



Office for Civil Rights and Civil Liberties

First Quarter Fiscal Year 2009 Report to Congress



Homeland
Security

Foreword

I am pleased to present the following report, “Office for Civil Rights and Civil Liberties First Quarter Fiscal Year 2009 Report to Congress.” The *Implementing Recommendations of the 9/11 Commission Act of 2007*, Public Law 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. In accordance with this requirement, this report serves as CRCL’s first quarter report, covering the period from October 1, 2008, to December 31, 2008.

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable Joseph R. Biden
President of the Senate

The Honorable Christopher S. Bond
Ranking Member, U.S. Senate Select Committee on Intelligence

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

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

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

The Honorable Peter Hoekstra
Ranking Member, U.S. House of Representatives Permanent Select Committee on Intelligence

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

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

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

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

The Honorable Nancy Pelosi
Speaker of the House, U.S. House of Representatives

The Honorable Silvestre Reyes
Chairman, U.S. House of Representatives Permanent Select Committee on Intelligence

The Honorable John D. Rockefeller IV
Chairman, U.S. Senate Select Committee on Intelligence

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

The Honorable Arlen Specter
Ranking Member, U.S. Senate Committee on the Judiciary

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

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

The Honorable Henry A. Waxman
Chairman, 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 at 1-866-644-8360 or civil.liberties@dhs.gov.

Sincerely,



Timothy J. Keefer
Acting Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

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OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

The *Implementing Recommendations of the 9/11 Commission Act of 2007* (9/11 Act), Public Law 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 first quarter report of Fiscal Year (FY) 2009, covering the period from October 1, 2008, to December 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. Transition Planning of the Office for Civil Rights and Civil Liberties

During the first quarter, CRCL participated extensively in meetings, researched data requests and prepared reports and briefing books in support of the transition to the new Administration.

COMPLAINT INVESTIGATIONS

CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, which requires the DHS 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).

I. Summary of Complaints Received Under CRCL Statutes

During the first quarter, CRCL received 26 new complaints. They involved the following components: U.S. Customs and Border Protection (CBP) – 5; Immigration and Customs Enforcement (ICE) – 17;

¹ See 42 U.S.C. § 2000ee-1(f)(1).

Transportation Security Administration (TSA) – 2; and DHS – 1 (implicates more than one component). CRCL closed 36 complaints in the first quarter. These complaints involved the following components: ICE – 14; CBP – 13; TSA – 5; U.S. Citizenship and Immigration Services (USCIS) – 1; Federal Law Enforcement Training Center (FLETC) – 1; DHS – 2 (implicates more than one component).

PRIMARY ISSUES FOR NEW COMPLAINTS		PRIMARY ISSUES FOR CLOSED COMPLAINTS:	
Abuse of authority/color or race	5	Abuse of authority/color or race	5
Conditions of detention	9	Conditions of detention	11
Discrimination	2	Discrimination	9
Due process/adm processing	4	Due process/adm processing	1
Profiling	0	Profiling	1
Unaccompanied minors	2	Unaccompanied minors	11
Treatment	4	Treatment	2
TOTAL:	26	TOTAL	40

II. Examples of Complaints Resolved by CRCL

A. *Conditions of Detention for Adult ICE Detainees.* CRCL issued a Final Report and Recommendations to ICE regarding complaints concerning conditions at a detention facility in Alabama. At the conclusion of our review, CRCL notified ICE Office of Detention and Removal (DRO) regarding several issues including: access to legal material, recreation, religious practices, medical care, food service, issuance and exchange of clothing, bedding and towels, correspondence, telephone access, and allegations of retaliation. The ICE DRO accepted and fully addressed each of recommendation. CRCL’s review of medical care at the facility is ongoing.

B. *Complaint Filed Under Section 504 of the Rehabilitation Act of 1973.* CRCL issued a Final Report and Recommendations and a Findings of Fact to CBP and ICE. The complaint alleged discrimination based on disability by CBP and ICE for failure to provide a reasonable accommodation for an individual with a disability in the pedestrian line at the San Ysidro, California Port of Entry. CRCL concluded that CBP and ICE are required to provide a reasonable accommodation for individuals with disabilities provided that the need is articulated at the time of crossing. Upon completion of an investigation, CRCL concluded that the CBP official had not discriminated against the complainant based on the individual’s disability.

