



U.S. Department of Homeland Security Office for Civil Rights and Civil Liberties

Fiscal Year 2016 Annual Report to Congress

December 6, 2017



**Homeland
Security**

Foreword

In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, I am pleased to present this Report to Congress on the Department of Homeland Security Office for Civil Rights and Civil Liberties: Fiscal Year 2016.

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

The Honorable Michael R. Pence
President of the Senate

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

The Honorable Patrick Leahy
Vice Chairman, U.S. Senate Committee on Appropriations

The Honorable Ron Johnson
Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

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

The Honorable Richard Burr
Chairman, U.S. Senate Select Committee on Intelligence

The Honorable Mark Warner
Vice Chairman, U.S. Senate Select Committee on Intelligence

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

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

The Honorable Paul D. Ryan
Speaker of the House, U.S. House of Representatives

The Honorable Rodney P. Frelinghuysen
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 Devin Nunes
Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable Adam Schiff
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 Trey Gowdy
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@hq.dhs.gov. This Report and other information about CRCL are available at www.dhs.gov/crcl.

Sincerely,



Elaine C. Duke
Acting Secretary

Message from the Officer, Cameron Quinn



It is my honor to serve as Officer for Civil Rights and Civil Liberties at the Department of Homeland Security (). 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 at its creation. Since the Department's inception in 2003, CRCL has worked to make the Nation more secure while integrating the core values 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) 2016, 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 work that we have accomplished throughout FY 2016. 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.

Respectfully submitted,

A handwritten signature in blue ink that reads "Cameron P. Quinn". The signature is fluid and cursive.

Cameron P. Quinn
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 2016. 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 Strengthening National Preparedness and Resilience.

Highlights of CRCL's key accomplishments during FY 2016 include:

- The Secretary of Homeland Security's Meetings with Diverse Community Groups;
- Ensuring that Recipients of DHS Financial Assistance Comply with Civil Rights Requirements;
- CRCL Hosting the Inaugural Department-wide Equal Employment Opportunity and Diversity Training Conference;
- CRCL Enhancing Oversight of Immigration Detainee Housing; and
- Expansion of the Federal Interagency Core Awareness Training on the Information Sharing Environment.

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



DHS Office for Civil Rights and Civil Liberties Annual Report FY 2016

Table of Contents

I. Legislative Language	1
II. Background	5
A. Mission.....	5
B. Authorities	5
C. Leadership	5
D. Organization.....	6
III. FY 2016 Highlights	6
IV. Programs Branch: Policy Advice, Training, and Outreach	10
A. Civil Rights and Civil Liberties Institute	11
B. Community Engagement Section.....	13
C. Immigration Section.....	17
D. Security, Intelligence, and Information Policy Section	23
V. Compliance Branch: Public Complaints	26
A. FY 2016 Investigations	28
B. Investigative Processes.....	29
C. Complaints Resolved by CRCL with Operational Recommendations	33
D. Expert Recommendations from Onsite Investigations at Immigration Detention Facilities	34
E. Component Responses to CRCL Expert and Recommendations Memoranda	36
F. Complaints Closed Following Notification	41
VI. Antidiscrimination Group	47
VII. Equal Employment Opportunity and Diversity Division	50
A. Complaints Management and Adjudication Section.....	50
B. Diversity Management Section	53

C. Alternate Dispute Resolution Program55
D. Headquarters Equal Employment Opportunity Office.....55
VIII. Office of Accessible Systems and Technology.....56
IX. Conclusion.....58
Appendix A: DHS Civil Rights and Civil Liberties Authorities..... i
Appendix B: Complaints Tables..... vi
Appendix C: Abbreviations xviii

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, § 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), as amended by the *Intelligence Authorization Act for Fiscal Year 2014*, Pub. L. No. 113-126, title III, § 329(b)(4), 128 Stat. 1390, 1406.

(a) Designation and functions

... [T]he Secretary of Homeland Security ... shall designate not less than one 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 semiannually, 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 civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel; and
- 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, regulations issued by the Department, 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.

C. Leadership

During the FY 2016 reporting period, **Megan H. Mack** was the CRCL Officer, serving from October 2013 through January 2017. 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.

Also during the reporting period, **Veronica Venture** served as 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 (EEOC), then spent seven years as an EEOC 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.

Also during the FY 2016 reporting period, **Tamara Kessler** was the Deputy Officer for Programs and Compliance serving November 2010 – October 2016. Prior to her tenure at DHS, Ms. Kessler spent 20 years at the U.S. 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.

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 EEO 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, a joint endeavor with the DHS Office of the Chief Information Officer.

At the close of FY 2016, CRCL had 86 staff and 10 contractors on board. Table 1 details the Office’s operating budget and staff for the past five fiscal years.

Table 1: CRCL Operating Budget and Staffing, FY 2012–FY 2016

Fiscal Year	Operating Budget¹	Federal Staff	Contract Staff
2012	\$22,011,101	99	3
2013	\$20,905,443	111	3
2014	\$21,360,000	97	8
2015	\$21,800,000	86	6
2016	\$21,680,000	86	10

The following pages provide an overview of major accomplishments in FY 2016, followed by detailed information about each CRCL functional unit’s activities during the year.

III. FY 2016 Highlights

A. Secretary of Homeland Security Meets with Diverse Community Groups

CRCL’s Community Engagement Section responds to community concerns and provides information regarding DHS programs, activities, and issues by building trust and establishing a robust and consistent process for communication and coordination with diverse community leaders and organizations. In FY 2016, the Department’s senior leadership, including then-

¹ Operating budget totals are based on the enacted, or revised enacted (where applicable), appropriated funding levels and payroll reimbursement funding from other government entities.

Secretary Johnson, regularly participated in CRCL’s engagement events across the country. Most notably, in January 2016, Secretary Johnson visited Detroit, Michigan, to emphasize the Department’s commitment to engaging with local communities to keep our nation safe and secure.

While in Detroit, Secretary Johnson, U.S. Citizenship and Immigration Services (USCIS) then-Director Leon Rodriguez, and then-Officer Megan Mack met with recently resettled refugees fleeing the conflict in Syria as well as other refugees from Iraq at a CRCL-led roundtable. Also in attendance were Michigan Governor Rick Snyder, Congresswoman Debbie Dingell, Congressman John Conyers, and Detroit Mayor Mike Duggin, along with about 50 community leaders, advocates, and nongovernment organizations. The roundtable began with a [video narrated by Secretary Johnson](#) on the refugee vetting and resettlement process, which was well-received by the communities represented. Secretary Johnson personally welcomed attendees and discussed the important role refugees play in American communities and in furthering diversity, reiterating DHS’ commitment to ensuring that refugees are safely and appropriately resettled throughout the nation. Roundtable participants discussed a number of issues at the event, including refugee resettlement and integration in United States communities, uniting refugee families, and international involvement in the war in Syria. This event represents CRCL’s longstanding role in connecting communities who may feel isolated or disconnected with DHS leadership and provides a forum for the exchange of information, which is crucial to furthering the DHS mission of keeping the nation safe.

Later, Secretary Johnson visited Dearborn, where he hosted a roundtable meeting with interfaith student groups to encourage them to help the Department counter violent extremism. The Secretary also delivered remarks to students at the University of Michigan-Dearborn, and spoke with them about what homeland security means to the next generation of leaders.



DHS Leaders meet with Muslim communities in Detroit

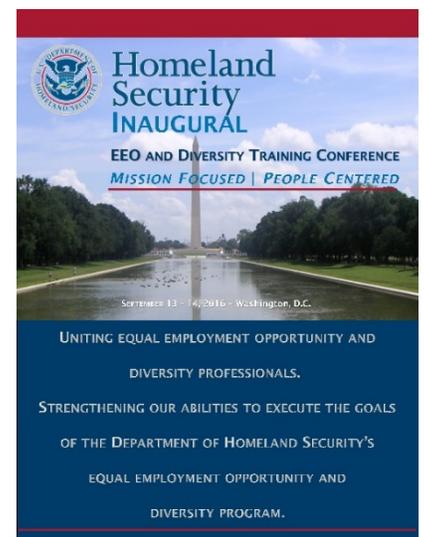
B. Ensuring that Recipients of DHS Financial Assistance Comply with Civil Rights Requirements

In FY 2016, DHS administered several billion dollars in financial assistance to thousands of governmental and nongovernmental organizations (NGO) to support the homeland security mission. Recipients of DHS financial assistance, as a condition of any award, are prohibited from discriminating on the basis of race, color, national origin, disability, sex, or age in the administration of their programs and activities. Recipients that receive financial assistance from DHS for a social service program are also prohibited from discriminating against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.

In order to ensure recipient compliance with these requirements, CRCL developed a data collection tool, along with a related civil rights review process, to effectively and consistently enforce nondiscrimination requirements in federally assisted programs across DHS. The tool advises DHS recipients of their civil rights obligations; obtains an assurance of compliance from each recipient; and collects pertinent civil rights information to assess if the recipient has adequate policies and procedures to achieve compliance, and if not, to determine what action may be needed (technical assistance, training, compliance review, etc.) to make sure the recipient will carry out its programs and activities in a nondiscriminatory manner. This new data collection tool and review process will enable the Department to proactively address compliance concerns in recipient programs preventing federal funds from being used in a discriminatory manner. Clearance of the data collection tool is pending and implementation is anticipated in FY 2017.

C. CRCL Hosts Inaugural Department-wide Equal Employment Opportunity and Diversity Training Conference

CRCL's Equal Employment Opportunity and Diversity Division convened nearly 280 DHS EEO and Diversity professionals from across the country at the Department's Inaugural EEO and Diversity Training Conference. The conference's theme, *Mission Focused / People Centered*, illuminated the critical role of the Department's EEO and Diversity professionals in supporting the DHS mission of safeguarding the American people, our homeland, and values with honor and integrity. Experts from DHS and other federal leaders addressed core competencies in the field of EEO and Diversity, via 20 cutting-edge seminars and plenary sessions. EEO and Diversity practitioners attended workshops on a myriad of topics, including barrier analysis, disability protocols and reasonable accommodation, Special Emphasis Programs, alternative dispute resolution, interpersonal relations and generational diversity, and various





CRCL staff and attendees at the Inaugural EEO and Diversity Training Conference

technical skills training sessions, including a track for EEO Counselors and EEO Investigators to meet annual training requirements. The conference closed with an awards ceremony recognizing individual and team achievements in the promotion of EEO and diversity in the Department. This conference completed a key action item in DHS' EEO and Diversity Strategic plan and represented a commitment towards developing and retaining a more diverse DHS workforce.

D. CRCL Enhanced Oversight of Immigration Detention

In line with CRCL's role to advise on civil rights issues related the DHS activities, in January 2016, following the issuance of the DOJ's "[Report and Recommendations Concerning the Use of Restrictive Housing](#)" (the "DOJ Report"), which focused on the use of various types of restrictive housing by correctional systems, CRCL worked collaboratively with ICE to incorporate the DOJ recommendations. In March 2016, the President directed non-DOJ agencies, including DHS, to review the DOJ Report for applicable recommendations.

As part of the DHS effort, CRCL collaborated with ICE regarding incorporation of the DOJ's recommendations into ICE's revisions of the 2011 Performance-Based National Detention Standards. Additionally, CRCL regularly monitored the segregation placements of ICE detainees to ensure restrictive housing was used only when it was necessary to protect the safety of detainees and staff or the security of the detention facility, pursuant to the ICE 2013 Directive "Review of the Use of Segregation for ICE Detainees."

Stemming from CRCL's investigative work, in October 2016, CRCL was asked to testify in front of the Homeland Security Advisory Committee (HSAC) on DHS's use of private prisons, based on CRCL's statutory oversight and investigatory role and in-depth knowledge. CRCL investigates hundreds of complaints alleging violations of civil rights abuses involving ICE detention each year, including onsite investigations of facilities holding ICE detainees. In December 2016, the HSAC produced a [report](#) in line with many the issues CRCL raised in its testimony before the HSAC, and included recommendations for enhanced oversight to ensure the safety and security of ICE detainees. To that end, CRCL continued to determine the facilities

most in need of onsite investigations and to work with ICE to implement any recommendations stemming from those investigations.

CRCL also continued to work with ICE on developing policies to improve compliance with Section 504 of the Rehabilitation Act of 1973 (Section 504), with respect to the individuals with disabilities in the custody of ICE Office of Enforcement and Removal Operations (ERO).

In FY 2016, ICE made substantial progress in developing new policies to improve compliance with Section 504 and implementing practices to promptly identify disabilities and provide reasonable accommodations in detention. Relying in part on CRCL's recommendations for a new disability policy, ICE drafted and took the final steps to issue a directive on assessment and accommodations for detainees with disabilities that establishes procedures for ERO to oversee and communicate with detention facilities on the assessment and accommodation of detainees with disabilities. ICE also continued its work on development of a new detention standard recommended by CRCL that establishes procedures and requirements to ensure detention facilities' compliance with federal legal requirements and DHS and ICE policies, which was released early in FY 2017.

E. Expansion of the Federal Interagency Core Awareness Training on the Information Sharing Environment

CRCL successfully completed a two-year project to create an interactive and extensive online expansion and update of the Information Sharing Environment (ISE) Core Awareness Training. This foundational course, sponsored by the Program Manager for the ISE, will assist agencies in fulfilling the [2008 ISE Guidance 104](#), "Implementation of the ISE Core Awareness Training." The completed version of the course was designed for federal agency ISE partners and provided an overview of the underpinnings of the ISE, its mission partners, and its impact on the Nation's security. The course also included a significantly expanded discussion on privacy, civil rights, and civil liberties protections for the ISE, and was supplemented by a standalone web portal that provided an essential quick reference tool for the many partners and operational groups within the ISE.

In its [2016 annual report](#), the Program Manager for ISE noted that it was exploring options for adapting the training for use by state, local, tribal, and territorial partners, particularly for the many liaison officers working in state and major urban area fusion centers across the country.

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

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

In FY 2016, the Programs Branch consisted of four sections:

1. Civil Rights and Civil Liberties Institute;
2. Community Engagement;
3. Immigration; and
4. Security, Intelligence, and Information Policy (formerly 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 CRCL Institute leads efforts across CRCL and DHS Components in support of actionable and job-specific training for DHS employees and our federal, state, and local partners relating to civil right and civil liberties. 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 under the law. Effective training on civil rights and civil liberties issues helps to build public trust, operationalize policy, and promote partner cooperation that is essential to the success of the Department's mission.

CRCL defines "training" broadly to encompass a range of activities, approaches, and delivery methods designed to improve mission performance and raise awareness about civil rights and civil liberties at DHS. The Institute reaches virtually every DHS employee through one or more of its programs or products.

Accomplishments in FY 2016

Fusion Center Training Program: Fusion centers serve as primary focal points within the state and local environment for the receipt, analysis, gathering, and sharing of threat-related information among federal, state, local, tribal, and territorial partners. Located in states and major urban areas throughout the country, fusion centers are uniquely situated to empower front-line law enforcement, public safety, fire service, emergency response, public health, critical infrastructure protection and private sector security personnel to lawfully gather and share threat-related information. They provide interdisciplinary expertise and situational awareness to inform decision-making at all levels of government. Fusion centers conduct analysis and facilitate information sharing, assisting law enforcement and homeland security partners in preventing, protecting against, and responding to crime and terrorism.

- In FY 2016, the Institute provided regular one-and-a-half day Training of Trainers (ToT) sessions to fusion center Privacy, Civil Rights, and Civil Liberties (P/CRCL) officers. The ToT program was created in 2010 to assist these officers in providing ongoing training to fusion center state and local liaison officers and other staff. Attendees are expected to conduct at least one training at their fusion center within four to six months following the session. Since its inception, the ToT program has trained officers from 70 of the 78 fusion centers. At the outset of FY 2016, the Institute held a ToT session featuring a presentation of

the “Technology and Privacy/Civil Rights and Civil Liberties Issues in the Information Sharing Environment ” as one key module in the overall session. The module was designed to address how each of the 10 investigative technologies work, the privacy and civil liberties red flags associated with use of the new technologies, and how fusion centers mitigate the privacy, civil rights, and civil liberties risks by adopting privacy-enhancing policies and privacy-by-design mechanisms. Attendees at the session represented fusion centers in Colorado, Guam, Mississippi, Nevada, New York, Oklahoma, Texas, South Carolina, and the District of Columbia.

- CRCL also disseminated its extensive Privacy, Civil Rights, and Civil Liberties Officer Module Series, which includes training modules, PowerPoint presentations, exercises, redacted intelligence products, and trainer notes. This series was developed to allow P/CRCL officers to present the material in customizable workshops to personnel at their own centers with emphasis on the local privacy policy, procedures, and issues. The Institute responded to technical assistance requests from P/CRCL officers across the national network of fusion centers, answering inquiries on a range of topics from integration of P/CRCL policies on handling suspicious activity reports to queries on professional development training on P/CRCL issues in the ISE.
- The Institute also delivered 12 editions of the “In the News” digital newsletter to P/CRCL officers, which has a subscription base of 1,329. The open source newsletter provided a “news feed” function for officers on P/CRCL issues of interest to fusion centers. Of particular note, this year’s newsletters included briefing material co-produced with the DHS Office of Intelligence and Analysis (I&A) on issues concerning the treatment of Syrian refugees and a new section on Supreme Court cases relevant to the ISE and technology.

License Plate Reader Policy Development Template Guidance: CRCL made significant contributions to the [*License Plate Reader Policy Development Template Guidance for Use in Intelligence and Investigative Activities*](#), produced by the Criminal Intelligence Coordinating Council of the Global Justice Information Sharing Initiative and published in February 2017. This guidance is designed to assist justice entity personnel—whether in a law-enforcement or homeland security agency, a fusion center, or an intelligence unit—in developing a comprehensive license plate reader policy. In addition, the policy template will support agency leadership in ensuring the protection of community members’ privacy, civil rights, and civil liberties in the agency’s intelligence or investigative activities that use license plate reader data.

The document is co-published by DHS, DOJ, and the Global Justice Information Sharing Initiative, which serves as a Federal Advisory Committee and advises the U.S. Attorney General on justice information sharing and integration initiatives. The License Plate Reader Policy Development Template will fill a major gap in this area for state and local law enforcement and the intelligence analysts at the fusion centers that rely upon this data.

