag LLP in Boston; and Law Clerk to Judge Fred I. Parker in the U.S. Court of Appeals for the Second Circuit in Burlington, Vermont. Ms. Mack received an A.B. magna cum laude from Brown University, an M.A. from the University of Chicago, and a J.D. cum laude from the University of Michigan Law School.

Prior to Ms. Mack's appointment, **Tamara Kessler** served as Acting Officer for Civil Rights and Civil Liberties, a position that she held since January 1, 2012. Prior to her tenure 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. Ms. Kessler has since resumed her role as CRCL’s Deputy Officer for Programs and Compliance.

**Veronica Venture** is the Deputy Officer for EEO and Diversity, and DHS’s EEO Director. Ms. Venture first served as a Trial Attorney for the Equal Employment Opportunity Commission, then spent seven years as an Administrative Judge, adjudicating complaints of discrimination brought by federal employees. 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) from 2002 to 2011.

## D. Organization

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

At the close of FY 2013, CRCL had 95 staff and three contractors on board. 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 2013**

<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	\$22,500,000	96	3
2013	\$20,905,443	95	3

The following pages provide an overview of major accomplishments in FY 2013, followed by detailed information about each CRCL functional unit’s activities during the year.

## III. 2013 Highlights

### A. Access for Individuals with Disabilities in DHS Programs and Activities

CRCL leads the Department's efforts to provide full inclusion and equal opportunity for individuals with disabilities in DHS programs and activities. In FY 2013, CRCL established a program to improve Department-wide compliance with Section 504 of the Rehabilitation Act. On September 26, 2013, CRCL collaborated with DHS Components to develop and release a number of products in recognition of the 40<sup>th</sup> anniversary of the Rehabilitation Act, and to build on the foundation for ensuring access to individuals with disabilities across the Department, which included:

- A new [DHS Management Directive](#) that establishes policy and implementing mechanisms for ensuring nondiscrimination for individuals with disabilities served by DHS-conducted programs under Section 504.
- A [video](#) that describes the importance and impact of the Rehabilitation Act over the years and reinforces the Department's commitment to strengthening implementation of the Rehabilitation Act throughout DHS.
- A "[Guide to Interacting with People Who Have Disabilities](#)," to assist DHS personnel, contractors, and grantees in their interactions with individuals with disabilities.
- A [dedicated webpage](#) with disability-related information and resources for providing equal opportunity for persons with disabilities to DHS programs and activities.

### B. Secure Communities

In FY 2013, CRCL completed a series of eight online briefing videos and supplemental materials introducing front-line state and local law enforcement personnel to Secure Communities and select civil rights and civil liberties issues related to immigration enforcement. This series, a joint project of CRCL and ICE, provides actionable information to law enforcement and increases transparency of the Department's commitment to protecting the civil rights and civil liberties of all persons affected by DHS activities and programs.

The training/awareness briefing materials include extensive resources that provide topical planning and informational guidance for law enforcement leadership and trainers, as well as downloadable job aids and resources for line officers. The series is available on [ICE's website](#) and also available for download through iTunes.

In FY 2013, CRCL produced an additional four videos, which included:

- ***Explaining Secure Communities to Your Community:*** This module highlights a law enforcement officer’s role as liaison to the community.
- ***Assisting Certain Crime Victims and Witnesses: Immigration Enforcement Consequences and Protections:*** This module highlights three important issues involving aliens who are crime victims or witnesses to crime: ICE enforcement policies; actions that can encourage the reporting of crime and assist in investigations and prosecutions; and how law enforcement officers can help victims—whether here illegally or legally—obtain needed services and possibly qualify for important immigration protections from DHS.
- ***Speaking Their Language: Working with Non-English Speakers:*** This module addresses law enforcement interaction with persons who have limited English proficiency, covering both the legal requirements and practical tips drawn from state and local law enforcement experience on how to identify language needs and provide the necessary assistance. Accompanying materials include CRCL’s “I Speak” language identification job aid and a guide on working with interpreters that can be used by front line officers.
- ***Avoiding Racial/Ethnic Profiling:*** This module addresses the risk of biased policing and how law enforcement officers and agencies can avoid illegally targeting individuals based upon race or ethnicity.

The full series also includes the following videos (produced in FY 2011 and 2012):

- Introduction to Secure Communities: What Law Enforcement Needs to Know
- Introduction to Secure Communities: What Law Enforcement in 287(g) Jurisdictions Need to Know
- Immigration Detainers: How to Respond
- Consular Notification: Your Role When Detaining Foreign Nationals
- Unlawful Retaliation by Private Actors

## C. Combating Violence Against Women

In FY 2013, former Secretary Janet Napolitano established the DHS Council on Combatting Violence Against Women to coordinate the Department’s efforts to fight domestic violence and other violence against women. The Council distributed practical roll-call training videos (based, in part, on videos developed by CRCL) for state and local law enforcement officers, teaching methods to identify and screen potential immigrant victims of such violence. CRCL also worked closely with the Council to develop internal Departmental governance documents to implement the confidentiality provisions of 8 U.S.C. §1367, as amended by the Violence Against Women Reauthorization Act of 2013. In September 2013, the Acting Secretary delegated to the CRCL Officer the authority to implement those confidentiality provisions throughout the Department.

## D. Prison Rape Elimination Act Rulemaking

In December 2012, DHS [published a notice of proposed rulemaking](#), “Standards to Prevent, Detect, and Respond to Sexual Abuse and Assault in Confinement Facilities,” to implement the Department’s responsibilities under the Prison Rape Elimination Act of 2003. The [final PREA rule](#) was published in the second quarter of FY 2014, and represents DHS’s commitment to eliminate sexual abuse in civil immigration detention and holding facilities. CRCL subject matter experts were active participants in the work group that drafted the proposed rule, and through the remainder of FY 2013 worked to finalize the rule and prepare the Department to implement it, as well as implementing a 2012 ICE directive on sexual abuse and assault prevention that substantially overlaps with the PREA rule. DHS made substantial implementation steps even prior to the final rule’s effective date, including sexual assault response training for ICE personnel, spearheaded by CRCL.

## E. Furthering Protections for Parents and Children in Immigration Enforcement

Throughout 2013, CRCL worked closely with ICE Enforcement and Removal Operations (ERO) to promulgate a new ICE Directive, “[Facilitating Parental Interests in the Course of Civil Immigration Enforcement Activities](#).” Reflecting concerns developed through discussions with outside stakeholders and CRCL’s policy and compliance work, the directive, issued in August 2013, establishes the principle that immigration enforcement should not unnecessarily disrupt the parental rights of alien parents or legal guardians of minors. The directive: 1) creates parental interests points of contact in ICE field offices; 2) calls for particular custody and placement determinations to take parental status into account; 3) directs field personnel to take substantial steps to ensure aliens can participate in family court and child welfare proceedings; 4) directs expanded family visitation in detention and accommodations, to enable aliens facing removal to make travel or custody arrangements for their children; and 5) formalizes a procedure for individual aliens who have departed or been removed to be temporarily returned to the U.S. to participate in court proceedings that may terminate parental or guardianship rights. In addition, CRCL and ICE distributed a parental interest toolkit, created by the Women’s Refugee Commission, to the law libraries in all adult ICE detention facilities. CRCL will continue to work with ICE to ensure effective implementation of the directive.

## F. Unaccompanied Alien Children

As co-chair of the DHS Working Group on Unaccompanied Alien Children, CRCL continued to play a key role in the Department’s response to rising numbers of UAC entering the U.S. in 2013. The Working Group coordinates policy within the Department and through partnerships with other agencies, particularly the U.S. Departments of State and of Health and Human Services (HHS), to ensure appropriate custody and treatment for UACs. In recent years, a surge of UACs apprehended near the Southwest border has posed substantial challenges for the responsible agencies, and the Working Group provides a regular venue to meet those challenges. In FY 2013, CRCL participated in the restructuring of annual training offered to ICE Field



Office juvenile coordinators and Border Patrol juvenile coordinators. As well, CRCL opened for investigation 24 new complaints involving UACs and closed 25 UAC-related complaints.

## G. DHS Joint Opportunities Initiative

During FY 2013, CRCL continued work on its Joint Opportunities Initiative, an effort launched in FY 2012 to explore opportunities to leverage resources among the DHS EEO and diversity community, with the expected result of improving efficiencies and the quality of work. Two distinct committees were the focus of efforts during FY 2013: the Diversity and Equal Employment Opportunity Professional Development Committee and the DHS Alternative Dispute Resolution Committee. Both committees are headed by a senior executive within the DHS EEO and diversity community and comprised of employees across this community.

In FY 2013, the DHS ADR Committee, which is responsible for the development and implementation of a DHS-wide ADR program, achieved a major milestone—completion of the white paper outlining the proposed ADR program, which includes a:

- Draft Management Directive
- Draft procedures/instructions
- Business case analysis
- Overview of existing DHS ADR practices
- Guide on selecting potential mediators
- Identification of funding sources, and
- Marketing plan

The white paper will soon be presented to the Deputy Secretary for final approval in FY 2014.

The Professional Development Committee also completed the first phase of its multifaceted plan to improve professionalism within the DHS EEO community. Specifically the Committee, in collaboration with the Office of Personnel Management (OPM), developed a skills assessment survey for the General Schedule 0260 series. OPM then created and delivered a survey to the DHS EEO professionals, thereafter, producing a detailed review of the survey results and a skills gap analysis. The analysis identified a number of competencies in which additional training or professional development, or both, is required. Currently, the Committee is engaged in the second phase of the plan, determining where to focus DHS-wide training and development resources.

## H. Harmonization Accessibility Testing Processes

In FY 2013, OAST personnel and their counterparts at the U.S. Social Security Administration completed the guidance, “Harmonized Testing Processes for Section 508 Compliance: Baseline Tests for Software and Web Accessibility.” This guidance, the result of a nine-month collaborative venture, represents the first time that two Federal agencies have come together to create a shared accessibility testing process for electronic and information technology. Test

results based on a shared process will increase efficiency and reduce duplication of efforts between agencies. The shared process has been published and is now available to all Federal agencies via the Federal Chief Information Officers' Council.

## I. Civil Rights and Civil Liberties Impact Assessments

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. In FY 2013, CRCL took the following actions concerning impact assessments:

***Improving Critical Infrastructure and Cybersecurity:*** CRCL took an active role in implementing Executive Order 13636, which focuses on improving federal cybersecurity efforts to secure the nation's critical infrastructure. The Executive Order directed the annual completion of Privacy and Civil Liberties Assessments of cyber activities conducted under the Order, and the compilation of similar reports from other Federal agencies involved in activities described in the Order. Working in close partnership with the DHS Privacy Office, CRCL completed assessments of the Department's significant cybersecurity activities; drafted the first annual report on those activities; and compiled the reports provided by other Federal agencies into a single public report, which was shared with the Privacy and Civil Liberties Oversight Board and is slated for public release in FY 2014. To ensure transparency in implementing the Executive Order, CRCL co-hosted meetings with advocacy groups and other stakeholders involved in cybersecurity, privacy, and civil liberties issues. Concurrently, CRCL co-chaired the Privacy and Civil Liberties Assessments working group, one of nine working groups established by the DHS-led Interagency Task Force charged with carrying out the directives of the Executive Order and Presidential Policy Directive 21. Through this working group, CRCL shared best practices with privacy and civil liberties counterparts from other participating Federal agencies and managed the assessment reporting process.

***DHS Support to the National Network of Fusion Centers:*** Section 511 of the *Implementing Recommendations of the 9/11 Commission Act of 2007* requires CRCL to conduct a follow-up to the Fusion Center Impact Assessment released in December 2008. CRCL, in collaboration with the DHS Office of Intelligence and Analysis (I&A)'s State and Local Program Office and other DHS partners, completed and released this assessment in the first quarter of FY 2013.

***Border Search of Electronic Devices:*** 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. 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, completed in FY 2012, analyzed legal authorities and data

supplied by CBP for statistical analysis and also made several recommendations to improve accountability, oversight, and notice to travelers about their options for redress. Pursuant to a Freedom of Information Act request, a redacted version of the report was released in the third quarter of FY 2013.

## 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 2013, the Programs Branch consisted of five sections:

1. Civil Rights and Civil Liberties Institute
2. Community Engagement
3. Countering Violent Extremism
4. Immigration
5. 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

The Civil Rights and Civil Liberties Institute coordinates and leads efforts across DHS Components in support of job-specific training for Department employees and our federal, state, and local partners. The Institute focuses on developing and delivering targeted and meaningful training on civil rights and civil liberties that improves the Department's capacity to protect America, while respecting liberty, fairness, and equality.