C. *Uniform and Grooming Standards for Contract Security Guards.* CRCL issued a Final Report and Recommendations to ICE regarding two complaints alleging that the Federal Protective Service (FPS) discriminated against the complainants by not allowing them to wear religiously-mandated facial hair or a turban while working as contract security guards for FPS. During the course of our investigation, FPS revised its uniform and grooming standards. Both FPS employees and FPS contractors are required to grant reasonable accommodations to the religious practices of individual security guards without regard to an individual’s stated religious preference. Subject to reasonable limitations, wearing unshorn hair and beards, turbans, or kirpans are not barriers to employment as an FPS security guard.

D. *Screening of Traveler Returning from Religious Pilgrimage.* CRCL issued a Final Report and Recommendation to CBP regarding a complaint alleging discrimination against a person returning to the United States from Saudi Arabia after completing the Hajj religious pilgrimage. During the investigation, CRCL coordinated with CBP and the TSA to familiarize staff with the Hajj, as well as behaviors to be expected from travelers (e.g., prayer in airports and attire), and religious articles or items that pilgrims may carry through training materials offered by the TSA and CRCL.

E. Personal Search of Passenger Alarming a Walk-Through Metal Detector. CRCL issued a Final Report and Recommendations to TSA regarding a complaint alleging that TSA officials subjected a passenger to a strip search after her titanium hip implant alarmed a walk-through metal detector. After the investigation, CRCL found that TSA did not follow standard operating procedures for screening. As a result, TSA required certain employees to undergo mandatory re-training, and TSA reported to CRCL that additional corrective actions were initiated as appropriate. CRCL continues to monitor this issue.

III. Examples of Ongoing Issues Being Reviewed by CRCL

A. Treatment of Unaccompanied Minors. During the first quarter of FY 2009, CRCL opened two new complaints and resolved 11 complaints concerning the treatment of unaccompanied minors in DHS custody. Allegations included physical and verbal abuse, inadequate food and bedding, inadequate medical attention while in DHS custody, inappropriate body searches, lack of translation services, inadequate age-determination procedures, and lack of telephone access.

B. Apprehension and Treatment of Traveler Charged with I-94 Overstay. CRCL opened a complaint from the parents of an Australian woman taken into custody by the U.S. Border Patrol and detained as an alleged overstay. The complaint alleged that CBP failed to inform the traveler that a stopover in Hawaii, as part of her flight to Canada, began the tolling of the time period on her I-94 form. Re-entering the U.S. through Vancouver, she mistakenly believed that she had several months to legally remain in the U.S. when subsequently she was taken into custody during a routine bus search in Texas. The complaint also alleged inadequate communication between CBP and ICE and the woman's family, along with inadequate conditions of detention while in custody.

C. Search and Confiscation of Laptop Computer. CRCL received a complaint from a U.S. citizen alleging that CBP confiscated and searched his laptop computer at LAX airport. The officer allegedly informed the traveler that his computer, USB flash drive, and mobile phone would be detained and returned within 30 days. The basis of the complaint concerned depriving an individual of data necessary to perform job responsibilities.

D. Traveler Redress Inquiry Program (TRIP). 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. For additional information on how travelers may file a complaint, visit www.dhs.gov/trip. CRCL receives from DHS TRIP travelers' complaints asserting discrimination on the basis of race, disability, religion, gender, or ethnicity by DHS employees. During the first quarter of FY 2009, DHS TRIP received 5,536 requests for redress and 248 individuals alleged DHS employees had discriminated against them.

E. ICE Complaints. CRCL refers some complaints to component civil rights, internal affairs, or professional responsibility offices within the Department. We request that the component investigate the complaint and respond within 180 days. CRCL referred 75 complaints to ICE between FY 2005 and FY 2007. ICE recently reported to CRCL that it would not provide substantive investigative results for some of these referral complaints, due to the fact that the complaints were treated as "management referrals" instead of "administrative inquiries." According to ICE, management referrals do not require an investigation or written response. An administrative inquiry is an investigation documented in an official report. Until recently, ICE had not informed CRCL that a written response would not be provided for the complaints. As a result, CRCL closed eight complaints without substantive investigative results from ICE and notified complainants to contact ICE directly should they desire further information.

