



Office for Civil Rights and Civil Liberties

Third 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 Third 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 the U.S. Department of Homeland Security (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 third quarter report, covering the period from April 1, 2009, to June 30, 2009.

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

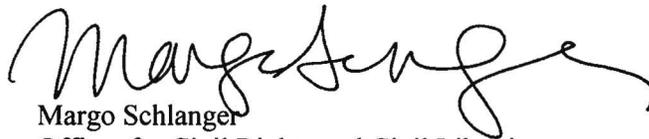
The Honorable Jeff Sessions
Ranking Member, U.S. Senate Committee on the Judiciary

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

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,

A handwritten signature in black ink, appearing to read "Margo Schlanger". The signature is fluid and cursive, with a long horizontal stroke at the end.

Margo Schlanger
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

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OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

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 from the threats we face, from terrorism to natural disasters, while preserving our freedoms and equality under the law. CRCL has four chief functions:

1. We help the Department shape policy that protects civil rights and civil liberties by providing proactive advice, evaluation, and review of a wide range of technical, legal and policy issues;
2. We communicate with communities whose members' civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress and ensuring that their concerns receive appropriate attention within the Department;
3. We investigate and resolve civil rights and civil liberties complaints filed by the public regarding Departmental policies or actions taken by Departmental personnel;
4. We lead the Department's Equal Employment Opportunity programs, seeking to make this Department the model Federal agency

Our work involves every activity of the Department, including immigration, disaster management, transportation screening, border security, intelligence analysis, and scientific research.

COMPLAINT INVESTIGATIONS

CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, which require the U.S. Department of Homeland Security (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

CRCL received 44 new complaints during the third quarter involving the following components: U.S. Customs and Border Protection (CBP) - 14; Immigration Customs Enforcement (ICE) - 20; Transportation Security Administration (TSA) - 5; multi-component - 4; and U.S. Citizenship and Immigration Services (USCIS) - 1.

CRCL closed 39 complaints during the third quarter as follows: ICE - 23; CBP - 12; multi-component - 2; Federal Emergency Management Agency (FEMA) - 1; and USCIS - 1.

The issues in these complaints are summarized in the following table:

PRIMARY ISSUES FOR NEW COMPLAINTS		PRIMARY ISSUES FOR CLOSED COMPLAINTS:	
Abuse of authority/color or race	6	Abuse of authority/color or race	6
Conditions of Detention	13	Conditions of Detention	18
Discrimination	4	Discrimination	3
Due Process/Administrative Processing	2	Due Process/Administrative Processing	2
Profiling	4	Profiling	1
Treatment	10	Treatment	2
Unaccompanied Minors	5	Unaccompanied Minors	7
TOTAL: 44		TOTAL 39	

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 the treatment of detainees at a local detention facility in the state of Washington. The complaint raised issues related to the facility’s compliance with ICE Detention Standards on Staff-Detainee Communication, Detainee Grievance Procedures, Recreation, Visitation, Religious Practices, and Medical Care. CRCL made recommendations to ICE regarding staff-detainee communication procedures, ongoing facility and ICE staff training, grievance response time safeguards, issuance of appropriate cold-weather clothing, visitation time limits, onsite monitoring and reporting, and the facility’s compliance with the ICE detention standards on Staff-Detainee Communication and Detainee Grievance Procedures.

B. *Lack of Appropriate Medical Care for ICE Detainee.* CRCL issued a Final Report and Recommendations to ICE regarding the treatment of a detainee at two local detention facilities in the state of Texas. The complaint raised issues related to the facility’s compliance with the ICE Detention Standard on Medical Care. CRCL made recommendations to ICE regarding sufficient medical unit staffing, timely follow-up care and necessary diagnostics, continuum of care during and after transfers, and privacy issues.

C. *Complaint Filed Under Section 504 of the Rehabilitation Act of 1973.* CRCL issued a Final Report and Recommendations to ICE regarding the treatment of detainees who are deaf or hard of hearing at a local detention facility in Texas. CRCL made recommendations for the provision of reasonable accommodations and improved communications with detainees who are deaf or hard of hearing.

