



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

Quarterly Report

January 2008 – March 2008

OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

The *Implementing Recommendations of the 9/11 Commission Act of 2007*, Pub. L. 110-53, requires the Office for Civil Rights and Civil Liberties (CRCL) to report quarterly regarding: (1) the number and types of review of department actions undertaken; (2) the type of advice provided and the response given to such advice; (3) the number and nature of complaints received by DHS for alleged violations; and (4) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of these activities.¹ In accordance with this requirement, this report serves as CRCL's second quarterly report, covering the period from January 1, 2008, to March 31, 2008.

I. CRCL Mission

In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, the mission of the Office for Civil Rights and Civil Liberties (CRCL) is to assist the dedicated men and women of this Department to secure the nation while preserving our freedoms and our way of life. CRCL assists our colleagues in four ways:

1. We help the Department to shape policy in ways that are mindful of civil rights and civil liberties by providing proactive advice, evaluation and review of a wide range of technical, legal and policy issues;
2. We investigate and resolve complaints filed by the public regarding Departmental policies or actions taken by Departmental personnel;
3. We provide leadership to the Department's equal employment opportunity programs, seeking to make this Department the model federal agency; and
4. We are engaged with the public regarding these issues.

II. Functional Integration

On February 4, 2008, a delegation of authority from the Secretary to the Officer for Civil Rights and Civil Liberties to integrate and manage Civil Rights, Civil Liberties, and Equal Employment Opportunity (EEO) programs throughout DHS was issued. This delegation recognizes that CRCL will serve as the foundational DHS organization through which all Department-wide CRCL activities will be overseen, defined, and measured. The purpose of the delegation was to standardize Civil Rights and Civil Liberties policies across DHS to ensure functional excellence. Based on this delegation, CRCL will work toward functional integration of component civil rights, civil liberties, and equal employment opportunity offices.

COMPLAINT INVESTIGATIONS

In addition to our equal employment opportunity work,² CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1. These statutes require the Officer for Civil Rights and Civil Liberties to:

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

¹ See 42 U.S.C. § 2000ee-1(f)(1).

² See the Equal Employment Opportunity Section of this report at page 8.

I. Summary of Complaints Received Under CRCL Statutes

During the second quarter, CRCL received 30 new complaints.³ They involved the following components: U.S. Customs and Border Protection (CBP) - 8; Immigration and Customs Enforcement (ICE) - 14; Transportation Security Administration (TSA) - 5; U.S. Citizenship and Immigration Services (USCIS) - 1; and DHS - 2 (implicate more than one component). CRCL closed 25 complaints in the second quarter. These complaints involved the following components: ICE - 18; CBP - 6; DHS - 1 (implicate more than one component).

Of these new complaints, the primary issues are as follows:

The primary issues for these closed complaints are as follows:

| | | | |
|---------------------------------------|----------|---------------------------------|----------|
| Abuse of authority/color of law | 1 | Abuse of authority/color of law | 9 |
| Conditions of Detention | 9 | Conditions of Detention | 8 |
| Discrimination | 6 | Discrimination | 2 |
| Due process/Administrative Processing | 1 | Due Process/Adm Processing | 1 |
| Profiling | 5 | Profiling | 1 |
| Treatment | 0 | Treatment | 1 |
| Unaccompanied Minors | 7 | Unaccompanied Minors | 2 |
| Watch List | <u>1</u> | Watch Lists | <u>1</u> |
| TOTAL | 30 | TOTAL | 25 |

II. Examples of Complaints Resolved by CRCL

A. Treatment of Unaccompanied Minors

CRCL continues to receive and handle complaints involving the treatment of unaccompanied minors. During the second quarter of FY2008, CRCL opened seven new complaints and resolved two complaints concerning the treatment of unaccompanied minors in DHS custody. CRCL referred the seven new complaints to ICE and CBP, requesting an investigation of the allegations and final reports for each. Allegations included physical and verbal abuse, inadequate food and bedding, inadequate medical attention in DHS facilities, and delays in the transfer of minors to appropriate placements.