Building Communities of Trust Meetings: CRCL partnered with I&A to present at the Building Communities of Trust community-based meetings with fusion centers across the country. The goal of the 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

servicing as a catalyst for local sponsorship of an ongoing series of meetings. As part of preparing for these sessions, the Institute worked with local fusion center P/CRCL officers to review and discuss progress and hurdles in fusion center privacy policy implementation. The Institute presented at five meetings in: Frederick, Maryland (October 2015); Rockland County, New York (December 2015); Roanoke, Virginia (January 2016); Orlando, Florida (March 2016); and Charleston, West Virginia (March 2016).

B. Community Engagement Section

Public engagement with diverse American communities remains a top priority for CRCL. CRCL's Community Engagement Section responds to community concerns and provides information regarding DHS programs, activities, and issues by building trust and establishing a routine process for communication and coordination with diverse community leaders and organizations. Since 2005, CRCL has convened regular roundtable meetings with American Arab, Muslim, Sikh, South Asian, and Middle Eastern community leaders in multiple cities across the country. In recent years, the Community Engagement Section expanded its demographic focus to include Latino, Somali, Jewish, and Asian/Asian Pacific Islander communities, and leads a wide variety of substantive outreach endeavors, with core programs in 16 cities working with all segments of society.

The Community Engagement Section aims to:

- Serve as a credible and trusted source for sharing timely, relevant information about federal programs and policies including redress and compliance processes with stakeholders;
- Obtain information and feedback from the public about community concerns and perceived impact of DHS activities on communities in order to facilitate discussion, mutual understanding, and work toward resolution;
- Provide information from engagement efforts within DHS to help incorporate community ideas and input relating to civil rights and civil liberties into the DHS policymaking process;
- Assist Department leadership and the Officer for Civil Rights and Civil Liberties in making informed policy decisions that ensure the protection of civil rights and liberties and advance American values; and
- Contribute to the homeland security mission of building resilient communities by deepening trusted channels of communication and an understanding of federal policies, programs, and resources, among communities, regional DHS and federal leadership, state and local governments, and public officials.

Accomplishments in FY 2016

Community Roundtables and Other Related Engagement: In 2016, CRCL conducted community engagement events and led or played a significant role in regular roundtable meetings among community leaders and federal, state, and local government officials in 16 cities across the country including: Washington, D.C.; Chicago, Illinois; Los Angeles, California;

Boston, Massachusetts; Detroit, Michigan; Tampa/Orlando, Florida; Columbus, Ohio; Seattle, Washington; Atlanta, Georgia; Denver, Colorado; Houston, Texas; New York, New York; Phoenix, Arizona; and Minneapolis/St. Paul, Minnesota. Overall, CRCL coordinated and participated in well over 100 engagement events in 2016, encompassing approximately 64 standing roundtables, 30 secondary meetings and events associated with standing roundtables, and 16 individual engagement events.

Community engagement roundtables provided community leaders an opportunity to speak with DHS and other federal, state, and local partners on issues most important to them. Roundtables were held quarterly in cities throughout the country, and were hosted by federal agencies and community organizations on an alternating basis. Attendees submitted questions beforehand so officials were prepared to respond, and topics of discussion were focused on concerns specific to each city's participants.

The information gathered at CRCL roundtables played a vital role in helping to inform DHS policy decisions and improve the effectiveness of DHS policies and programs. For example, discussion and feedback from roundtable meetings later resulted in recommendations for Component policy improvements made through CRCL's complaints process or immigration policy role. Additionally, training improvements in several DHS Components have resulted from roundtable interactions. For example, CRCL was approached by the U.S. Attorney's Office for the District of Colorado about confusion alleged by members of the Sikh-American communities when obtaining or updating driver licenses. The confusion stemmed from lack of specificity regarding REAL ID requirements pertaining to the hairline in photographs and how individuals with religious head cover, such as the Turban, may be accommodated while complying with REAL ID requirements. In response, CRCL worked with the DHS Office of Policy on clarifying REAL ID requirements for the Colorado Department of Motor Vehicles (DMV).

CRCL Activated the ICCT: The Incident Communication Coordination Team (ICCT) is a conference call mechanism for rapid communication between national community leaders when a particular incident calls for immediate and broad federal engagement of this type. These calls are used to inform community leaders of the Department's current position and actions, and also to receive immediate feedback regarding any civil rights and civil liberties concerns facing community members. The ICCT nationwide call is the only tool of its kind available for rapid-incident communications between the federal government and diverse communities in the immediate aftermath of an incident of national significance.

On June 13, 2016, CRCL activated the ICCT in response to the June 12, 2016, shooting at Pulse Nightclub in downtown Orlando, Florida. Soon after the incident, CRCL heard from trusted community partners who expressed concerns and requested information and resources as a result of this incident. The ICCT included over 358 participants from a cross section of interest-based communities, faith-based communities, and non-governmental organizations. Speakers included senior leadership from DHS; DOJ, including the FBI; the U.S. Department of State; and the Human Rights Campaign. During the ICCT, a local community advocate based in Orlando disclosed information not before familiar to authorities. As a result, CRCL was asked by the FBI

to help follow up by connecting the individual with this information directly with the appropriate authorities for follow up.

Expanded Syria-Related Community Engagement: A highlight of CRCL’s efforts in FY 2016 to implement CRCL’s Syrian Outreach Plan, was Secretary Johnson’s January 2016 visit to a roundtable in Detroit, Michigan. CRCL created its Syrian Outreach Plan based on a request made by the DHS Counter-Terrorism Advisory Board in late FY 2013. The plan outlined a number of concrete short-term and long-term initiatives aimed at expanding Syria-specific engagement with communities demonstrating, or likely to have, strong equities in a variety of topics surrounding the conflict in Syria or the region. At that roundtable, the Secretary met with recently resettled refugees fleeing the conflict in Syria, as well as other refugees from Iraq and Yemen.

As included in the plan’s objectives, CRCL also continued to successfully implement the plan by holding community engagement meetings on topics related to refugee issues, with a focus on Syrian refugees, providing community awareness briefings focused on the foreign fighter threat and the threat of recruitment by Islamic State of Iraq and the Levant (ISIL), conducting youth engagement initiatives, collaborating with partner countries to identify best practices, and involving senior DHS leadership participation in community engagement events.

Implementing the Somali American Community Strategic Engagement Plan: Throughout FY 2016, CRCL continued to implement the Somali American Community Strategic Engagement Plan which was initiated in FY 2011 with marked success. The plan was developed to address a well-documented and unique assortment of civil rights and civil liberties complaints from this segment of the community which, at the time, resulted in a deepening schism between government agencies and the Somali American community. As part of the plan’s objectives to continue building trust with and resilience within the Somali American community, in FY 2016, DHS senior leadership visited with Somali American communities across the country and participated in a variety of roundtables, town halls, women’s and youth summits, and meetings involving efforts to counter violent extremism (CVE).

Campus/Youth Engagement Program: CRCL implemented its Campus/Youth Engagement program in FY 2016. The program included engagement events with young adults across the country, often held in the CRCL’s roundtable cities. A variety of topics were covered; however, young adults were most interested in issues involving immigration enforcement, immigration policy, travel screening, watchlisting, and the No-Fly list. In FY 2016, CRCL hosted several youth engagement events, including one attended by the Secretary. CRCL spearheaded similar efforts with Somali American youth, organizing several successful events across the country in FY 2016. In FY 2017, CRCL intends to host Campus/Youth Engagement events in at least four cities across the country, and plans to attend at least one young adult convention or event to present on issues involving civil rights and civil liberties at DHS. Through this ongoing work, CRCL encourages young adults to become involved with the Department through social media and other forms of cost-effective communication and engagement.

Community Engagement Briefings and Community Resilience Exercises: The National CVE Strategy calls for “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.” While not handling CVE efforts directly, CRCL implemented this strategy primarily by conducting community awareness briefings (CAB) and community resilience exercises (CREX), which were an extension of its community outreach role.

CRCL, with the National Counterterrorism Center (NCTC), developed and implemented the CAB, designed to share unclassified information with communities regarding the threat of violent extremism. The CAB assisted communities and law enforcement in developing the necessary understanding of recruitment tactics and exploring ways to collectively and holistically address these threats before they become a challenge at the local level. In 2016, the Department, in coordination with NCTC, further expanded the CAB to include more content on domestic terrorism, including information on violent sovereign citizens, violent white supremacists, violent militia members, and other groups posing a similar threat to homeland security, and information on how to counter the violent extremist threat. In the past year, DHS led CABs in 12 cities and four foreign countries, reaching approximately 1,000 community members.

The CREX is a half-day table-top exercise designed to improve communication between law enforcement and communities and to share ideas on how to best build community resilience against violent extremism. The CREX uses an unfolding scenario of possible violent extremist activity with two threads: one thread disclosing what the police have learned and the other thread what the community experiences. The scenario is revealed in several stages, with participants breaking into small groups after each stage to discuss potential responses and how they should work together. The scenario is hypothetical, but is based on behaviors exhibited by past violent extremists prior to their arrest. At the end of the exercise, the facilitators help the participants create a local action plan focused on prevention and intervention. CREXs focus on building trust and empowering communities against violent extremism domestically, a theme that directly supports the domestic CVE Strategy and Strategic Implementation Plan. In the past several years, DHS has led CREXs in a half-dozen cities and three partner countries. In 2016, CRCL coordinated four CREX efforts, two domestically and two internationally.

International Engagement: CRCL plays a key role in training international partners in the Department's methods of community engagement and how this work strengthens DHS's efforts to counter violent extremism. CRCL regularly participated in international meetings, conferences, and trainings throughout Europe, Canada, and Central Asia in coordination with the U.S. Department of State. In addition to sharing best practices on community engagement and CVE, these efforts promoted immigrant integration, youth empowerment, resolution of grievances, and protection of civil rights and liberties.

For example, in FY 2016, CRCL traveled to Madrid and Barcelona, Spain, to discuss best practices on community engagement and CVE, organized by the U.S. Embassy in Madrid. During the tour, CRCL met with the Journalists Association of Catalonia, leaders of Muslim communities, the European Institute of the Mediterranean, local and national government leaders, and law enforcement agencies. CRCL also led presentations on community engagement best practices and delivered the DHS CAB.

Also in FY 2016, CRCL conducted a social media training seminar hosted by the U.S. Embassy in London, England, for over 125 civil society and youth activists on combatting violent extremism online. Social media companies, including YouTube, Twitter, Facebook, and Google, provided lectures on content development, increasing viewership, and data analytics tools to improve viewers' experiences.

A highlight of CRCL's international engagement is its annual community engagement exchange program, coordinated with the U.S. Department of State. These City Pair Programs pair cities in the U.S. with cities in European countries, and each sends a delegation representing civil society and local government to exchange best practices on community engagement and the benefits to CVE. The City Pair Program, which is funded by the U.S. Department of State, started in 2011, and has been paired with Germany, Belgium, and most recently in FY 2016, with Sweden. During the Sweden exchange, CRCL visited Angered, Sweden, where representatives provided a CAB and participated in a series of meetings with Swedish counterparts, exchanging best practices on community engagement and discussing issues involving civic engagement, integration, youth issues, and community relationships with local law enforcement. During the next phase of the program, the Swedish group visited Washington, D.C. and Chicago, Illinois, to continue the conversation and participated in site visits, briefings, and meetings with local Chicago-based partners, including a briefing with the FBI Special Agent in Charge, the Chicago Police Department, and the Illinois Criminal Justice Information Authority and its newly created Targeted Violence Prevention Program.

Also in FY 2016, CRCL continued its involvement in implementing the United Nations Human Rights Council (UNHRC) Resolution 16/18, which focuses on "Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence Against, Persons Based on Religion and Belief." The Resolution focuses on concrete, positive measures that nation states can take to combat religious bias and intolerance rather than legal measures to restrict speech. CRCL and the DOJ Civil Rights Division co-lead the country-to-country implementation of UNHRC 16/18, conducting training programs on religious tolerance abroad. In FY 2016, CRCL was in Spain, Saudi Arabia, and Macedonia conducting the training.

C. Immigration Section

Civil rights and civil liberties issues can arise in the Department's dual mission to foster lawful international travel, commerce, and immigration while preventing unlawful immigration and enforcing immigration laws. CRCL's Immigration Section works with DHS Components to ensure that civil rights and civil liberties are considered in, and incorporated into, immigration and border policies and programs, as well as other programs utilizing immigration-related data. CRCL also communicates with the public and with the nongovernmental and civil society community about civil rights and civil liberties issues in the Department's immigration activities; provides training on civil rights issues to DHS Components; drafts, edits, and provides comments on issue papers, testimony, speeches, legislative proposals, and regulations; and supports the Officer, under Executive Order 13107, as the Department's single point of contact for international human rights treaty responsibilities. The Immigration Section works closely with the CRCL Compliance Branch, providing subject-matter expertise on complaints raising immigration issues and advancing policy development in DHS Components.

Accomplishments in FY 2016

Interior Immigration Enforcement Oversight: In November 2016, ICE began wide use of form I-247X, *Request for Voluntary Transfer*, which ensures that cases of aliens subject to enforcement by virtue of a law enforcement encounter, but who are not within one of the enumerated Priority Enforcement Program priorities, are fully documented in the appropriate ICE system of record. CRCL supported ICE in the development of this important tool, and continued throughout FY 2016 to develop a monitoring approach where data from all of ICE's enforcement actions tied to state and local law enforcement agencies could be included.

DHS Implementation of the 2014 DOJ Guidance on Use of Race, Ethnicity, and Other Characteristics: Since its beginning, the Department has had policies and procedures in place to ensure fair and equitable treatment of individuals and to guard against discrimination, including DHS's adoption of anti-profiling guidelines issued by DOJ in 2003, in an updated DHS policy issued by then-Secretary Napolitano in 2013. In December 2014, DOJ issued new [Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity](#). In FY 2016, CRCL led the Department's efforts to implement the Guidance, where applicable, across DHS's varied missions.

The 2014 DOJ Guidance applies to a range of activities that were not as comprehensively covered by prior policy, such as interior immigration enforcement, and for the first time creates uniform standards for the use of religion, sexual orientation, and gender identity in law enforcement activities. While several DHS mission areas are excluded from the scope of the Guidance, including interdiction activities in the vicinity of the border and certain protective, inspection, and screening activities, the Department reviewed all of those activities to ensure that all appropriate safeguards and civil rights protections are applied to those activities as a matter of DHS policy. In particular, in FY 2016, CRCL worked with U.S. Customs and Border Protection (CBP) and TSA as they reviewed existing policies and procedures for their activities not covered by the DOJ Guidance. CRCL also focused on considering revisions to the 2013 Department policy issued by Secretary Napolitano to reflect the updates in the DOJ Guidance.

Liaison Activities: CRCL hosted quarterly meetings of the DHS Civil Rights/Civil Liberties Committee, an NGO-led group that provides a forum to share information on CRCL's activities and receive NGO input on matters of concern. In addition to the four meetings of the Committee during FY 2016, CRCL was engaged in numerous communications and stakeholder events, including interagency meetings to hear NGO concerns on family separation, on implementation of the DOJ Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity, and interagency consultations with NGOs in connection with the United Nations (U.N.) Human Rights Council's Universal Periodic Review.

Strengthening and Protecting Confidentiality of Victims: In FY 2016, CRCL continued to take the lead in an ongoing Department-wide effort 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, a provision generally known as “VAWA confidentiality,” after its initial inclusion in the Violence Against Women Act (VAWA) of 1994.

In September 2013, the Acting Secretary delegated to the CRCL Officer the authority to implement those confidentiality provisions throughout the Department. Throughout FY 2016, CRCL continued to lead several implementation efforts, including finalizing its own individualized policy to safeguard Section 1367–protected information within CRCL. CRCL staff led a DHS working group to develop an additional Department-wide policy to protect Section 1367 information, which was vetted through all DHS Components, finalized, and went into effect in FY 2016.

Unaccompanied Children: In FY 2016, CRCL continued to support the Department’s response regarding the migration surge of unaccompanied children, including participating in a joint working group with the U.S. Department of Health and Human Services (HHS), to develop a Memorandum of Agreement between DHS and HHS involving shared roles and responsibilities for care and custody of unaccompanied children. CRCL also continued to participate in interagency and stakeholder meetings, in addition to reviewing many Department-wide documents related to unaccompanied children. In August, the Immigration Section partnered with the Compliance Branch to develop and deliver training about CRCL’s complaint work concerning unaccompanied children to an audience of over 200 ICE and CBP Field Office Juvenile Coordinators at their annual training.

Protecting Other Vulnerable Populations, Including Women and Children: CRCL has continued numerous projects dedicated to protecting the rights of some of the country’s most vulnerable immigrant populations. One such effort is working with the DHS Council on Combatting Violence Against Women (CCVAW), which CRCL assisted in reinvigorating and restructuring in FY 2016, supporting each of the CCVAW’s three subcommittees. Under the auspices of the CCVAW, CRCL and USCIS have created and co-chaired a working group that is dedicated to developing a written outreach and education plan to protect women in the U.S. from female genital mutilation/cutting. The working group has representatives from multiple DHS Components and will finalize and implement its work in FY 2017.

Additionally, CRCL has continued its efforts to help protect transgender detainees. CRCL continued to participate in the ICE Transgender Working Group, which was responsible in FY 2015 for developing and issuing new guidance on the care of transgender individuals in ICE custody in the form of a memorandum entitled “[Further Guidance Regarding the Care of Transgender Detainees](#).” In FY 2016, CRCL continued this work, tracking implementation of the memorandum, which addresses many elements of custody of transgender individuals, including improvements to data systems to better record and track gender identity and enhanced procedures for identifying and processing transgender detainees. Relying on the expertise gained through the working group, the Immigration Section also assisted the Compliance Branch at an on-site investigation of transgender care and custody at a detention facility in California, which had signed a contract modification to follow the requirements of the Transgender Care Memorandum and has a dedicated pod for transgender detainees.

Lastly, in FY 2016, CRCL worked closely with experts from USCIS, CBP, and ICE to create and published a brochure on the law enforcement certification process for U visa petitioners for CBP

and ICE to distribute to their law enforcement partners. By providing law enforcement agencies with accurate and timely information on their role as certifying agencies, the Department can help ensure victims of crimes are better able to receive certifications and access relief.

International Human Rights Treaties: CRCL supports the Officer in her role as coordinator for the Department's activities involving outreach about, processing complaints under, and reporting information to the international bodies responsible for human rights treaties to which the U.S. is a party.