D. *Complaint Concerning Traveler’s Treatment by CBP and ICE.* CRCL issued a Final Report and Recommendations to CBP and ICE regarding a complaint concerning the treatment of a woman who was denied entry into the U.S. and held in ICE custody for several days before being removed. CRCL made a recommendation to CBP regarding the repatriation of individuals denied admission to the U.S. after arriving by air transport. CRCL also made recommendations to ICE regarding: (1) training on interaction between federal employees and travelers from the Arab and Muslim worlds; (2) strip search policies covered within the ICE National Detention Standard on Admission and Release; and (3) the provision of appropriate undergarments for females at the facility where the complainant was held.

E. *Complaint Concerning Arrest Operation Conducted at Residence.* CRCL issued a Final Report and Recommendations to ICE regarding a complaint concerning the actions of ICE employees or officials during an arrest operation which occurred at a family home. CRCL made recommendations to ICE regarding the conduct of these types of operations.

III. Examples of Ongoing Issues Being Reviewed by CRCL Investigators

A. *Conditions of Detention for Adult Detainees.* CRCL continues to review complaints alleging inadequate conditions of detention for ICE detainees. Specifically, CRCL is currently reviewing complaints involving two local facilities in Texas alleging violations of numerous ICE National Detention

Standards, including access to medical and dental care, use of force, staff-detainee communication, detainee searches, recreation, and food service. CRCL is reviewing three complaints alleging inadequate medical care, inadequate visitation and telephone access, and excessive use of force at a local facility in New Jersey. Further, CRCL is also reviewing a complaint alleging improper use of force on an ICE detainee at a facility in New York.

B. Treatment of Mentally Ill Detainee in ICE Custody. CRCL has opened a complaint involving a mentally ill ICE detainee. CRCL will be looking at whether the detainee has received appropriate mental health care while in detention, and whether ICE complied with relevant statutes, regulations, and policies in issuing a removal order against the detainee.

C. Treatment of Unaccompanied Minors. CRCL opened three new complaints and resolved seven complaints concerning the treatment of unaccompanied minors in DHS custody, including allegations of physical and verbal abuse, intimidation, inadequate age determination procedures and inappropriate facility placements, inappropriate personal searches, inadequate food and bedding, and lack of translation/interpretation services. CRCL continues to work with the DHS components responsible for unaccompanied minors to implement CRCL's recommendations concerning appropriate treatment of unaccompanied minors, and to subsequently review component compliance with those recommendations. Finally, CRCL participates in opportunities to review and comment on legislation, as well as on ICE, CBP, and departmental policies impacting unaccompanied minors (e.g., appropriate air and other transportation of unaccompanied minors).

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 inquiries from DHS TRIP travelers who assert that they have been discriminated against on the basis of race, disability, religion, gender, or ethnicity by DHS employees. During this the third quarter, DHS TRIP received 8,754 requests for redress, and 289 individuals alleged DHS employees discriminated against them. During this period, CRCL opened one complaint, pursuant to 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1.

IV. Enhanced Communication and Coordination Efforts with ICE

A. Providing Information to the Secretary's Special Advisor on ICE and DRO. CRCL provided the Special Advisor a checklist of possible opportunities to improve processes and procedures impacting ICE detainees and the detention environment, as well as factors impacting CRCL's investigations and the effectiveness of CRCL's follow-up recommendations to ICE. CRCL highlighted recurring issues related to family detention and family separation, offered possible resolutions, and will continue to collaborate with ICE on these matters.

CRCL PROGRAMS

The following is a summary of the CRCL Programs Division's third 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 among disability and other special needs communities, the Federal Government, and the private sector are established and maintained. CRCL manages a proactive outreach program to develop and encourage these relationships. During the third quarter, CRCL conducted

outreach activities in which CRCL staff presented remarks and participated in workshops or plenary sessions, including the following:

- Convened the Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities Points of Contact Meeting where Mr. Kareem Dale, Special Assistant to the President for Disability Policy, learned of the work of the ICC and briefed members on activities involving emergency preparedness, response, and recovery for individuals with disabilities.
- Convened the ICC Non-governmental (NGO) Stakeholders meeting where representatives of the Gulf Coast Civic Works Campaign presented on current activities and forged new relationships with ICC NGO stakeholders.
- Attended the ICC Workplace Subcommittee meeting where CRCL updated members on current activities.
- Attended the Logsdon Consultation Services, Inc. Symposium where CRCL provided a presentation on: “A Planning Session Focusing on Functional Needs, Mass Care and Evacuation Planning.” During the presentation, participants engaged in dialogue regarding planning for evacuation and mass care of persons with disabilities.
- Attended the Pacific Northwest Border Health Alliance Sixth Annual Bi-National Cross Border Workshop where CRCL presented on function-based approaches to planning for special needs populations.
- Attended the Federal Asian Pacific American Council’s 24th Annual National Leadership Training Conference where CRCL presented on emergency preparedness, response, and recovery for special needs populations.
- Provided a presentation on “Succeeding in the Workplace” to students in Gallaudet University’s Administration and Finance internship program.
- Attended the National Training Conference for the Deaf and Hard of Hearing in Government where CRCL provided a presentation called “Success in the Federal Workplace.”
- Attended the Society of American Indian Government Employees Conference where CRCL provided a presentation called “Preparedness for Everyone: From the Workplace to the Community.” This event included discussions on effective communications techniques, formation of buddy support networks, sheltering in place and evacuation, and disability issues in emergency drills.

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

- Briefed staff from the House Committee on Homeland Security on CRCL’s activities involving emergency preparedness and individuals with activities.
- Attended the American Bar Association’s 2009 National Conference on the Employment of Lawyers with Disabilities.
- Participated in the DHS Eagle Horizon exercise in Winchester, VA. Eagle Horizon is an annual exercise for all executive branch departments and agencies to test the readiness and capabilities to execute Continuity of Operations (COOP) plans.
- Served as a member of the DHS Pandemic Influenza Team, led by the DHS Office of Health Affairs.
- Participated in a Functional Assessment Service Team course to train government and NGO personnel responsible for responding to disaster areas to provide services to people with disabilities, enabling them to maintain their independence when relocated to disaster shelters.
- Met with the San Francisco, CA Urban Area Security Initiative (UASI) Director to review and provide input on local, special needs sheltering plans.
- Met with the San Francisco, CA Deputy Director of Emergency Management to discuss emergency management planning for people with disabilities and other special needs.
- Met with San Jose, CA city officials to discuss emergency management planning for people with disabilities.

II. Engagement with Cultural, Ethnic, and Religious Communities

The CRCL “Engagement Team” leads the effort to regularly engage with leaders from the American Arab, Muslim, Sikh, South Asian, Somali, and Middle Eastern communities and non-profit organizations across the country. The following is a brief summary of CRCL’s activities in this area during the third quarter of FY 2009:

A. Roundtables and Meetings.

- Convened regular roundtable in Chicago, IL with leaders from the American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities and federal government officials from several Departments. Topics of discussion included humanitarian assistance and development in the Middle East by the U.S. Agency for International Development (USAID) and national origin discrimination in hiring by the U.S. Department of Justice (DOJ) Office for Special Counsel for Immigration Related Unfair Employment Practices.
- Convened a regular roundtable in Los Angeles, CA with leaders from the American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities and federal government officials from several Departments. Topics of discussion included disaster preparedness for communities, USCIS naturalization wait times, TSA gate screening, and outreach to new immigrant communities.
- Participated in a roundtable with leaders from Somali American communities in Columbus, OH, held in conjunction with the Somali Youth Summit hosted by the City Of Columbus.
- Convened a regular roundtable in Los Angeles, CA with leaders from the American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities and federal government officials from several Departments. Topics included the 2010 census, employment discrimination, and President Obama’s speech in Cairo, Egypt.
- Hosted the inaugural Twin Cities roundtable with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities. Topics of discussion included an overview of CRCL, the goals for the roundtable, and ICE detention conditions and protocols.
- Participated in the South Asian Americans Leading Together roundtable on Transnational Issues Affecting the South Asian Community.
- Participated in an interagency town hall presentation for community members at the Islamic Center of Southern California in Los Angeles, CA.
- Participated in the U.S. Department of Defense (DoD) Global Sync Conference at the U.S. Special Operations Command (SOCOM) headquarters in Tampa, FL. Provided presentations on DHS outreach and engagement efforts with domestic American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities.
- Participated in a panel discussion on “Strategic Communications in a Global Information Environment” at the InfoWarCon 2009 conference.
- Presented at the Ethiopian Community Development Council’s Annual Conference on African Refugees.
- Participated in a panel discussion on “Lawyering for Social Change” at the North American South Asian Bar Association.
- Collaborated with DOJ’s Civil Rights Division in a town hall presentation for community members at the Iranian American Muslim Association of North America in Los Angeles, CA.
- Presented “Cultural Competency for Law Enforcement” training at the National Sheriff’s Association annual convention in Ft. Lauderdale, FL.