CRCL continues to work with the DHS components responsible for unaccompanied minors to implement CRCL's recommendations concerning appropriate treatment by DHS, and subsequently reviews the components' compliance with those recommendations. In addition, CRCL maintains a productive relationship with leadership and staff of the U.S. Department of Health and Human Services Office of Refugee Resettlement (ORR), which assumed responsibility under the Homeland Security Act of 2002 for the care and placement of unaccompanied minors after DHS apprehension and processing. Finally, CRCL accepts invitations to review and comment on ICE, CBP and departmental policies impacting unaccompanied minors such as DHS policy concerning appropriate transport of unaccompanied minors from DHS facilities to ORR placements.

B. Conditions of Detention for Adult Detainees

During the second quarter, CRCL resolved various complaints dealing with conditions of detention for ICE detainees. Specifically, CRCL issued closing documentation for 17 ICE referred complaints. These complaints dealt with diverse concerns related to conditions of detention, including violations of the ICE National Detention Standards, allegations of abuse of authority, as well as religious discrimination and racial profiling while in ICE custody. These complaints were closed as a result of close collaboration between CRCL and ICE regarding the detailed investigative and review processes CRCL requires prior to closing referred complaints. Of this group, CRCL closed eight complaints alleging violations of the ICE National Detention Standards, including two involving the standard on medical care. Another six complaints alleging abuse of authority were successfully closed within the quarter, as were two complaints alleging discrimination of detainees while in ICE custody. In nine of these complaints, CRCL issued close letters directly to the complainant explaining the outcome of the

³ These numbers are calculated using the date CRCL received the complaint within the Office.

investigation. In the remaining eight complaints, the detainee had been removed and no forwarding address was available, thus CRCL issued a closing memorandum in these matters.

In one complaint CRCL referred to ICE alleging insufficient medical care and lack of access to the law library, ICE reported that the detainee had been allowed access to the library on numerous occasions and had only been denied once due to increased demand on a specific day. The report from ICE also contained a detailed response from the medical unit at the facility outlining the detainee's medical care for his condition while in detention. After review of the documentation, CRCL was able to conclude that the detainee had received proper medical treatment and law library access while in detention and accordingly closed the complaint.

C. Traveler Redress Inquiry Program

DHS TRIP serves as a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs. Travelers may contact DHS TRIP by email, postal mail or via an online submission form. For additional information on how travelers may file a complaint, visit www.dhs.gov/trip. Requests received by DHS TRIP are routed for redress to the appropriate DHS components. CRCL receives from DHS TRIP inquiries from travelers who assert that they have been discriminated against on the basis of race, disability, religion, gender, or ethnicity by DHS employees. When CRCL receives an inquiry, CRCL reviews the complaint to determine whether the inquiry should be treated as a complaint. In the second quarter, CRCL did not open a complaint based on records received from DHS TRIP. During this period DHS TRIP received 8,211 requests for redress and 315 individuals alleged that they had been discriminated against by DHS employees.

D. Treatment of A Minor During ICE Enforcement Action and in Detention

On March 18, 2008, CRCL issued a Final Report and Recommendation to ICE regarding a complaint concerning allegations of physical mistreatment of a minor and sexual misconduct by an ICE Officer in Houston. After the completion of our investigation, CRCL determined that these allegations were not substantiated. During an investigation interview, the minor stated that these allegations were not correct and were the result of confusion on her part regarding searches pursuant to an arrest. Further, allegations concerning the conditions of her detention were also not substantiated. CRCL recommended that ICE, as a preventative measure, reiterate to staff at the Houston Field Office the obligation to treat minors consistent with their particular vulnerabilities.

III. Examples of Ongoing Issues Being Reviewed by CRCL

A. Conditions of Detention for Adult Detainees

CRCL has continued to receive complaints alleging violations of the ICE National Detention Standards at facilities used to house ICE detainees. Allegations raised in these complaints encompass various standards, notably: access to telephones, law libraries, religious accommodations, inappropriate use of force, and provision of medical care. This quarter CRCL opened nine complaints that alleged infringements of the standards as a primary issue. CRCL reviews each complaint and either retains the complaint for investigation, or refers the complaint to ICE's Office of Professional Responsibility, which reports the results of the investigation to CRCL. Among the nine complaints regarding conditions of detention received this quarter, CRCL retained three complaints alleging serious violations of the standard on medical care and asserting inadequate medical treatment while in ICE custody. CRCL will work with ICE's Office of Detention and Removal (DRO) to implement any recommendations made as a result of the investigation.