This year, the U.S. submitted its periodic report to the U.N. Committee on the Rights of the Child on U.S. implementation of the two Optional Protocols to the Convention on the Rights of the Child. The report was submitted pursuant to the two Protocols to which the U.S. has been a party to since 2002: the Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography and the Optional Protocol on the Involvement of Children in Armed Conflict. In FY 2016, the Officer hosted visits to the Department by several U.N. working groups or special rapporteurs, including the U.N. Working Group on Discrimination Against Women, the U.N. Working Group on People of African Descent, the U.N. Special Rapporteur on Freedom of Association, as well as the U.N. Working Group on Arbitrary Detention's pre-visit in April in preparation for its official visit in October 2016.

CRCL coordinated the Department's participation in several interagency civil society consultations on the various U.S. recommendations resulting from the U.N. Human Rights Council's Universal Periodic Review (UPR). In addition, the CRCL Officer co-hosted, with the U.S. Department of Labor's (DOL) Chief of Staff, the consultation focusing on UPR recommendations related to immigration, trafficking, labor, and children. CRCL also coordinated DHS responses to inquiries from other international organizations, including the Inter-American Human Rights Commission.

Review of Computer Matching Agreements under the Data Integrity Board: The CRCL Officer is a member of the DHS Data Integrity Board, which oversees agency matching programs pursuant to the requirements of the Computer Matching and Privacy Protection Act, an amendment to the Privacy Act of 1974. CRCL supports the Officer in her responsibility to review and approve the creation or renewal of agency computer matching agreements (CMA).

Many CMAs reviewed by CRCL involve a federal or state agency that seeks immigration data from USCIS to determine an applicant's eligibility for certain public benefits. Specifically, USCIS may enter into a CMA with a government agency to provide it with electronic access to immigrant, nonimmigrant, and naturalized or derived citizenship status information contained within or accessed by the USCIS Verification Information System.

The Officer's review includes consideration of whether the CMA protects an individual's privacy, due process, and equal protection rights, and whether the sharing of information is authorized by law. For example, failure to provide individuals with an appropriate process to contest and resolve mismatches may result in an individual's loss of government benefits based upon an inaccurate computer match. An essential part of the review process includes discussions

and negotiation with DHS's CMA partners on CMA language to best protect the rights of persons subject to verification.

The Data Integrity Board review process led to several important improvements in CMAs executed by DHS with state agencies in FY 2016, including:

- Requiring the state agency to appoint a Systematic Alien Verification for Entitlements (SAVE) compliance officer to better ensure compliance with program rules;
- Providing heightened due process protections for individuals when the state agency contemplates denying an application based on a SAVE response;
- Providing heightened monitoring and compliance provisions;
- Expressly recognizing that naturalized and derived U.S. citizens may be subject to matches; and
- Providing a more thorough nondiscrimination provision.

In FY 2016, the CRCL Officer reviewed and voted to approve or extend the following CMAs:

- A 12-month renewal of the CMA between USCIS and the U.S. Department of Education for verification of immigration and naturalized or derived U.S. citizen status of applicants or recipients of student financial assistance programs under Title IV of the Higher Education Act of 1965, including the Federal Pell Grant Program, the Federal Perkins Loan Program, and the Federal Work-Study Program;
- A 12-month renewal of a CMA between USCIS and the Social Security Administration to disclose information identifying noncitizens who leave the U.S. voluntarily and noncitizens who are removed from the U.S. for determining eligibility for Supplemental Security Income, retirement and disability insurance benefits, and auxiliary or survivors benefits;
- An 18-month renewal of the CMA between USCIS and the California Department of Social Services for verification of immigration and naturalized or derived U.S. citizen status of applicants for, and recipients of, Medicaid;
- An 18-month renewal of the CMA between USCIS and the Texas Workforce Commission for verification of immigration and naturalized or derived U.S. citizen status of applicants for, and recipients of, benefits for unemployment compensation;
- An 18-month renewal of the CMA between USCIS and the Massachusetts Division of Unemployment Assistance for verification of immigration and naturalized or derived U.S. citizen status of applicants for, and recipients of, unemployment compensation;
- Recertification of the CMA between USCIS and the New York Department of Labor for verification of immigration status of applicants for, and recipients of, unemployment compensation;
- An 18-month renewal of the CMA between USCIS and the New Jersey Department of Labor and Workforce Development for verification of immigration and naturalized or derived U.S. citizen status of applicants for, and recipients of, unemployment compensation benefits; and
- An 18-month renewal of the CMA between the Federal Emergency Management Agency (FEMA) and the U.S. Department of Housing and Urban Development for verification of immigration and naturalized or derived U.S. citizen status of applicants for, and

recipients of, disaster assistance to ensure eligibility for benefits and non-duplication of benefits.

Enhancing Civil Rights Protections in the SAVE Program, E-Verify, and Form I-9

Compliance: In FY 2016, CRCL participated in the development of a revised Form I-9, which included enhanced privacy protections for individuals. CRCL actively works with the USCIS Verification Division, ICE Homeland Security Investigations (HSI), and the DOJ Civil Rights Division's Immigrant and Employee Rights Section (formerly the Office of Special Counsel for Immigration-Related Unfair Employment Practices) to ensure that civil rights and civil liberties protections are incorporated into the employment eligibility verification process. CRCL also worked with USCIS to ensure the protection of civil rights when government agencies use the SAVE Program to verify citizenship or immigration status when making eligibility determinations for essential government benefits, voter registration, and licenses.

CRCL also reviewed the USCIS SAVE program to ensure that individuals would not be improperly denied essential benefits, services, or licenses based upon SAVE data discrepancies or mismatches. Based on this review and follow-up with USCIS, by the end of FY 2016, a number of agreements between USCIS and state agencies have been updated to emphasize the requirements for additional verification upon a mismatch, an opportunity for individuals to contact USCIS to resolve mismatches with USCIS before denial of benefits, and to encourage user agency appointment of compliance officers. CRCL will continue its work in this area in FY 2017.

Implementing the REAL ID Act: In FY 2016, CRCL worked closely with the DHS Office of Policy on the implementation of the REAL ID Act of 2005. CRCL assisted in the development of roll-out plans and public guidance, seeking to ensure the fair treatment of all persons who may be affected by implementation, particularly low income persons and other vulnerable groups. In FY 2016, in response to stakeholder requests for technical assistance following allegations that some DMVs, citing DHS REAL ID requirements, prohibited persons from wearing religious head coverings in their driver's license or state identification card photographs, CRCL worked with the DHS Office of Policy and Office of General Counsel (OGC) to craft guidance for the public and for DMVs. This resulted in the [REAL ID Frequently Asked Questions](#) document that made clear that the REAL ID Act and DHS's REAL ID regulation do not generally require an individual who wears a head covering for religious reasons to remove or alter the head covering in their DMV photograph.

CRCL also worked with the DHS Office of Policy, OGC, and TSA to create guidance for the public regarding how REAL ID implementation will impact domestic air travelers. Particularly, the guidance provides information for travelers with driver's licenses or state-issued identification cards issued by non-compliant states without an extension. Beginning January 22, 2018, travelers must obtain and present alternative documentation, such as a U.S. Passport or a DHS trusted traveler card (see <https://www.tsa.gov/travel/security-screening/identification>).

Ensuring Consistent Enforcement of Federal Labor, Employment, and Immigration Laws:

During FY 2016, CRCL was an active participant in the Interagency Working Group for the Consistent Enforcement of Federal Labor, Employment, and Immigration Laws, created early in

FY 2015. The Working Group is composed of federal immigration enforcement agencies and federal agencies responsible for worker protections, including DOL, DHS, DOJ, EEOC, and the National Labor Relations Board (NLRB). The Working Group seeks to ensure consistent enforcement of federal labor, employment and immigration laws, particularly with respect to promoting worker cooperation with labor and employment law enforcement authorities without fear of retaliatory immigration enforcement. In FY 2016, through the efforts of the working group, DHS, DOL, EEOC, and the NLRB entered into an Addendum to the 2011 DOL and DHS Revised Memorandum of Understanding between the Departments of Homeland Security and Labor Concerning Enforcement Activities at Worksites. The Addendum modifies the 2011 memorandum of understanding (MOU) between DHS and DOL by setting forth the ways in which the EEOC and NLRB will also work together with DOL and DHS (the original parties to the MOU) to ensure that the civil worksite enforcement activities of the EEOC and the NLRB do not conflict with DHS's worksite enforcement activities.

CRCL also participated in an interagency working group with the DHS Office of the Citizenship and Immigration Services Ombudsman, USCIS, the DHS Office of Policy, DOL, and the U.S. Department of State to address labor issues specific to nonimmigrant workers in the U.S.

D. Security, Intelligence, and Information Policy Section

The Security, Intelligence, and Information Policy Section (SIIP) provides guidance and oversight designed to preserve civil rights and civil liberties in the execution of homeland security programs and activities. SIIP works with Components and offices to ensure that appropriate protections and safeguards are incorporated into the Department's screening and vetting programs, information sharing and safeguarding activities, cybersecurity efforts, security technologies, and intelligence programs and products.

Accomplishments in FY 2016

Information Sharing: In FY 2016, CRCL actively worked with the DHS Information Sharing and Safeguarding Governance Board and its subordinate bodies, including the Information Sharing Coordinating Council, the Information Safeguarding and Risk Management Council, and the Data Access Review Council to ensure that civil rights and civil liberties protections were incorporated into the Department's information sharing and safeguarding policies, agreements, and programs. CRCL continued collaborative engagement with partners to develop policy and guidance for a Department information sharing and access agreement review process that accounts for potential risks to civil rights and civil liberties and identifies appropriate safeguards to mitigate those risks.

DHS Data Framework: CRCL continued its collaboration with the DHS Privacy Office (PRIV), OGC, I&A, and the Office of the Chief Information Officer (OCIO) 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. CRCL provided guidance regarding appropriate civil rights and civil liberties safeguards during this process, including for the ingestion and uses of new data sets. In addition, CRCL worked with its DHS partners in meeting leadership's accelerated timeframe. CRCL also supported the development of a pilot to

test the feasibility of storing and controlling access to Data Framework data in the intelligence community cloud.

Nationwide Suspicious Activity Reporting Initiative: CRCL continued quarterly training of 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” document that protects civil rights and civil liberties.

Intelligence and Analysis Product Review: Since FY 2009, CRCL has worked with I&A to review classified and unclassified products. CRCL’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. CRCL reviewed more than 1,000 products in FY 2016, ensuring that the intelligence delivered to state and local partners was appropriately sensitive to and protective of civil rights and civil liberties.

CRCL Principles for DHS Intelligence Analysis Training: In addition to developing new training for the transition of finished intelligence review, CRCL continued its participation in training for the Department’s intelligence enterprise personnel. The CRCL portion of the Reports Officers Course, for example, teaches reports officers how to draft unevaluated raw intelligence information reports that are protective of civil rights and civil liberties. Familiarization training is also provided during the Basic Intelligence and Threat Analysis Course.

Insider Threat Program Oversight: CRCL participates in the Department’s Insider Threat Oversight Group, ensuring that activities designed to detect and prevent insider threats comply with Department policy and do not constitute retaliation against whistleblowers or others who have filed employee grievances or EEO complaints. In FY 2016, CRCL continued oversight activities under Department directives, reviewing and approving the use of new tools and techniques by the Insider Threat Program and new training for the DHS workforce.

Social Media: In FY 2016, CRCL participated in the Department’s Social Media Task Force, advising on civil rights and civil liberties considerations in the operational use of publicly available social media information for screening and vetting purposes. Social media can provide the Department with critical information related to the execution of its missions and DHS is determined to expand its use of social media consistent with privacy and other laws—recognizing the important interests in freedom of speech, rights of association, and the free exercise of religion, among others. Involvement in several operational pilots with components, as well as the DHS Science and Technology Directorate’s testing of commercial solutions, permitted CRCL to help shape policy and procedural decisions such that mission goals were achieved in a manner that preserved those important civil rights and civil liberties values.

Cybersecurity: CRCL worked with PRIV, the National Protection and Programs Directorate (NPPD), and DOJ to draft four separate cybersecurity guidance and procedural documents in accordance with the Cybersecurity Information Sharing Act of 2015. One of the documents,

Privacy and Civil Liberties Guidelines, provides privacy and civil liberties guidance in the manual and automated receipt, retention, use, and dissemination of cyber threat indicators by federal entities, including during activities involving information sharing with state, local, tribal, territorial entities, and the private sector. CRCL also continued its efforts to support the Department's implementation of Executive Order 13636 (Improving Critical Infrastructure Cybersecurity) and Executive Order 13691 (Promoting Private Sector Cybersecurity Information Sharing). CRCL worked with PRIV to conduct a privacy and civil liberties assessment of activities conducted under those orders. The Office also 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 and new programs and activities. This included providing civil rights and civil liberties guidance and oversight to those DHS-led programs that secure the .gov domain and protect critical infrastructure, including assistance in operations of the EINSTEIN program, Enhanced Cyber Security program, Continuous Diagnostics and Mitigation, and the Automated Indicator Sharing program.

Automated Targeting System Rules: CRCL, in partnership with PRIV and OGC, continued conducting quarterly reviews of CBP's and TSA's risk-based targeting rules 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 decision support tool used by CBP to improve the collection, use, analysis, and dissemination of information that is used to facilitate legitimate trade and travel while managing the shared threat to the homeland posed by individuals and cargo that may require additional scrutiny prior to entering or exiting the United States.

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. CRCL's work in this area, in partnership with TSA, includes reviews of standard operating procedures and policymaking on risk-based domestic screening, including the TSA Pre✓® program, and guidance on preserving individual rights in those activities.

Watchlist Guidance: CRCL, in collaboration with the DHS Screening Coordination Office, worked to support DHS policies concerning watchlisting and engaged in the interagency process during the review and revision of Federal Government policy governing watchlisting. During that engagement, CRCL provided civil rights and civil liberties-focused comments and advice as part of the ongoing discussion regarding implementation of existing, new, or revised policy proposed by the interagency.

Unmanned Aircraft Systems: CRCL co-chairs the DHS Unmanned Aircraft Systems (UAS) Working Group, comprising most DHS Components and offices, which serves to provide awareness of UAS activities throughout the Department to ensure privacy, civil rights, and civil liberties are protected. In early FY 2016, the Working Group published the DHS [*Best Practices for Protecting Privacy, Civil Rights & Civil Liberties in Unmanned Aircraft Systems Programs*](#). Based on the Department's use of UAS, the best practices represent an optimal approach to protecting individual rights for local, state, and federal agencies seeking to develop a UAS program.

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;
- Inappropriate use of force by DHS officers or agents;
- Inadequate conditions of detention;
- Violation of the right to due process, such as the right to timely notice of charges or access to a lawyer;
- Violation of the confidentiality requirements of 8 U.S.C. § 1367, relating to VAWA, T visas, and U visas; or
- Any other civil rights or civil liberties violation related to a Department program or activity, including human rights complaints.

In FY 2016, CRCL processed 3,066 pieces of incoming correspondence, including allegations that are considered for potential investigation, an increase of 33 percent over FY 2015 (2,310). This increase resulted in additional complaints opened and investigations conducted.

Additionally, in FY 2016, CRCL opened 639 complaint investigations and closed 878 complaint investigations (an increase of 97 percent over FY 2015). Thus, CRCL continued to process, investigate, and close these matters efficiently, despite increased volume and without a commensurate increase in workforce or other resources. Additionally, CRCL received a 91 percent concurrence rate with Component recommendation responses and issued many important recommendations that were outstanding at the end of this reporting period and under review throughout DHS.

Of the 639 complaints CRCL opened, 25 were retained by the DHS Office of Inspector General (OIG) for its own investigation. Tables 2 and 3 summarize complaints CRCL opened and complaints CRCL closed in FY 2016. Appendix B includes tables detailing complaints retained and closed by the OIG. The tables also describe the number of CRCL complaints received per quarter, by Component, and issue. Summaries of complaints that CRCL closed during the reporting period are provided in Sections C and F.

During FY 2016, CRCL added 2,427 matters into its information layer² summarized in Table 4.

² The information layer, a subset of the Compliance Branch system of record, is used to track issues and identify potential patterns of civil rights or civil liberties allegations that may result in CRCL review. CRCL does not investigate the matters entered into its information layer.

Accomplishments in FY 2016

Compliance Branch accomplishments from FY 2016 reflect and arise not only from the 878 complaints successfully investigated and closed during the fiscal year, but also from analysis of the universe of incoming allegations CRCL received.

Medical Referral Process Overhaul: CRCL receives hundreds of allegations annually concerning medical and mental health care provided to individuals held in the custody of ICE; in FY 2016, CRCL received 329. Some allegations present life-threatening concerns that require immediate attention, while others are not as urgent, but may indicate systemic problems with the treatment detainees receive while in ICE custody. Since 2012, CRCL and ICE have maintained a medical referral process that supports CRCL’s referral of these types of allegations to ICE for further investigation and response. Information provided by the ICE Health Services Corps (IHSC) is then reviewed by CRCL to determine whether the allegations are unfounded, have been adequately addressed and do not require further action by CRCL, or if remaining concerns call for further investigation by CRCL. In January 2016, CRCL developed an internal framework for the medical referral process that significantly improved the timeliness of complaint closures, decreased the allocation of CRCL workforce needed to investigate the complaints, and streamlined the process for communicating complaint statuses and inquiries to ICE.

Segregated Detainee Housing: In January 2016, DOJ issued its “Report and Recommendations Concerning the Use of Restrictive Housing,” which focused on the use of various types of restrictive housing by correctional systems. In March 2016, the President directed all other federal agencies to review the DOJ Report for applicable recommendations. CRCL’s Compliance Branch and Immigration Section worked collaboratively with ICE to incorporate the DOJ recommendations in a report to the White House covering the use of restrictive housing in its detention facilities; the reforms that ICE has already implemented; and the additional policy changes that ICE intends to adopt in light of the recommendations in the DOJ report. CRCL also collaborated with ICE to incorporate DOJ’s recommendations into revisions of the 2011 Performance-Based National Detention Standards (PBNDS). Additionally, CRCL continues to monitor the segregation placements of ICE detainees to ensure restrictive housing is used only when it is necessary to protect the safety of detainees and staff or the security of the detention facility, as required by the 2013 ICE Directive “Review of the Use of Segregation for ICE Detainees.”