CRCL PROGRAMS

The following is a summary of the CRCL Programs Division's first 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. Disability and Special Needs Policy and Technical Assistance

A. Outreach Activities. CRCL believes that many current and future obstacles can be avoided or resolved, if collaborative relationships between the special needs communities, the Federal Government, and the private sector are established and maintained. To develop and encourage these relationships, CRCL has been proactive in its approach to participate in outreach activities. Below are some highlights of the outreach activities in which CRCL staff presented keynote remarks, workshops, or plenary sessions in the first quarter FY 2009:

- Washington Metropolitan Safety and Health Council meeting hosted by the Federal Aviation Administration, October 2008;
- Association of Federal External Civil Rights Specialists and Officers meeting, November 2008;
- *Partnerships in Emergency Preparedness: A Faith-Based and Community Initiatives Workshop* conference in New York City, December 2008;
- Homeland Security Institute's *Senior Leaders' Best Practices Summit*, December 2008; and
- *DHS Ready Communities Partnership 2008 Symposium on Community/Business Resiliency and National Congress Planning Session*, December 2008.

B. Emergency Preparedness Planning, Training, and Implementation Exercises. During the first quarter FY 2009, CRCL participated in several government planning, training and implementation exercises:

- Office of Health Affairs *Intradepartmental Pandemic Influenza Table Top Exercise* for DHS component leadership to evaluate their roles in response to a pandemic influenza event, October 2008;
- Hurricane Ike Long-Term Community Recovery Focus Group Leads conference call November 2008;
- USCIS meeting regarding development of a USCIS-wide policy on the provision of reasonable accommodations at USCIS Service Centers, November 2008;
- The *Perspective on Employment of Persons with Disabilities Conference* focusing on disability laws and equal employment policy, December 2008;
- National Council on Disability and FEMA Equal Rights Office meeting to discuss their respective disability work in emergency preparedness, response, and recovery, December 2008;
- Department of Justice (DOJ) Coordination and Review Section meeting to discuss collaborative training for DHS external civil rights and EEO staff focused on reporting requirements for agencies that administer Federally assisted programs, December 2008; and
- Long-Term Community Recovery Group at the Joint Field Office in Austin, Texas, onsite meetings with the Special Needs Workgroup, Advocacy, Inc., Texas Interagency and Interfaith Disaster Recovery, the Housing Workgroup and the State Governor's office on Disability.

II. Engagement with Cultural, Ethnic, and Religious Communities

The CRCL "Engagement Team" leads the effort to regularly engage with community leaders from cultural, ethnic, and religious communities and non-profit organizations across the country. The following is a brief summary of some of CRCL's work in this area during the first quarter of FY 2009:

- In October, CRCL along with six Pakistani Americans met in London with British counterparts, and members of the broader Pakistani Briton community as part of the Transatlantic Initiative (TAI). The TAI is a project of the US-UK Joint Contact Group aimed at building a network of Pakistani Americans and Pakistani Britons to foster integration and civic engagement;
- In October, CRCL facilitated a regular roundtable meeting of community leaders and Federal, State and local government and law enforcement officials in Boston, Massachusetts. The meeting was held at Logan International Airport and hosted by TSA, featuring a presentation by the Special Counsel to the Administrator of TSA on the Secure Flight program;
- In November, CRCL, accompanied by Secretary Chertoff, led a roundtable on “Security and Liberty: Perspectives of Young Leaders Post 9/11” at the University of Southern California. The discussions focused on civic engagement, terminology to describe terrorism, and working for the Federal Government.
- In November, CRCL participated in a Job Fair hosted by the Islamic Society of Boston Cultural Center alongside representatives of the DHS Chief Human Capital Office (CHCO), ICE, USCIS, CBP, TSA, Federal Bureau of Investigation (FBI), the Massachusetts Bay Transit Authority, the Boston Police Department, and the Massachusetts State Police;
- In November, CRCL co-moderated a Community Forum on government relations with Boston-area Arab, Muslim, Sikh, South Asian, and new American communities which included presentations by the U.S. Attorney, FBI, ICE, TSA, CBP and USCIS. On November 3, CRCL attended a briefing at ICE Headquarters to learn more about the Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS) and 287(g) programs and offer a civil rights perspective on their implementation;
- In November, CRCL led the bi-monthly roundtable meeting in Los Angeles with government officials and leaders from the American Arab, Muslim, Sikh, South Asian, and Middle Eastern communities. TSA presented information on how Secure Flight would reduce misidentifications.
- In November, CRCL launched its public webpage on civil rights and civil liberties outreach, available at www.dhs.gov/CRCLoutreach. The webpage highlights the Office’s training materials, latest events related to community outreach, and government resources of value to the communities.
- In December, CRCL staff, accompanied by the Officer for Civil Rights and Civil Liberties, gave a presentation on “Civil Rights and Muslims in America: Progress and Future Challenges” at the Muslim Public Affairs Council convention in Long Beach, California.
- Throughout December, CRCL continued to work to integrate leaders of the Somali American community into CRCL’s regular engagement programs. For example, on December 16, 2008, CRCL officials participated in a conference call with several Somali American community leaders to discuss engagement and outreach; on December 30, the Voice of America Somali Service interviewed the Officer for Civil Rights and Civil Liberties on the same topic.
- CRCL continued to oversee the Incident Community Coordination Team (ICCT) which serves as a mechanism for senior U.S. Government officials to communicate with key leaders from the American Arab, Muslim, Sikh, Middle Eastern, and South Asian communities immediately after an incident of national significance, such as a terrorist attack or plot. The ICCT was not convened during the first quarter of FY 2009.

III. International Engagement Initiatives

In the first quarter of FY 2009, CRCL enhanced its international partnerships with cultural, ethnic, and religious communities in the engagement arena. Strengthening relationships with foreign law enforcement partners, as well as members of the international community in the United States, is a high priority for the Department. The following is a summary of some of CRCL’s work in this area:

- In October, CRCL provided a briefing to Danish government officials, including senior members of the Danish Ministry of Integration and Immigration, and the Danish Intelligence and Security Service,

on programs and initiatives to facilitate outreach to the Muslim, Arab, Sikh, and South Asian communities.

- In November, CRCL briefed a delegation of Russian Federation government officials, including law enforcement officials, journalists, human rights activists, and religious figures. CRCL discussed a range of issues with the delegation including working with civil society to counter extremist ideology; the role of non government officials and religious organizations in countering extremism; outreach programs targeting affected populations; programs focusing on developing cultural sensitivity; building tolerance in a multi-ethnic society, and practices in preventing racial profiling.
- In November, CRCL briefed an advisor to the president of the *Mouvement Reformateur* Party of Belgium, on U.S. Government interaction with Arab, Muslim, Sikh, and South Asian communities and the protection of civil rights and civil liberties.
- In December, CRCL participated at the inaugural meeting between DHS and the Security Cooperation Group (SCG) with the German Ministry of the Interior (BMI). CRCL provided briefings on law enforcement outreach and engagement efforts. CRCL's aim is to raise awareness in the U.S. Muslim communities regarding individual redress programs such as TRIP.
- In December, CRCL participated in the first of a proposed quarterly meeting with ambassadors and diplomatic staff from Arab and Muslim nations. The purpose of this Ambassadors' roundtable meeting was to create direct lines of communication with officials from key nations, demonstrate to our foreign partners that the Federal Government and DHS value their input, and identify patterns and trends related to foreign visitors from Arab and Muslim nations.