CRCL training encompasses a range of activities, approaches, and delivery methods designed to both improve mission performance and ultimately change attitudes. We reach virtually every DHS employee through one or more of our programs or products.

#### Accomplishments in FY 2013

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

State and major urban area 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. The Institute partners with the DHS I&A, DHS Privacy Office, and DOJ Office of Justice Programs 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 2013, the Institute undertook the following training projects in support of the national network of fusion centers:

- ***Privacy, Civil Rights, and Civil Liberties National Workshop:*** In November 2012, privacy, civil rights and civil liberties officers from 53 fusion centers came together for a

workshop in Nashville, Tennessee. The sessions provided updates on a series of key topical issues and provided an opportunity for the officers and their federal and state partners to share their experiences, plan, and make recommendations for the future. During FY 2013, the Institute partnered with the DHS Privacy Office and I&A to implement the recommendations from the workshop.

- **Regional Fusion Center Workshops:** In partnership with I&A, the Institute completed a series of facilitated discussions among the fusion center directors and their federal and state partners at the four Fusion Center Regional Workshops in April and May 2013. In preparation for the workshops, the Institute analyzed the eight major sources of programmatic guidance for fusion centers. The outcomes from the workshops will transform the future approach to officer training and technical assistance within the national network of fusion centers.
- **Expansion of Privacy, Civil Rights and Civil Liberties Web Portal:** This web portal, operated jointly with DOJ, offers a single point of access to a variety of federal resources, guidance, and training on privacy, civil rights, and civil liberties: [www.it.ojp.gov/PrivacyLiberty](http://www.it.ojp.gov/PrivacyLiberty). During FY 2013, the Institute began implementation of the most significant recommendation from the Fusion Center Regional workshops, which involved a significant overhaul and update of the web portal. The expanded web portal will now include an orientation section and key resources for incoming fusion center officers, and is expected to launch in FY 2014.
- **Building Communities of Trust Roundtables:** The Institute partnered with I&A to present a series of community meetings with fusion centers and law enforcement agencies across the network. The purpose of these meetings was to develop trust among law enforcement, fusion centers, and the communities they serve to address the challenges of crime and terrorism prevention, ideally serving as a catalyst for local sponsorship of an ongoing series of meetings. The Institute works with fusion center personnel to review and discuss progress and hurdles in fusion center privacy policy implementation, and to develop our fusion center technical assistance program. Two roundtables were convened in Ohio and California.
- **Training Series for Fusion Center Privacy/CRCL Officers:** The Institute has separately trained Privacy/CRCL officers from 68 of the 78 designated fusion centers through a train-the-trainer program, after which these officers deliver training at their home fusion centers. In FY 2013, the Institute disseminated its extensive module series, which includes training modules and presentations, exercises, redacted intelligence products, and trainer notes. In addition in 2013, the Institute responded to 17 technical assistance requests from officers across the national network of fusion centers, which included hosting online brainstorming sessions.
- **Pre-Deployment Training for DHS Intelligence Officers:** To meet statutory requirements for pre-deployment training of DHS intelligence officers, the Institute and the DHS Privacy Office provided individualized half-day training on critical privacy, civil rights, and civil liberties issues in the Information Sharing Environment to the four newly appointed officers.

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

The Institute continued to develop and deliver a variety of civil rights and civil liberties trainings for Department personnel, which includes annual and biennial development cycles for several courses.

- ***Constitution Day Training:*** Each year in observance of Constitution Day and Citizenship Day (September 17), DHS is statutorily required to provide training for all its federal employees on the U.S. Constitution. In FY 2013, the Institute launched its newly updated Department-wide course on all DHS Component learning management systems.
- ***Preventing and Addressing Sexual Abuse and Assault in ICE Custody Course:*** ICE partnered with the Institute to develop and deploy an interactive, video-based course as the mandatory foundational course for ICE personnel “who have contact with detainees in ICE custody,” per the requirements of ICE Directive 11062.1. Some 17,000 ICE personnel took the course by June 2013, thereby meeting the required Directive’s timeframe.
- ***“I Speak” Materials:*** The Institute continued dissemination of “I Speak” materials, which 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 the Transportation Security Administration (TSA). In FY 2013, the Institute reached more than 1,200 state and local law enforcement agencies through “I Speak” materials.

## **B. Community Engagement Section**

Public engagement with diverse American communities remains a top priority for CRCL. The 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 profile to include Latino, Somali, Jewish, and Asian/Asian Pacific Islander communities, and leads a wide variety of outreach endeavors, with core programs in 15 cities.

In addition, CRCL roundtables and other engagement activities are the model of the good governance programs called for expressly in the National Strategy for Empowering Local Partners to Prevent Violent Extremism in the United States, “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.”

### **Accomplishments in FY 2013**

#### ***Community Roundtables and Related Engagement***

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. 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 2013, CRCL led or played a significant role in regular roundtable meetings among community leaders and Federal, state, and local government officials across the country in Atlanta, Boston, central Florida, Chicago, Columbus, Denver, Detroit, Houston, Los Angeles, Minneapolis-Saint Paul, New York, Seattle, and Washington, DC. Overall, CRCL coordinated and participated in well over 100 engagement events in 2013, encompassing approximately 60 standing roundtables held in 15 cities across the country, 26 secondary meetings and events associated with standing roundtables, and 14 individual engagement events. Highlights from these roundtables and engagement events included:

- Addressing issues specific to watchlists and no-fly lists by the Terrorist Screening Center through unclassified presentations at roundtables, which was well received by community leaders;
- Conducting several interagency community listening sessions in the Pacific Northwest addressing a specific CBP policy on language access and interpretation issues and then co-designing and leading a training curriculum on the new policy for CBP and state and local law enforcement agencies; and
- Hosting townhall-style engagement events with new immigrant "gateway communities," particularly those in the Midwest and Southeast regions of the country.

#### ***CRCL Activates the ICCT in the Aftermath of the Boston Marathon Bombings***

The Incident Communication Coordination Team (ICCT) is a conference call mechanism for rapid communication with national community leaders. These calls are used to inform leaders of the Department's position and actions, and also to receive immediate feedback regarding civil rights and civil liberties concerns of community members. It is the only tool of its kind available for rapid incident communications between the federal government and diverse communities in the immediate aftermath of an incident of national significance.

In April 2013, the ICCT was activated twice in one week following the Boston Marathon terrorist attacks, with the first ICCT call taking place within 24 hours of the bombings. Approximately 180 stakeholders representing faith-based groups and community organizations participated in these calls. U.S. Attorney Carmen M. Ortiz joined the call, along with officials from CBP, TSA, ICE Homeland Security Investigations, and ICE ERO. Other officials from the FBI, the White House National Security Staff, White House Office of Public Engagement, the DOJ Community Relations Service, and the National Counterterrorism Center (NCTC) also participated. The government officials updated community participants on the nature of the ongoing investigation and provided resources, such as community hotline information and points of contact in case community members wished to report instances of retaliation or backlash

violence in the wake of the attack. Community stakeholders engaged in robust Q&A sessions about the Department’s various alert mechanisms and offered feedback on how government and law enforcement agencies could better manage public messaging.

### ***Expanded Syrian-American Community Engagement***

Given recent conflict and continued fighting in Syria over the course of 2013, at the request of leadership, CRCL partnered with key leaders and officials of Syrian-American organizations to conduct enhanced engagement in Syrian communities across the country. With the success of these engagement efforts, CRCL created a Strategic Syria Outreach Plan at the request of the DHS Counter-Terrorism Advisory Board. The plan outlines a number of concrete short- and long-term initiatives aimed at expanding Syria-specific engagement with communities demonstrating, or likely to have, strong equities concerning the conflict in Syria, or the region at large. These initiatives include threat briefings, community awareness briefings, trust building in key cities, youth engagement, and collaboration with partner countries to identify best practices. CRCL will begin formal implementation of the Syrian Outreach Plan in FY 2014.

### ***UN Human Rights Council Resolution 16/18 Country to Country Program***

CRCL partnered with the DOJ’s Civil Rights Division in conducting a training program on religious tolerance. The program was designed to promote the country-to-country implementation of United Nations Human Rights Council Resolution 16/18, which is focused on “Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence Against, Persons Based on Religion and Belief.” CRCL co-led the country-to-country implementation of Resolution 16/18 by conducting programs in Bosnia in June 2013, and in Indonesia in September 2013.

## **C. Countering Violent Extremism**

The 2013 attacks in Boston and in Nairobi were reminders of the ongoing threat of terrorism. In addition, there are currently reports of continued recruitment of U.S. and Western persons to travel to foreign conflict zones and engage in the conflicts. In an effort to mitigate these threats, and to counter violent extremism on a broader scale, CRCL has developed an “enhanced” community engagement initiative—one that builds upon CRCL’s existing community engagement structure.

CRCL plays a pivotal role in the Department’s efforts to counter violent extremism and leads many of its programs and activities, as directed in the National Strategy for Empowering Local Partners to Prevent Violent Extremism in the United States (National Strategy). To accomplish this, CRCL works with a broad range of partners and provides a platform for diverse communities and all levels of the intelligence community and law enforcement to build understanding and strong partnerships (when appropriate). These partnerships have assisted in identifying behaviors, tactics, and other indicators of potential violent and terrorist activity, and the best ways to mitigate or prevent that activity, and have resulted in enhanced cultural competency and awareness that ultimately combats ideologically motivated crimes and other security threats.



The focus of this enhanced engagement is to:

1. Conduct more focused, topic specific engagement, particularly on issues relating to countering violent extremism (CVE);
2. Learn about communities' efforts in countering violent extremism;
3. Disseminate best practices and strategies in order to empower communities to better counter violent extremism; and
4. Direct attention to non-traditional partners, community organizers, and religious leaders.

## Accomplishments in FY 2013

### *Training and Grants to Support Law Enforcement and Community-Oriented Policing*

- In partnership with NCTC, CRCL co-leads a sub-interagency policy committee on CVE Training for Law Enforcement.
- Throughout FY 2013, CRCL worked closely with the International Association of Chiefs of Police, the Major City Chiefs Association, the Major County Sheriff's Association, NCTC, DOJ, and the FBI to develop training for federal, state, local, and correctional facility law enforcement officers on behaviors indicative of violent extremist activity.
- As part of an integrated DHS effort, CRCL continued its efforts to increase cultural competency and awareness among state and local law enforcement through its CVE training course. The training course covers key cultural and religious factors as well as guidance on effective community policing strategies that do not involve the use of ethnic profiling. In FY 2013, CRCL delivered five CVE trainings in four states. 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.
- CRCL worked with the Office of the Coordinator of Counterterrorism to address law enforcement needs by providing CVE training and resource development; best practices in community engagement; and information concerning online radicalization to violence. This included:-
  - Reviewing input for the new CVE web portal on the Homeland Security Information Network for law enforcement training practitioners. The web portal contains over 500 CVE training resources, including case studies on multiple types of violent extremism, reports on terrorism trends, community oriented policing best practices, training frameworks, and other tools that trainers can incorporate into their training development efforts. At the close of FY 2013, there were approximately 500 registered users.
  - Conducting presentations on the National Strategy, as part of nine community engagement roundtable meetings, which were followed by more detailed threat assessment/CVE workshops in partnership with NCTC in six of those cities.

- CRCL created and disseminated CVE grant guidance, and coordinated with FEMA to expand grant guidance to include funding for training and local CVE efforts, including participating in CVE training workshops, developing CVE training curricula, and incorporating CVE training resources into existing training programs. In addition, CRCL participated as a subject matter expert on a Federal Emergency Management Agency (FEMA) review of CVE training grant applications.
- In partnership with DOJ and the National Engagement Task Force, CRCL developed the *Catalog of Best Practices for Community Engagement*. This document, as part of an interagency effort, is designed to capture and disseminate best practices and lessons learned regarding community engagement for the purpose of countering violent extremism. The document will be disseminated to federal, state, local, and tribal law enforcement and government officials nationwide.

### ***Enhanced Incident Response and Engagement***

In response to the Boston Marathon attacks, CRCL conducted an assessment of engagement partners to ensure that the right audience and stakeholders are included in CRCL engagement events. In addition, CRCL undertook the following actions:

- Developed and implemented enhanced engagement events throughout the U.S. (including Boston) involving non-traditional partners, community organizers, and religious leaders. Discussion focused on working with community members and grassroots leaders to ensure that under-represented communities play a role in empowering communities to counter violent extremism.
- Continued to develop and deliver CVE threat briefings, which are conducted in partnership with DHS I&A and NCTC, and hosted with religious and community centers nationwide.
- In partnership with the NCTC's CVE Group and the International Association of Chiefs of Police, developed and implemented a series of trust-building tabletop exercises with community members and local law enforcement to counter violent extremism. This effort brought together government and community members to share perspectives and improve mutual understanding to foster stronger partnerships. Similar tabletop exercises are planned for cities throughout the U.S. in 2014.