B. Engagement with Government, Private Sector, and NGO Partners.

- Met with leaders and organizations serving American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities in the Chicago Metropolitan area.

- Met with officials from the British Government to discuss United Kingdom (UK) initiatives regarding preventing and/or countering violent extremism.
- Attended a presentation by Muslim Advocates on the civil rights implications of border questioning and searches of U.S. persons.
- Participated in an interagency meeting with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali community leaders hosted by DOJ Civil Rights Division.
- Participated in a meeting between the DHS Office of Intergovernmental Programs and representatives of Muslim Advocates, the National Network of Arab American Communities, and the Arab Community Center for Economic and Social Services. The meeting addressed concerns related to electronic searches and intensive questioning of Arab and Muslim American travelers at the border.
- Organized a briefing with the Somali Transitional Federal Government Minister for Diaspora Affairs, the Honorable Abdullahi Ahmed Abdulle Azhari, and for several interagency colleagues from DHS, FBI, DOJ, and the U.S. Department of State.
- Hosted Dalia Mogahed of the Gallup World Poll for discussion regarding Gallup's report on Muslim Americans.
- Attended the semi-annual meeting of the Congress of Arab American Organizations in Dearborn, MI. During the meeting, civic, religious, and cultural groups discussed issues of local and national concern of the Arab American community with local, state, and federal officials.
- Met with leaders and organizations serving American Arab, Muslim, Sikh, South Asian, Somali, and Middle Eastern communities in the Minneapolis/St. Paul metropolitan area to plan for regular roundtables in this area.
- Led a call with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali community leaders nationwide to garner their reactions to President Obama's speech in Cairo, Egypt. CRCL also facilitated a call with ethnic media and DHS Assistant Secretary for Intergovernmental Affairs Juliette Kayyem to express DHS support of the President's speech.
- Attended meeting with DOJ and Somali American community leaders in Seattle, WA to discuss how the United States government can better engage with the community.
- Participated in a series of meetings with local Somali American community groups in Columbus, OH.
- Hosted a meeting with American Somalis in the Twin Cities. Topics of discussion included basic immigration principles, how to file CRCL and TRIP complaints, community engagement with DHS and the FBI in the future, and U.S. officials' knowledge of Somali American culture and concerns.
- Participated in the USCIS-hosted Five Countries Citizenship Conference, which included officials from the governments of Canada, the UK, Australia, New Zealand, and the U.S.
- Participated in the annual convention of the American Arab Anti-Discrimination Committee where Deputy Secretary Lute provided the keynote remarks.
- Participated in a series of meetings and briefings with DHS Assistant Secretary Juliette Kayyem in Detroit, MI. Attendees at these meetings included the Detroit Deputy Mayor, Michigan Homeland Security Advisor, Dearborn Mayor, Dearborn Police Chief, and a large group of representatives from local Arab American Organizations.

III. International Engagement Initiatives

CRCL continues to increase its international initiatives in the protection of civil rights and civil liberties. DHS continues to place a high priority on strengthening relationships with foreign partners, as well as the international community in the U.S. The following is a brief summary of some of CRCL's activities in this area:

- Briefed the Clinendael Institute – the Netherlands' most prestigious think tank – on DHS programs and initiatives involving radicalization.
- Met with a German researcher, studying the relationship between Muslims and Government in the U.S., to compare similarities with Muslims and Germans in the German government. CRCL discussed various engagement programs with American Muslim communities nationwide.