B. Complaint Involving Actions by DHS Law Enforcement Personnel

CRCL has also received and retained for investigation a complaint alleging improper conduct by ICE agents during an enforcement action at a private residence. CRCL has received a number of complaints on this issue, including allegations of searches without proper consent, warrantless searches, and offensive behavior during enforcement actions at private homes. CRCL has been working with ICE to investigate this complaint and will be performing an on-site investigation on this matter.

C. Complaints Regarding Discrimination Based upon a Disability

CRCL opened an investigation into allegations of disability discrimination alleging that USCIS denied a naturalization application after granting a disability waiver for the examination. CRCL worked with USCIS to informally resolve the complaint between the applicant and USCIS. CRCL has also opened an investigation into a complaint alleging disability discrimination of a passenger by the TSA alleging that TSA performed an inappropriate search of the complainant while she sat in her wheelchair. CRCL is currently investigating the complaint to determine if TSA discriminated against the passenger on the basis of her disability and whether TSA followed proper standard operating procedures.

CRCL PROGRAMS

The following is a summary of the CRCL Programs Division's second quarter activities. The CRCL Programs Division reviews DHS programs, policies, reports, regulations, and other activities and provides advice to DHS senior leadership and staff on issues at the intersection of homeland security and civil rights and civil liberties.

I. Individuals with Disabilities and Other Special Needs Populations in Emergency Preparedness

A. Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities

CRCL leads the Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities. More than 20 Federal Departments and agencies serve as members of the ICC to ensure the safety and security of individuals with disabilities in all-hazard emergency and disaster situations. During the second quarter, the ICC worked on developing a revised ICC charter and a revised ICC Incident Community Coordination Team Standard Operating Procedure.

B. National Response Framework

On January 22, 2008, DHS Secretary Chertoff announced the public release of the National Response Framework (NRF). Throughout the development of the NRF, CRCL served as the lead for the Special Needs Work Group, which included representatives from many disciplines related to individuals with disabilities and other special needs. The work of this group resulted in the inclusion of disability and special needs considerations throughout the NRF and its Emergency Support Functions and Annexes. The Special Needs Work Group also developed a function-based definition for the phrase "special needs populations" as used in an emergency management context. This definition is contained in the NRF glossary.

C. Public Entity Risk Institute

CRCL staff have developed and submitted a textbook chapter on special needs considerations to FEMA for publication by the Public Entity Risk Institute. The textbook is used during FEMA's training of emergency managers. The chapter, titled "*The Paradigm Shift in Planning for Special Needs Populations*," delineates a function-based approach to planning for individuals with disabilities and other special needs, furthering life-safety and health objectives during each phase of emergency planning.

D. Association of State and Territorial Health Officials

On February 13, 2008, CRCL staff engaged in the second of a series of conference calls with the Association of State and Territorial Health Officials (ASTHO). ASTHO received a grant from the Centers for Disease Control and Prevention (CDC) to develop model guidance for state, territorial, and local health officials on the protection of at-risk populations during an influenza pandemic. CRCL staff are contributing expertise in the area of special needs populations as work continues on the development of a guidance document intended to ensure that key planning issues for at-risk populations are addressed.

E. National Council on Disability

On January 29, 2008, CRCL attended the National Council on Disability's quarterly meeting, held in New Orleans, Louisiana. The meeting included panel presentations by disability advocates from NGOs and the Gulf Coast Region as well as a presentation by the FEMA Disability Coordinator. CRCL was able to make valuable

connections with numerous attendees who are still struggling with post-Katrina recovery issues related to special needs populations. As a result, CRCL will be working directly with the Mississippi Center for Independent Living towards assisting them in becoming more directly involved in their state's emergency planning activities.

II. Engagement with Cultural, Ethnic, and Religious Communities

Public outreach and engagement initiatives with key communities continue to play a major role in the Department's mission to protect America while preserving our freedoms. We continue to believe that it is wise to invest time communicating with the public and providing information. We continue to sustain open dialogues with the American Arab, Muslim, Sikh, South Asian, and Middle Eastern communities. The CRCL "Engagement Team" leads this effort and regularly engages with community leaders and nonprofit organizations across the country. The following is a brief summary of some of CRCL's work in this area during the second quarter of FY 2008:

- CRCL led the Los Angeles Roundtable with leaders from the American Arab, Muslim, Sikh, South Asian, and Middle Eastern communities on February 19, 2008. Presentations were made from a Sikh community participant on Sikh religion and culture for law enforcement and from TSA on the Traveler Redress Inquiry Program (TRIP). USCIS also discussed naturalization processing times and the latest announcement regarding processing of applications for permanent residence;
- CRCL met with the American Jewish Committee on January 18, 2008, regarding increasing outreach to the American Jewish community;
- CRCL met with Post 9/11 national stakeholders on January 11, 2008, to discuss parameters of engagement, including the most efficient and appropriate ways for government and community groups to engage with one another;
- CRCL attended the Interagency meeting with Post 9/11 Communities on January 23, 2008, at the Department of Justice. Issues submitted for DHS response included naturalization processing times and how new USCIS processes would be communicated to people with limited English proficiency;
- CRCL hosted an Interagency Engagement meeting on February 27, 2008, at its offices in order to better coordinate engagement among the federal government to Post-9/11 Communities; and
- CRCL attended the Interagency meeting with Post 9/11 Communities on March 26, 2008, at the Department of Justice. Issues submitted for DHS response included asylum seekers from Palestinian territories, Darfur and Iraq and naturalization processing times.

III. Immigration Initiatives

During this time period, CRCL created the Immigrant Worker Roundtable (IWR) to address immigrant worker civil rights issues. The IWR provides CRCL and other government agencies a means to address the interdisciplinary nature of immigration workplace issues. In short, the IWR provides a means to address the complexity of the relationship between civil rights and immigration law, and the consequent effect on the labor market. In addition to various DHS components (e.g., ICE and USCIS), attendees included representatives from government agencies that have programs that directly or indirectly address immigrant rights and/or affect those rights in some significant way, including the Equal Employment Opportunity Commission (EEOC), the Department of Labor, the Department of Health and Human Services (HHS), and the Department of Justice's (DOJ) Civil Rights Division. Non-governmental attendees included representatives from the National Immigration Law Center, National Immigration Forum, Catholic Legal Immigration Network, Inc., Mexican American Legal Defense and Education Fund, Center for Democracy & Technology, American Bar Association, the United Food and Commercial Workers Union, the Legal Aid Society – Employment Law Center, and the National Employment Law Project.

The first two IWR meetings in January and March addressed E-Verify, the electronic employment eligibility verification program of DHS and the Social Security Administration (SSA). Attendees received a number of briefings, including E-Verify 101 by the Acting Chief of USCIS's Verification Division, Civil Rights Issues and

E-Verify by a senior policy advisor with CRCL, and E-Verify monitoring and compliance by the Chief of the Verification Division's monitoring and compliance unit.

CRCL provided E-Verify training during the second quarter to incoming employees of the Verification Division at USCIS, employers in Atlanta, Georgia, and the American Immigration Lawyer's Association. The training addressed the impact of E-Verify on the civil rights and civil liberties of workers, and employer responsibilities under the program. Finally, CRCL continued its five-year tradition of participating in meetings with a coalition of civil rights and immigration groups chaired by the National Immigration Forum. During the meetings, NGOs discuss issues of concern, and CRCL provides updates on its activities involving immigration issues.

IV. Civil Liberties Impact Assessments

It is essential that DHS leadership and program managers at every level obtain the advice of subject matter experts on civil rights and civil liberties as they initiate or make changes to DHS programs, policies, regulations, directives, instructions and guidelines. CRCL assists its colleagues in the Department to shape policies in many ways; we are regularly called upon to give advice on a variety of policies and programs. The Civil Liberties Impact Assessment (CLIA) provides a formal, written evaluation of a program, and can also serve as a written certification of a program's bona fides. CLIAs formalize CRCL's advice designed to improve compliance with Constitutional, statutory, regulatory, and other legal and policy requirements, and adherence to the DHS's statutory mission to ensure that civil liberties are not diminished by programs aimed at securing the homeland. The CLIA program is within the CRCL Programs Division. The objective of the CLIA program is to identify potential civil liberties concerns early in the program life cycle, and assist the program office in developing strategies and measures to address these concerns. The following is a brief summary of the CLIAs in process and completed during the second quarter of FY 2008:

- State, Local and Regional Fusion Centers: mandated in Section 511(d)(2) of the 9/11 Act, this CLIA is complete and submission to Congress is awaiting formal Departmental clearance of the accompanying Concept of Operations.
- Homeland Security Information Sharing Fellows Program: mandated in Section 512(c)(2) of the 9/11 Act, this CLIA is completed and was submitted to Congress.
- National Application Office (NAO) and National Immigration Information Sharing Office (NIISO). Title VII of the 2008 Omnibus Appropriations Act, Public Law 110-161, provided that no funds would be available to commence operations of the NAO and NIISO until the GAO reviews a certification by the Secretary that these programs comply with all existing laws, including all applicable civil liberties standards. CRCL conducted a CLIA for the NAO as part of the Secretary's certification. It was forwarded to Congress and GAO. A CLIA for NIISO is in draft.
- Interagency Threat Assessment Coordinating Group assessment: mandated in Section 521(c) of the 9/11 Act, this CLIA is circulating for review and comment.

V. Civil Liberties Institute

In the second quarter of FY 2008, CRCL continued to address civil rights and civil liberties training needs of DHS employees. The Civil Liberties Institute has distributed multiple training products, provided classroom training, and is partnering with other Department agencies to co-sponsor and approve training products.

CRCL also continued to fulfill its role to train Department personnel who work with state and local fusion centers. Fusion centers serve as a place where State and local officials, alongside their Federal partners, collaborate, coordinate and share law enforcement and intelligence information in an effort to prevent future threats to the Nation. CRCL conducted in-classroom training on cultural competence and civil liberties at individual fusion centers, regional, and National fusion center conferences. This includes training to fusion center personnel on January 23 at Connecticut State University and on January 28 in Raleigh, North Carolina. Additionally, CRCL staff attended the National Fusion Center Conference. At the conference, CRCL hosted a

booth to distribute current Civil Liberties Institute training products and participated on a session panel entitled, "Implementing Privacy and Civil Liberty Protections in the Fusion Center."

VI. Office on Accessible Systems & Technology

The Officer for Civil Rights and Civil Liberties and the DHS Chief Information Officer (CIO) continue to collaborate to fully implement and enforce the provisions of Section 508 throughout the Department.⁴ In 2005, the two offices worked in concert to establish a Department-wide Section 508 program, run by the Office on Accessible Systems & Technology (OAST).

A. Accessibility Helpdesk

The OAST processed 289 helpdesk requests from numerous DHS components. Assistance was provided in the following categories: Technical Assistance (103); Application Reviews (111); COTS/GOTS (31); EA Reviews (19); IT Requests (78); and 504 Accommodations (7).

B. Document Accessibility

OAST personnel assisted DHS employees from various components in reviewing and remediating 93 document files ranging from simple memorandums, handbooks, training materials, forms, to a complex 149-page Budget-in-Brief.

C. Training

OAST personnel successfully trained a total of 220 employees from numerous DHS components: Classroom/Hands-on (197); and Online Training (23).

On January 24, OAST launched the "Software/Web Testing Process & Tools" training. Since its release, the two-day hands-on course has received excellent feedback. Since its launch, OAST has held four classes and trained a total of 27 individuals throughout DHS components.

On February 20-21, OAST provided a total of 86 Emergency Management Institute (EMI) and US Fire Academy (USFA) personnel with ten Section 508 related trainings over a 2-day period. Trainings included: Introduction to Section 508; Introduction to Accessible Multimedia; Introduction to Job Access with Speech (JAWS); Creating Accessible PDFs Using Acrobat 8.0; and Creating Accessible Fillable Forms.

D. Applications Accessibility Assessments

OAST successfully conducted the second quarter Web Accessibility Review for FY 2008. In all, 110 websites consisting of 300,883 files were evaluated for Section 508 compliance. Results show that DHS website accessibility improved by 4% during the second quarter and 27% since the program began in February 2007. These improvements continue to reflect joint efforts being made to provide accessible information to the public and employees that DHS serves.

E. Acquisition Reviews

OAST processed 94 acquisition reviews to ensure Section 508 language is appropriately imbedded within each acquisition. These reviews impacted the accessibility of more \$1.29 billion worth of IT investment during the second quarter. In all, 87 were approved, 7 are pending approval, and 7 were granted National Security Exceptions (NSE).

VII. Intelligence Community Activities and Information Sharing

CRCL continues working with DHS components on intelligence and information sharing activities to ensure that such activities are conducted in a manner consistent with Constitutional, statutory, regulatory, and other legal

⁴ Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended by the Workforce Investment Act of 1998 (P.L. 105-220), August 7, 1998.

and policy requirements, including applicable civil liberties standards.