Family Detention: As a result of the surge of families entering the U.S. at and between ports of entry along the southern border since 2014, CRCL undertook substantial involvement in overseeing ICE’s expanded network of Family Residential Centers. CRCL has conducted regular onsite investigations and follow-up reviews at each family residential facility since 2014. Between the initial visits in 2014 and September 30, 2016, CRCL completed three follow-up onsite investigations of the family residential centers located in Karnes and Dilley, Texas, and one onsite investigation of the oldest of the family center in Berks, Pennsylvania in August 2016. CRCL used the same subject matter experts in conditions of detention, medical care, mental health care, and environmental health and safety for each review—not only to assess whether the facilities implemented the experts’ recommendations after the previous review, but also to gauge

whether and to what degree the facilities continue to improve in their implementation of applicable detention standards, regulations, legal settlement terms, and other best practices over time. The experts have submitted expert reports after each onsite investigation. CRCL and the experts provided ICE and the facility management with a verbal exit briefing at the conclusion of each onsite; as a result, many positive changes have occurred at the facilities promptly following the exit briefings. ICE and the facilities' leadership efforts to implement CRCL recommendations so quickly has been notable, including such needs as language services, safe housing, child education, food service, recreation, day care, law library, medical and mental health care, and visitation, including legal visitation. However, CRCL believes many additional improvements are still needed. CRCL expects to continue follow-up inspections at the family facilities each year.

FPS Complaint Process: In order to implement recommendations stemming from an investigation into the Federal Protective Service (FPS) complaint process (see page 34), CRCL has been collaborating with FPS, which sits within NPPD, to correct, document, and implement a functional and effective complaint process. As a result of the recommendations, a joint working group was formed with both NPPD and CRCL as co-chairs. The goal of the working group is to establish complaint tracking mechanisms, post signage instructing individuals how to report complaints, establish a point of contact to communicate with CRCL, and provide visibility into filed complaints. In April 2016, representatives from CRCL, NPPD, and FPS held their first working group meeting. As a result of this ongoing collaboration, in September 2016, NPPD and FPS posted information on their websites instructing the public on how to submit complaints regarding FPS employees and contractors, what kind of complaints can be reported, and what information to include in a complaint. Plans to post signs at federal offices and buildings nationally are still being developed. NPPD has also established a mechanism to track complaints forwarded by CRCL. The group continues to discuss the remaining recommendations and is making progress towards their implementation.

A. FY 2016 Investigations

CRCL receives complaints and information regarding issues and incidents that may merit investigation from a variety of sources, including the general public, Members of Congress, NGOs, other DHS Offices and Components, OIG, and other governmental agencies. For example, HHS's Office of Refugee Resettlement sends CRCL reports regarding treatment of unaccompanied children by DHS personnel. DOJ also forwards public complaints which raise concerns that may fall within CRCL's jurisdiction. Since October 2009, ICE has notified CRCL whenever a person has died in ICE custody, and CBP sends CRCL reports of non-employee deaths.

Pursuant to 6 U.S.C. § 345(a)(6) and internal DHS policies, CRCL begins the complaint process by referring all complaints opened by CRCL to the DHS OIG, which then determines whether or not it will investigate the complaint. If the OIG declines to investigate the complaint, it is returned to CRCL, which determines whether the complaints should be retained for CRCL's own investigation or referred to the relevant DHS Component(s) for investigation. If CRCL keeps the complaint for investigation, CRCL requests information from the Component and conducts its own factual investigation. If a complaint is referred, the Component issues a Report of

Investigation (ROI) to CRCL at the completion of its factual investigation.³ CRCL reviews the ROI and determines whether additional investigation is warranted and/or whether recommendations should be issued to the Component. Although the recommendations made as a result of individual investigations are generally made confidentially to the affected Component, CRCL notifies complainants of the general results whenever possible and provides summaries of its recommendations in its annual and semiannual public report.

B. Investigative Processes

Expert Recommendations from Onsite Investigations at Immigration Detention Facilities:

Each year, CRCL's Compliance Branch conducts onsite investigations at ICE and ICE-contracted detention facilities to examine alleged violations of civil rights and civil liberties related to immigration detention. In FY 2016, CRCL conducted onsite investigations at 11 facilities where ICE held immigration detainees.⁴ For these reviews, CRCL utilized the assistance of competitively awarded contract subject matter experts in the areas of medical care, mental health care, correctional security and operations, use of force, and environmental health and safety. Following each investigation, CRCL reviews the subject matter experts' recommendations and provides, in consultation with the experts, those recommendations that it deems significant in an initial report. ICE is asked to review the recommendations and provide a written response regarding concurrence or non-concurrence, and to provide evidence of implementation of the concurred-with recommendations within a defined timeframe. If ICE non-concurs, it must provide an explanation, which CRCL reviews to determine whether to continue discussions on the substance of the disagreement with ICE or consider raising to DHS leadership. Summaries of complaints for which CRCL submitted an expert recommendations memorandum to ICE in FY 2015 are provided in Section D.

Draft Recommendations Process: For complaints in which CRCL determines that operational recommendations should be issued to Components, CRCL provides the Components drafts of recommendations memoranda. This provides Components an opportunity to review and comment on the drafts within time frames designated by CRCL, generally within 60 days. After receiving comments, CRCL makes every attempt to resolve any areas of disagreement prior to finalizing the memoranda and issuing recommendations. Providing the opportunity for Components to review the draft memorandum and provide feedback also enables Components to inform CRCL of steps they may have taken or may intend to take to implement the recommendations.

³ Retained cases may be subject to a full investigation or short-form resolution. CRCL has implemented "short-form" complaint processing procedures to facilitate swift action on urgent complaints and expeditious resolution of allegations that are narrowly focused and require limited investigation. The short-form process makes it easier to open and close complaints, allowing speedier resolution. Cases that subsequently require additional work are converted to standard investigations.

⁴ These onsite investigations involved facilities in Arizona, California, Florida, Georgia, New Jersey, and Texas. The facilities included two family facilities, one Service Processing Center, three dedicated Intergovernmental Service Agreement (IGSA) facilities, four non-dedicated IGSA's, and one Intergovernmental Agreement facility through the U.S. Marshalls Service.

Component Responses to CRCL Expert and Recommendations Memoranda: CRCL requests Component responses to experts and final recommendations memoranda within the specified timeframe provided at issuance. In FY 2016, CRCL received seven ICE responses to complaints. Summaries of complaints for which CRCL submitted an expert memorandum or recommendations memorandum and received Component responses in FY 2016 are provided in Section E.

Complaints Closed through Informal Resolutions: A large percentage of CRCL complaints are investigated and closed without the issuance of recommendations. This typically occurs when allegations are unsubstantiated; when an allegation does not warrant a recommendation because existing policy, procedures, and training are found to be sufficient; or when the Component has already addressed the concerns that CRCL identified. However, beyond the recommendation process, CRCL may, when appropriate, conclude its investigation of a complaint through an informal resolution rather than a formal recommendation. An informal resolution is appropriate for a narrow concern or request that is best addressed by communication directly from CRCL leadership to the leadership of the involved Component. These communications remain outside the formal recommendation process, yet explain the issue or concern found and may offer proposed resolutions. After sending the informal resolution email, CRCL closes the relevant complaint(s). During FY 2016, CRCL transmitted proposed informal resolution emails to ICE and CBP addressing issues arising in 22 complaints. Summaries of complaints that CRCL closed with informal resolutions in the reporting period are provided in Section F.

TABLE 2: COMPLAINTS OPENED FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 136			FEMA 1			ICE 404			TSA 9			USCIS 58			USSS 1			Multi-Component 30			Sub-Totals 639			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	6		6				2		5												2	8		13	21	
Conditions of detention	1		17				5	16	22												1	6	16	40	62	
Disability accommodation (Section 504)			3						6			3			43						4			59	59	
Discrimination/profiling	7		12				1	1	5			1	1		2				1			10	1	20	31	
Due process	2	8	9				1	3	21				1	2	5						3	6	4	16	41	61
Excessive force or inappropriate use of force	11		10				3	3	14			1								1		14	3	27	44	
Fourth Amendment	1		5					1	7													1	1	12	14	
Human rights	1	1	3						1												7	1	1	11	13	
Inappropriate questioning/ inspection conditions	3		1						1													3		2	5	
Inappropriate touch/ search of person (non-TSA)								1																1	1	
Intimidation/threat/ improper coercion	3		1					8														3	8	1	12	
Language access			1			1		1	2					1									1	5	6	
Legal access			2				2	2	2				1									1	3	2	5	10
Medical/mental health care	4	4	9				7	17	225												3	11	21	237	269	
Privacy									2					1										3	3	
Religious accommodation	1						2	2	3			1			1							3	2	5	10	
Retaliation								1	1														1	1	2	
Sexual assault/abuse			4					1	7			1						1				1	1	12	14	
TSA AIT and TSA pat-downs												2												2	2	
Total	40	13	83	0	0	1	23	57	324	0	0	9	3	2	53	0	0	1	2	3	25	68	75	496	639	

TABLE 3: COMPLAINTS CLOSED FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 158			ICE 625			TSA 10			USCIS 48			Multi-Component 37			Sub-Totals 878			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	
Abuse of authority/ misuse of official position	2		5	3	1	6			1				1		1	6	1	13	20
Conditions of detention	5	12	24	11	18	36									1	16	30	61	107
Disability accommodation (Section 504)					1	8			3			41			2		1	54	55
Discrimination/profiling	1	3	9	2	4	1			1				1			4	7	11	22
Due process	1	5	4	3	9	18						2		6	1	4	20	25	49
Excessive force or inappropriate use of force	7	2	16	6	5	23			1				1		3	14	7	43	64
First Amendment (free speech/ association)			2		2	1									1		2	4	6
Fourth Amendment (search and seizure)		1	5	2		6									1	2	1	12	15
Hate speech	1															1			1
Human rights															9			9	9
Inappropriate questioning/ inspection conditions	1		4										2			3		4	7
Inappropriate touch/ search of person (non-TSA)		1	4			1											1	5	6
Intimidation/threat/ improper coercion	2	2	3	1					1			1			1	3	2	6	11
Language access			2								1				1			4	4
Legal access				1	1	7				1						2	1	7	10
Medical/mental health care	5	8	15	14	44	355									4	19	52	374	445
Privacy				2	1	1				1						3	1	1	5
Religious accommodation				6		6			1		1				1	6		9	15
Retaliation	1				4	1										1	4	1	6
Sexual assault/abuse	1	1	3	1	7	6										2	8	9	19
TSA AIT and TSA pat-downs									2									2	2
Total	27	35	96	52	97	476	0	0	10	2	0	46	5	6	26	86	138	654	878

C. Complaints Resolved by CRCL with Operational Recommendations

The following summary describes the complaints closed in FY 2016 with recommendations for the relevant DHS Component(s).

ICE Credible Fear Complaints: ***ICE Credible Fear Complaints:*** CRCL received numerous allegations regarding the treatment of asylum seekers by DHS. In FY 2015, CRCL opened over 30 complaints related to these issues, 13 of which involved ICE. In March 2016, CRCL issued final recommendations to ICE to improve its referral of credible fear claims to USCIS, which included: developing guidance on credible fear referrals to USCIS; mandatory training on the asylum process; ensuring meaningful access to services for individuals who are limited English proficient; prohibiting the transfer of individuals referred for credible fear interviews to other ICE facilities until after the credible fear interview has taken place; and modifying intake documentation to include a category for possible victims of persecution or torture. CRCL continues to work with ICE on these issues.

Religious Meals Accommodation: As a result of numerous complaints CRCL received regarding ICE's accommodation of religious dietary requirements and the observation of religious holidays, in July 2016, CRCL issued final recommendations to ICE to improve its accommodation of religious dietary requirements. CRCL recommended policy changes that would amend the 2011 PBNDS to incorporate the requirements laid out in Bulletin 14-ERO-001, entitled *Accommodation of Kosher Meals*, that would: require a religious accommodation for halal dietary practices; affirm that modifications to the common fare menu be made to accommodate the religious diets of various faiths; and clarify that a detainee's religious belief need not follow a specific mode of religious observance; and that detainees should not be removed from, or denied, a religious meal plan based on variations in observation or practice by facility officials. CRCL also recommended the development of agency-wide guidance and appropriate training on religious meals accommodations; timely evaluation of detainee requests for religious-based diets, including halal diets; the development of agency-wide guidance regarding fasting during Ramadan and other religious observances where fasting is required; and the development of a centralized system that tracks religious accommodation requests, to ensure that these requests are appropriately managed. CRCL continues to work with ICE on these issues.

FPS Complaint Process: In January 2015, CRCL opened two investigations into specific incidents which highlighted the current process' shortcomings. On February 23, 2016, CRCL issued a memorandum to FPS and NPPD, which provided an outline for a well-constructed complaint process, with the goal of instituting a complete and robust NPPD complaint process. CRCL has been collaborating with FPS and NPPD to implement this recommendation, which has formed a working group aimed at implementing a functional and effective complaint process for both FPS federal employees and contractors.

Review of Electronic Control Weapons in the Rio Grande Valley Sector: In FY 2014, CRCL conducted a review of electronic control weapons (ECW) practices and procedures by the Border

Patrol's Rio Grande Valley Sector. In September 2016, CRCL issued a final report and recommendation to CBP regarding implementation of the CBP Use of Force Policy, Guidelines and Procedures Handbook. This final report was the result of many discussions held with CBP while the report was being drafted. CRCL recommendations related to information sharing arrangements between CRCL and CBP, the auditing of inventory tracking systems, and supplemental trainings on reporting procedures and protocols. CRCL continues to work with CBP on these issues.

CBP Determination of Fitness to Fly: In September 2016, CRCL issued a final report to CBP, recommending that it develop a medical clearance process that addresses if, when, or how inadmissible noncitizens in their custody with observed or reported medical conditions that may worsen or have serious consequence during flight should be evaluated for their fitness to fly before being placed on return flights for removal or departure. CRCL continues to work with CBP on this issue.

ICE Courthouse Enforcement: In response to eight separate complaints, CRCL issued a final report to ICE, recommending that it create formal guidance and policy documents limiting immigration enforcement at or near courthouses. CRCL recommended that ICE develop new policy. CRCL further recommended that ICE provide further guidance regarding how, when, and under what circumstances it may conduct courthouse enforcement. CRCL continues to work with ICE on these issues.

ICE Safe Release and Repatriation: In response to four separate complaints, in August 2016, CRCL issued a final recommendations memo regarding ICE's discharge planning and continuity of care. CRCL made a series of recommendations to ICE regarding the release or removal of detainees with serious medical or mental health needs, including: (1) the development of a medical and mental health clearance review for certain detainees prior to release or removal; (2) the provision of discharge treatment plans, full copies of medical records, and a reasonable supply of medication; and (3) who may determine whether it is medically safe to release or remove an individual, and whether certain conditions should be imposed to facilitate a safe release or removal. CRCL continues to work with ICE on these issues.

D. Expert Recommendations from Onsite Investigations at Immigration Detention Facilities

The following summaries describe complaints in which CRCL completed an onsite investigation and subsequently provided to ICE the CRCL subject matter expert reports, along with a cover memorandum outlining CRCL's final recommendations.⁵ These recommendations aim to improve conditions of detention for individuals in ICE custody to enhance compliance with the applicable detention standards at the facilities involved in the complaints.

⁵ There were a number of situations in FY 2016 where CRCL conducted an onsite investigation and received a response from ICE. In those situations, we have included them in Section E.

Conditions of Detention in Florida: In response to a number of complaints, CRCL conducted a site review at a Florida facility in February 2015. To assist with the review, CRCL engaged the assistance of four subject matter experts in the areas of medical, mental health, corrections, and environmental health and safety. Following completion of CRCL's site review, the subject matter experts identified concerns regarding mental health care as well as general conditions of detention. In November 2015, CRCL sent a memorandum to ICE outlining its recommendations and best practices. ICE responded to the memorandum in April 2016, concurring with one of two CRCL recommendations and partially concurring on the other CRCL recommendation. As a result, CRCL closed the complaints in August 2016.

Conditions of Detention in New Jersey: In response to a number of complaints, CRCL conducted a site review at a New Jersey facility in August 2015. CRCL engaged the assistance of three subject matter experts in the areas of medical, corrections, and environmental health and safety. Following completion of the site review, the experts identified concerns regarding medical care, environmental health and safety, and general conditions of detention. In February 2016, CRCL sent a memorandum to ICE outlining its recommendations and best practices. CRCL continues to work with ICE on these issues.

Conditions of Detention in Pennsylvania: In 2012, CRCL conducted an onsite investigation at an ICE facility in Pennsylvania. CRCL provided ICE with final recommendations and ICE concurred or partially concurred with most of them, including recommendations on medical care, general corrections, and environmental health and safety. ICE non-concurred with recommendations relating to environmental health and safety. In its response, ICE asserted that the facility was not required to meet the cited environmental health and safety standards set by the American Correctional Association (ACA). CRCL disagreed with ICE's assertion, and reiterated that the ACA standards were incorporated in the 2000 National Detention Standards (NDS) by reference. In March 2016, CRCL issued a new memorandum asking that ICE concur with the previous recommendations and also that it issue guidance and provide training to all relevant facilities that they must meet applicable environmental health and safety standards. CRCL continues to work with ICE on these issues.

Conditions of Detention in Two Florida Facilities: In response to a number of complaints, including one regarding alleged retaliation against 11 detainees engaged in a hunger strike, CRCL conducted site reviews at two Florida facilities in January and March 2016. CRCL engaged the assistance of two subject matter experts in the areas of medical care and corrections for each visit. The experts identified concerns at the facilities regarding the provision of medical care, including offsite medical care, the grievance process, and compliance with the Prison Rape Elimination Act (PREA) of 2003. In June 2016, CRCL sent final recommendations to ICE regarding the facility. ICE responded to the two memoranda.

Conditions of Detention in New Jersey: In response to multiple complaints, CRCL conducted a site review at a New Jersey facility in March 2016. CRCL engaged the assistance of four subject matter experts in the areas of medical, mental health, corrections, and environmental health and safety. Following completion of our site review, the subject matter experts identified concerns regarding medical care at the facility, mental health care, corrections, environmental health and safety, and general conditions of detention, including such topics as care for chronic medical

conditions and access to outside medical providers, access to mental health care and suicide prevention, facility cleanliness, and use of force review practices. In August 2016, CRCL sent a final recommendation memorandum to ICE. CRCL continues to work with ICE on these issues.

Conditions of Detention in Two California Facilities: In response to a detainee death and a number of complaints, CRCL conducted onsite investigations at two California facilities in December 2015. At the first facility, CRCL engaged the assistance of two subject matter experts in the areas of conditions of detention and medical care. At the second facility, CRCL utilized four subject matter experts in the areas of medical care, mental health care, corrections, and environmental health and safety. CRCL notified ICE of the need for immediate action at one of the facilities and also CRCL sent final recommendation memoranda regarding both facilities. CRCL continues to work with ICE on these issues.