- Spoke at an international conference in Copenhagen, Denmark entitled “Terrorism and Communication,” discussing the role of government and civil society in countering extremist narratives to counter violent extremism.
- In conjunction with DHS Office of Privacy, discussed DHS’s protection of civil rights and civil liberties in safeguarding homeland security, to an international delegation from the United Kingdom Information Commissioner’s Office, Mexico’s Federal Institute for Access to Public Information (a FOIA type agency), and the European Police Office (EUROPOL).
- Participated in the Five Country Citizenship Conference sponsored by USCIS. CRCL met with a delegation from Canada, Australia, New Zealand, and the UK, and discussed issues regarding integration and counter-radicalization.
- Briefed a delegation of Muslim civil society groups from Sweden in conjunction with the U.S. Department of State, International Visitors Program, on CRCL engagement with Arab, Muslim, and South Asian communities in the U.S.
- Met with the director of the United Kingdom Muslim Police Officer’s Association to discuss best practices regarding cultural competency training for law enforcement officials.
- Discussed CRCL engagement activities with representative from the American Institute for Contemporary German Studies.
- Briefed a delegation of the Organization of Security and Cooperation in Europe’s Action Against Terrorism Unit, on CRCL’s activities involving countering violent extremism through engagement with American Arab, Muslim, Sikh, South Asian, Middle Eastern, and Somali communities, as well as cultural competency training for law enforcement officials and intelligence analysts.
- Participated in the U.S.-UK Joint Contact Group, which is the official bilateral forum for DHS and UK security agencies.
- Participated in the U.S.-Germany Security Contact Group, which is the official bilateral forum for DHS and German security agencies.

IV. Immigration Initiatives

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

- Hosted a meeting where the Acting Officer for Civil Rights and Civil Liberties held a discussion with the Civil Rights Civil Liberties Committee – a coalition of NGOs interested in issues at the nexus of civil rights, civil liberties, immigration, and homeland security. During this meeting, the Committee briefed the Acting Officer on several detention-related concerns, Lesbian-Gay-Bisexual-Transgendered (LGBT) issues in immigration policy, and the increasing use of stipulated order of removal.
- In conjunction with the DOJ Civil Rights Division, hosted a “Meet and Greet” for the Steering Committee of the Rights Working Group (RWG). The RWG is a coalition of more than 250 civil rights, human rights, and immigrant rights advocacy organizations, which was formed in the aftermath of September 11, 2001.
- Met with the New Orleans Worker Center in New Orleans and the National Immigration Law Center to discuss immigration-related employment issues.
- Met with United Nations High Commissioner for Refugees (UNCHR) to continue an ongoing dialogue with the agency about asylum-related concerns.
- Organized a meeting between NGOs in Maricopa County, AZ and the DHS Office of Inspector General to discuss concerns with the 287(g) program.
- Met with National Employment Law Center to discuss immigration-related employment issues.
- Attended the American Immigration Lawyers Association (AILA) conference in Las Vegas, NV. CRCL spoke with several immigration practitioners and had a formal meeting with AILA leadership to discuss the association’s concerns.

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. Each Civil Liberties Impact Assessment (CLIA) provides a formal, written evaluation of a program to identify potential civil liberties concerns. The following is an update of the CLIAs in process and completed during the third quarter of FY 2009:

- *State, Local and Regional Fusion Centers one-year follow-up, mandated by Section 511 of the 9/11 Act.* CRCL is currently drafting an update to CLIA on the 90-day review of the state, local and regional fusion centers. The 90-day review was submitted to Congress in the first quarter and is available at www.dhs.gov/civilliberties.
- *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 Government Accountability Office (GAO) reviews a certification by the Secretary that these programs comply with all existing laws, including all applicable civil liberties standards. CRCL is currently drafting a CLIA report on NIISO.
- *Interagency Threat Assessment and Coordination Group (ITACG), mandated in Section 1523 of the 9/11 Act.* As required, CRCL is coordinating a draft CLIA report with the DHS Privacy Officer, the DOJ Chief Privacy and Civil Liberties Officer, and the Office of the Director of National Intelligence (ODNI) Civil Liberties Protection Officer.
- *Information Sharing Fellows Program, mandated by Section 512 of the 9/11 Act.* CRCL completed a CLIA report on the Homeland Security Information Sharing Fellows, and delivered the report to Congress on April 18, 2008. CRCL is currently preparing a one-year follow-up CLIA report.

VI. Civil Liberties Institute

During the third quarter FY 2009, the Civil Liberties Institute (CLI) distributed multiple training products, provided classroom and on-line training, and continued to partner with DHS components and other agencies in the development and delivery of civil rights and civil liberties training. CLI supports DHS through State and Local Fusion Center training and through its work with DHS components.

Training DHS Intelligence Analysts Deployed to Fusion Centers. CRCL is fulfilling its statutory mandate to provide training to DHS analysts deployed in State, Local and Tribal Fusion Centers (SLFCs) on civil rights and civil liberties. During the third quarter, CRCL trained DHS Office of Intelligence and Analysis (I&A) analysts who will be working in three locations – Texas, Northern California, and Southern Nevada.