In the second quarter, CRCL actively participated in the Department's the Information Sharing Coordinating Council (ISCC). The ISCC is charged with coordinating DHS information sharing activities, including fulfilling Department tasks outlined in the Information Sharing Environment (ISE) – Implementation Plan. During the second quarter, CRCL co-lead an integrated project team along with the DHS Policy Office to write and develop a Department Information Sharing Strategy.⁵ CRCL also conducted training on civil rights and civil liberties at an ISCC Suspicious Activity Reporting workshop and for a DHS Information Sharing Fellow. Additionally, CRCL contributed to departmental policies and programs, such as reviewing the State and Local Fusion Center Concept of Operations and Suspicious Activity Reporting. CRCL also continued to collaborate with the Department of Justice's GLOBAL Initiative and the Information Sharing Environment Privacy Guidelines Committee, where CRCL leads interagency sub-working groups on civil rights and civil liberties issues and training.

In the second quarter, CRCL also continued to coordinate with Office of Intelligence and Analysis in reviewing programs, policies, and activities to protect and safeguard civil rights and civil liberties. This included conducting civil liberties impact assessments on the National Applications Office (NAO), the State and Local Fusion Center Initiative, the Interagency Threat and Coordination Group, and the Information Sharing Fellows Program. For additional information, see Section IV on Civil Liberties Impact Assessments.

VIII. Legislative Activities

In the second quarter, CRCL continued to keep Congress apprised of its activities, roles, and responsibilities through numerous briefings with Congressional members. As noted throughout this report, CRCL also continued implementation of the 9/11 Act through its participation on a Department-wide implementation working group, drafting and issuing civil liberties impact assessments, reporting, and training efforts.

IX. Reviewing Civil Rights and Human Rights Treaties

CRCL serves as the lead DHS coordinator in reviewing civil rights and human rights treaty responses and reports. In February 2008, CRCL led the DHS representation on a U.S. Government delegation at the seventy-second session of the Committee on the Elimination of Racial Discrimination held in Geneva. The Deputy Officer for Programs and Compliance spoke in defense of the U.S. report as it pertained to DHS.

EQUAL EMPLOYMENT OPPORTUNITY

CRCL provides Departmental guidance and standards for establishing and maintaining effective programs of equal employment opportunity as required under applicable legal authorities, including Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.*, and Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 *et seq.*

I. Program Management

In the second quarter of FY 2008, CRCL submitted the Department's FY 2007 Management Directive 715 EEO Program Status Report to the Equal Employment Opportunity Commission (EEOC). This report highlighted progress toward building a model EEO program. Noteworthy items from the Report include:

- Completion of DHS's first enterprise-wide barrier analysis project;
- Implementation and enforcement of the provisions of Section 508 of the Rehabilitation Act to meet accessibility and accommodation needs;
- Effective processing of complaints of discrimination;

⁵ The DHS Information Sharing Strategy is available at:
http://www.dhs.gov/xinfoshare/publications/gc_1212068752872.shtm.

- Continued development of strategic partnerships with the American Muslim, Arab, Sikh, South Asian and other ethnic and religions communities; and
- Incorporation of awareness, recruiting, hiring and accommodation of employees with disabilities into component existing management training programs, including orientation for new supervisors.

To further DHS's commitment to implementing Executive Order 13270 on Tribal Colleges and Universities (TCU) and Executive Order 13256 on Historically Black Colleges and Universities (HBCU), CRCL staff provided training on these White House Initiatives to DHS employees with TCU and HBCU program responsibilities from Components and Headquarters Directorates. The objective of the training was to provide comprehensive program assistance to personnel responsible for planning and/or reporting on activities to support HBCUs and TCUs. Training participants included HBCU and TCU Coordinators, DHS Managers and Supervisors, EEO/Civil Rights Directors, Human Resources Officers and Budget Officers. Presentations were provided by the Deputy Director of the White House Initiative on HBCUs, the Executive Director of the White House Initiative on Tribal Colleges and University, and a representative from the NASA Goddard Space Flight Center.