### ***International Partnerships***

CRCL works closely with international partners, including the U.S. State Department, Global Counter Terrorism Forum, Organization for Security and Cooperation in Europe, and the U.S. Institute for Peace. Throughout FY 2013, CRCL participated in international conferences and workshops, speakers' tours, exchange programs, and International Leadership Visitors Programs in several foreign countries. In addition, CRCL assisted in developing the Hedayah Center, an International Center of Excellence for CVE based in Abu Dhabi, UAE.

CRCL, in coordination with the U.S. Embassies in Sweden, Norway, and Denmark and the U.S. Mission to the European Union, participated in a two-week CVE speakers' tour to Stockholm,

Gothenburg, Kristiansand, Oslo, Aarhus, Copenhagen, and Brussels. CRCL shared DHS engagement strategies and lessons learned in community engagement, and also held several meetings with law enforcement and community leaders in these countries to understand and study similarities in youth violent radicalization and the foreign fighters' situation in Europe. Bilateral meetings with officials from the Swedish Ministry of Justice, Danish Ministry of Integration and Social Affairs, and the Norwegian Security Police focused on DHS enhancing CVE exchange programs and deepening relations and cooperation between community and religious leaders.

Additional highlights of CVE international engagement include:

***Belgium:*** CRCL participated in an International Conference on Preventing Violent Radicalization hosted by the Belgium Ministry of Interior. CRCL led two plenary sessions discussing the National Strategy, and underscored the need to empower communities to counter extremist ideologies.

***Germany:*** CRCL, in partnership with the U.S. Department of State and U.S. Embassy in Germany, coordinated a week-long CVE speakers' tour/exchange program, where officials from Chicago and Seattle traveled to Frankfurt, Dusseldorf, and Berlin to share best practices on CVE and community engagement. The program included discussions with the German Ministry of Interior, the Peace Research Institute in Frankfurt, and regional law enforcement officials. Roundtable discussions and lectures were held with community leaders, the Counter Terrorism Higher Regional Court, the German Council on Foreign Relations, and members of civil society dedicated to community engagement and integration.

***Kosovo:*** CRCL was a keynote speaker at the Seminar on Countering Violent Extremism and Radicalization that leads to Violence, held in Pristina and sponsored by the Organization for Security and Cooperation in Europe. The three-day seminar focused on conditions conducive to the spread of violent radicalization, such as lack of access to education, political alienation, and socio-economic marginalization. The seminar also explored how public-private partnerships and community policing can help to prevent and combat terrorism effectively. CRCL presented the community engagement approach to CVE, while outlining in detail the three-pronged process: intelligence, analysis, and research; community policing; and community engagement. The seminar highlighted the foreign fighter issue, with representatives from the Netherlands, Italy, and Germany identifying this as a major concern. Representatives from Turkey and the Balkans also identified various NGOs operating as fronts to encourage youth to join the conflicts in Syria and Egypt.

***Spain:*** Similar to the German exchange program, CRCL led a New York City stakeholder delegation to Spain in the first phase of an exchange program with Embassy Madrid. CRCL presented its community engagement model and engaged with diverse religious minorities in Spain, including Spanish Muslims of Moroccan descent. The delegation also met with a number of Spanish government organizations to share strategies and discuss best practices.

***UK:*** CRCL partnered with the United Nations Alliance of Civilizations for Somali media outlet training on CVE. This project brought together up to 40 different media outlets in

London for training on content development, media ethics, and CVE messaging. The training allowed stakeholders to establish their own networks and craft and disseminate positive messages. CRCL also worked with community leaders and NGOs on the “Broken Dreams Project,” a documentary focused on parents who have lost their children to violent extremism to create awareness among families about youth violent radicalization.

## D. Immigration Section

The Immigration Section works to address civil rights and civil liberties issues that can arise in the Department’s dual mission to foster lawful international travel, commerce, and immigration while preventing unlawful immigration and enforcing immigration laws. 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 Section also supports the Officer in her capacity, under Executive Order 13107, as the Department’s single point-of-contact for international human rights treaty responsibilities.

### Accomplishments in FY 2013

#### *ICE 287(g) Program Advisory Board*

The Immigration Section represents CRCL as an active member of ICE’s 287(g) program Advisory Board, which is tasked with reviewing applications from state and local law enforcement entities that seek to participate in the 287(g) program, through which state and local law enforcement officers may be deputized with limited federal immigration enforcement powers in ICE’s jail enforcement programs.

#### *ICE Custodial Information for Criminal Justice Stakeholders*

The Immigration Section and ICE ERO collaborated on a system for criminal justice stakeholders—including defense attorneys, courts, and probation and parole offices—to obtain detailed official information on an alien’s custody and removal status with a certification form provided upon request. These forms may be useful in, for example, explaining an alien’s absence from a required court hearing, potentially avoiding forfeiture of a bond or entry of a default judgment.

#### *Affordable Care Act of 2010*

CRCL is a member of the DHS Data Integrity Board, which reviews proposed DHS computer matching agreements. The Immigration Section reviews proposed agreements with a particular eye towards civil rights and civil liberties issues that may arise from sharing immigration status information. In 2013, the Board reviewed and approved an agreement between the HHS Center for Medicaid Services (CMS) and USCIS pursuant to the Affordable Care Act of 2010. The agreement covered the sharing of immigration and citizenship status data to assist CMS in determining whether individual applicants are eligible for medical benefits and/or tax credits under the Affordable Care Act of 2010. The Immigration Section worked with the DHS Privacy Office, USCIS, and CMS to ensure appropriate protections for civil rights and civil liberties before CRCL voted to approve the agreement.

### ***International Covenant on Civil and Political Rights***

As the Department's single point of contact for international human rights treaty responsibilities, throughout FY 2013 the Immigration Section was engaged in preparing for the U.S. Government's anticipated participation in an October 2013 hearing in Geneva regarding implementation of the International Covenant on Civil and Political Rights. The hearing was rescheduled for March 2014. In addition, the Immigration Section led the Department's relationship with the Department of State in responding to multiple inquiries from international human rights organizations and treaty bodies, including correspondence and hearings by the Inter-American Commission on Human Rights.

### ***E-Verify and Verification of Employment Eligibility***

The Immigration Section worked with USCIS, ICE, and DOJ's Civil Rights Division to address civil rights issues associated with electronic verification of employment eligibility (E-Verify) and enforcement of the employer sanctions provisions of the Immigration and Nationality Act. This work was geared towards ensuring that employers and workers understood their rights and responsibilities under the Act, and included review of many key documents, including: the *Further Action Notice and Employee Emails* (September 2013), *E-Verify Supplemental Guide for Web Services Users* (December 2013); *Training Requirements and Guidelines for Web Services Users* (December 2013); *Handbook for Employers* (April 2013); and *Form I-9* (March 2013). The Immigration Section also reviewed and commented on draft DHS testimony and issue papers regarding status verification to ensure appropriate text regarding possible civil rights and civil liberties concerns.

## **E. 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 2013**

#### ***Automated Targeting System Rules***

CRCL, in partnership with the DHS Privacy Office and Office of the General Counsel (OGC), continued conducting quarterly reviews of CBP's and TSA's real-time, threat-based intelligence scenarios run by the Automated Targeting System, to ensure that civil rights, civil liberties, and privacy protections are in place. The system is an intranet-based enforcement and decision support tool used by CBP to improve the collection, use, analysis, and dissemination of information that is gathered for the primary purpose of targeting, identifying, and preventing potential terrorists and terrorist weapons from entering the U.S.

#### ***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 continued to work with global partners as they explored new programs or enhanced

existing ones concerning aviation security. Work by ISIS in this area, in partnership with TSA, included reviews of standard operating procedures and training materials for TSA's behavioral detection programs and activities; policymaking on risk-based domestic screening; and guidance on preserving individual rights in those activities.

### ***Intelligence and Analysis Product Review***

Since FY 2009, ISIS has worked with DHS I&A to review thousands of classified and unclassified I&A products. 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 2013 ensuring that the intelligence I&A delivered to state and local partners was appropriately sensitive to and protective of civil rights and civil liberties.

Also in FY 2013, CRCL continued its work with I&A to craft and deliver a pilot program for training and certifying DHS intelligence enterprise reports officers who are responsible for raw reporting. The pilot program also establishes policy for a product post-release audit process for Intelligence Information Reports scheduled for full implementation upon completion of the intelligence enterprise training and certification program.

### ***Information Sharing***

Throughout FY 2013, ISIS worked with the DHS Information Sharing and Coordination Council and the Information Sharing and Safeguarding Governance Board to ensure that civil rights and civil liberties protections are incorporated into the Department's information sharing and safeguarding policies, agreements, and programs. ISIS contributed to drafting the Department's Information Sharing and Safeguarding Strategy and related Implementation Plan, which aligns with the National Information Sharing and Safeguarding Strategy that was signed by President Obama in December 2012. In addition, ISIS, in collaboration with I&A, OGC, and the DHS Privacy Office, has refined processes to ensure that all Department-wide information sharing agreements are reviewed for the inclusion of appropriate privacy, civil rights, and civil liberties protections.

### ***DHS Data Framework***

ISIS, in collaboration with the DHS Privacy Office and OGC, assisted in the development of the DHS Data Framework—a scalable information technology program with built-in capabilities to support advanced data architecture and governance processes. This program is intended to alleviate mission limitations associated with stove-piped IT systems that are currently deployed across multiple operational DHS Components, and to enable more controlled, effective, efficient use and sharing of available homeland security-related information across the DHS enterprise and, as appropriate, the U.S. Government while protecting civil rights and civil liberties. ISIS provided guidance regarding appropriate safeguards for both the prototype testing phases and the anticipated end-state system.

### ***National Exercise Program***

ISIS coordinates CRCL's participation in activities related to the planning and conduct of National Level Exercises. The National Exercise Program is a key element of the National

Planning System and is the principle exercise mechanism for examining national preparedness and measuring readiness. ISIS staff participated in regularly occurring planning meetings throughout the year and coordinated across CRCL to ensure that exercise scenarios were developed in a manner that respects civil rights and civil liberties.

### ***Safeguarding Sharing of VAWA/T/U Data***

In response to Congress's decision to authorize the sharing of information of victims of human trafficking, other serious crimes, and self-petitioners for relief under VAWA with national security officials for national security purposes, CRCL developed and issued guidance to all DHS Components and Offices on providing appropriate confidentiality and other appropriate safeguards in the sharing of this information.

### ***Unmanned Aircraft Systems***

At the end of FY 2012, CRCL and the DHS Privacy Office jointly signed a memorandum to the Secretary establishing the Privacy, Civil Rights and Civil Liberties Unmanned Aircraft Systems (UAS) Working Group, which is co-chaired by CRCL, Privacy, and CBP. The Working Group is comprised of representatives from DHS Components and Offices charged with, among other responsibilities, “[p]romoting DHS best practices for safeguarding privacy, civil rights, and civil liberties in the use of UAS by DHS partners and grant recipients.” The Working Group, relying on the Department's UAS experience at the borders, drafted best practices guidance, which is under administrative review at the time of this writing.

### ***Cybersecurity***

ISIS supported implementation of Executive Order 13636, *Improving Critical Infrastructure Cybersecurity*, and provided advice and oversight to other DHS cybersecurity programs and activities, which included: advising the Department on civil liberties protections in cybersecurity activities to ensure appropriate protections of individual rights were built into pre-existing programs and activities as well as those activities directed by the Executive Order; co-chairing (with the DHS Privacy Office) the interagency Assessments Working Group of the Cyber Executive Order Integrated Task Force to coordinate and conduct the required privacy and civil liberties assessments; leading recurring outreach and engagement meetings with civil liberties advocates to provide transparency in the implementation of the Executive Order and other DHS cybersecurity activities; and providing guidance and oversight to those programs working to secure the .gov domain, including assistance in operations of the EINSTEIN 1 and 2 programs and advice in the design and implementation of the EINSTEIN 3 Accelerated program.