Conditions of Detention in Arizona: CRCL conducted an investigation into a number of complaints alleging that ICE violated the civil rights and civil liberties of individuals in custody at a facility in Arizona. The allegations involved mental health care and treatment of suicidal detainees; sexual abuse prevention, sexual assault, and sexual harassment; medical care; and conditions of detention. CRCL conducted an onsite investigation of the facility in March 2016. In September 2016, CRCL sent a final recommendation memorandum to ICE that outlined 40 expert recommendations addressing medical and mental health care, sexual abuse and assault prevention and intervention, suicide prevention and intervention, staff training, and staff-detainee communication. CRCL continues to work with ICE on these issues.

Conditions of Detention in Massachusetts: In 2009 and 2012, CRCL conducted onsite investigations at a facility in Massachusetts after receiving complaints that alleged inadequate medical care. CRCL conducted a 2009 onsite with the assistance of a medical expert, who identified concerns with medical care at the facility. Because of the concerns raised and because IHSC identified similar problems with medical care at the facility in 2011, CRCL decided in 2012 to conduct another onsite investigation. CRCL engaged the assistance of two medical experts for the August 2012 onsite. Additionally, CRCL observed concerns regarding general corrections issues and subsequently engaged the assistance of a corrections expert. In memoranda sent in February and September 2013, CRCL provided ICE with a total of 19 recommendations in the areas of medical care and corrections. In May 2015, ICE responded to 18 of the recommendations, and concurred or partially concurred with all except two of them. CRCL determined that ICE had adequately addressed the recommendations and closed this matter in September 2016, with a request that ICE more fully implement one recommendation involving segregation.

E. Component Responses to CRCL Expert and Recommendations Memoranda

ICE

Language Access: In April 2010, CRCL received a complaint alleging civil rights and civil liberties violations related to implementation of the 287(g) program. CRCL conducted an onsite investigation at the 287(g) program office and, in April 2013, provided ICE with

recommendations on language access. In July 2015, ICE responded, and concurred or partially concurred with the recommendations. Specifically, ICE stated it would assess the use of qualified interpreters as part of its development of a language access plan for ICE ERO. ICE issued its broader Language Access Plan, and acknowledged that it will address CRCL's continued concerns with ERO's delivery of language access in a more specific plan. CRCL will continue to monitor language access issues while awaiting this plan. CRCL closed this complaint in March 2016.

Forcible Fingerprinting: From 2011 through 2013, CRCL received 17 complaints alleging the use of physical force to obtain fingerprints from detainees on immigration-related documents. In November 2012 and April 2013, CRCL issued recommendation memoranda stating that ICE should cease the practice of using force to obtain fingerprints from a non-cooperating detainee on the Form I-229(a) and other forms that are not used to verify identity. In April 2014, ICE issued a draft response indicating concurrence with all CRCL recommendations. Prior to its circulation, ICE shared a copy of a draft agency-wide guidance on how to manage a situation where a detainee refuses to be fingerprinted. ICE stated that it was in the final stages of implementing this policy and CRCL was satisfied with ICE's response. CRCL closed this complaint in May 2016.

Sexual Assault in Montana: In April 2014, CRCL investigated a complaint alleging that ICE inappropriately housed a detainee resulting in the detainee being sexually assaulted. CRCL's onsite investigation at the facility included a subject matter expert in conditions of detention and PREA. While CRCL did not substantiate that a sexual assault occurred, it made 12 recommendations to ICE. ICE concurred with seven of these recommendations, which included improving access to legal and language services, access to telephones, and improvements in intake screening and classification procedures; and informed CRCL that it was no longer housing detainees at the facility. CRCL closed the complaint in September 2016.

Sexual Assaults in Florida: In May 2013, CRCL investigated seven complaints alleging inadequate conditions of detention, inadequate medical care and mental health care, and inadequate sexual assault prevention and intervention procedures at a detention facility in Florida. CRCL's onsite investigation at the facility included subject matter experts in conditions of detention, medical care, and mental health care. Following the onsite, CRCL issued 24 recommendations to ICE covering all three categories. In July 2015, ICE fully or partially concurred with 18 of the 24 recommendations and later agreed to take preventative actions to implement two recommendations for improvements in sexual assault prevention. As a result, CRCL closed the complaint in June 2016.

Deaths and Suicides in Arizona: In June 2013, CRCL conducted an investigation into two deaths and two suicides of individuals detained by ICE at a facility in Arizona. CRCL's onsite investigation at the facility included three subject matter experts in conditions of detention, medical care, and mental health care. Following the onsite, CRCL issued 25 recommendations to ICE in the areas of medical care, mental health care, suicide prevention and intervention, and conditions of detention. In September 2015, ICE concurred with 23 of these recommendations and made the suggested improvements. As a result of these responses, in May 2016, CRCL closed the complaints.

Deaths in California and Nevada: In response to the deaths of two individuals in ICE ERO field office hold rooms, CRCL conducted an onsite investigation at these two field offices in November 2013. To assist with the investigations, CRCL utilized a medical subject matter expert. At the conclusion of each investigation, CRCL discussed its findings and recommendations with ICE and facility leadership during exit briefings. Following the visit, California field office leadership made changes addressing the majority of CRCL's recommendations. CRCL also learned that the Nevada field office was moving to a new facility, which resolved most of the issues of concern. Additionally, in response to CRCL's investigative findings, ICE headquarters developed a new hold room policy. As a result, CRCL closed the complaints in March 2016.

Conditions of Detention in New York: CRCL conducted an investigation into a number of complaints alleging that ICE violated the civil rights or civil liberties of individuals held in custody at a facility in New York. In general, the complaints included allegations about inadequate medical and mental health care, inadequate accommodation of disabilities, inappropriate use of force, and other aspect of the facility's operations. CRCL conducted an onsite investigation in August 2012 to examine conditions at the facility. In November 2012, CRCL sent 12 recommendations to ICE regarding its findings. In April and May 2015, ICE responded that it concurred with 10 of the 12 recommendations. CRCL and ICE continued to discuss CRCL's concerns related to the remaining recommendations, and ICE made additional changes in early 2016 that addressed these concerns. As a result, CRCL determined that ICE had adequately addressed the issues, and closed the complaint.

Conditions of Detention in New Jersey: In October 2011, CRCL received allegations regarding a facility in New Jersey involving concerns about the food provided to detainees, their general health, and the effectiveness of the detainee grievance process. While the allegations were relatively limited, CRCL added a visit to the facility to look at the operations more generally as part of another onsite investigation. In February 2012, CRCL reviewed medical care, environmental health and safety, and general conditions of detention. In May 2012, CRCL made nine recommendations to ICE in these areas. In April 2015, ICE responded and concurred or partially concurred with eight of the nine recommendations. Regarding the one recommendation where ICE did not fully concur, ICE indicated that the facility made a change that addressed the substance of the recommendation. As a result, CRCL determined that ICE had adequately addressed the issues and closed the complaint in March 2016.

Conditions of Detention in Illinois: In January 2013, CRCL conducted an onsite investigation at a facility in Illinois following the receipt of complaints regarding medical care, mental health care, general corrections, and environmental health and safety. With the assistance of subject matter experts, CRCL reviewed these issues. In March 2013, CRCL sent a memorandum to ICE that outlined 32 recommendations. In April 2015, ICE responded and concurred or partially concurred with 30 of the recommendations, and non-concurred with two recommendations. While CRCL noted its continued disagreement with ICE regarding its responses involving facility searches and grievances, CRCL determined that ICE adequately addressed the recommendations and closed the complaint in October 2015.

Conditions of Detention in Michigan: In March 2010, CRCL conducted an onsite investigation at two facilities in Michigan with the assistance of medical and corrections subject matter experts. In August 2012, CRCL sent a memorandum to ICE that outlined medical care and corrections recommendations for each facility. In March 2015, ICE responded and concurred, or partially concurred, with 35 of the 36 recommendations. In May 2016, CRCL concluded that ICE adequately addressed the recommendations and closed the complaints.

Conditions of Detention in New Mexico: In March 2012, CRCL conducted an onsite investigation of a facility in New Mexico to review medical and mental health care, environmental health and safety, conditions of detention, and correctional policies and procedures. In December 2012, CRCL sent a memorandum to ICE that outlined 50 expert recommendations and best practices. In January 2015, ICE responded and concurred or partially concurred with 42 of the 50 recommendations. ICE did not respond to eight of the recommendations because it deemed them to be best practices that were not required by the 2011 Performance Based National Detention Standards. Of the remaining 42 recommendations, CRCL found that six in the area of environmental health and safety required additional clarity. In an effort to resolve the remaining issues, in December 2015, CRCL requested additional information on the six recommendations. That same month, ICE provided updated responses that addressed CRCL's concerns. As a result, CRCL determined that ICE had adequately addressed the issues and closed the complaint in May 2016.

Conditions of Detention in California: In August 2014, CRCL conducted an onsite investigation of a facility in California to review medical and mental health care, environmental health and safety, and conditions of detention. In March 2015, CRCL provided ICE with a memorandum that detailed the 13 expert recommendations and best practices that addressed medical and mental health care, environmental health and safety, and conditions of detention. In an October 2015 memorandum, ICE responded to CRCL's expert recommendations. ICE concurred or partially concurred with 12 of the 13 recommendations. Regarding the recommendation where ICE did not concur, ICE offered clarifying information demonstrating it had adequately addressed the issues raised. As a result, CRCL closed the complaint in May 2016.

Conditions of Detention in Ohio: In September 2014, CRCL conducted an onsite investigation at a facility in Ohio, following the receipt of complaints regarding inadequate conditions, and in response to deficiencies noted in a January 2014 ICE report. With the assistance of subject matter experts, CRCL reviewed these issues. In April 2015, CRCL sent a memorandum to ICE detailing 38 recommendations. In May 2015, ICE responded that it no longer housed detainees at the facility. CRCL concluded that ICE's response was adequate and closed the complaint in May 2016.

Conditions of Detention in Louisiana: In June 2012, CRCL conducted an onsite investigation at a facility in Louisiana, following the receipt of complaints alleging inadequate conditions of detention and inadequate medical and mental health care at the facility. With the assistance of subject matter experts, CRCL reviewed medical and mental health care, general conditions, and environmental health and safety. CRCL sent ICE 46 recommendations in August 2012. ICE responded to the recommendations in January 2015. CRCL deemed a large number of the

responses to be either incomplete or unresponsive. Because of CRCL's continuing concerns about the quality of ICE's responses and the conditions of detention, CRCL began planning a follow up investigation. However, CRCL learned in May 2016, that ICE had stopped housing detainees at the facility. As a result, CRCL closed the complaint in September 2016.

Conditions of Detention in Massachusetts: In September 2012, CRCL conducted an onsite investigation of a facility in Massachusetts to review medical care and conditions of detention, and to follow up on implementation of recommendations made in December 2009 following the death of an ICE detainee at the facility. In February 2013, CRCL sent a memorandum to ICE that outlined 29 expert recommendations and best practices that addressed medical and mental health care, suicide prevention, legal access, ICE-detainee communication, and conditions of detention. In January 2015, ICE responded and concurred with all 29 recommendations. Although most of the recommendations had been implemented, concerns remained regarding the sufficiency of ICE's response to nine of the 29 recommendations pertaining to detainee health and safety (including those involving medical care, dental care, suicide prevention, ICE-detainee communication, and sexual assault and prevention). In an effort to resolve the remaining concerns, in December 2015, CRCL requested additional information on the nine recommendation responses. In July 2016, ICE provided updated responses for the nine recommendations. As a result, CRCL determined that ICE had adequately addressed the issues and closed the complaint in September 2016.

Conditions of Detention in Pennsylvania: In 2013 and 2014, CRCL received complaints from ICE detainees at a facility in Pennsylvania. The detainees alleged inadequate medical care, problems with the detainee grievance process, lack of religious accommodation, and problems with environmental health and safety. CRCL conducted an onsite investigation of the facility in June 2014 and provided ICE with 15 recommendations. ICE concurred or partially concurred with the majority of the recommendations, and as a result CRCL closed the complaints in August 2016. However, ICE did not concur with one recommendation related to the admission of patients into the facility's Special Needs Unit. In August 2016, CRCL requested that ICE draft a new policy governing procedures for the unit. CRCL will continue to work with ICE to address this issue.

Conditions of Detention in Texas: In 2014, CRCL received complaints from ICE detainees at a facility in Texas regarding the provision of medical care and a detainee death. CRCL conducted an onsite investigation of the facility in 2014 and provided ICE with five recommendations. ICE concurred or partially concurred with all of the recommendations. As a result, CRCL closed the complaints in July 2016.

Conditions of Detention in Florida: In February 2015, CRCL conducted an onsite investigation at a facility in Florida, following the receipt of complaints regarding the facility's use of segregation, application of use of force, access to medical care, access to adequate outdoor recreation, and adequacy of food and telephone services. With the assistance of subject matter experts, CRCL reviewed these issues. In November 2015, CRCL sent a memorandum to ICE with two recommendations regarding medication administration and sick call. In April 2016, ICE responded that it concurred or partially concurred with both recommendations. As a result, CRCL closed the complaints in August 2016.

Sensitive Locations: In October 2012, CRCL opened a complaint alleging racial profiling during an enforcement operation in Michigan. The complaint also alleged that the operation violated ICE's Sensitive Locations Policy by taking place near schools. While CRCL did not find evidence of racial profiling, in September 2014, CRCL submitted recommendations to ICE regarding the Sensitive Locations Policy. ICE responded in September 2015, indicating that ICE had reissued the policy and guidance to ensure officer awareness. As a result, CRCL closed this complaint in January 2016.

CBP

Privacy During Border Inspection of Travelers Wearing Religious Headwear: CRCL received two complaints from female travelers who were asked to remove or adjust their religious headwear during CBP border inspection. CRCL has worked collaboratively with CBP on this issue since 2011. Per CBP policy, travelers who are asked to adjust their religious headwear during an inspection may request that CBP's inspection occur in a private area, with the understanding that privacy may increase the overall length of the inspection. CBP concurred with six recommendations designed to increase CBP employee's and the public's awareness of this policy, and to ensure that the written protocol is included in CBP policy. As a result, CRCL closed this complaint in October 2015.

F. Complaints Closed Following Notification

The following summaries describe complaints in which CRCL concluded its investigation through an informal resolution, which is when CRCL leadership communicates directly with the leadership of the involved Component with a tailored approach to addressing the complaint. This is utilized when CRCL is concerned, but does not believe that there is a systemic, training, or policy-based correction needed. During FY 2016, CRCL transmitted informal resolutions to ICE and CBP in 22 complaints. Complaints generally are closed after an informal resolution is issued to the relevant Component agency; exceptions are noted below.

ICE

Calculated Use of Force and Medical Care Following Use of Force: In June 2016, CRCL informed ICE of concerns with a facility in Minnesota regarding a calculated use of force incident and reliance upon detention staff to make weekend medical assessments. Based on its investigation, CRCL requested that the facility retain in-house personnel on the weekends and that it review the NDS requirements for a calculated use of force with its detention staff to ensure adherence to the NDS. ICE indicated that the facility has since revised its use of force policy to require consultation with medical personnel prior to a calculated use of force and that if a medical emergency presents itself over a weekend, a physician is on-call and the local hospital is close to the facility.

Access to Medical Care and Treatment: In July 2016, CRCL informed ICE and IHSC of its medical expert's findings regarding mental health care at a facility in Texas. In August 2016, ICE informed CRCL that it will educate medical staff on the concerns raised by the medical expert.

Access to Medical Care: In August 2016, CRCL informed ICE and IHSC of its medical expert's findings regarding medical delays and inadequate documentation at a facility in Illinois. In response, ICE informed CRCL that it was reaching out to the facility regarding the concerns raised by the medical expert.

Language Access: In February 2016, CRCL received a complaint forwarded from the DHS OIG regarding an ICE detainee at a facility in Florida, alleging inadequate medical care for stomach pain and migraines. As a result of its investigation, CRCL did not find evidence of inadequate medical care, but did identify improvements to be made to language access procedures. CRCL communicated to ICE that the facility should provide an interpreter to detainees who request one for medical encounters, either because their primary language is something other than English or they cannot understand or speak English well enough to communicate accurately and fully in the medical setting.

Vision Care: In March 2016, CRCL received a complaint forwarded from the DHS OIG regarding an ICE detainee at a facility in California, alleging he received inadequate care for vision loss. Based on information received, ICE IHSC implemented a corrective action plan to the management of submissions for specialty care requests. After reviewing the plan, CRCL's medical expert suggested additional improvements to ensure that physician's treatment requests for detainees were promptly entered into the IHSC system for approval. The matter was sent to IHSC leadership to assist them with oversight of the facility's medical care.

Dental Care: In April 2016, CRCL received a complaint from an ICE detainee at a facility in Kansas, alleging he received inadequate dental care. Based on the information provided by ICE, CRCL did not find evidence of inadequate medical care, but did conclude that referrals for off-site specialty appointments should be monitored for timeliness. A CRCL medical consultant reviewed the facility's referral system and suggested the implementation of a monitoring mechanism in order to improve the existing structure. The matter was sent to IHSC leadership to assist them with oversight of the facility's medical care.

Due Process: In July 2015, CRCL received a complaint from an attorney alleging that his client had been wrongly removed from the country without receiving a credible fear interview. CRCL concluded that a formal recommendation was not necessary, but in an effort to address the concerns raised in the complaint, CRCL highlighted them for ICE to address as appropriate.

Access to Legal Counsel: In August 2015, CRCL received a complaint from a non-lawyer accredited representative alleging that ICE personnel at a facility in New Jersey denied him access to his client because he did not have a card identifying him as an attorney, even though he had proof of identity and his accredited representative status. CRCL investigated the matter and sent an informal resolution to ICE recommending that detention center staff be trained on the legitimacy of non-lawyer accredited representatives, and that the PBNDS be updated to provide examples of appropriate identification that non-attorney representatives would likely have. In response to CRCL concerns, ICE added clarifying language to the 2016 revisions of the 2011 ICE PBNDS.

Release from Detention: In August 2015, CRCL received a complaint from a former ICE detainee in Washington. The detainee alleged that despite being ordered released by an immigration judge, ICE had not in fact released the detainee. Through our informal resolution process, CRCL collaborated with ICE, and ICE reiterated to its staff that all field offices must work expeditiously to effectuate releases from detention when notified of a release order.