IV. Immigration Initiatives

During the first quarter of FY 2009, CRCL continued to work with its DHS colleagues on the civil rights and civil liberties impacts of the Department's immigration policy initiatives. For example:

- CRCL worked with USCIS to enhance civil rights protections in E-Verify and other electronic eligibility verification programs;
- In October, CRCL provided civil rights training to new employees in the USCIS Verification Division;
- Throughout October, CRCL participated in several meetings of intra-DHS working groups on employment eligibility and identity verification systems;
- In November, CRCL spoke at a roundtable discussion on employment eligibility verification systems sponsored by the Center for American Progress and the Immigration Policy Center;
- In November, CRCL representatives provided a "CRCL 101" briefing to the staff of the Department of State's Visa Office, raising awareness of CRCL programs and statutory mandates;
- In November, CRCL participated in a regular meeting of several non-governmental organization (NGO) representatives (the "NGO Civil Rights & Civil Liberties Committee") hosted by the National Immigration Forum and the Asian-American Justice Center;
- In December, CRCL spoke at four separate E-Verify Information Sessions held by the Verification Division to educate Federal contractors on the new Federal Acquisition Regulations rule requiring companies to use E-Verify to check the employment eligibility of employees working on qualifying Federal contracts; and
- In December, a CRCL representative attended a regular USCIS meeting with several NGOs regarding terrorism-related grounds of inadmissibility of refugee and asylum-seeker applications.

V. Civil Liberties Impact Assessments

CRCL is regularly called upon to give civil rights and civil liberties advice on a variety of policies and programs. The Civil Liberties Impact Assessment (CLIA) provides a formal, written evaluation of a program to identify civil liberties concerns. CRCL has drafted a Department Directive on CLIAs that is

anticipated to be finalized in FY 2009. The following is a brief update of the CLIAs in process and completed during the first quarter of FY 2009:

- *State, Local and Regional Fusion Centers, mandated by Section 511 of the 9/11 Act.* This CLIA was submitted to Congress in the first quarter and is available at www.dhs.gov/civilliberties. CRCL has also visited several fusion centers and gathered additional materials and information to draft a one year follow-up CLIA;
- *National Application Office (NAO), mandated by Title VII of the 2008 Omnibus Appropriations Act, Public Law 110-161.* The Act provided that no funds would be available to commence operations of the NAO until the U.S. General Accounting Office (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. The NAO CLIA was forwarded to Congress and GAO.
- *National Immigration Information Sharing Office (NIISO), mandated by Title VII of the 2008 Omnibus Appropriations Act, Public Law 110-161.* The Act provided that no funds would be available to commence operations of the NIISO until the GAO reviews a certification by the Secretary that these programs comply with all existing laws, including all applicable civil liberties standards. A CLIA for NIISO is being drafted.
- *Interagency Threat Assessment and Coordinating Group (ITACG) assessment, mandated in Section 521 of the 9/11 Act.* As required, a draft CLIA is being coordinated with the DHS Privacy Office, the DOJ Chief Privacy and Civil Liberties Officer, and the Civil Liberties Protection Officer at the Office of the Director of National Intelligence.
- *Northern Border Railroad Passenger and Cargo Screening, mandated in Section 1523 of the 9/11 Act.* As of December 31, 2008, the CLIA was complete and in the process of transmittal to Congress.

VI. Civil Liberties Institute

In the first quarter FY 2009, the Civil Liberties Institute (CLI) distributed multiple training products, provided classroom training, and continues to partner with other agencies to co-sponsor and approve training products.

CRCL is fulfilling its statutory mandate to provide training to DHS analysts deployed to fusion centers and training support to State and Local Fusion Centers (SLFCs) personnel on civil rights and civil liberties. In the first quarter, CRCL trained DHS Office of Intelligence and Analysis (I&A) analysts who will be working in four states – Maryland, Missouri, Wisconsin, and Oregon.

Additionally, CRCL received funding for the development of an expanded “toolkit” of civil rights and civil liberties resources to support training for fusion center personnel in FY 2009 and FY 2010. CRCL collaborated with the DOJ's Bureau of Justice Assistance and the Global Initiative on the development of a training product, *Privacy and Civil Liberties 101: Frequently Asked Questions*. This product is due to be published online during the second quarter of FY 2009, and will serve as one of the elements in the fusion center toolkit. On October 23, 2008, CLI, in partnership with the DHS Privacy Office, launched the web portal that will contain a simplified “road map” to all relevant Federal materials on privacy, civil rights and civil liberties in the Information Sharing Environment (ISE) and serve as a resource for the on-site and distance training of fusion center staff.