### ***National Suspicious Activity Reporting Initiative***

CRCL continued training personnel responsible for analyzing and sharing terrorism-related Suspicious Activity Reports on the importance of adhering to the restraints in the *Information Sharing Environment Functional Standard for Suspicious Activity Reporting* that protect civil rights and civil liberties. ISIS also worked closely with DHS and FBI staff to ensure that the next version of the report sustains those protections.

## 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, or 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
- Any other civil rights or civil liberties violation related to a Department program or activity, including human rights complaints.

### Accomplishments in FY 2013

#### *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 2013, CRCL conducted site visits to 11 facilities where ICE holds immigration detainees. For these reviews, CRCL engaged the assistance of subject-matter experts in the areas of medical care, mental health care, correctional security and operations, and environmental health and safety to review complaint allegations.

In FY 2013, the Compliance Branch conducted the following visits with the listed experts:

- Illinois county jail: medical, mental health, corrections, and environmental health and safety experts;
- Kentucky county jail: medical, mental health, and environmental health and safety experts;
- Georgia service processing center: medical, mental health, and corrections experts;
- Virginia county jail: medical, mental health, and corrections experts;
- California dedicated contract facility: medical, mental health, and corrections experts;
- Florida county jail: medical, mental health, corrections, and environmental health and safety experts;
- Florida dedicated contract facility: medical, mental health, and corrections experts;
- Virginia dedicated contract facility: medical and corrections experts;
- Arizona county jail: medical, mental health and corrections experts;
- New Jersey county jail: medical, mental health, corrections, and environmental health and Safety experts; and
- Nevada county jail: mental health and corrections experts.



Following each site visit, CRCL reviews the expert recommendations and decides which recommendations, if any, should be provided to ICE in an initial report. This report is provided to ICE, which is asked to review the recommendations and reply with a written response regarding concurrence and implementation of the recommendations.

### ***CBP Transport, Escort, Detention, and Search Working Group***

In FY 2013, Compliance staff began ongoing participation in CBP's initiative to create a uniform CBP policy to address transport, escort, detention, and search procedures. Compliance staff utilized their experiences investigating complaints, along with recommendations CRCL has made in this area, to collaborate with CBP colleagues in providing guidance for this policy from a civil rights perspective, including the impact the procedures may have on vulnerable populations. The Working Group also includes representatives from the DHS Office of Policy and CBP Offices including Border Patrol, Field Operations, Air and Marine, Personnel Policy, and Chief Counsel.

### ***The Use of Segregation in ICE Detention***

In FY 2013, ICE and CRCL conducted a full assessment of the use of segregation in ICE detention facilities. Following this review, ICE developed a new national directive on oversight of the use of segregation for the detained population: Directive 11065.1, *Review of the Use of Segregation for ICE Detainees* (September 4, 2013). ICE and CRCL have worked to develop guidance for implementation of the directive as well as reporting and tracking mechanisms. ICE has also developed internal processes and launched a new database which generates weekly reports that CRCL reviews; this system helps ensure regular and detailed awareness of the detained population in segregation. Following finalization of the Directive, CRCL continues to review segregation cases reported to Headquarters, and to work with ICE on identified areas of concern.

### ***Use of Force Policy and Training Development***

In FY 2013, CRCL opened 46 complaints alleging an inappropriate use of force. As a result, CRCL partnered with DHS Components to review certain aspects of their use of force policies, and has since made concrete progress on use of force issues, which include the following:

- **Federal Protective Service (FPS):** As a result of a complaint, a working group has been formed comprised of staff from CRCL, OGC, and the National Protection and Programs Directorate (NPPD) to review FPS use of force policies and training. The working group will develop policy and training consistent with FPS's mission that further integrates civil rights and civil liberties considerations.
- **CBP:** Throughout FY 2013, CRCL worked with CBP leadership on their use of force policy review, based on CRCL's investigations of complaints involving the use of deadly force, including responses to rock throwing and the use of electronic control devices. CRCL and CBP will continue to collaborate in developing training to implement use of force policy revisions.
- **ICE:** As a result of CRCL recommendations stemming from a complaint alleging forcible fingerprinting, ICE has initiated a review of fingerprint requirements and use of

force involved for obtaining fingerprints for documents that are not required for identification. CRCL will continue to work with ICE to ensure policies and practices for fingerprint procurement are consistent with ICE's mission and further integrate civil rights and civil liberties considerations.

### ***Translation of Important Detention Related Documents***

Under Executive Order 13166, the Department is required to provide meaningful access to Department programs for the public, including those with limited English proficiency. To assist in this effort, CRCL's Compliance Branch coordinated with ICE to translate two important documents into relevant languages for the detained population. CRCL provided complete translations of both the manual accompanying the American Bar Association Know Your Rights video (shown at every detention facility) and the ICE ERO National Detainee Handbook. Both of these documents were professionally translated into five languages: Arabic, Simplified Chinese, French, Portuguese and Vietnamese. These languages were selected after reviewing detained population data. In September 2013, the translated documents were provided to ICE for dissemination nationally.

## **A. FY 2013 Investigations**

CRCL receives complaints and information regarding issues and incidents that may merit investigation from a variety of sources, including the general public, NGOs, other DHS Offices and Components, the DHS Office of Inspector General (OIG), and other government agencies. For example, HHS' Office of Refugee Resettlement sends reports regarding treatment of unaccompanied alien children by DHS personnel. DOJ forwards public complaints raising civil rights concerns that may fall within CRCL's jurisdiction. Within DHS, potential complaints are forwarded to CRCL by CBP and ICE; and CRCL also identifies complaints through review of DHS Traveler Redress Inquiry Program (TRIP) records. Since October 1, 2009, ICE has notified CRCL whenever a person has died in ICE custody, and CRCL also received reports of non-employee deaths that occur involving CBP agents.

Pursuant to 6 U.S.C § 345(a)(6) and internal DHS policies, CRCL begins the investigation process by referring all complaints to the DHS OIG, who then determines whether or not it will investigate the complaint. If the 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 investigation. If a complaint is referred, the Component issues a Report of Investigation to CRCL at the completion of factual investigation. When the investigation is complete, CRCL notifies the complainant of the results.

During FY 2013, CRCL opened 302 new complaints (of which the OIG retained nine) and closed 277 complaints. Tables 2 and 3 summarize complaints CRCL received and closed in FY 2013, excluding matters retained by the OIG for investigation and closed by the OIG in FY 2013. Information about those complaints can be found in Appendix B, which also includes tables detailing complaints retained by the OIG. The tables also describe the number of CRCL complaints received per quarter, by Component and issue.

CRCL also has “short-form” complaint processing procedures that facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and require limited investigation. 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 in Appendix B.

**TABLE 2: FY 2013 COMPLAINTS, 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		3					7														1		10	11
Breach of confidentiality							1		1						2			1	2					3	5
Conditions of detention	1		4				2	6	18													3	6	22	31
Disability accommodation		1						3		1	2			1								1		2	7
Discrimination/profiling	2	1	3				1		6					2								2	3	1	13
Due process							1		1													1	1		2
Excessive force	11		19				2	2	11													1	13	2	31
Fourth Amendment (search and seizure)									1																1
Free speech/association			1																						1
Human rights																								11	11
Inappropriate questioning/inspection conditions	2		4														2	4							4
Inappropriate touch/search of person (non-TSA)	1						1										2								2
Intimidation/threat/improper coercion	1		1																			2	1		3
Language access (limited English proficiency)			2																						2
Legal access									2																2
Medical/mental health care	1		10				4	15	80								1		1	6	15	91			112
Privacy														1											1
Religious accommodation			1					1	7			2										1		1	11
Retaliation									2															1	3
Sexual assault/abuse	1		2				1	2	3													2	2	5	9
TSA AIT and TSA pat-downs											3														3
<b>Total</b>	<b>21</b>	<b>2</b>	<b>50</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>13</b>	<b>26</b>	<b>142</b>	<b>0</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>21</b>	<b>38</b>	<b>29</b>	<b>226</b>	<b>293</b>

**TABLE 3: COMPLAINTS CLOSED FY 2013, 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	1	1				1	1	8									1			5	2	9	16				
Breach of confidentiality							1								2			1	2					2	4			
Conditions of detention	7		4				8	5	27									1	1	2	16	6	33	55				
Disability accommodation			1						1		1			1									2		6	6		
Discrimination/profiling	1	1					3	4	7		1									1	4	5	9	18				
Due process		1	4				1		3					1				1		2	2	1	10	13				
Excessive force	15	4	7				2		6													17	4	13	34			
Fourth Amendment (search and seizure)	1		2				1		3											2				5	7			
Human rights																						11		11	11			
Inappropriate questioning/ inspection conditions	5		4								1											5	1	4	10			
Inappropriate touch/search of person (non-TSA)							1															1			1			
Intimidation/threat/ improper coercion	2						1		1														3		1	4		
Language access (limited English proficiency)			7						1					1											9	9		
Legal access			1																						1	1		
Medical/mental health care	2						5	6	43									1			8	6	43	57				
Religious accommodation			1						5		2									1					9	9		
Retaliation	1																	1	2						2			
Sexual assault/abuse	2							2	3																2	2	3	7
TSA AIT and TSA pat-downs								1		1		3													1	1	3	5
<b>Total</b>	<b>39</b>	<b>7</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>24</b>	<b>19</b>	<b>108</b>	<b>1</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>1</b>	<b>19</b>	<b>70</b>	<b>28</b>	<b>171</b>	<b>269</b>			

## B. Complaints Resolved by CRCL with Operational Recommendations

The following summaries describe those complaints closed in FY 2013, with recommendations from CRCL to DHS Components, for 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. Erasure of Video Footage:** CRCL received correspondence regarding a traffic stop conducted by a number of on-duty CBP Border Patrol agents. The complainant alleged that, without proper authority, the agents confiscated his camera and, after an examination of the pictures, deleted a number of stored digital photographs and video footage. Based on this complaint, CRCL issued recommendations to CBP addressing the search and seizure of recording equipment. CBP agreed to coordinate with OGC and CRCL to issue written guidance to accompany applicable policies regarding search and seizure issues. Additionally, CBP agreed to develop training on how to handle situations in which there are recordings or photographs of CBP activities taken by members of the media or public.
- 2. Traveler with Mental Illness:** CRCL received a complaint from a traveler and her adult son regarding her son's treatment at the Toronto Port of Entry in April 2012. The complaint alleged that he was discriminated against and denied entry to the U.S. on the basis of his mental illness. The complainant stated that CBP refused to review a letter that her son provided from his treating psychiatrist. CRCL issued recommendations to CBP regarding the medical clearance that may be necessary for travelers with mental health issues. To better inform travelers about the health-related grounds of inadmissibility before they travel, CBP has agreed to: (1) add information to their website aimed at international travelers regarding the 212(a)(1)(A) inadmissibility provision; and (2) provide travelers with a brief printed statement indicating where the traveler may obtain more information about the medical clearance process whenever they are provided a copy of the list of panel physicians that CBP utilizes.
- 3. Deaf Traveler:** In January 2013, CRCL issued a decision finding that CBP did not reasonably accommodate a traveler's hearing and speech disabilities when she sought access to the U.S. in April 2011. CRCL issued a decision under Section 504 of the Rehabilitation Act finding that CBP failed to provide the traveler with a reasonable accommodation during the inspections process, which resulted in prejudice against her. CRCL ordered that should the traveler present herself for admission to the U.S., her interview with a CBP officer should be conducted with the assistance of a qualified sign language interpreter. In addition, pursuant to 6 U.S.C. § 345(a)(4), CRCL made recommendations to CBP for changes in policies and training to improve CBP's provision of reasonable accommodations to travelers who are hearing and speech impaired. CBP concurred with these recommendations and continues to work with CRCL on their implementation.