Medical Billing: In September 2015, CRCL received a complaint from a former ICE detainee who alleged that he was being charged for medical care incurred while he was in ICE custody at a service processing center in Arizona. ICE agreed to intervene to ensure that the charges were removed. The complaint was closed based on ICE's assurances.

Stays Before Removal: In January 2015, CRCL received a complaint from an attorney, on behalf of two of his clients, alleging they were removed after stays of removal had been issued by the U.S. Court of Appeals for the Ninth Circuit. In December 2015, CRCL sent an informal resolution to ICE recommending that ICE disseminate guidance regarding the need to ensure proper verification of removability prior to removal. In particular, CRCL recommended that ICE identify a reasonable, standard amount of time allowable between ICE's final check for a stay of removal and the removal itself. ICE agreed to disseminate guidance on this issue. As a result, CRCL closed this complaint.

CBP

Handling of Identification Documents: CRCL contacted CBP regarding two instances where U.S. Border Patrol allegedly failed to return identification documents to unaccompanied minors in CBP custody. CRCL requested that CBP remind agents through a muster topic of the importance of returning identity documents to unaccompanied children prior to their transfer from CBP custody. CRCL also asked that CBP provide this individual with his birth certificate. CRCL contacted CBP regarding these allegations in May 2016 and is awaiting a response.

Language Access at Airport: CRCL received a complaint in July 2014, alleging that a foreign national was held by CBP at the George Bush Houston Intercontinental Airport in Houston, Texas for 18 hours before being released. During its investigation, CRCL learned that the traveler's referral to secondary inspection was consistent with CBP policies and procedures; however, the airport was not able to arrange for a translator for six and a half hours. CRCL learned that the airport did not have access to language services from 12:00 a.m. to 7:30 a.m. each day. In September 2015, CRCL asked CBP to ensure that language access be available during every hour a traveler may be in its custody. In January 2016, CBP reported that it would contract with a language service which aligns with other field office efforts to address the language assistance gaps. Based on the response, CRCL closed this complaint.

Safe Returns from Land Ports of Entry: CRCL investigated a complaint alleging that CBP officers at a port of entry in Laredo, Texas returned a family unit with children to Nuevo Laredo, Mexico at approximately 3:00 a.m. CRCL's investigation determined that the return occurred after the family had spent approximately six hours in CBP custody at the port of entry, where they were found to be inadmissible. CRCL also found the return did not violate any existing CBP policy or procedure and that the U.S.–Mexico repatriation agreement for Laredo was not applicable. However, due to safety considerations, in September 2016, CRCL suggested that

CBP provide individuals found to be inadmissible at port of entries governed by repatriation agreements the option to wait until morning to leave the port when operationally feasible, rather than effectuating repatriations in the late night and early morning hours. Following this action, CRCL closed this complaint.

TSA

Screening of Transgender Passengers: A complainant, who identifies as transgender, alleged that she was subjected to discriminatory treatment by TSA employees or officials in September 2015, during her screening process at the Orlando International Airport. CRCL concluded that the complainant's description of the procedures used to screen her were consistent with TSA's standard operating procedures. However, CRCL stated that from a policy perspective, there were changes that could be implemented to address the concerns raised with the Advanced Imaging Technology and transgender individuals. In September 2016, TSA concurred with CRCL's recommendations and agreed to work with CRCL to review and revise, where necessary, standard operating procedures and training related to transgender passenger screening.

Screening of Bulky Headwear: A complainant, who identifies as a practicing Sikh, was required to remove his turban during a secondary screening procedure and not provided a mirror to re-don his turban at an airport in California. As a result, the complainant needed to walk to a public bathroom to re-don his turban in front of a mirror, resulting in his being without his turban more publically and for a longer period of time. CRCL's investigation and recommendation resulted in a memo from the TSA Assistant Administrator for Office of Security Operations directing all security operations field offices to ensure mirrors are made available in all private screening rooms to assist passengers after screening. Also following this investigation, efforts were coordinated through regional offices so that action was taken in a timely manner to ensure compliance. Additionally, in response to this matter, TSA amended checkpoint design specifications to include a requirement that mirrors be made available in all private screening rooms. TSA reported that all airports have either installed the mirrors, or are in the process of installing mirrors, in the private screening rooms where they do not already exist. As a result of the response, CRCL closed the complaint.

FPS

Photography in Federal Buildings: In March 2014, CRCL received a complaint from an individual alleging that an FPS officer wrongfully prohibited him from taking photographs in the lobby of a federal building. Based on a review of a summary of the incident and the regulation concerning photography in federal buildings (41 C.F.R. § 102-74.420), in September 2016, CRCL made an informal resolution to FPS recommending that it provide the regulation, and to reissue the guidance associated with it, to FPS officers and Protective Service officers at the location of the incident. CRCL also suggested that periodic refresher training would be helpful to ensure awareness.

Visitation Policies: In June 2014, CRCL received a complaint from an ICE detainee at a facility in Oregon alleging that detainees were being charged for visitation time. CRCL found that the facility allows each detainee one onsite, in-person visit per week before charging detainees \$7.50 for each additional visit; such changes would not have been permitted under ICE's newer detention standards (2011 PBNDS). In October 2015, CRCL recommended that, though the

National Detention Standards do not prohibit this practice, the facility halt the practice of charging detainees for additional visits. In October 2015, ICE responded that it is supportive of halting this practice and approached the facility regarding this matter. The facility refused to end the practice, explaining that it was in compliance with the 2008 PBNDS requirements regarding visitation that are applicable to it under its ICE contract. ICE reassured CRCL that the facility is being used sparingly. CRCL will continue to monitor the situation at the facility.

Language Access: In June 2014, CRCL received a complaint from an individual alleging that a Protective Service Officer (PSO) under FPS supervision in Orlando, Florida refused to interpret his instructions into Spanish to a limited English proficient (LEP) individual. In April 2015, CRCL contacted FPS to inform them that, under the FPS Language Access Plan, post orders should include instructions for PSOs to provide interpretation services when a LEP individual requires assistance to understand security requirements associated with access control and screening. In these situations, an officer should determine if the individual can communicate effectively in English, identify the language spoken by the individual, and facilitate access to interpretation services. CRCL also informed FPS that the plan required it to develop and implement training. Accordingly, CRCL recommended that FPS distribute the plan to its workforce, draft post orders, and begin training as soon as possible. FPS distributed the final plan to its workforce in August 2016.

G. Complaints Investigated by CRCL without Operational Recommendations

ICE

Inadequate Medical Care in Minnesota: In July 2016, CRCL received a complaint from a detainee at an ICE detention facility in Minnesota. The detainee claimed that he had received inadequate medical care for back pain. CRCL referred the information to ICE under CRCL's medical referral process and opened a complaint. ICE provided its report to CRCL, which indicated that IHSC had implemented a corrective action plan to address the issues raised in the complaint. The corrective action plan included training for medical staff who distributed medication, instituting the practice of documenting pain level and clinical assessment findings, and the implementation of face-to-face encounters between medical providers and detainees when a new prescription is ordered. CRCL closed the complaint as it was satisfied with the ICE response.

Inadequate Medical Care in Florida: In August 2016, CRCL received a complaint from a detainee at an ICE detention facility in Florida. The detainee claimed that he had received inadequate medical care for a blood infection. CRCL opened a complaint and referred the information to ICE under CRCL's medical referral process. ICE provided its report to CRCL, which indicated that the detainee had been seen by two different specialists, taken to the hospital emergency room for evaluation on two occasions, received diagnostic testing on at least four occasions, and was being regularly monitored by the facility's physician. Based on the information provided by ICE, the detainee was being provided with timely access to an appropriate level of care to address his medical conditions. Accordingly, CRCL closed the complaint.

Inadequate Medical Care in Georgia: In March 2016, CRCL received a complaint from a detainee at an ICE detention facility in Georgia. The detainee claimed that he had received inadequate medical care for prostate cancer. CRCL referred the information to ICE under CRCL's medical referral process and opened a complaint. ICE provided its report to CRCL, which indicated that the detainee refused the appointment for a biopsy and cystoscopy that was recommended by an urologist. Accordingly, CRCL closed the complaint.

CBP

Alleged Use of Force on Unaccompanied Minor: CRCL received a complaint from an NGO that a 16-year-old unaccompanied child was injured by U.S. Border Patrol when he attempted to avoid apprehension and was tackled by agents and handcuffed. The child alleged that after he was handcuffed and stopped resisting, one of the agents struck him twice with a baton. When CRCL interviewed the child, he stated that he was hit before he was handcuffed and while resisting, and not after he was handcuffed and non-resistant, as originally alleged. Based on the information provided by the child, CRCL was unable to substantiate allegations of physical abuse and closed the complaint without further action.

Alleged Discrimination on the Basis of Race at a Port of Entry: CRCL received a complaint that alleged a CBP officer threatened to lock up the complainant if he didn't sit still, stun him with a Taser, and handcuff him until his return flight left 10 hours later. The complainant also alleged he didn't have access to his luggage that contained his seizure medication, and that he was strip-searched and had his testicles grabbed during the process. He alleged that he was not allowed to call his family during his time in custody, nor make a phone call to the Spanish or Peruvian consulates. The complainant further alleged that the officers brought him papers to sign, which he didn't understand because he doesn't speak English. Finally, the complainant alleged that when he asked for food, CBP gave him peanut butter cookies, which he stated was allergic to, and when he asked again later, they made fun of him and he didn't get food until several hours later. CRCL did not substantiate the allegations that the complainant or any other passenger was mistreated, humiliated, strip searched or had their testicles grabbed. CRCL was also not able to substantiate that any passengers were threatened with a Taser and noted that the officers were never issued Tasers. Further, it was determined that per CBP procedure, officers place calls on the passenger's behalf to a family member to advise them of the situation, which the officer did in this case. Additionally, CBP is required to notify the consulate of only certain countries when a passenger is denied entry and the complainant's country of origin are not among those countries. Finally, there was no indication that officers purposely misrepresented any passenger's answers to any question on any of the forms involved in the inspections process or otherwise. Other than a notation of medication for back pain, there is no mention of other medical issues and CBP records indicate that the complainant accepted food from CBP prior to his departure. There was no evidence to support any of the complainant's other claims. CRCL closed this complaint without further action.

Shooting Involving a Border Patrol Agent: On February 6, 2015, the *McAllen Monitor* newspaper reported a shooting involving a Border Patrol agent. CRCL found that the actions were consistent with CBP's Use of Force Policy Handbook, which CRCL reviewed prior to its implementation, that provides "[a]uthorized Officers/Agents shall not discharge their firearms at

the operator of a moving vehicle, vessel or aircraft unless deadly force is necessary—that is, when the officer/agent has a reasonable belief that the operator poses an imminent danger of serious physical injury or death to the officer/agent or to another person,” CRCL made no recommendations to CBP, and closed the matter without further action.

FPS

Racial Profiling: In October 2015, CRCL received a complaint from an individual alleging that her husband, who is a process server, was racially profiled by an FPS officer at a federal building in Syracuse, New York. The complaint alleged that the officer asked the process server about the badge he was wearing and brought him to a back office to take a picture of the badge and obtain his contact information. According to a February 2016 Report of Investigation, the FPS officer approached the process server only to identify what kind of badge he was wearing and determine what agency or company he worked for. CRCL determined it could not substantiate the claim, and accordingly closed the complaint in July 2016.

Abuse of Authority: In July 2014, CRCL received a complaint from an individual alleging that an FPS protective service officer at a social security office in Natchez, Mississippi yelled at her and her son, unsnapped his firearm holster, and after they left the building, followed them outside and continued to threaten them. In June 2015, CRCL received three July 2014 ROIs related to this matter. After reviewing the reports, CRCL determined that the complaint could not be substantiated. CRCL forwarded the complaint to FPS to review for any potential misconduct.

Disability Accommodation: In April 2015, CRCL received a complaint from an individual alleging that Protective Service Officers at a federal building in Manchester, New Hampshire made him remove his belt when going through screening and denied him a secondary screening, even though a disability made removing his belt extremely difficult. CRCL opened this as a complaint pursuant to Section 504 of the Rehabilitation Act of 1973, as amended, and worked with FPS to create specific post orders to accommodate the complainant’s disability, and to provide the location’s region with disability access refresher training. In February 2016, the complainant agreed that this resolution was satisfactory, and CRCL closed the complaint in March 2016.

VI. Antidiscrimination Group

The Antidiscrimination Group (ADG) coordinates, provides oversight, and supports implementation of civil rights mandates to carry out the Department’s federally assisted and conducted activities in a nondiscriminatory manner on the basis of race, color, national origin, disability, age, and sex. ADG’s policy work supports integration and meaningful access for individuals across DHS mission areas, including preventing terrorism and enhancing security, managing our borders, administering our immigration laws, and ensuring disaster resilience.

Accomplishments in FY 2016

Ensuring that Recipients of DHS Financial Assistance Comply with Civil Rights Requirements

Applications to Purchase Controlled Equipment: In FY 2016, in response to Executive Order 13688, Federal Support for Local Law Enforcement Equipment Acquisitions (January, 2016), and the Law Enforcement Equipment Working Group’s Recommendation Report Pursuant to Executive Order 13688, CRCL, in Coordination with FEMA, developed a process to review whether entities applying to purchase controlled equipment (military style equipment) using DHS financial assistance are in compliance with applicable Federal civil rights requirements. The review process will evaluate the applicant’s current compliance with civil rights requirements, and whether the applicant has taken steps to remedy civil rights violations or compliance issues such that DHS can be assured that the organization will administer its programs and activities in a nondiscriminatory manner.

DHS Regulation Pertaining to Faith-Based Organizations: In April 2016, the Department published a new regulation, *Nondiscrimination in Matters Pertaining to Faith-Based Organizations* (6 C.F.R. Part 19), developed by CRCL, which affords certain protections to faith-based organizations as it relates to eligibility to receive financial assistance from DHS for social service programs, or to participate in social service programs administered or financed by DHS. Further, organizations that receive financial assistance from DHS for a social service program or participate in DHS social service programs have an obligation to comply with the equal treatment policies and requirements contained in the new regulation. Among other provisions, the regulation prohibits recipient organizations from discriminating against beneficiaries on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice. The regulation generally requires recipients subject to the rule to provide certain protections and notice of those protections to their beneficiaries. Recipients must also comply with any other policies and procedures regarding the participation of faith-based organizations contained in applicable statutes, regulations, and guidance governing individual DHS programs.

Nondiscrimination for Individuals with Disabilities across DHS Programs and Activities

DHS-wide Self Evaluation: CRCL continued its Department-wide work to implement Directive 065-01 and its accompanying Instruction, “Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities.” This first of its kind effort at DHS prioritizes the nondiscrimination obligations of DHS components under Section 504 of the Rehabilitation Act of 1973. On June 7, 2016, CRCL issued a detailed Reference Guide and convened a kickoff event to support Components in undertaking a comprehensive self-evaluation of their programs and activities to identify areas for improvement in providing access and reasonable accommodation for individuals with disabilities in compliance with Section 504. Following the kickoff event, CRCL supported implementation by convening bimonthly coordination meetings and providing technical assistance to Components, including on strategies for involving disability stakeholders as part of the Self-Evaluation. By the end of FY 2016, all Components

had developed and received input from CRCL on their Methodology documents which spell out the approach to be taken for the Self-Evaluation during FY 2017.

Oversight and Coordination on Disability Access in Detention Facilities: CRCL continued to provide expert advice and recommendations to ICE on the requirements of Section 504 of the Rehabilitation Act, which requires programmatic and physical access and effective communication for individuals with disabilities in ICE detention. CRCL supported ICE in the development of new policies to ensure that detainees with disabilities receive all necessary accommodations or modifications to policies, practices, or procedures to allow them an equal opportunity to access and benefit from detention programs, services, and activities.

Language Access in DHS Programs and Activities

Language Access in the National Terrorism Advisory System: CRCL worked successfully on the Department's first-ever multilingual release of a bulletin of the National Terrorism Advisory System (NTAS), which was designed to more effectively communicate information about terrorist threats by providing timely, detailed information to the American public than the Department's previous color-coded alerts. CRCL collaborated with the DHS Office of Public Affairs to translate and post translations on the NTAS webpage, and to institutionalize the translation process for future advisories, whether they be Bulletins, which describe current developments, or general trends regarding threats of terrorism; Elevated Alerts, which warn of credible terrorism threat against the U.S.; or Imminent Alerts, which warn of a credible, specific, and impending terrorism threat against the U.S. DHS currently makes translations available in Spanish, Arabic, Chinese, French, Korean, Portuguese, Russian, Somali, Tagalog, and Vietnamese.

While the cost of obtaining translations of documents by qualified linguists is relatively small, the transmittal of the information to individual, family, and community preparedness is very significant. NTAS advisories encourage individuals to follow guidance provided by state and local officials and to report suspicious activity, and where applicable, will include steps that individuals and communities can take to protect themselves from a given threat as well as help detect or prevent an attack before it happens.

Component Planning and Implementation: CRCL continued to work with DHS Components to finalize and implement the Component Language Access Plans to further the requirements of Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (August 11, 2000), and the DHS Language Access Plan published in February 2012. These plans describe the efforts of individual Components to provide meaningful access to eligible LEP persons consistent with the requirements of the Executive Order. CRCL investigations reviewed Components' provision of language access across several operations and programs, including family detention. CRCL continued to distribute the "I Speak" language identification materials that assist DHS personnel and others in their interactions with LEP individuals and, in FY 2016, added approximately 20 indigenous languages to the booklet.

Ensuring Nondiscrimination in Disaster Preparedness, Response, and Recovery: CRCL guided the Department in ensuring that persons with disabilities, diverse communities,

immigrant populations, and limited English proficient individuals are not discriminated against during natural disasters and other emergencies. During the Flint water crisis, the Louisiana flooding, and Hurricane Matthew, CRCL drafted and coordinated clearances for DHS alerts stating that ICE and CBP's highest priorities include promoting life-saving and life-sustaining activities and safe evacuation, and that therefore there would be no immigration enforcement initiatives at or near locations distributing clean water, or in evacuation and sheltering. CRCL also drafted and distributed notices to FEMA grant recipients reiterating their obligations under the Rehabilitation Act and Title VI of the Civil Rights Act not to discriminate against individuals and communities affected by disasters, including by offering shelter for persons with disabilities that is not in the most integrated setting appropriate to the needs of the person.