Training and Support for Fusion Center Personnel. Additionally, CRCL is developing an expanded “toolkit” of civil rights and civil liberties resources to support training for *all* fusion center personnel in FY 2009 and FY 2010. In collaboration with the DOJ’s Bureau of Justice Assistance and the Global Initiative as well as the DHS Privacy Office, CRCL:

- Launched an expanded version of the web portal that contains a simplified “road map” to all relevant Federal materials on privacy, civil rights, and civil liberties in the Information Sharing Environment (ISE) and serves as a resource for the onsite and distance training of fusion center staff. CRCL continues to maintain the almost-30 web pages of resources on the portal.
- Piloted the integrated State and Local Fusion Center training program at fusion centers in Maryland and Texas. Outstanding requests for training exist from many fusion centers including those in: the Western Region (AZ, CA, WA, OR, NV); the Central Region (NM, OK, CO, KS, NE, MT); the Midwestern Region (OH, MI, IN, IL, MO, IA, WI, KY); Massachusetts; and Florida. In addition, the Maryland center, which piloted the program, has requested a schedule for refresher training.
- Confirmed dates for training sessions to be held in FY 09 in Washington, Arizona, Missouri, and Massachusetts.

CLI continued to support the CRCL online and classroom courses offered to DHS personnel and other Federal agencies in a variety of ways, including the following:

- Supported CRCL Review and Compliance Division's workshops which provided weeklong workshops at the FLETC center in Georgia to train ICE factfinders on investigating complaints involving civil rights and civil liberties issues.
- Conducted a civil rights/civil liberties workshop at the *Basic Intelligence and Threat Analysis (BITAC)* course offered to DHS personnel from all components.

Additionally, CRCL delivered six sessions of "Civil Liberties Training" at the National Forum on Information Sharing and Collaboration in Washington, DC.

VII. 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 conducted in a lawful manner consistent with Constitutional, statutory, regulatory, and other legal and policy requirements, including applicable civil liberties standards.

During the third 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, cyber security initiatives, and special projects. CRCL visited many fusion centers, and gathered additional materials to support its one-year CLIA of the State, Local and Regional Fusion Centers program. CRCL also further developed CLIAs for the NIISO and the Information Sharing Fellows Program. CRCL is currently developing a CLIA addressing searches of electronic and other media at the border. CRCL also continues to actively participate in the DHS Information Sharing Coordinating Council, and attended its first meeting as an ex officio member to the DHS Information Sharing Governance Board. CRCL continues to participate in DHS Information Sharing Environment (ISE) activities, including the development of templates for memoranda of understanding between DHS and external entities, and the review of completed agreements to ensure compliance with ISE civil liberties requirements.

CRCL also reviews certain I&A intelligence products, and is in the process of developing civil liberties training tailored to address issues frequently encountered during those reviews.

VIII. Office of Accessible Systems & Technology

CRCL and the DHS Chief Information Officer (CIO) continue to collaborate to fully implement and enforce the provisions of Section 508¹ throughout the Department.

A. Accessibility Helpdesk. The Office of Accessible Systems and Technology (OAST) received 348 helpdesk requests from 17 DHS components and three public entities. OAST provided assistance in the following areas: Technical Assistance; Application Reviews; Document Reviews; IT Requests; Enterprise Architecture Reviews; and Section 504 Reasonable Accommodations. Component Section 508 Programs processed an additional 153 Section 508-related technical assistance requests.

B. Document Accessibility. OAST reviewed and remediated 134 electronic document files including forms, memorandums, informational pamphlets, flyers, and reports for 11 components and one public entity. Notably, OAST personnel assisted the DHS CFO on a major project which consisted of reviewing and remediating 34 document files totaling over 1,500 pages of the Congressional Justification Budget

¹ 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.

document. Additionally, OAST trained 86 individuals across DHS on how to create accessible documents.

C. Training. OAST provided Section 508 training to 231 DHS employees through online, classroom, one-on-one, and hands-on trainings.

D. Web and Application Accessibility Assessments. OAST evaluates the accessibility of DHS websites on a quarterly basis. During the third quarter, OAST evaluated 123 URLs and 256,144 web pages. Overall, DHS website accessibility dropped 9% since last quarter. Amidst the decrease in scores, four components – ICE, National Protection Programs Directorate (NPPD), the Directorate for Science and Technology (S&T), and United States Secret Service (USSS) – received perfect scores. OAST will assist DHS components to improve results in the fourth quarter.