The Deputy Officer for Equal Employment Opportunity programs provided technical assistance to the Management Council in the formation of the DHS Diversity Council which consists of senior management officials from the major operating components and headquarters offices. Each member of the council signed the Council charter pledging their commitment to diversity at DHS. Among the Council's most pressing actions will be issuing a DHS Corporate Diversity Strategy and implementing a Diversity Action Plan for the remainder of FY 2008 through FY 2010.

II. Headquarters Equal Employment Opportunity

On March 28, 2008, the DHS Headquarters Equal Employment Opportunity (HQ EEO) Office hosted the inaugural Women's Leadership Forum entitled, "Pathways to Leadership." The forum was for headquarters and Office of the Inspector General employees, and drew approximately 140 participants. The participants were provided with tools to improve and maximize their career opportunities in the Federal Government and heard from women in key leadership positions at DHS. The forum offered workshops on enhancing their skills and on understanding more thoroughly how to present their skills, knowledge, and abilities relative to the Executive Core Qualifications for senior level career opportunities. Speakers gave presentations on leadership development, conflict management and mentoring.

The EEO Office continued internal and external outreach and recruitment activities including presentations at the Transition Assistance Programs at Walter Reed Army Medical Center – Operation Warfighter Open Houses and at the National Naval Hospital. The HQ staff also worked closely with the DHS Recruitment Council and the Office of National Director of Intelligence EEO Director on strategies for increasing diversity.

Advice and assistance to HQ Directorates and the Office of the Inspector General are important elements of the HQ EEO program. Some examples from the second quarter include:

- HQ's Selective Placement Coordinator presented at the "Policy with a Punch" meeting within the Office of Procurement Operations. The topic was "Disability Awareness Session using the Windmills Training Module."
- HQ's Formal Complaints Manager briefed 188 new employees on HQ's EEO program, Rights and Responsibilities and Alternative Dispute Resolution (ADR);
- HQ's EEO Officer briefed the Science and Technology Directorate employees on available EEO programs and services; and
- HQ's Formal Complaints Manager Presented at the DHS OIG Special Agent in Charge Training Conference. The topic was "EEO Briefing for Managers and Supervisors."

III. EEO Complaint Program Management

A. Providing Leadership to Component EEO and Civil Rights Offices in EEO Complaint Processing

DHS continued to have a robust informal EEO counseling process. In the second quarter of FY 2008, as reported in the DHS enterprise-wide complaint management system, DHS provided counseling to 420 individuals alleging employment discrimination and other workplace issues, bringing the total to 890 counselings for the first half of FY 2008 (not including FEMA as that component has not yet migrated onto the enterprise system). DHS continued to develop the Alternative Dispute Resolution (ADR) program, offering parties an opportunity to resolve workplace disputes in an expedited and cost-effective manner. In the second quarter of FY 2008, DHS presented ADR to 194 counselees and conducted 94 ADR sessions. Thus, for the first half of FY 2008, ADR has been presented to 415 counselees and 217 ADR sessions have been conducted. Mediation, the most often used ADR technique, offers a substantial savings in time and money when compared to administrative processing of a typical EEO complaint.

In the second quarter of FY 2008, 212 formal complaints were filed for a total of 488 formal complaints being filed in the first half of FY 2008. The most common issues in both quarters were complaints involving promotion/non-selection and non-sexual harassment.

B. Effective Processing of Final Actions in EEO Complaints

In the second quarter of FY 2008, CRCL received requests for 463 Final Actions (FAs), issued 417 FAs, and closed 390 complaints of employment discrimination. Of these closures, 26 were resolved by withdrawal, 48 were resolved by settlement, and 316 were FAs issued by CRCL. As of March 31, 2008, the inventory of FAs consisted of 466 cases.

C. Proactive EEO Compliance Program

In order to have a model EEO Program, DHS must ensure legal compliance through full and timely response to final EEOC orders directing corrective action and relief. CRCL's goal is to have an EEO compliance program that is proactive, monitors relief, ensures implementation of remedies, and informs EEOC of the status of its cases. By the end of second quarter FY 2008, CRCL closed 22 cases for a pending compliance inventory of 50 cases.

CONCLUSION

This report provides a summary of CRCL's activities during the second quarter, as required by the 9/11 Act, including information on Review and Compliance, CRCL Programs, and Equal Employment Opportunity. CRCL looks forward to working with Congress and continuing to ensure our civil rights and civil liberties are protected in our homeland security efforts.