VII. Equal Employment Opportunity and Diversity Division

The Equal Employment Opportunity and Diversity Division (EEO) 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; and
- 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; managing the Department's Alternative Dispute Resolution program; and delivering training, conducting oversight, and administering EEO and diversity programs for DHS Headquarters and its 7,250 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

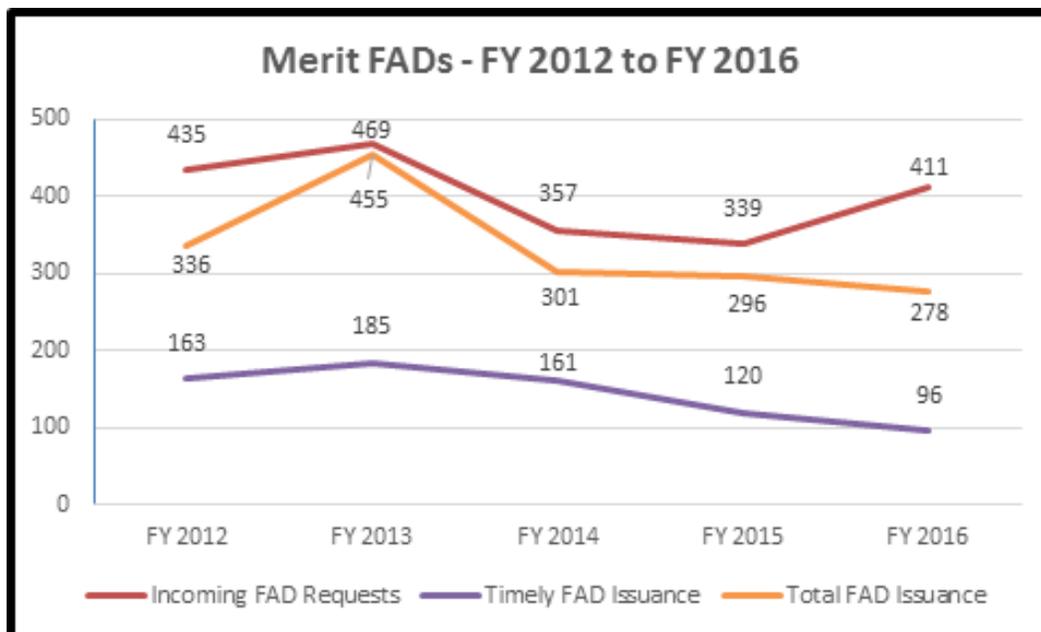
The Complaints Management and Adjudication Section (CMAS) within EEO oversees the administrative processing of EEO complaints across DHS and leads the adjudication of EEO complaints throughout the Department. CMAS prepares final actions on all formal EEO complaints filed by DHS employees, former employees, 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; and
- Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (“462 Report”)

Accomplishments in FY 2016

Issuance of Final Agency Actions: During FY 2016, CRCL received 767 incoming requests for final agency action and issued decisions, or otherwise administratively closed, 658 cases. Throughout the year, CRCL continued to place emphasis on adjudicating merit Final Agency Decisions (FAD) and issuing decisions within regulatory timeframes. Merit 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 EEOC Regulations, at 29 C.F.R. Part 1614, require merit FADs to be issued within 60 days of election of, or failure to elect, a FAD. The following chart shows CRCL’s five-year trend in merit FAD issuances.



Notably, CRCL has no direct control over the number of incoming FAD requests it will receive; rather, this is determined by the volume of complaint filings across the Department in any fiscal year, and complainants’ decisions to have their cases adjudicated by the agency. The chart

above illustrates that CRCL experienced a 21 percent increase in FAD requests during FY 2016 (411) over those received in FY 2015 (339). Coupled with the foregoing increase in requests, CRCL experienced a decrease in critical resources: two adjudication team members retired, resulting in a 25 percent decrease in staffing for several months in this specialized area, and the key position of Senior Advisor to the Deputy Officer remained vacant throughout FY 2016, despite attempts to recruit for the position. As a result of these vacancies, CRCL experienced a decrease in both the overall number of FADs issued and the number of regulatory timely FADs issued when compared to the prior year.

Collaborating and Leading DHS Components: CRCL led and otherwise participated in a number of collaborative initiatives in FY 2016, strengthening partnerships between CRCL and other DHS Components. First, CRCL continued efforts beginning in FY 2015, of launching the ROI Feedback Tool. The purpose of the Feedback Tool is to provide objective assessments regarding the quality of Components' EEO investigations. CRCL initially piloted the Feedback Tool with two Components, inviting comment on the effectiveness and clarity of the CMAS assessment categories and rating scheme. After incorporating Components' feedback and making minor modifications, the Feedback Tool was launched Department-wide during the second quarter of the year, with CMAS providing feedback reports to each DHS Component on a quarterly basis. Additionally, during the September 2016, Inaugural DHS EEO and Diversity Conference, CMAS personnel led a workshop on the Feedback Tool, providing a more in-depth look at the methodology of the assessment process and inviting questions from Component attendees. Overall, the Feedback Tool has been extremely well received by Components.

Next, CRCL led quarterly meetings of the DHS EEO Complaint Managers and presented or arranged for the presentation of topics of interest and encouraged open discussions amongst the group. Topics presented during FY 2016 included updated guidance on EEO complaint management and reporting, training on the DHS enterprise EEO database and the mandatory document management system required by EEOC, case updates from CRCL personnel, information on the DHS Alternative Dispute Resolution Program, and updates on the Inaugural EEO and Diversity Conference, held in September 2016.

Finally, CMAS members participated in one or more of the working groups formed to implement to goals contained in the EEO and Diversity Council's Strategic Plan. One significant initiative in the Strategic Plan was to hold the Department's Inaugural EEO and Diversity Conference. All CMAS members participated in this critical effort by helping with planning, preparing materials, presenting workshops, or otherwise responding to participants' needs. The CMAS' participation in the EEO and Diversity Council's Strategic Plan working groups will continue in FY 2017 and beyond.

Leaning Forward with Technology: CRCL hosted an enterprise EEO database webinar for EEO personnel across the Department that focused on the preparation of the Annual Federal EEO Statistical Report of Discrimination Complaints (commonly referred to as the "462 Report"). This webinar created an opportunity for new and current Component personnel, some first-time 462 Report preparers, to better understand how to critically evaluate and input complaint data central to the report. The information provided during the webinar also enhanced participants' knowledge of the comprehensive EEO complaints tracking and reporting system and enabled

them to receive individualized coaching from the DHS database administrator and Senior Complaints Manager. Finally, the webinar provided an opportunity to bring EEO personnel together to learn, discuss, and refresh on the steps to produce the 462 Report, thus strengthening collaboration across the EEO complaints management program, while also and enhancing effectiveness and report accuracy.

Finally, CRCL continued to rely on internal usage of digital review, signature, transfer, and issuance of final actions, which resulted in efficient movement of work products and sustained successes in providing excellent customer service. These enhancements also continued to support opportunities for telework and continuity of operations.

B. Diversity Management Section

The Division'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 utilizing Department-wide workforce data 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 and to the U.S. Department of Education's White House Initiatives Office. DMS staff members actively participate in various committees and working groups, including the DOJ Gender Identity Task Force, the National Council for Hispanic Employment Program Managers, the U.S. Office of Personnel Management and USA Staffing Applicant Flow Data working group, the DHS Deaf and Hard of Hearing group, the DHS Language Access Review Committee, the Intelligence Community's EEO and Diversity Council, and the White House Council on Native American Affairs.

Accomplishments in FY 2016

Departmental Special Emphasis Program: Special Emphasis Programs (SEP) are integral to the success of the Department's EEO and diversity efforts to identify, mitigate, and eliminate potential barriers for employees from groups that have historically been underrepresented in a given occupation, grade, or organization. The Department SEPs feature the Lesbian, Gay, Bisexual, and Transgender (LGBT) Employment Program, the Federal Women's Program, the Black Employment Program, the Hispanic Employment Program, the American Indian/Alaska Native Employment Program, the Asian American/Pacific Islander Employment Program, and the Disability Employment Program.

In FY 2016, SEP Managers met with Components to review the EEO Special Emphasis Programs Directive and Instruction; held seminars about the guidance and the program; held a Department-wide SEP training session with 200 Component Special Emphasis Program Managers and Special Emphasis Program Coordinators; identified and established relationships

with program managers at each Component; and compiled the first-ever DHS-wide SEP program listing for each commemorative month. Throughout the year, three significant areas of the SEPs were promulgated: observances, outreach, and barrier analysis:

- *Observances:* CRCL conducted the first-ever LGBT Employee Forum that featured candid discussions of work and life experiences by senior DHS leaders, law enforcement representatives, and others. The program marked the official establishment of the Department's LGBT SEP. The Forum was hosted by the CRCL Officer, with a keynote address by a DHS senior leader. Employees from throughout DHS participated on site and by teleconference.
- *Outreach:* CRCL convened a group of 30 students from Historically Black Colleges and Universities (HBCU) to participate in a special emphasis outreach and career development program in partnership with the Department of Education White House Initiative on Historically Black Colleges and Universities. The program included a panel discussion with 11 Department experts from mission-critical occupations who were also alumni from HBCUs across the U.S.
- *Barrier analysis and related actions:* CRCL conducted analysis of workforce and completed actions to address barriers; participated in job fairs to reach more applicants with disabilities; and worked to influence retention of women through supporting a Women's History Month program panel with women in DHS discussing career progression, overcoming obstacles, and work-life balance.

Disability Employment Program: The Special Emphasis Program Plan for the Recruitment, Hiring, and Advancement of Individuals with Disabilities continued to be a major effort within every Component during FY 2016. CRCL, the Office of the Chief Human Capital Officer, and DHS Component Disability Employment Managers were involved in recruiting initiatives for people with disabilities and for Operation War Fighter candidates throughout the year.

CRCL compiled and released a comprehensive Disability Employment Fact Sheet, which provides Component hiring officials with information to increase employment of persons with disabilities. The Fact Sheet also serves as a guide to all employees on the disability employment program.

CRCL convened a DHS Language Access Review Committee that evaluated and provided input for Sign Language Interpreters, Communication Access Real-time Translation, and other language services, resulting in the award of four blanket purchase agreements now available to all DHS Components. Following the award, CRCL provided training and guidance to all Components on the new DHS language service providers. This session ensured that Components understood the requirements and their responsibilities related to language services.

Overall from FY 2015 to FY 2016, the Department saw a slight increase in the employment of employees with disabilities.

Reporting Requirements: CRCL analyzed workforce trends, including various personnel actions regarding the recruiting of diverse new hires, separations, awards, and promotions. CRCL ensured the complete delivery and analysis of all statutory and regulatory EEO and diversity reports, including the FY 2015 Equal Employment Opportunity Management Directive 715 Report (MD-715) and the Department’s Annual Federal Performance Report on Executive Agency Actions to Assist Minority Serving Institutions (MSI). CRCL sponsored an MSI Report workshop in partnership with the Department of Education’s MSI Coordinator. The workshop provided extensive clarification and guidance to Components on the purpose and requirements of the annual report and plan.

The Department’s FY 2016 MD-715 report contained a comprehensive analysis of the workforce. The robust workforce analysis of triggers and barriers led to more carefully planned and implemented actions, including CRCL’s involvement with diversity recruiting initiatives. CRCL further supported outreach to the diverse workforce, including efforts to support retention through events and panels with women in DHS that focused on career progression, overcoming obstacles, and work-life balance. CRCL analyzed and fully reported applicant flow data for FY 2016, including the submission of the data to EEOC. This data analysis enabled DHS to better support efforts toward creating and sustaining a model workplace.

C. Alternate Dispute Resolution Program

The Department’s Alternative Dispute Resolution (ADR) Program provides a cadre of ADR shared neutrals (mediators) for use by all DHS Components to achieve early resolution of employment disputes. In FY 2016, the ADR Shared Neutrals Program added 22 new collateral-duty mediators to the shared neutrals roster, bringing the total to 54 mediators. In FY 2016, there was a 50 percent increase in the use of the mediators; Components used mediators from the shared neutrals roster in 47 cases, with a settlement rate of 47 percent (22 of 47). In addition, Components who utilized mediators from the roster, instead of a contract mediator, saw a collective savings of over \$50,000 in FY 2016.

D. Headquarters Equal Employment Opportunity Office

The Headquarters EEO Office (HQ EEO) supports 7,250 DHS Headquarters employees by enforcing compliance with EEO laws, regulations, and mandates; provides guidance to Headquarters management officials and employees on EEO and diversity; prevents and addresses unlawful employment discrimination; and ensures that all Headquarters employees have a working environment free from unlawful discrimination that will support them in the fulfillment of their mission to protect the homeland.

Accomplishments in FY 2016

Timely Complaints Processing: In FY 2016, HQ EEO processed all complaints within regulatory timeframes: HQ EEO counseled 67 cases and processed 50 cases. HQ EEO investigated complaints within 180 days, and top bases for complaints during FY 2016 were:

reprisal, age, sex, and race. The top issues for complaints were: nonsexual harassment, performance/evaluation, promotion (non-selection), assignment of duties, and appointment/hire.

Maturity of Reasonable Accommodation Process: In FY 2016, HQ EEO continued to mature the reasonable accommodation program at Headquarters. In addition to daily contacts from employees and managers seeking advice and guidance on the reasonable accommodation process and disability rights and responsibilities, HQ EEO completed reasonable accommodation requests from 136 employees, applicants for employment, and contractors. In addition, HQ EEO processed 479 requests for sign language interpreting services, which required coordination with other program offices and contract firms. Lastly, by the end of FY 2016, HQ EEO completed its transition to a paperless system of tracking and managing reasonable accommodation requests.

EEO Program Achievements: HQ EEO sponsored or co-sponsored a variety of events commemorating Special Emphasis Programs, including the following observances: African American History Month, National Women’s History Month, Asian/Pacific American Heritage Month, Lesbian, Gay, Bisexual and Transgender Pride Month, National Hispanic Heritage Month, National Disability Employment Awareness Month, and National American Indian Heritage Month.

Also in FY 2016, CRCL continued to facilitate the New Employee Orientation and HR Essentials trainings for staff.

VIII. Office of Accessible Systems and Technology

Section 508 of the Rehabilitation Act of 1973, as amended, requires Federal agencies to ensure that the electronic and information technology (EIT) procured, maintained, developed and used is accessible for employees and customers with disabilities. This legislation affects the full range of EIT including hardware, software, telecommunications systems, operating systems, kiosks, ATMs, copiers, facsimile machines, websites (both internet and intranet), and multimedia productions.

In 2005, the Officer for Civil Rights and Civil Liberties and the DHS Chief Information Officer joined efforts and resources to establish the Office of Accessible Systems & Technology (OAST). The mission of OAST is to provide the strategic direction, governance, technical assistance, and training to ensure DHS employees and customers with disabilities have equal access to DHS information and data.

OAST Structure

The Executive Director of OAST reports directly to the DHS Principal Deputy CIO and indirectly to the CRCL Officer, and is a part of senior management for both offices. OAST is physically located within the front office of the OCIO and currently employs 21 onsite personnel: 12 federal employees and nine contractors. The Executive Director chairs the DHS Section 508 Coordinators Council composed of 14 component-level coordinators – one for each CIO within DHS. Component-level Section 508 coordinators have a dotted line reporting relationship back to the Executive Director of OAST.

OAST is divided into two divisions: Program Compliance and Program Services.

Program Compliance is responsible for Section 508 compliance and governance activities including: Change and Configuration Management; Acquisition Review and Audit Operations; Web Accessibility and Remediation Program, Enterprise Architecture & Life Cycle Compliance, and Accessibility Compliance Center of Excellence (ACCOE). The ACCOE is responsible for assessing Section 508 compliance of DHS IT Programs, conducting audits for Section 508 compliance during program reviews, and serving the end-user DHS Program personnel with advice and consultation on how to achieve Section 508 compliance in accordance with OAST guidance and authority.

Program Services is responsible for the DHS Accessibility Help Desk services and operations, IT Application Accessibility Testing & Remediation Services, Electronic Document Accessibility & Remediation Services, e-Learning & Multimedia Accessibility Services, Reasonable Accommodations services, Classroom and Online Training development and delivery, Technical Support, and Outreach and Awareness.

Accomplishments in FY 2016

DHS Accessibility Help Desk: DHS Accessibility Help Desk stood up in September, 2007 and serves as a single point of contact for disability related issues, especially as they pertain to EIT accessibility and reasonable accommodation needs. In FY 2016, the Accessibility Help Desk processed 6,036 help desk requests.

Training Development/Delivery: The OAST Training Program provides awareness and training on Section 508-related topics. OAST offers nine different training courses and logged 8,284 course completions during FY 2016 through online, classroom, one-on-one, and hands-on trainings. Prior to 2015, the DHS Trusted Tester Certification Program successfully certified six to 10 Trusted Testers per month. In March 2015, OAST expanded its training capability by standing up an online version of the Trusted Tester Training and Certification course increasing the graduation rate to roughly 30 students per month—a 300 percent increase in certifications per month.

Application/Document Testing: OAST is responsible for testing COTS applications within Headquarters for compliance based on Section 508 accessibility standards and best practices. In FY 2016, OAST tested 177 IT and Web-based application for Section 508 compliance. OAST also tested 396 electronic documents which consisted of 8,930 pages of content ranging from simple PDF text-only documents to complex and very detailed documents consisting of numerous charts and tables.

Governance: OAST has worked hard over the past couple of years to integrate Section 508 requirements within the DHS IT governance processes. During FY 2016, OAST conducted 4,584 change reviews as a member of OCIO Configuration Control Boards and the Headquarters Services Division Review and Approval Committee. OAST also conducted 714 Information Technology Acquisitions Reviews for acquisitions over \$2.5M.

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.

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, semi-annually, to Congress.
- **20 U.S.C. § 1681 et seq. (“Title IX”); Education Amendments Act of 1972—Nondiscrimination Based on Sex.** Under Delegation 19003 (see below), CRCL is responsible for ensuring all federally-assisted and federally-conducted programs or activities of the Department comply with Title IX.
- **29 U.S.C. § 794; (“Section 504”) Rehabilitation Act of 1973 (as amended)—Nondiscrimination Under Federal Grants and Programs.** Prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance or under any program or activity conducted by DHS. Under Delegation 19003 (see below), CRCL is responsible for ensuring all federally-assisted and federally-conducted programs or activities of the Department comply with the Rehabilitation Act of 1973, as amended.
- **42 U.S.C. §§ 2000d to 2000d-7 (“Title VI”); Civil Rights Act of 1964—Prohibition Against Exclusion From Participation In, Denial of Benefits of, and Discrimination Under Federally Assisted Programs on Ground of Race, Color, or National Origin.** Under

Delegation 19003 (see below), CRCL is responsible for ensuring all federally-assisted and federally-conducted programs or activities of the Department comply with Title VI.