OAST specifically evaluated 34 web applications for accessibility. Of those evaluated, 22 applications failed for Section 508 compliance. OAST also evaluated 59 Commercial-Off-the-Shelf products for Section 508 compliance with the following results: 21 passed; 13 passed with exceptions; 10 failed; and 15 are currently pending a complete review.

E. Compliance Reviews. OAST processed 16 Enterprise Architecture Reviews comprised of 10 Technical Insertions and six Program Alignments. OAST personnel also reviewed 156 acquisition packages for Section 508 compliance, in the total amount of \$818,810,416.70. During the third quarter, OAST achieved the following results: 114 acquisitions were approved; 39 are in process; two have pre-conditional status; and one was cancelled. Of the 114 acquisitions approved, 35 were granted National Security Exceptions.

F. Interim Change Control Board (ICCB). OAST reviewed 476 standard IT change requests and emergency change requests this quarter, resulting in 446 approvals and 30 deferred requests.

G. Outreach. OAST assisted the CIO in facilitating the “National Take our Daughters and Sons to Work Day.” Over 100 participants attended the event, which included presentations from: OAST; Office of Security; Office of Public Affairs (OPA); CBP; USCG; and FEMA. During this event, DHS employees’ children assisted their parents in general office duties, including paper shredding, recycling, making binders, and collating copies. Participants also received activity handouts, gift bags, and raffles prizes. OAST intends to assist with this event again in the future.

OAST along with Section 508 representatives from U.S. General Services Administration (GSA), U.S. Internal Revenue Service (IRS), U.S. Social Security Administration (SSA), and Office of Management and Budget (OMB) met with the Special Assistant to the President on Disability Policy, Kareem Dale, to forge a relationship between the two entities.

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 and Civil Rights Leadership

The EEO & Diversity Programs Division continued to provide leadership to DHS and its components by focusing on policy guidance, program management, EEO complaint adjudication, and diversity management, including the following action items:

- Submitted a new proposed anti-discrimination policy statement for issuance by the Secretary. This statement will satisfy an annual EEOC Management Directive –715 (MD-715) requirement, and will enable the Secretary to demonstrate her commitment to anti-discrimination, merit system principles, and whistleblower protection laws. The policy statement will also be accompanied by an all-DHS memo for the Secretary to issue, notifying all employees regarding the new anti-discrimination policy, as well as the previously-published DHS Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) Notification which covers similar protections and is required by the No FEAR Act statute as well as OPM regulations;
- Established a plan for an Inter-Agency Agreement and cost-sharing for a new enterprise-wide database system for EEO complaint data and reporting. The Memorandum of Agreement (MOA) between CRCL and DHS components outlines the shared services to be provided under this contract arrangement. In addition, CRCL submitted a new Statement of Work to OCIO Business Services for the new EEO system; and
- Posted the First and Second Quarter, FY 2009 No FEAR Act EEO data to the agency’s public website. CRCL also arranged for the posting of a link on the public website, providing access to DHS’s FY 2008 No FEAR Act Annual Report; this report provides specific information relating to DHS’s Federal district court cases, resulting disciplinary actions, and Judgment Fund reimbursements, involving anti-discrimination and whistleblower statutes.

II. Reporting Requirements

CRCL submitted the following report:

- The Annual Performance Report on Executive Agency Actions to Assist Tribal Colleges and Universities (TCU) Program Report for FY 2008, submitted to the White House Initiative on TCUs (Department of Education) on April 24, 2009. The TCU Program Report provides an overview of funding awarded by DHS to tribal colleges and capacity-building activities.

III. Diversity Management

During the third quarter, the CRCL Diversity Management Unit conducted the following activities:

- Coordinated with the Office of the Chief Human Capital Officer (OCHCO) to submit a proposed all-DHS memo for the Secretary to issue in support of veterans’ employment at DHS. This memo will emphasize the Secretary’s commitment and support of veterans’ employment and will announce specific initiatives and recruitment flexibilities and programs the Department will implement for the employment of veterans.
- Finalized the Department’s response to a GAO Audit on the agency’s MD-715 Report and Program.
- Responded to the Secretary’s requests for analysis of EEO complaint data, particularly relating to retaliation/reprisal cases and findings of discrimination by basis.
- Participated in the American Legion Veterans Career Fair Day at Walter Reed Army Medical Center.