## ICE

4. ***Conditions of Detention in New Jersey:*** CRCL received a number of complaints that alleged inadequate medical care, environmental health and safety conditions, and other issues involving conditions of detention at a county jail in New Jersey. Based on these complaints, CRCL conducted a review of the facility in April 2011. As a result of the review, CRCL made recommendations regarding general access to medical care, medical records, and care for serious illnesses, as well as access to the law library and legal materials, handling of property, and religious accommodations among other things. ICE successfully addressed many of the recommendations.
5. ***Conditions of Detention in California:*** CRCL received a number of complaints that alleged problematic conditions, including inadequate medical care, at a county jail in California. CRCL provided ICE with recommendations from expert consultants. ICE has now removed all detainees from the facility. Accordingly, CRCL closed the complaint and informed ICE to contact CRCL if they consider using the facility in the future.
6. ***Deaf and Unable to Speak Detainee:*** In May 2013, CRCL issued a decision finding that ICE had violated Section 504 by failing to provide reasonable accommodations to a detainee who is deaf and unable to speak, and was held in immigration detention from 2009 to 2012. CRCL determined that ICE failed to appropriately investigate the detainee's requests for reasonable accommodations and failed to provide an appropriate auxiliary aid or service to enable him to have meaningful access to ICE programs and services including telephone access and medical care. Based on these findings, CRCL ordered appropriate remedies for the complainant.
7. ***Conditions of Detention in Texas:*** CRCL received several complaints regarding conditions at a county detention facility in Texas. CRCL conducted a site visit in April 2011. During that visit, CRCL examined medical and mental health care, general conditions of detention, and environmental health and safety issues. CRCL made recommendations to ICE in each of the areas mentioned above based on its findings, and subsequently CRCL concluded that ICE adequately addressed the recommendations and has made positive changes regarding conditions for ICE detainees at the facility.
8. ***Visitation to Immigration Detention:*** In September 2013, CRCL issued a decision finding that ICE had violated Section 504 by failing to provide reasonable accommodations to a hearing- and mobility-impaired woman who wished to visit an ICE detainee. CRCL determined that ICE failed to appropriately accommodate the complainant and provide her with: (1) an alternative to standing in line when she wished to visit ICE detainees; and (2) alternative visitation arrangements which would decrease the amount of ambient noise and allow her to hear the person she was visiting. Based on these findings, CRCL ordered appropriate remedies for the complainant.
9. ***Conditions of Detention in Ohio:*** CRCL received a complaint from a detainee regarding his treatment, and the treatment of other detainees, in ICE custody at a county jail in Ohio. The complainant alleged that he was denied adequate medical care, had problems with dental care. As part of the investigation, CRCL conducted a site visit in July 2011. CRCL made

recommendations to ICE to address several issues regarding medical care at the facility. ICE concurred with CRCL's recommendations, which have now been implemented.

- 10. *Suicide in Detention:*** CRCL received notice of a detainee suicide at a county jail in Louisiana. In February 2012, CRCL conducted a site review at the facility, accompanied by two independent subject-matter experts: a penologist and a psychologist. As a result of detainee and staff interviews, document reviews, and direct observations, the subject-matter experts identified serious concerns related to suicide prevention measures and mental health care at the facility. The experts recommended that ICE immediately withdraw its detainees from the facility. ICE agreed and acted accordingly. Based on this action, CRCL closed the complaint.
- 11. *Sexual Assault in Detention:*** CRCL received correspondence regarding an alleged sexual assault of an ICE detainee at a county jail in Illinois. CRCL conducted an investigation that included a review of documents and information from ICE, the facility where the alleged incident occurred, and other ICE detention facilities. CRCL also interviewed the complainant, ICE personnel, detention center staff, and local law enforcement officials. CRCL made recommendations to ICE regarding the prevention, detection, reporting, investigation, and response to detainee sexual abuse and assault allegations. After a collaborative review of these recommendations with ICE, ICE addressed the recommendations and made positive changes in each of the areas identified. ICE has released a revised detention standard addressing these issues, as well as a new directive that establishes policy and procedures for responding to incidents or allegations of sexual abuse or assault. CRCL further recommended that ICE train all staff on its policies, procedures, and requirements regarding sexual abuse and assault of detainees. ICE has since implemented new requirements for staff to receive such training.
- 12. *Conditions of Detention in Virginia:*** From May 2007 through April 2012, CRCL received numerous complaints regarding conditions of detention at a county jail in Virginia. The complaints alleged problems with several issues: hygiene, telephone access; religious services; adequate medical care; access to the law library; access to office equipment for copying and preparing legal documents; harassment for filing grievances; lack of outdoor recreation; housing with aggressive state prisoners; excessive punishments; inadequate food; sexual misconduct; and environmental health and safety concerns. In response to these complaints, CRCL conducted three site visits of the facility in November 2007, August 2010, and February 2013. In March 2012, CRCL provided ICE with a memorandum detailing the recommendations from the 2010 site visit, which contained 52 separate recommendations covering a large number of issues including mental health care, segregation, medical care, access to recreation, and legal access. In April 2013, ICE concurred with substantially all of the recommendations. Additionally, ICE informed CRCL that as of July 2013, ICE was no longer using the facility to house detainees. Based on this information, CRCL closed the recommendations.



## C. Complaints Investigated by CRCL Without Operational Recommendations

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

### CBP

- 1. *Hold Room Conditions:*** CRCL received a complaint on behalf of an unaccompanied alien child who alleged that he was held by Border Patrol for four days in poor conditions after apprehension. The child alleged that he was not provided enough food and water, and that the water he was given “had a funny smell” and tasted like plastic. Further, he alleged that when he complained about the food and asked for clear water, the officers screamed at him. CBP’s Office of Internal Affairs investigated the allegations and found that the child was properly detained for four days and was given food and water in compliance with policy. CBP reported that processing was delayed due to conflicting information the child provided about his citizenship. CBP also provided feeding logs indicating that the child was fed approximately 10 times during his detention, and included pictures showing that water was continuously available from a fountain and from jugs. CRCL concluded that CBP’s actions in detaining and feeding the child were in compliance with policy and law, and did not substantiate the child’s allegations regarding the quality of the water.
- 2. *Language Access on the Northern Border:*** In July 2011, CRCL received a complaint about the actions of CBP providing Spanish language interpretation assistance during encounters with Forest Service personnel. CRCL worked closely with CBP regarding these allegations and on November 21, 2012, CBP issued policy guidance on the provision of language assistance to other law enforcement organizations. This guidance outlines how CBP employees are to respond when local law enforcement organizations request CBP assistance solely for language assistance. CRCL is continuing to monitor CBP’s provision of language assistance to local law enforcement on the Northern Border.
- 3. *Treatment of Unaccompanied Alien Child:*** CRCL received correspondence reporting a complaint made by an unaccompanied minor alleging that unidentified Border Patrol agents used excessive physical force when apprehending him and three other migrants near Houston, Texas. The complainant alleged that, when apprehended, an agent pulled one arm around the minor’s back and hit him with a baton on his back and shoulders. He then stated that he was handcuffed to another person and the handcuff was fastened so tightly that his hand hurt. CRCL investigated this complaint and reviewed the records from his apprehension. The records indicated that promptly upon his apprehension agents took the complainant to a hospital for a medical evaluation. ICE Health Service Corps records contained no indication that he reported or was treated for any physical injuries such as the ones described in the complaint. In addition, there was no indication that the medical provider at the hospital found any evidence of physical injuries or abuse. Border Patrol apprehension and processing records contain no information indicating that the complainant

reported excessive use of force or that he incurred injuries during apprehension. Accordingly CRCL did not substantiate the allegation.

4. ***Request for Admission as Native American:*** In July 2012, a traveler requested admission to the U.S. as a temporary visitor for pleasure, and explained that she was unemployed and traveling to Michigan where she planned to marry her traveling companion and reside. She claimed Native American status and invoked the Jay Treaty for her admission. She also presented a Canadian government-issued identification card to demonstrate her ethnicity. The CBP officer informed the complainant that she did not have sufficient proof of her Native American status to invoke the Jay Treaty, and therefore denied her application for admission because she was unable to overcome the statutory presumption that she was not an intending immigrant. The officer also provided the traveler with the document requirements necessary to demonstrate Native American status. CRCL's review found the complainant did not have the appropriate paperwork to request admission, and the complaint was closed without recommendations.

## ICE

5. ***Courthouse Enforcement:*** Based on an April 2011 New Hampshire Public Radio news report titled "ICE Agents Picking Up Undocumented Immigrants at Nashua Court," by Simon Rios, CRCL investigated whether ICE agents had approached or were currently approaching suspected illegal immigrants at the Nashua Courthouse and whether such actions, if they occurred, complied with DHS policies and procedures. Mr. Rios reported that over the two months prior to the story, ICE approached 20 to 25 people at the Nashua District Court and questioned them about their immigration status. After conducting an investigation, which included extensive document reviews and interviews of the agents involved, CRCL found no evidence that ICE was arresting or questioning people inappropriately or racially profiling at the courthouse.
6. ***Request for Prosecutorial Discretion:*** In March 2012, CRCL received a complaint alleging that ICE agents intentionally prevented the complainant from submitting a request for prosecutorial discretion. CRCL found that ICE evaluated the request and it was denied. However, through its investigation CRCL discovered that ICE agents throughout the respective field offices had different understandings of prosecutorial discretion, and the process for requesting discretion in a case. In response to this and other issues, ICE developed the Community Detainee Helpline in September 2012 and assigned community field liaisons to handle inquiries, particularly those related to prosecutorial discretion.
7. ***Secure Communities Complaint:*** In September 2011, CRCL received a complaint alleging civil rights violations by ICE based upon implementation of the Secure Communities program in Virginia. CRCL investigated the allegations that: (1) the individual was arrested based on increased enforcement aimed at an individual who was, or appeared to be Latino; and (2) the arrest was baseless and made only to determine the individual's immigration status. CRCL concluded there was a valid basis for the arrest and that the warrant generating the arrest was properly obtained.

8. ***VAWA Confidentiality:*** The complainant alleged that at the end of his removal hearing, the ICE Assistant Chief Counsel was approached by an attorney representing his wife's parents in an ongoing custody battle and that ICE counsel proceeded to violate the VAWA confidentiality rules by sharing information regarding his INA § 240A(b)(2) special rule cancellation application. CRCL referred the case to ICE for review. ICE's Office of Professional Responsibility reviewed the case and stated that VAWA confidentiality provisions did not apply to Special Rule Cancellation. CRCL had concerns regarding the Office of Professional Responsibility's application of VAWA confidentiality provisions in their review of the case and alerted ICE to these concerns. Based on the limited evidence, neither ICE nor CRCL were able to substantiate that a violation of confidentiality provisions occurred.
9. ***Tuberculosis Testing:*** CRCL received a complaint from a detainee who alleged that he was subjected to verbal abuse, threats, and harassment from a correctional officer for refusing a tuberculosis chest exam during processing. The complainant stated that he completed the exam four separate times while incarcerated prior to entering ICE custody. CRCL reviewed the detainee's medical records which indicated that ICE Infection Prevention & Control Manual policies were followed for tuberculosis exam refusals. The detainee was placed in segregation until medical clearance was obtained, where he was educated on and offered tuberculosis testing daily and also observed for onset of symptoms. CRCL additionally reviewed all of the complainant's segregation records, and requested relevant disciplinary and segregation complaints from the facility. Following a review, no concerns were identified.

## **TSA**

10. ***Selection for Secondary Screening:*** CRCL received a complaint alleging that a traveler was racially profiled and selected for secondary security screening. After objecting to screening through the advanced imaging technology machine, a supervisor allegedly threatened that if the complainant did not comply, she would not be able to make her flight. The complainant complied and alleged that she was subjected to a very thorough pat down, her property was searched, and her hands were swabbed. The complainant alleges she was chosen for these screening and search procedures due to her Greek heritage. CRCL requested records from TSA and received documents containing statements from three TSA officers involved in the complainant's screening, the cleared log from the date of this alleged incident, and the video of the incident. CRCL concluded that the complainant was randomly selected for enhanced screening, and was not able to opt out of the screening. CRCL found that TSA officers acted in accordance with TSA policy with regard to secondary screening, and closed the complaint.

## **USCIS**

11. ***VAWA Confidentiality:*** CRCL received a complaint alleging that after an individual filed a VAWA petition, a U.S. Congressman disclosed the fact of her pending VAWA petition to her husband (the alleged abuser). CRCL investigated this matter and determined that USCIS did not provide the information to the Congressman's office, and in fact followed their strict internal procedures in requesting the petitioner's authorization prior to any information

disclosure. CRCL concluded that the disclosure was not made by DHS, and that USCIS did not violate confidentiality regulations.

**12. *Discrimination During Benefits Interview:*** In September 2011, CRCL received a complaint alleging that USCIS improperly denied a petition for adjustment of status and that during the interview the complainant was verbally abused and improperly questioned. CRCL investigated the complaint and received the documents from USCIS related to the interview. The documents demonstrated that the complainant and his wife gave different answers to questions about their relationship, such as how long they dated before getting married, and whether they traveled to their marriage ceremony together or separately. Inconsistent answers such as those were significant indicators of fraud and formed a sufficient basis for USCIS to deny the petition. CRCL was not able to substantiate the allegations that the USCIS officer who conducted the interview verbally abused the complainant, asked improper questions, or violated his due process.