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. 19.** Affirms that faith-based organizations are able to seek and receive DHS financial assistance to administer social service programs on the same basis as other organizations and assures nondiscrimination against beneficiaries of those programs; complaints of violations may be considered by CRCL. This regulation effectuates Executive Orders 13279 and 13559.
- **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 U.S.
- **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 13279, *Equal Protection of the Laws for Faith-based and Community Organizations (December 12, 2002)***. Establishes baseline principles for participation of faith-based organizations in funded social service programs.
- **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.

- **Executive Order 13559, *Fundamental Principles and Policymaking Criteria for Partnerships with Faith-based and Other Neighborhood Organizations* (November 17, 2010).** Amends Executive Order 13279 by, among other things, ensuring beneficiary protections from discrimination.
- **Executive Order 13688, *Federal Support for Local Law Enforcement Equipment Acquisition* (January 16, 2015).** Creates a Law Enforcement Equipment Working Group as well as overarching policy to coordinate executive branch efforts to provide controlled equipment and funds for controlled equipment to state and local law enforcement agencies. A report and plan created by the working group guides efforts to realize the Executive order's goals.

Delegations and Directives:

- **Management Directive 3500,** Operational Roles of the Officer for Civil Rights and Civil Liberties and the Office of the Chief Counsel.
- **Management 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.
- **Delegation 19004,** Delegation of Authority To Issue Guidance and Implement 8 U.S.C. 1367.
- **Delegation 19005,** Delegation of Authority To Disclose Section 1367 Information to National Security Officials for National Security Purposes.
- **Directive 002-02,** Implementation of Section 1367 Information Provisions.
- **Directive 046-01,** Directive, Office for Civil Rights and Civil Liberties
- **Directive 065-01,** Nondiscrimination for Individuals with Disabilities in DHS-Conducted Programs and Activities (Non-Employment).
- **Directive 065-02,** Equal Employment Opportunity Special Emphasis Programs.

- **Directive 256-01, Anti-Harassment Policy.**

Appendix B: Complaints Tables

In FY 2016, CRCL opened 639 new complaints (compared to 716 opened in FY 2015) and closed 878 complaints (compared to 444 closed in FY 2015). Data tables B-1A and B-1B describe matters retained by the OIG during FY 2016 and complaints closed and returned to CRCL from the OIG during FY 2016, by quarter. Data tables B-2A through B-5B summarize complaints retained by CRCL and referred to DHS Components by quarter in FY 2016.

As of September 30, 2016, the Compliance Branch had 558 open complaints. Of those, 89 were retained by CRCL for investigation, 379 were addressed 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. Short form investigations that prove to require additional work may be converted to standard investigations. 58 complaints were referred to a DHS Component for investigation, and 32 were retained by OIG for investigation.

For a tally of all CRCL’s complaints by Component and primary allegation from 2003 to 2015, please visit www.dhs.gov/complaints.

Office of the Inspector General

CRCL initially refers all complaints to DHS 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, 2016, the CRCL Compliance Branch had 32 open complaints that were retained by OIG; of these, 25 complaints were opened in FY 2016.

In FY 2016, CRCL closed thirteen complaints returned by the OIG, which included three matters retained by the OIG in FY 2014, eight matters retained by the OIG in FY 2015, and two matters retained by the OIG in FY 2016. CRCL closed these complaints based upon either the conclusions reached from the OIG’s investigation or further investigation by CRCL which did not result in the issuance of recommendations.

TABLE B-1A: CRCL COMPLAINTS OPENED AND RETAINED BY THE OIG, FY 2016

Primary Allegation	CBP				ICE				TSA				USSS				Sub-Totals				Total
	14				9				1				1				25				
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	All												
Abuse of authority/ misuse of official position			2																2		2
Excessive force or inappropriate use of force			1																1		1
Fourth Amendment (search and seizure)		1		1							1							1	1	1	3
Excessive force or inappropriate use of force		1	1	2			1	1						1				2	2	3	7
Fourth Amendment (search and seizure)						1												1			1
Language access		3	2			5												8	2		10
Medical/mental health care							1												1		1
Total	0	5	6	3	0	6	2	1	0	0	1	0	0	1	0	0	0	12	9	4	25

TABLE B-1B: CRCL COMPLAINTS CLOSED BY THE OIG, FY 2016

Primary Allegation	CBP 10				ICE 3				Sub-Totals 13				Total All
	Q 1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4	Q 1	Q 2	Q 3	Q 4	
Conditions of detention			1								1		1
Discrimination/profiling			1								1		1
Excessive force or inappropriate use of force			2				2				4		4
Fourth amendment (search and seizure)							1				1		1
Language access			1								1		1
Medical/mental health care			5								5		5
Total	0	0	10	0	0	0	3	0	0	0	13	0	13

First Quarter FY 2016

TABLE B-2A: COMPLAINTS OPENED Q1 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 11			FEMA 1			ICE 150			TSA 3			USCIS 4			Multi-Component 6			Sub-Totals 175			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	
Abuse of authority/ misuse of official	2																1	2		1		3
Conditions of detention			2				2	7	8										2	7	10	19
Disability accommodation (Section 504)									1		1										2	2
Discrimination/profiling	1		1												1				2		1	3
Due process							1		9					1					1		10	11
Excessive force or inappropriate use of force	1						1		4		1								2		5	7
Fourth Amendment (search and seizure)									3												3	3
Human rights		1															2			1	2	3
Intimidation/threat/ improper coercion	1																		1			1
Language access						1		1						1						1	2	3
Legal access							1												1			1
Medical/mental health care	1						2	8	91								1	3	8	92	103	
Privacy									1					1							2	2
Religious accommodation							1		3					1					1		4	5
Retaliation									1												1	1
Sexual assault/abuse			1						5						1				1		6	7
TSA AIT and TSA pat-downs											1										1	1
Total	6	1	4	0	0	1	8	16	126	0	0	3	0	0	4	2	0	4	16	17	142	175

TABLE B-2B: COMPLAINTS CLOSED Q1 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 25			ICE 106			TSA 1			USCIS 1			Multi-Component 10			Sub-Totals 143			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	
Abuse of authority/ misuse of official position	1		2			1										1		3	4
Conditions of detention	2		3	2	4	4										4	4	7	15
Disability accommodation (Section 504)					1	1											1	1	2
Discrimination/profiling		1	4		1				1								2	5	7
Due process	1		1			1										1		2	3
Excessive force or inappropriate use of force	1		1		1	1								2		1	1	4	6
Hate speech	1															1			1
Human rights														5				5	5
Inappropriate questioning/ inspection conditions	1		2										1			2		2	4
Inappropriate touch/ search of person (non-TSA)			2			1												3	3
Intimidation/threat/ improper coercion	1			1							1			1		2		2	4
Legal access				1		2										1		2	3
Medical/mental health care				2	9	67								1	2	9	68	79	
Religious accommodation						3												3	3
Sexual assault/abuse	1				2	1										1	2	1	4
Total	9	1	15	6	18	82	0	0	1	0	0	1	1	0	9	16	19	108	143

Second Quarter FY 2016

TABLE B-3A: COMPLAINTS OPENED Q2 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 45			ICE 84			TSA 3			USCIS 13			USSS 1			Multi-Component 9			Sub-Totals 155			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	
Abuse of authority/ misuse of official position	2		2	1		2											1	3		5	8	
Conditions of detention	1		6	3		6											1	4		13	17	
Disability accommodation (Section 504)						2			1			12						2			17	17
Discrimination/profiling	1		5		1														1	1	5	7
Due process	1	1	1		2	6				1									2	3	7	12
Excessive force or inappropriate use of force	3		2	1		1									1				4		4	8
Fourth Amendment (search and seizure)			2			2															4	4
Human rights																	3				3	3
Inappropriate questioning/ inspection conditions	2		1																2		1	3
Inappropriate touch/ search of person (non-TSA)					1															1		1
Intimidation/threat/ improper coercion	2		1		8														2	8	1	11
Language access			1																		1	1
Legal access			1		2	1											1		2	3	5	5
Medical/mental health care	1	1	6	3	6	33											1	4	7	40	51	51
Privacy					1																1	1
Religious accommodation					1				1											1	1	2
Sexual assault/abuse			2		1																3	3
TSA AIT and TSA pat-downs									1												1	1
Total	13	2	30	8	21	55	0	0	3	1	0	12	0	0	1	0	0	9	22	23	110	155

TABLE B-3B: COMPLAINTS CLOSED Q2 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 37			ICE 173			TSA 6			USCIS 2			Multi-Component 5			Sub-Totals 223			Total All
	Referred	Retained	Referred	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	Referred	Retained	Short Form	
Abuse of authority/ misuse of official position			1	1		2			1				1			2		4	6
Conditions of detention			4	1	1	8										1	1	12	14
Disability accommodation (Section 504)						3			2			1			1			7	7
Discrimination/profiling	1	2	1			1										1	2	2	5
Due process		5	2	1		5										1	5	7	13
Excessive force or inappropriate use of force	2		6	1		8			1				1		1	4		16	20
First Amendment (free speech/association)			1															1	1
Fourth Amendment (search and seizure)		1		2		3										2	1	3	6
Inappropriate touch/ search of person (non-TSA)			2															2	2
Intimidation/threat/ improper coercion			1															1	1
Language access			2															2	2
Legal access					1	1											1	1	2
Medical/mental health care			6	7	2	120										7	2	126	135
Privacy				2												2			2
Religious accommodation				1		1						1			1	1		3	4
Retaliation					1												1		1
TSA AIT and TSA pat-downs								2										2	2
Total	3	8	26	16	5	152	0	0	6	0	0	2	2	0	3	21	13	189	223

Third Quarter FY 2016

TABLE B-4A: COMPLAINTS OPENED Q3 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 41			ICE 95			TSA 1			USCIS 37			Multi-Component 7			Sub-Totals 181			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	
Abuse of authority/ misuse of official position	1		2	1		2										2		4	6
Conditions of detention			6		4	3											4	9	13
Disability accommodation (Section 504)			3			1						27						31	31
Discrimination/profiling	2		2	1		3			1	1		2				4		8	12
Due process		6	3			3					2	4		2	3		10	13	23
Excessive force or inappropriate use of force	4		2	1	3	4										5	3	6	14
Fourth Amendment (search and seizure)	1		1		1	1										1	1	2	4
Human rights			2			1								1				4	4
Inappropriate questioning/ inspection conditions	1															1			1
Language access						2												2	2
Legal access			1	1		1				1						2		2	4
Medical/mental health care	2		2		2	57								1	2	2	2	60	64
Religious accommodation				1												1			1
Sexual assault/abuse					1	1											1	1	2
Total	11	6	24	5	11	79	0	0	1	2	2	33	0	2	5	18	21	142	181

TABLE B-4B: COMPLAINTS CLOSED Q3 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 69			ICE 123			TSA 1			USCIS 3			Multi-Component 6			Sub-Totals 202			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	
Abuse of authority/ misuse of official position	1		1	1												2		1	3
Conditions of detention	2	12	15	1	1	7									1	3	13	23	39
Disability accommodation (Section 504)												2						2	2
Discrimination/profiling			3	1												1		3	4
Due process						5						1						6	6
Excessive force or inappropriate use of force	2	1	4	2												4	1	4	9
First Amendment (free speech/ association)			1															1	1
Fourth Amendment (search and seizure)			4															4	4
Human rights															4			4	4
Inappropriate questioning/ inspection conditions		1															1		1
Intimidation/threat/ improper coercion	1	2	1													1	2	1	4
Language access															1			1	1
Legal access						2												2	2
Medical/mental health care	2	8	4	3	4	93										5	12	97	114
Religious accommodation									1									1	1
Retaliation	1															1			1
Sexual assault/abuse		1	2	1	1	1										1	2	3	6
Total	9	25	35	9	6	108	0	0	1	0	0	3	0	0	6	18	31	153	202

Fourth Quarter FY 2016

TABLE B-5A: COMPLAINTS OPENED Q4 FY 2016: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 39			ICE 75			TSA 2			USCIS 4			Multi-Component 8			Sub-Totals 128			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	
Abuse of authority/ misuse of official position	1		2			1										1		3	4
Conditions of detention			3		5	5											5	8	13
Disability accommodation (Section 504)						2			1			4			2			9	9
Discrimination/profiling	3		4			2										3		6	9
Due process	1	1	5		1	3								1	3	1	3	11	15
Excessive force or inappropriate use of force	3		6			5									1	3		12	15
Fourth Amendment (search and seizure)			2			1												3	3
Human rights	1		1												1	1		2	3
Inappropriate questioning/ inspection conditions						1												1	1
Medical/mental health care		3	1	2	1	44										2	4	45	51
Religious accommodation	1				1											1	1		2
Retaliation					1												1		1
Sexual assault/abuse			1						1									2	2
Total	10	4	25	2	9	64	0	0	2	0	0	4	0	1	7	12	14	102	128

TABLE B-5B: COMPLAINTS CLOSED Q4 FY 2015: PRIMARY ALLEGATION BY COMPONENT

Primary Allegation	CBP 27			ICE 223			TSA 2			USCIS 42			Multi-Component 16			Sub-Totals 310			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	
Abuse of authority/ misuse of official position			1	1	1	3									1	1	1	5	7
Conditions of detention	1		2	7	12	17										8	12	19	39
Disability accommodation (Section 504)						4			1			38			1			44	44
Discrimination/profiling			1	1	3								1			2	3	1	6
Due process			1	2	9	7						1		6	1	2	15	10	27
Excessive force or inappropriate use of force	2	1	5	3	4	14										5	5	19	29
First Amendment (free speech/ association)					2	1									1		2	2	4
Fourth Amendment (search and seizure)			1			3									1			5	5
Inappropriate questioning/ inspection conditions			2										1			1		2	3
Intimidation/threat/ improper coercion			1						1									2	2
Language access												1						1	1
Legal access						2				1						1		2	3
Medical/mental health care	3		5	2	29	75								3	5	29	83	117	
Privacy					1	1				1						1	1	1	3
Religious accommodation				5		2										5		2	7
Retaliation					3	1											3	1	4
Sexual assault/abuse			1		4	4											4	5	9
Total	6	1	20	21	68	134	0	0	2	2	0	40	2	6	8	31	75	204	310

TABLE 4: FY 2016: INFORMATION LAYER - PRIMARY ALLEGATION

Primary Allegation	Total
Abuse of authority/ misuse of official position	159
Conditions of detention	699
Disability accommodation (Section 504)	22
Discrimination/profiling	209
Due process	781
Excessive force or inappropriate use of force	101
First Amendment (free speech/association)	2
Fourth Amendment (search and seizure)	12
Hate speech	4
Human rights	10
Inappropriate questioning/ inspection conditions	40
Inappropriate touch/ search of person (non- TSA)	13
Intimidation/threat/ improper coercion	55
Language access	8
Legal access	17
Medical/mental health care	175
Privacy	2
Religious accommodation	27
Retaliation	16
Sexual assault/abuse	52
TSA AIT and TSA pat-downs	23
Total	2,427

Appendix C: Abbreviations

ACA	American Correctional Association
ACCOE	DHS Accessibility Compliance Center of Excellence
ADG	CRCL Antidiscrimination Group
ADR	Alternative Dispute Resolution
CAB	CRCL Community Awareness Briefing
CBP	U.S. Customs and Border Protection
CCVAW	DHS Council on Combatting Violence Against Women
CMA	Computer Matching Agreements
CMAS	CRCL Complaints Management and Adjudication Section
CRCL	DHS Office for Civil Rights and Civil Liberties
CREX	CRCL Community Resilience Exercise
CVE	Countering Violent Extremism
DHS	U.S. Department of Homeland Security
DMS	CRCL Diversity Management Section
DMV	Department of Motor Vehicles
DOJ	U.S. Department of Justice
DOL	U.S. Department of Labor
ECW	Electronic Control Weapons
EEO	Equal Employment Opportunity
EEOD	CRCL Equal Employment Opportunity and Diversity Division
EEOC	Equal Employment Opportunity Commission
EIT	Electronic and Information Technology
ERO	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
HBCU	Historically Black Colleges and Universities
HQ EEO	DHS Headquarters Equal Employment Opportunity Office
HAS	Homeland Security Act of 2002
HHS	U.S. Department of Health and Human Services
HSAC	Homeland Security Advisory Committee
HSI	Homeland Security Investigations
I&A	DHS Office of Intelligence and Analysis
ICCT	CRCL Incident Communication Coordination Team
ICE	U.S. Immigration and Customs Enforcement
IHSC	Immigration Health Service Corps
IGSA	Intergovernmental Service Agreement
ISE	Information Sharing Environment
ISIL	Islamic State of Iraq and the Levant
LEP	Limited English Proficiency
LGBT	Lesbian, Gay, Bisexual, and Transgender

MD-715	Equal Employment Opportunity Management Directive 715 Report
MOU	Memorandum of Understanding
MSI	Minority Serving Institutions
NCTC	National Counterterrorism Center
NDS	National Detention Standards
NGO	Non-Governmental Organization
NLRB	National Labor Relations Board
No FEAR	Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002
NPPD	DHS National Protection and Programs Directorate
NTAS	DHS National Terrorism Advisory System
OAST	DHS Office of Accessible Systems & Technology
OCIO	DHS Office of the Chief Information Officer
OIG	DHS Office of the Inspector General
P/CRCL	Privacy/Civil Rights and Civil Liberties
PBNDS	Performance-based National Detention Standards
PREA	Prison Rape Elimination Act
PRIV	DHS Privacy Office
PSO	Protective Service Officer
ROI	Report of Investigation
SAVE	Systematic Alien Verification for Entitlements
SEP	DHS Special Emphasis Program
SIIP	CRCL Security, Intelligence, and Information Policy Section
ToT	Training of Trainers
TSA	Transportation Security Administration
UAS	Unmanned Aircraft Systems
U.N.	United Nations
UNHRC	UN Human Rights Council
UPR	Universal Periodic Review
USCIS	U.S. Citizenship and Immigration Services
VAWA	Violence Against Women Act