CLI continued to support CRCL online courses offered to DHS personnel and other Federal agencies including, *Employing Persons with Disabilities* and *Constitution Day*. The CRCL Review and Compliance Division continued to receive support for the development of a “job aid” for the unaccompanied minors workshop for ICE fact finders, which is held periodically at FLETC. During this quarter, CLI also began work with CBP to integrate the CRCL *Asylum Seekers Overview*, an online and

CD-ROM based training course, into the CBP training curriculum. CLI also met extensively with DHS I&A staff to begin review of the *Basic Intelligence and Threat Analysis (BITAC)* and the associated *Mid-level Intelligence and Threat Analysis (MITAC)* training programs to enhance the coverage of civil liberties and civil rights in its curriculum.

VII. Office of 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 508² throughout the Department.

A. Accessibility Helpdesk. The Office of Accessible Systems and Technology (OAST) began the first quarter with three open tickets and received 173 new helpdesk requests from 12 DHS components, 1 government agency outside of DHS, and 1 public entity. All 176 tickets that were managed during this period were closed at the end of the first quarter. Assistance was provided in the following areas: Document Reviews (DR), Technical Assistance (TA), IT Requests (IT), EA Reviews (EAR), Application Reviews (AR), and 504 Accommodations (504).

B. Coordinators Activity Reporting Tool. In April 2008, OAST launched the monthly Coordinators Activity Reporting Tool (CART) that is distributed to all component Section 508 Coordinators to facilitate the acquisition of component related Section 508 activities. Major component accomplishments for this quarter include:

- U.S. Coast Guard (USCG) developed a performance plan submission for CG-69 detailing milestones for a Section 508 survey to ascertain level of knowledge of Section 508, update directives, compliance with websites, advertising accessibility programs, and Section 508 Handbook. In November 2008, USCG outreach included a Section 508 booth at the 2009 Coast Guard Innovation Expo, attended by over 2,000 IT and homeland security professionals. Also in November 2008, USCG included Section 508 compliance in the program of its national conference for 80 civil rights service providers;
- CBP submitted a revised Resource Requirement Request for the CBP Section 508 PMO, which included funding requests for additional personnel to assist in carrying out Section 508 duties to their budget office. The request will be presented in FY 2009; and
- ICE successfully vetted a new Section 508 Directive. The directive is currently awaiting signature by the Assistance Secretary.

Additionally, components processed a total of 97 Section 508 related technical assistance requests: CHCO (41); FLETC (25); USCIS (8); USVISIT (8); CBP (5); Federal Emergency Management Agency (FEMA) (4); ICE (4); Domestic Nuclear Detention Office (DNDO) (1); and United States Secret Service (USSS) (1).

C. Document Accessibility. OAST personnel assisted DHS employees from eight components as well as one agency outside of DHS in reviewing and remediating 67 document files including forms, memorandums, informational pamphlets, flyers and various reports. Additionally, OAST trained 59 individuals across DHS in creating accessible documents.

D. Training. OAST personnel successfully trained 193 employees from numerous DHS components. On December 23, OAST provided its first Virtual Teleconference (VTC) training for employees of the Emergency Management Institute (EMI) and the U.S. Fire Academy (USFA) located in Emmitsburg,

² 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.

Maryland. Seven employees attended the “Introduction to Section 508,” “Developing Accessible Microsoft Office Documents,” and “Introduction to Accessible Multimedia” trainings.

E. Application Accessibility Assessments. In the first quarter Web Accessibility reviews, 106 websites consisting of 201,984 files were evaluated utilizing HiSoftware AccRepair, an automated software application, for 508 Compliance. DHS websites improved 5% and 40% for 2007 and 2008, respectively, since beginning this program in February of 2007. USSS, ICE, National Protection & Programs Directorate (NPPD), Science & Technology (S&T), and USCIS are 100% compliant. OAST also evaluated 26 COTS/GOTS applications for Section 508 compliance and 13 applications passed; 11 applications passed with exception; one application failed; and one application was cancelled before testing. OAST personnel also conducted 10 Web application assessments.

F. Reviews. OAST processed a total of nine Enterprise Architecture (EA) reviews which are comprised of Program Alignments (PA), Technical Insertions (TI) and granting of National Security Exceptions (NSE). OAST personnel also reviewed 43 acquisition packages for 508 compliance. Forty-one were approved, one received a post condition, and one was submitted, but cancelled by the submitter. Eight were granted National Security Exceptions.