## USCG

**13. *Access to U.S. Coast Guard Facility with a Service Dog:*** The complainant, a disabled military dependent, alleged that in August 2012, U.S. Coast Guard (USCG) personnel prohibited a service dog from accompanying her onto the USCG Island Alameda base in California. Further, she alleged that the Chief of Facilities questioned her disability, said that she did not need a service dog, and threatened to have them both forcibly removed. Following CRCL's intervention, USCG engaged with the complainant and agreed to allow her access to base facilities in the company of her service animal. USCG base leadership met with the complainant to explain the parameters of the accommodation, with which she agreed. The complainant indicated to CRCL that she was very satisfied with the resolution of her complaint.

## Multi-Component

**14. *Confidential Records Management:*** CRCL investigated allegations that CBP personnel at a Montana port of entry disclosed information that should have been confidential under VAWA and that CBP personnel treated the complainant and her daughter unprofessionally during their secondary inspection. CRCL referred the complaint to CBP and USCIS. CBP identified and interviewed the three officers who were on duty at the port of entry on the day of the incident, and reviewed the written records of the complainant's secondary inspection. CBP concluded that the allegations against CBP officers were unfounded. USCIS conducted an internal investigation into allegations that a USCIS officer improperly entered information into the TECS system about the complainant. As part of its investigation, USCIS interviewed the officer named in the complaint, as well as several others involved in this matter. CRCL did not substantiate any failure to follow appropriate policies by USCIS employees. However, USCIS' California Service Center identified gaps in training and policy, and subsequently made policy changes that addressed the concerns raised in this allegation, specifically requiring an additional layer of review and supervisory approval before USCIS employees enter confidential VAWA information into any law enforcement database.

**15. Religious Items:** In June 2011, CRCL received correspondence from an individual of Sikh faith alleging that he was denied access to a USCIS field office because he refused to remove his kara, a Sikh religious bracelet, which set off a metal detector. He states that he was also the subject of ridicule and abuse, on this and on an earlier occasion by officers of a private security company under contract with the FPS. CRCL worked with USCIS to ensure the individual was able to reschedule and attend his USCIS appointment. CRCL also worked with FPS on the issue of religious items, and in February 2013 a new FPS directive on prohibited items was released, which provides an exception and appeal process to accommodate Sikh and other religious items.

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

In FY 2013, CRCL established the Antidiscrimination Group to focus on policy work aimed at ensuring fair and equitable treatment of individuals and guard against discrimination based on race, color, national origin, disability, sex, and age in DHS programs and activities in accordance with:

- Title VI of the Civil Rights Act of 1964 (Title VI)
- Title IX of the Education Amendments of 1972 (Title IX)
- Section 504 of the Rehabilitation Act of 1973 (Section 504)
- The Age Discrimination Act of 1975, as amended
- Executive Order 13166, *Improving Access to Services with Persons with Limited English Proficiency* (2000)
- Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (1994)

### Accomplishments in FY 2013

#### *Disability Access Under the Rehabilitation Act*

In FY 2013, CRCL established a program to improve Department-wide compliance with Section 504 of the Rehabilitation Act, which included a DHS Management Directive on Disability Access that directs Components to designate disability access coordinators; conduct self-evaluations of their programs to identify any barriers to access or gaps in existing policies or procedures for providing reasonable accommodations and modifications to qualified individuals with disabilities; and submit plans for addressing any identified barriers to CRCL. In addition, CRCL established a Department-wide working group comprised of Component disability access coordinators who will guide implementation of the new Management Directive, and in turn, share strategies for effective communication, program and physical accessibility, and reasonable accommodations for individuals with disabilities.

#### *Integration of Civil Rights Considerations in Disasters*

In FY 2013, CRCL activated its internal Disaster Civil Rights Coordination Team to address potential civil rights and civil liberties concerns involving disaster response and recovery efforts regarding Hurricane Sandy.

- **Messaging Regarding Evacuations and Immigration Enforcement:** CRCL disseminated a joint ICE and CBP statement affirming there would be no immigration enforcement operations associated with evacuations or sheltering in the impacted areas. CRCL translated the statement into Spanish, Simplified Chinese, Haitian Creole, Korean, and Vietnamese and disseminated it to its federal partners, community-based organizations, and immigration groups.

- **Civil Rights Guidance and Strategies for States, Localities, and other Recipients:** CRCL collaborated with FEMA’s Office of Equal Rights and Office of Disability Integration and Coordination to develop a statement and guidance for states, localities, and other federal recipients on their obligations to carry out disaster response and recovery activities in a nondiscriminatory manner. The document, “[Tips for Effectively Communicating with Protected Populations](#),” is available on the CRCL website.
- **Staff Deployment in Support of Disability Integration and Coordination:** CRCL contributed to the coordinated federal response efforts by deploying a senior advisor to the FEMA Joint Field Office in New York to address disability-related issues following Hurricane Sandy. CRCL’s staff member supported FEMA in conducting field assessments of mass care shelters and disaster recovery centers to ensure accessibility for individuals with disabilities; engaging with community stakeholders and the Mayor’s Office to identify and address disability issues; launching a housing initiative to integrate disability accessibility considerations into all aspects of the federal disaster housing mission; and collaborating with all levels of government to ensure that repairs are made to critical accessibility features such as ramps, lifts, and electricity for power wheelchairs.

***Language Access Requirements under Executive Order 13166***

The DHS Language Access Plan, issued in February 2012, established a Department-wide policy on toward developing and implementing meaningful access for LEP individuals that are served by DHS programs and activities.

- **Implementation of Language Access Plan within DHS:** To further implement the requirements of the law, DHS Components having contact with the public began developing individual language access plans based on Components’ unique missions and operations. In FY 2013, CRCL continued to provide technical assistance to Components on the development of Component-specific language access plans and overall implementation of the Executive Order.
- **Pilot Course for DHS Bilingual Personnel:** The use of qualified bilingual personnel can support agencies’ efforts to ensure meaningful access to its programs and activities for LEP persons. To this end, in FY 2013, CRCL piloted a course for DHS bilingual employees, “Workshop and Basic Training: The Art of Bilingual Interpretation,” which covered basic qualifications and skills of interpreting, the ethics and standards of practice, and overcoming communication barriers.

***Federal Interagency Coordination on Title VI of the Civil Rights Act***

CRCL participates in the Title VI Interagency Working Group and co-chairs the Committee on Coordination, which facilitates information sharing and the development of tools and resources to advance coordination on Title VI compliance and enforcement.

- **Title VI Interagency Coordination:** Through a staff detail to DOJ’s Civil Rights Division, CRCL led the development of the Memorandum on Title VI Interagency Coordination for federal funding agency civil rights directors, which was issued by

former Assistant Attorney General Thomas E. Perez.

- **Interagency Working Group on Limited English Proficiency:** On behalf of the Working Group's Enforcement Committee, CRCL co-led a data collection project to identify how federal agencies integrate Title VI language access requirements into the pre-award phase of the grant-making process. The committee is currently developing a report on the data collection results, which will include ideas and best practices to assist federal agencies in strengthening language access requirements in the grant-making process.

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

Under federal civil rights laws, recipients of financial assistance from the Department are obligated to provide access to their programs and services on a nondiscriminatory basis in accordance with the authorities listed above. CRCL carried out a number of activities to inform recipients of their legal requirements and practical steps to achieve compliance.

- **Listening Sessions with USCIS Grant Recipients:** CRCL partnered with the USCIS Office of Citizenship to facilitate a listening session with FY 2011 and FY 2012 Citizenship and Integration Grant Program award recipients to discuss challenges faced in providing meaningful access to LEP persons and potential solutions based on the Department's LEP Recipient Guidance.
- **Technical Assistance for Local Law Enforcement Agencies:** Working alongside the U.S. Attorney's Office, CRCL provided on-site technical assistance to local law enforcement agencies in Washington state on federal requirements to provide meaningful access to LEP persons. Participants received information about the applicable legal principles, skills necessary for effective interpretation when encountering LEP persons in the course of law enforcement activities, and resources for meeting the requirements. CRCL provided a number of resources, including the "I Speak" language identification materials and the "LEP Guide for Law Enforcement."
- **Participation in East-West Gateway Council of Governments Title VI Workshop:** In FY 2013, CRCL partnered with DOJ and the U.S. Department of Housing and Urban Development to provide training and assistance on Title VI requirements for local government entities that receive federal assistance through a state or county agency.

#### ***Public Outreach to Ensure Compliance with Federal Nondiscrimination Laws***

A key element to ensuring compliance with federal nondiscrimination laws is to inform the public about their rights under the law and available resources. To that end, staff presented at CRCL community engagement roundtables in Los Angeles, New York City, and Seattle. Further, the Antidiscrimination Group webpages were developed to complement outreach efforts, and include information on language access, the Title VI compliance program, disability policy, and environmental justice.



## 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.

### A. Complaints Management and Adjudication Section

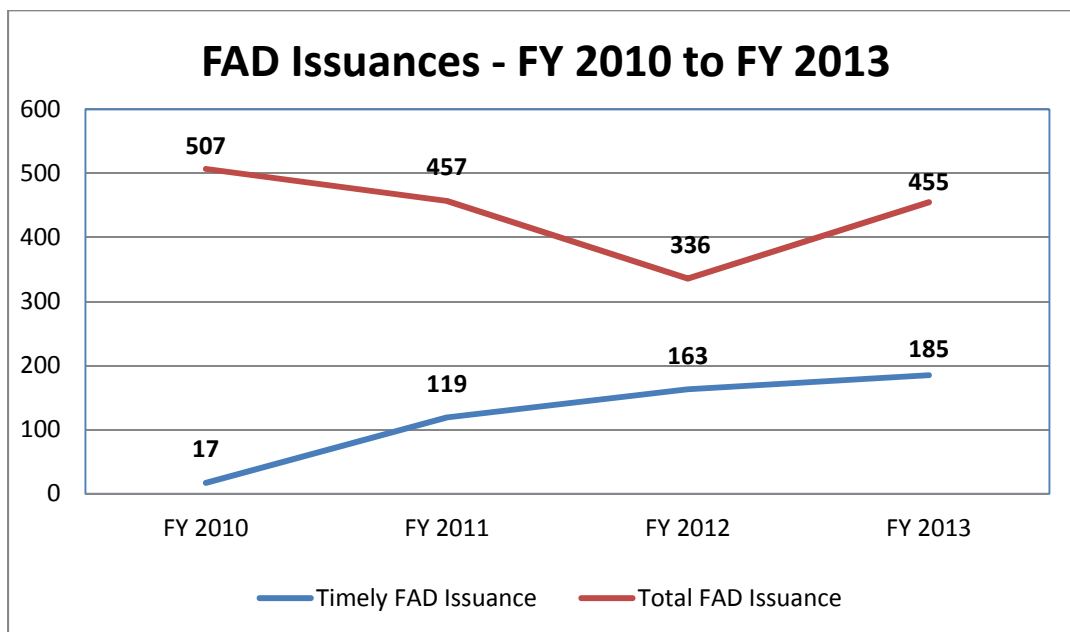
The Division's Complaints Management and Adjudication Section (CMAS) leads the adjudication of EEO complaints throughout the Department. CMAS prepares final actions on all formal EEO complaints filed by DHS employees, former employees, and applicants for employment who allege discrimination in violation 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 2013

### *Timely Issuance of Final Agency Decisions:*

Throughout FY 2013, CRCL focused on adjudicating merit Final Agency Decisions (FADs) and issuing them within regulatory timeframes. FADs are issued after a complainant files a formal complaint alleging discrimination, the agency conducts an investigation, and the complainant requests the agency to issue a decision as to whether the discrimination occurred. The U.S. Equal Employment Opportunity Commission (EEOC) Regulations, at 29 C.F.R. Part 1614, require merit FADs to be issued within 60 days of election, or failure to elect, a FAD. In FY 2013, CRCL's continued emphasis on timeliness produced a timely merit FAD issuance rate of 41 percent. Although, the overall percentage of timely issuances between FY 2012 (48 percent) and FY 2013 (41 percent) decreased; the number of timely merit FAD issuances and the total number of FAD issuances increased. The number of timely merit FAD issuances increased by 13 percent (163 to 185) and the total number of FAD issuances increased by 35 percent (337 to 455).