IV. Complaint Adjudication

- The CRCL EEO & Diversity Programs Division inventory of EEO cases awaiting adjudication remains below 500 – specifically, 485 as of June 30, 2009.
- During the third quarter of FY 2009, CRCL closed 302 complaints of employment discrimination. Of these closures, 21 were resolved by withdrawal, 33 were resolved by settlement, and 248 were Final Agency Actions issued by CRCL. The April 2009 issuances – 114 cases – constitute the highest number of closed cases in any month since November 2007.
- During the third quarter of FY 2009, CRCL’s EEO & Diversity Programs Division issued 243 merit final agency decisions (FADs); by comparison – during all of FY 2008 – EEO Programs issued a total of 105 merit FADs. Additionally, as of June 30, 2009, the EEO & Diversity Programs Division has closed 776 cases, compared to a total of 768 cases during FY 2008.

V. Training

CRCL's EEO & Diversity Programs Division provided training on the Federal Equal Opportunity Recruitment Program (FEORP) and Disabled Veterans Affirmative Action Program (DVAAP). These trainings were designed for DHS-wide diversity and special emphasis staff responsible for preparing FEORP/DVAAP plans and reports, as well as administering these programs.

VI. Headquarters (HQ) Equal Employment Opportunity

- During this quarter, HQ EEO continued to participate in external meetings with several resource groups, committees, and organizations regarding the Federal Women's Program (FWP). The meetings provided DHS employees with opportunities for outreach, networking, and developing partnerships.
- HQ EEO sponsored two webinars during the third quarter in support of the FWP. The first, entitled "Your Sphere of Influence," focused on building a robust workplace network of relationships. The second, "Creating Your Leadership Brand," focused on establishing a reputation as an emerging leader. Future webinars will include: "Are You the Invisible Employee?," "Be a Person of Influence," and "Resiliency Redefined."
- HQ EEO also hosted a program on mentoring to engage employees on the benefits of mentoring, to support the FWP, and is supporting the development of a Department-wide mentoring program.
- HQ EEO conducted four Operation Warfighter (OWF) briefings. OWF is a temporary assignment/internship program for service members who are convalescing at military treatment facilities throughout the U.S. It is designed to provide recuperating service members with meaningful activity outside of the hospital environment, and offers a formal means of transition back to military or civilian workforce. The briefings provided veterans with information on the various career opportunities and benefits of federal jobs, the variety of locations where positions are available, and the Department's goal of filling mission critical positions.
- HQ EEO conducted two informational sessions entitled "How to Find a Federal Job within DHS" for veterans as the National Naval Medical Center in Bethesda, MD.
- HQ EEO participated in the Veterans/Service Member Career Fair located at Walter Reed Army Medical Center in Washington, DC.
- HQ EEO participated in a Job Fair sponsored by "Howard County One Stop for Community Outreach."
- HQ EEO participated on the DHS Veterans Outreach Council. The goal of the Council is to share best practices and coordinate outreach efforts to local veterans and military organizations.
- During the third quarter, EEO received 12 requests for reasonable accommodations—eight were requests for IT equipment, and the remaining four ranged from requests for flexible work schedule to requests for ergonomic work space equipment. All requests were completed during the third quarter. Additionally HQ EEO received 30 requests for sign language interpreter (SLI) services.
- HQ EEO collaborated with OAST to develop an automated tracking system for reasonable accommodation requests.
- HQ EEO coordinated with the DHS OPA to ensure accessibility compliance for public events sponsored by the Department.
- HQ EEO conducted training to over 400 new employees during New Employee Training on rights and responsibilities under the No FEAR Act and the HQ EEO and Diversity Program.
- HQ EEO collaborated with the DHS OCHCO Veterans Outreach Program Manager to provide a presentation on becoming a federal employee at the 2009 American Legion National Conference.

CONCLUSION

As required by the 9/11 Act, this third quarter report provides a summary of CRCL's activities from April 1, 2009, to June 30, 2009. CRCL will continue to work with Congress, its colleagues at DHS and in other

Federal departments and agencies, and the public to ensure that civil rights and civil liberties are protected in our homeland security efforts.