VIII. Intelligence Community Activities and Information Sharing

CRCL provides civil rights and civil liberties advice to DHS senior leaders and program managers on intelligence and information sharing programs and activities. CRCL helps to ensure such information sharing activities are consistent with civil liberties protections. During the first quarter FY 2009, CRCL contributed to Departmental programs and policies relating to the State and Local Fusion Center Program, Suspicious Activity Reporting, standards for information sharing outside of the Department, and cyber security initiatives. CRCL also continues to actively participate in the DHS Information Sharing Coordinating Council (ISCC).

EQUAL EMPLOYMENT OPPORTUNITY

CRCL provides Departmental guidance and standards for establishing and maintaining effective programs of equal employment opportunity (EEO) 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. EEO Complaint Program Management

In the first quarter of FY 2009, CRCL closed 207 complaints of employment discrimination. Of these closures, six were resolved by withdrawal, 26 were resolved by settlement, and 163 were Final Agency Actions issued by CRCL. In addition, CRCL added three new members to the staff—an EEO Specialist team lead and two EEO Assistants. As of December 31, 2009, the inventory of Final Actions consisted of 549 cases.

II. Headquarters Equal Employment Opportunity

The EEO Office continued internal and external outreach and recruitment activities in the first quarter. Some examples from the first quarter include:

- CRCL, in conjunction with the DHS Chief Learning Officer, developed and delivered an enterprise-wide, on-line training course on the *Notification of Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002*;
- HQ EEO hosted the first annual “DHS Disability Forum for Leaders” to provide attendees with information on personnel policies and practices, legal updates and resources, which will assist DHS in hiring qualified individuals and veterans with disabilities;

- HQ EEO Director participated on the Diversity Panel at the Interagency Mentoring and Collaboration Workshop, a discussion on the current state of diversity in the Intelligence Community (IC) and the career challenges of underrepresented minorities in the IC;
- HQ EEO trained over 200 new employees on applicable Equal Employment Opportunity laws; Mediation and NoFEAR Act;
- DHS Headquarters hired a Federal Women's Coordinator to assist Headquarters in attaining and achieving balance and representation of women in DHS mission critical positions;
- HQ EEO Federal Women's Coordinator conducted a series of meetings with Federal Women Coordinators within DHS supporting and operating components to plan a day-long DHS Federally Employed Women's (FEW) Agency Forum and to collaborate on initiatives to attract and retain women; and
- HQ EEO participated in meetings with the Minority Serving Institution Consortium to gain information on tools and techniques to attract minority students for DHS mission critical positions.

III. Reporting Requirements

CRCL submitted following annual reports:

- Federal EEO Statistical Report on Discrimination Complaints (EEOC Form 462 Report), which shows marked progress in the timeliness of DHS EEO investigations, dropping from an average of 248 processing days in FY 2007 to 215 days in FY 2008;
- Annual Report to the President on Hispanic Employment;
- Annual Federal Plan on Executive Agency Actions to Assist Historically Black Colleges and Universities (HBCUs) for FY 2009;
- FY 2009 Federal Equal Opportunity Recruitment Program (FEORP) Plan Certification and FY 2008 Accomplishment Report; and
- FY 2008 Disabled Veterans Affirmative Action Program (DVAAP) and Plan Update FY 2009.

IV. Tribal Colleges and Universities

CRCL Tribal Colleges and Universities (TCU) Program Managers met with the Executive Director of The Office of the White House Initiative on Tribal Colleges and Universities (WHITCU) regarding the Department's WHITCU Five Year Plan and to share best practices.

The CRCL DHS Liaison to the WHITCU met with the founder of the Society of American Indian Government Employees (SAIGE), to discuss DHS participation in SAIGE's 2009 Annual Conference. CRCL staff will provide two workshops at this conference.

CONCLUSION

As required by the 9/11 Act, this first quarter report provides a summary of CRCL's activities from October 1, 2008, to December 31, 2008. CRCL will continue to work with Congress, its colleagues in other Federal departments and agencies, and the public to ensure our civil rights and civil liberties are protected in our homeland security efforts.