### *Collaborating and Leading DHS Components*

CMAS led a number of collaborative initiatives in FY 2013, some of which provided leadership opportunities for individuals at DHS Components. First, CMAS conducted training on hostile work environment that was open to all DHS EEO Offices. This training allowed CRCL to provide DHS-specific guidance on anti-harassment theory and practice, and to improve consistency and uniformity of knowledge across the Department. Second, CMAS developed and deployed an initiative to benchmark Component investigations and identify best practices for conducting effective EEO investigations. CMAS launched a pilot with two Components, USCIS and the Headquarters EEO Office, to identify the top criteria for conducting quality investigations at DHS. And third, CMAS remained active in FY 2013 in leading the Component Complaint Managers in quarterly meetings, during which Department-wide guidance was shared, training on icomplaints—the enterprise EEO database and document management system—was

offered, and best practices were identified. CMAS also hosted an icomplaints (EEO database) user forum, which created an opportunity for users across the Department to discuss and recommend changes to the system.

### ***Leaning Forward with Technology***

CMAS continued to partner with DHS Components in FY 2013 on optimizing digital efficiencies. All DHS Components shifted from a paper-based system of requesting Final Actions (e.g., merit FADs and Procedural Dismissals) to an email-based system. CMAS also continued to expand the usage of digital review, signature, and issuance of final actions, which has furthered opportunities for telework and continuity of operations.

Throughout FY 2013, CMAS also coordinated with EEOC's Office of Federal Operations in implementing and deploying the Commission's Electronic File Exchange, a web-based EEO case processing and document conveyance portal. Component Electronic File Exchange user enrollments increased steadily throughout FY 2013, including efforts to enroll attorneys in the Component Offices of General Counsel. CMAS has continued to provide valuable input and feedback to EEOC on shaping the design features of updates to the file exchange system.

CMAS was also active in FY 2013 in providing training and legal updates on developments regarding social media and its impact on EEO. Specifically, CMAS conducted internal briefings for ICE, CPB, and USCG's EEO offices and Women's Mentoring Group on social media and EEO. In addition, CMAS also provided a number of external presentations on social media and EEO at national training events and conferences, including the EEOC's annual Examining Conflicts in Employment Laws Conference. These updates have allowed the EEO community at DHS and across the federal sector to remain aware of situations where discrimination may occur based on protected class information discovered on the Internet, and learn methods of creatively advancing and applying EEO mandates in the digital age.

Lastly, during FY 2013, CMAS worked with EEOC on a pilot program designed to launch the Federal Sector EEO Portal—a new, online method for submitting the annual EEOC 462 Report. In preparation, the Commission reached out to DHS, as one of the largest Federal agencies, and requested the Department's participation. The pilot program allowed CMAS to test the portal and provide feedback to EEOC on its functionality. CMAS successfully tested all nine Components' 462 Reports by producing and uploading these reports into the portal.

### ***Providing Developmental Opportunities***

In addition to complaint processing, CMAS also engaged in several initiatives to expand opportunities for training and development of DHS EEO staff, in coordination with DHS's Joint Opportunities Initiative, described in section II.G, above. During FY 2013, CMAS developed and launched a program to provide detail opportunities for Component EEO professionals to come to CMAS. For example, CMAS created opportunities for 60-to-90-day details to work with EEO complaint adjudication experts and learn to prepare a variety of final actions including, merit FADs, Procedural Dismissals, Breach Determinations, and Final Orders.

## B. Diversity Management Section

CRCL's Diversity Management Section (DMS) provides leadership, guidance, and technical assistance to DHS Components, on the Department's EEO and diversity initiatives, consistent with federal laws, regulations, executive orders, and management directives. Specifically, DMS prepares EEO and diversity policy guidance for Department personnel, supports special emphasis programs that increase awareness of diversity issues throughout the Department, and conducts workforce trend analysis, including Department-wide workforce data tables to identify anomalies that may be tied to EEO or diversity issues. On behalf of the Department, DMS also prepares and submits mandated annual EEO and diversity reports to the EEOC, OPM, and the U.S. Department of Education's White House Initiatives Office to Assist Minority Serving Institutions (MSIs).

### Accomplishments in FY 2013

#### *Implementing the DHS Disability Strategic Plan*

DMS worked in partnership with the DHS Office of the Chief Human Capital Officer (OCHCO) to implement the DHS Disability Strategic Plan, including:

- Meeting with OPM to discuss best practices of implementing career counseling for individuals with disabilities, as required by Executive Order 13548. DMS also discussed updates on OPM's efforts to produce a mandatory federal-wide version of CRCL's web-based training program "A Road Map to Success: Employment of People with Disabilities." The training features powerful video testimonials from seven DHS employees with disabilities, job aids, and an extensive collection of internet resources for each topic that can be found along the "road map."
- Assisting in the development of the DHS Reasonable Accommodation Management Directive (MD) and Instruction.
- Assisting in the development of the Operation Warfighter program (a Workforce Recruitment Program), and the Computer/Electronic Assistance Program educational training programs throughout DHS. DMS also responded to multiple inquiries from wounded service members and senior officers about Operation Warfighter.
- Holding monthly Council meetings and conducting five training sessions featuring guest speakers from EEOC, OPM, and the U.S. Department of Veterans Affairs. DMS coordinated with Components to provide guidance on recruiting, hiring, retention, reasonable accommodations, accessibility, internships, training, policy, Schedule A hiring authority, the Workforce Recruitment Program, and Operation Warfighter programs.

#### *Implementing the DHS Diversity and Inclusion Strategic Plan*

The DHS Diversity and Inclusion Strategic Plan serves as the framework for creating a more diverse workforce and more inclusive workplaces across DHS, with a focus on such key initiatives as veterans employment and the employment of individuals with disabilities. The Diversity and Inclusion Council, co-chaired by OCHCO and CRCL, completed the following in FY 2013:

- Drafted memoranda of understanding to formalize partnerships and communications with associations that represent various MSIs;
- Established hiring goals for veterans and individuals with targeted disabilities; and
- Developed a DHS Diversity and Inclusion Dashboard to report on key diversity metrics.

### ***Improvements in Workforce Analysis and Timely Submission of Reports***

DMS conducted quarterly workforce analysis on trends, both on the DHS onboard workforce and DHS personnel actions, including hires, separations, awards, conversions, and promotions. CRCL signed a Memorandum of Understanding with OPM for an applicant flow data pilot program, and started coordinating with the online employment/recruiting site Monster.com for their applicant flow. DMS further coordinated with OCHCO Human Resource Policy and Programs in collecting exit survey data; assisted Components with workforce analysis by providing guidance on the new Census data, new guidance on the aggregation of races, applicant flow data, the use of appropriate benchmarks; and assisted with HQ EEO complaint trend analysis.

DMS also ensured the timely and accurate delivery and analysis of all EEO and diversity reports, including:

- **FY 2012 EEO MD-715 Report:** DMS streamlined the Report and focused on the EEO and Diversity program, emphasized the utility of the Report as a barrier analysis tool, highlighted the impact of Executive Order 13548 and DHS Improvements in its Disability Program, and its implementation of Executive Order 13583.
- **FY 2012 Federal Equal Opportunity Recruitment Plan Report:** DMS revised the Report in the new OPM template and met additional data requirements in evaluating DHS efforts related to the implementation of DHS's Diversity and Inclusion strategic plans including new data on formal mentoring programs, training, Employee Councils, and the inclusion of Diversity and Inclusion elements into Senior Executives' performance plans.
- **FY 2012 MSI Report, FY 2013 MSI Plan, and FY 2014-2015 Addendum Plan:** DMS thoroughly reviewed financial award data, as well as diversity data, to accurately assess DHS's financial accounting methodology. The data analysis into the over \$400 million of awards granted to minority serving institutions in FY 2014 led to the most accurate MSI Report ever produced by DHS.

### ***DHS Component Site Visits***

DMS conducted seven first-ever Component site visits focusing on EEO and Diversity Reports to all of the DHS Components during FY 2013. During each site visit, DMS provided a briefing on the following topics:

- Trends in EEO and Diversity reports, DHS accomplishments, including implementation of recent executive orders, improvements in the reasonable accommodation process, the timeliness of complaints processing, and Component best practices, with the goal of finding scalable, portable practices that can be applied across DHS; and
- Identification of workforce trends, including assimilation of large volumes of workforce data by analyzing six years of trend data (such as employee hires, representation, and

separations) to identify long-term trends, implications, and results; constructive feedback on report submissions; and, in-depth data studies of major EEO issues, including workforce occupational analysis, barrier analysis feedback, Federal Employee Viewpoint Survey data analysis (including first-in-kind lesbian, gay, bisexual, and transgender analysis), implementing Diversity and Inclusion Strategic Plans, analysis of awards to MSIs, reporting guidelines, and next steps in trend analysis.

During the Component site visits, DMS emphasized transparency, built a baseline and infrastructure for analysis, developed scorecards and dashboards, focused on metrics and best practices, and improved coordination and collaboration with DHS Component stakeholders and partners. The new methodology for trend analysis will lay the groundwork for future trigger identification of workplace anomalies by DHS Components.

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## C. Headquarters Office of Equal Employment Opportunity

The DHS Headquarters EEO Office (HQ EEO) works 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 2013

#### *Reasonable Accommodation Services*

In FY 2013, HQ EEO staff processed 55 reasonable accommodation requests, including services for the Office of the Secretary, applicants for employment, and employees seeking advice and guidance on the reasonable accommodation process and types of available accommodations. HQ EEO processed 124 requests for sign language interpreting services, which required coordination with program offices and contractors. These reasonable accommodation requests are separate from IT equipment requests processed for Headquarters employees.

#### *Promoting Diversity*

HQ EEO provides operational EEO and diversity management services to all DHS Components and personnel and helps offices to recruit, hire, develop, and retain a diverse workforce, inclusive of special groups such as veterans and individuals with disabilities. During FY 2013, HQ EEO staff participated in mock interview sessions with disabled veterans to help increase their chances of getting hired, and coordinated with OPM to increasing the availability of an online training focused on the hiring and recruitment of individuals with disabilities.

During FY 2013, HQ EEO continued its efforts to increase the retention and professional development of women. In recognition of Women's History Month, the Federal Women's

Program sponsored a panel discussion on science, technology, engineering, and math (STEM), careers at DHS featuring women from S&T.

In addition, HQ EEO led a series of training sessions including:

Annual EEO and Diversity trainings for various DHS Headquarters Offices;

- Participation in OCHCO's "HR Essentials for Managers" course, offered to over 170 HQ managers and supervisors;
- Monthly "New Employee Orientation" which provides information to new DHS employees regarding their rights to equal employment opportunity; and
- Monthly "Lunch and Learn" sessions designed to augment training for EEO counselors.

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

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

### Accomplishments in FY 2013

#### *Governance*

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, in addition to several Headquarters level governance bodies. In FY 2013, OAST reviewed 4,824 change requests with 136 changed (2.8%).

In FY 2013, OAST joined the new Enterprise Services Division Office Change Control Board as a voting member. This Board reviews and adjudicates changes that are not under the scope of the Department-wide Infrastructure Change Control Board. In addition, OAST completed the second of three years' worth of data collection using Trusted Agent Accessibility Panel to document Section 508 compliance of DHS IT systems.

#### *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 2013, OAST processed a total of 2,606 requests through the DHS Accessibility Helpdesk; which came from across the Department, as well as several other Federal agencies and public entities.



### ***Accessibility Compliance Center of Excellence***

The Accessibility Compliance Center of Excellence was established in 2012 to provide services to assess Section 508 compliance of DHS Programs, audit for Section 508 compliance during program reviews, and serve the end-user DHS Program personnel with advice and consultation on how to achieve Section 508 compliance in accordance with OAST guidance and authority. This includes reaching out to program offices to make them aware of the Center's accessibility-related program services and subject matter experts

The Center developed an intake questionnaire for programs used to simplify DHS Section 508 compliance requirements. In FY 2013, 47 baseline assessments were conducted on major IT programs including program metrics memorializing Section 508 compliance standards in those major programs. Of the assessments conducted, 75 percent have met Section 508 compliance requirements.

### ***OAST Services***

- OAST reviewed and remediated 25,621 pages (958 document files) of content consisting of forms, policy documents, newsletters, FAQ's, memoranda, schedules, budget files, handbooks, flyers, schedules, and reports across DHS.
- OAST processed 42 reasonable accommodation requests.
- Through the Section 508 Awareness Training Program, OAST trained 2,035 personnel across DHS and its Components, along with personnel from eight other government agencies. Notably, to date, OAST has graduated 246 testers through the DHS Trusted Tester Certification Program.
- OAST tested 488 IT and web-based applications that were submitted through the Accessibility Helpdesk.
- Mobile technologies have become part of everyday business throughout the Department; however, a mature set of standards-based Section 508 compliance evaluation procedures had not been developed for such delivery platforms within the Federal Government. In FY 2013, OAST was awarded a contract to develop a Section 508 compliance test process to support the Federal mobile initiative by developing and implementing a mobile accessibility test process for IOS and Android.
- OAST received funding to support the development of a Section 508 Trusted Tester Repository. The repository will be searchable and allow Federal agencies who use harmonized test procedures to share Section 508 testing results to avoid duplication of testing.

### ***Component Outreach***

- In January 2013, OAST presented a course on Section 508 to new IT hires at the One DHS IT Immersion Program in Washington, DC. There were approximately 35 participants from CBP, FEMA, ICE, NPPD, TSA, USCG, USCIS and DHS Headquarters.

- In September of 2013, OAST established a MOA between DHS and the U.S. Department of Treasury. The purpose of the MOA is to promote standardized procedures for ensuring Section 508 compliance of websites and applications by using DHS Section 508 compliance evaluation procedures (Trusted Tester) and associated remediation planning.
- OAST developed the Accessibility Compliance Management System, a fully accessible enterprise management system that consists of 14 databases, 17 preformatted reports, and 5 repositories. The system is used by OAST staff, Component Section 508 coordinators, subject matter experts, and IT application testers to document work, store results, and manage Section 508 programs. It also serves as the backbone for the DHS Accessibility Help Desk. After launching version 3.0 of the system, OAST personnel presented to the DHS EEO Council, specifically highlighting the reasonable accommodations module and improvements in the data tracking and reporting features. The Council's response was positive and most Component representatives expressed interest in using the system for their evaluations.

## 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. The Officer for Civil Rights and Civil Liberties was designated by the Secretary to carry out these duties from 2004-2012. In January 2012, the Secretary transferred the leadership from CRCL to FEMA's Administrator and designee, the Office of Disability and Integration Coordination.
- **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 2013, CRCL opened 302 new complaints (compared to 256 opened in FY 2012) and closed 277 complaints (compared to 281 closed in FY 2012). Data tables B-1A and B-1B describe: (1) matters retained by the OIG during FY 2013 and (2) matters retained and referred by CRCL, both received and completed, during FY 2013, by quarter. Data tables B-2A through B-5B summarize complaints retained by CRCL and referred to DHS Components by quarter in FY 2013.

As of September 30, 2013, the Compliance Branch had 350 open complaints. Of those, 73 were retained by CRCL for investigation, 225 were handled 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, 41 complaints were referred to a DHS Component for investigation, and 11 were retained by OIG for investigation.

For a tally of all CRCL’s complaints by Component and primary allegation from 2003 to 2012, 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, 2013, the CRCL Compliance Branch had 11 open complaints that were retained by OIG; of these, nine complaints were opened in FY 2013. In FY 2013, the OIG closed eight complaints, which included two matters retained by the OIG in FY 2008, five in FY 2011, and one in FY12.

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





## 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-3B, 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 2013

**TABLE B-2A: COMPLAINTS RECEIVED Q1 FY 2013: 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						4															5	5		
Breach of confidentiality							1							1								1		1	2		
Conditions of detention			2					2	8														2	10	12		
Disability accommodation									2					1										3	3		
Discrimination/profiling			1						1															2	2		
Due process							1	1														1	1	2	2		
Excessive force	3		2				2	3														5	5	10	10		
Human rights																		2					2	2	2		
Inappropriate questioning/ inspection conditions	1		3														1					2	3	5	5		
Language access (limited English proficiency)			1																					1	1		
Legal access								1																1	1		
Medical/mental health care							2	6	15												1	2	6	16	24		
Religious accommodation			1					2			2													5	5		
Sexual assault/abuse	1						1	1														2	1	3	3		
TSA AIT and TSA pat-downs											3													3	3		
<b>Total</b>	<b>5</b>	<b>0</b>	<b>11</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>8</b>	<b>38</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>3</b>	<b>13</b>	<b>8</b>	<b>59</b>	<b>80</b>

**TABLE B-2B: COMPLAINTS CLOSED Q1 FY 2013: 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						2															3	3
Breach of confidentiality															1									1	1
Conditions of detention							2	4											1			1	2	4	7
Discrimination/profiling	1						1				1								2					1	3
Excessive force	1		1						1										1					2	3
Fourth Amendment (search and seizure)			1				1												1					1	2
Human rights																					2			2	2
Inappropriate questioning/ inspection conditions											1													1	1
Language access (limited English proficiency)															1									1	1
Medical/mental health care							2	1	12													2	1	12	15
Retaliation	1																				1				1
<b>Total</b>	<b>3</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>3</b>	<b>19</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>8</b>	<b>4</b>	<b>27</b>	<b>39</b>

**Second Quarter FY 2013**

**TABLE B-3A: COMPLAINTS RECEIVED Q2 FY 2013: 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						1										1						2	3			
Breach of confidentiality									1																1	1			
Conditions of detention							1	4	5													1	4	5	10				
Discrimination/profiling	1		1						3													1	1	5	6				
Due process																						1		1	1				
Excessive force	4							1	1														4	1	6				
Free speech/association			1																						1	1			
Human rights																						1		1	1				
Inappropriate questioning/inspection conditions			1																						1	1			
Language access (limited English proficiency)			1																						1	1			
Medical/mental health care			1				1	6	23															1	6	24	31		
Religious accommodation									2																2	2			
Retaliation									2																2	2			
Sexual assault/abuse								2	1															2	1	3			
<b>Total</b>	<b>6</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>13</b>	<b>39</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>8</b>	<b>13</b>	<b>48</b>	<b>69</b>

**TABLE B-3B: COMPLAINTS CLOSED Q2 FY 2013: 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		3										1			4		3	7
Breach of confidentiality							1												1			2			2
Conditions of detention	2		1				3	2	9												2	5	2	12	19
Disability accommodation									1															1	1
Discrimination/profiling							1	1	2												1	1	1	3	5
Due process		1					1		1					1							1	1	1	3	5
Excessive force	5	1	3						2													5	1	5	11
Human rights																					1			1	1
Inappropriate questioning/ inspection conditions	2		3																			2		3	5
Intimidation/threat/ improper coercion	1																					1			1
Language access (limited English proficiency)			6						1															7	7
Medical/mental health care	1						1		10													1	1	10	12
Religious accommodation			1						2			1									1			5	5
Retaliation																			1			1			1
Sexual assault/abuse	1								1													1		1	2
TSA AIT and TSA pat-downs											2													2	2
<b>Total</b>	<b>14</b>	<b>2</b>	<b>14</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>7</b>	<b>4</b>	<b>32</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>6</b>	<b>24</b>	<b>6</b>	<b>56</b>	<b>86</b>

**Third Quarter FY 2013**

**TABLE B-4A: COMPLAINTS RECEIVED Q3 FY 2013: 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	2	
Conditions of detention			1						2															3	3	
Disability accommodation																						1		1	1	
Discrimination/profiling			1																			1		2	2	
Excessive force	2		7				1	1														1	2	1	9	12
Fourth Amendment (search and seizure)									1															1	1	
Human rights																						4		4	4	
Inappropriate questioning/ inspection conditions	1																						1		1	
Intimidation/threat/ improper coercion																							1		1	1
Legal access									1															1	1	
Medical/mental health care	1		1				3	22											1				2	3	23	28
Privacy														1										1	1	
Religious accommodation									1													1		2	2	
TSA AIT and TSA pat-downs			1						1															2	2	
<b>Total</b>	<b>4</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>30</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>9</b>	<b>5</b>	<b>4</b>	<b>52</b>	<b>61</b>

**TABLE B-4B: COMPLAINTS CLOSED Q3 FY 2013: 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															1	1	2				
Breach of confidentiality															1										1	1				
Conditions of detention	4		2				4		11															8	13	21				
Disability accommodation			1																						1	1				
Discrimination/profiling								2	1															2	1	3				
Due process			2																1		1			1	3	4				
Excessive force	4		1				2		2															6	3	9				
Fourth Amendment (search and seizure)									3																3	3				
Human rights																									1	1				
Inappropriate questioning/inspection conditions	1																								1	1				
Intimidation/threat/improper coercion							1		1																1	1	2			
Medical/mental health care							2	4	14																2	4	14	20		
Religious accommodation									2																	2	2			
Sexual assault/abuse								1	2																1	2	3			
TSA AIT and TSA pat-downs								1				1													1	1	2			
<b>Total</b>	<b>9</b>	<b>1</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>9</b>	<b>8</b>	<b>37</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>19</b>	<b>9</b>	<b>47</b>	<b>75</b>

**Fourth Quarter FY 2013**

**TABLE B-5A: COMPLAINTS RECEIVED Q4 FY 2013: 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		1	
Breach of confidentiality														1				1					1	1	2	
Conditions of detention	1		1				1	3														2	4	6		
Disability accommodation		1						1		1	2												2	3	5	
Discrimination/profiling	1	1					1	2						2								2	1	4	7	
Excessive force	2		10					6															2	16	18	
Human rights																					4			4	4	
Inappropriate questioning/ inspection conditions																		1					1		1	
Inappropriate touch/ search of person	1						1																2		2	
Intimidation/threat/ improper coercion	1		1																		1	1		2	3	
Medical/mental health care			8				1	20															1	28	29	
Religious accommodation								1	2															1	2	3
Retaliation																					1			1	1	
Sexual assault/abuse			1																					1	1	
<b>Total</b>	<b>6</b>	<b>2</b>	<b>21</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>35</b>	<b>0</b>	<b>1</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>6</b>	<b>13</b>	<b>4</b>	<b>67</b>	<b>83</b>	

**TABLE B-5B: COMPLAINTS CLOSED Q4 FY 2013: 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																1	1	2	4		
Conditions of detention	1		1				1	1	3																1	2	2	4	8	
Disability accommodation											1			1												2		4	4	
Discrimination/profiling		1					1	1	4																	1	2	4	7	
Due process			2						2																		4	4		
Excessive force	5	3	2						1																	5	3	3	11	
Fourth Amendment (search and seizure)	1		1																							1	1	2	2	
Human rights																										7		7	7	
Inappropriate questioning/ inspection conditions	2		1																							2	1	3	3	
Inappropriate touch/ search of person							1																			1		1	1	
Intimidation/threat/ improper coercion	1																									1		1	1	
Language access (limited English proficiency)			1																								1	1	1	
Legal access			1																								1	1	1	
Medical/mental health care	1						1		7																	1	3	7	10	
Religious accommodation								1			1																	2	2	
Sexual assault/abuse	1							1																		1	1		2	
TSA AIT and TSA pat-downs										1																1			1	1
<b>Total</b>	<b>13</b>	<b>4</b>	<b>9</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>	<b>4</b>	<b>20</b>	<b>1</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>9</b>	<b>19</b>	<b>9</b>	<b>41</b>	<b>19</b>	<b>9</b>	<b>41</b>	<b>69</b>		



## Appendix C: Acronyms

ADR	Alternative Dispute Resolution
CBP	U.S. Customs and Border Protection
CMAS	CRCL Complaints Management and Adjudication Section
CMS	HHS Center for Medicaid Services
CRCL	DHS Office for Civil Rights and Civil Liberties
CVE	Countering Violent Extremism
DHS	U.S. Department of Homeland Security
DMS	CRCL Diversity Management Section
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
FEMA	Federal Emergency Management Agency
FPS	Federal Protective Service
FY	Fiscal Year
HHS	U.S. Department of Health and Human Services
HQ EEO	DHS Headquarters Equal Employment Opportunity Office
I&A	DHS Office of Intelligence & Analysis
ICCT	CRCL Incident Communication Coordination Team
ICE	U.S. Immigration and Customs Enforcement
ISIS	CRCL Intelligence, Security, and Information Sharing Section
LEP	Limited English Proficiency
MD	Management Directive
MOA	Memorandum of Agreement
MSI	Minority Serving Institutions
NCTC	National Counterterrorism Center
NGO	Non-Governmental Organization
NPPD	National Protection and Programs Directorate
OAST	Office of Accessible Systems & Technology
OCHCO	DHS Office of the Chief Human Capital Officer
OGC	DHS Office of the General Counsel
OIG	DHS Office of the Inspector General
OPM	Office of Personnel Management
PREA	Prison Rape Elimination Act of 2003
S&T	DHS Science and Technology Directorate
TSA	Transportation Security Administration
UAC	Unaccompanied Alien Child
UAS	Unmanned Aircraft Systems
USCG	U.S. Coast Guard
USCIS	U.S. Citizenship and Immigration Services
VAWA	Violence Against Women Act