



Notification and Federal Employee Anti-Discrimination and Retaliation Act of 2002 Annual Report for Fiscal Year 2015

March 24, 2016



Homeland
Security

*Civil Rights and Civil
Liberties*

MESSAGE FROM THE OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES

March 24, 2016

I am pleased to present the U.S. Department of Homeland Security's (Department's) "Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002" (No FEAR Act) Annual Report for Fiscal Year (FY) 2015.

The No FEAR Act, Public Law 107-174, requires that federal agencies be publicly accountable for violations of anti-discrimination and whistleblower protection laws. Federal agencies must post both quarterly and annual statistical data relating to federal sector Equal Employment Opportunity (EEO) complaints on its public website, reimburse the Judgment Fund for any payments made, and notify employees and applicants for employment about their rights under the federal anti-discrimination and whistleblower laws.



This report summarizes the most significant accomplishments within the Department's EEO program, principally focusing on the area of EEO complaint processing. It evidences the Department's strong commitment to abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability on the part of its leadership.

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

The Honorable Orrin Hatch

President pro tempore, U.S. Senate

The Honorable Ron Johnson

Chairman, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Thomas R. Carper

Ranking Member, U.S. Senate Committee on Homeland Security and Governmental Affairs

The Honorable Charles Grassley

Chairman, U.S. Senate Committee on the Judiciary

The Honorable Patrick J. Leahy

Ranking Member, U.S. Senate Committee on the Judiciary

The Honorable Paul D. Ryan

Speaker of the House, U.S. House of Representatives

The Honorable Michael McCaul

Chairman, U.S. House of Representatives Committee on Homeland Security

The Honorable Bennie G. Thompson

Ranking Member, U.S. House of Representatives Committee on Homeland Security

The Honorable Bob Goodlatte

Chairman, U.S. House of Representatives Committee on the Judiciary

The Honorable John Conyers, Jr.

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

The Honorable Jason Chaffetz

Chairman, U.S. House of Representatives Committee on Oversight and Government Reform

The Honorable Elijah E. Cummings

Ranking Member, U.S. House of Representatives Committee on Oversight and Government Reform

Pursuant to the No FEAR Act, the report is also being provided to the Chair of the U.S. Equal Employment Opportunity Commission (EEOC), the Attorney General of the U.S. Department of Justice (USDOJ), and the Director of the U.S. Office of Personnel Management (OPM).

The Department's Office for Civil Rights and Civil Liberties (CRCL) supports the Department's mission to secure the Nation while preserving individual liberty, fairness, and equality under the law. CRCL's mission includes leading the Department's EEO programs and promoting workforce diversity. The Department succeeds in its mission to protect the homeland, in part, by ensuring that all of its workplace decisions are equitable, fairly implemented, and for the benefit of all of its employees.

The Department's EEO program reflects a strong and collaborative partnership among CRCL and the Department's Components, shown through the various improvements in the Department's EEO program during FY 2015. Despite this, program challenges resulted in diminished results in some processing areas when compared to FY 2014 results. A few of the FY 2015 complaint processing results highlighted in this report include:

- Completion of 87 percent of EEO counselings within the time frame specified by regulation – a two percent increase over timely completed counselings in FY 2014.
- Completion of 535 timely investigations – a 19 percent decrease from the 658 timely investigations completed in FY 2014.
- Issuance of 120 timely (40 percent) merit Final Agency Decisions (FADs), which fell short of the goal of 45 percent timely merit FADs.

The FY 2015 achievements, as well as the challenges experienced during the year, have encouraged additional collaborative efforts across the Department as we look to establish valuable measures and enhancements in the Department's EEO program during FY 2016 and beyond. I look forward to continuing to provide information on the successes of this program in future reports.

Sincerely

A handwritten signature in blue ink that reads "Megan H. Mack". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Megan H. Mack
Officer, Office for Civil Rights and Civil Liberties



Fiscal Year 2015 No FEAR Act Annual Report

Table of Contents

EXECUTIVE SUMMARY	1
I. LEGISLATIVE REQUIREMENT.....	4
II. BACKGROUND.....	5
III. RESULTS AND DATA	6
A. EEO Cases in Federal District Court	6
B. Reimbursements to Judgment Fund.....	6
C. Disciplinary Actions	7
D. EEO Complaint Data	7
IV. ANALYSIS OF TRENDS AND CAUSALITY	7
A. EEO Complaint Activity.....	7
B. Bases of Discrimination in EEO Complaints.....	8
C. Issues in EEO Complaints	10
V. COMPLAINTS PROCESSING AND ADJUDICATION DATA.....	11
A. EEO Counseling.....	11
B. EEO Investigations	12
C. Procedural Dismissals.....	14
D. Findings of Discrimination	14

1. Protected Bases.....	15
2. Issues	16
VI. PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE, AND ACTIONS PLANNED OR TAKEN TO IMPROVE THE COMPLAINTS OR CIVIL RIGHTS PROGRAM	17
A. Improvements in the Department’s CRCL EEO Program.....	17
1. Focusing on Timely Issuance of Merit FADs	18
2. Advancing Joint Opportunity Initiatives and Development of a Department-wide Strategic Plan	18
3. Collaborating and Leading the Department’s Components	20
4. Leaning Forward with Technology	22
B. The Department’s Component EEO and Civil Rights Offices	22
1. Federal Emergency Management Agency.....	22
2. The Federal Law Enforcement Training Centers	24
3. Headquarters EEO Office.....	26
4. Transportation Security Administration	27
5. U.S. Citizenship and Immigration Services.....	29
6. U.S. Coast Guard	30
7. U.S. Customs and Border Protection.....	32
8. U.S. Immigration and Customs Enforcement.....	35
9. U.S. Secret Service	37
CONCLUSION.....	39

Appendices

Appendix 1: The Department’s No FEAR Act Federal District Court Data for FY 2015

Appendix 2: The Department’s No FEAR Final Year End EEO Data for FY 2010-2015*

*The data reported and analyzed in the Department’s Annual No FEAR Act Report for FY 2015 and prior years was obtained from the Department’s certified EEOC Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (“462 Report”) for each fiscal year. The data reported in Appendix 2 was produced on November 3, 2015, and it differs slightly for years FY 2009-FY 2014, because of the dynamic nature of the Department’s complaint tracking system.

EXECUTIVE SUMMARY

The “Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002” (No FEAR Act), Public Law 107-174, is intended to reduce the incidence of workplace discrimination within the Federal Government by making agencies and departments more accountable for violations of antidiscrimination and whistleblower protection laws. Section 203 of the No FEAR Act specifically requires that each federal agency submit to certain Congressional committees and members, not later than 180 days after the end of each fiscal year, an annual report containing the following information: federal anti-discrimination and whistleblower protection laws, complaint activity (including Federal District Court cases), and resulting disciplinary actions; Judgment Fund reimbursements; adjustments to agency budgets to meet reimbursement requirements; and an analysis of trends, causation, and practical knowledge gained through experience. This No FEAR Act Annual Report covers FY 2015 (October 1, 2014 to September 30, 2015).

At the U.S. Department of Homeland Security (Department), senior Department leaders demonstrate a strong commitment to promote equal employment opportunity, abide by merit systems principles, provide protection from prohibited personnel practices, and promote accountability. The Department’s Office for Civil Rights and Civil Liberties (CRCL) provides policy and technical advice to senior Department leadership on civil rights and civil liberties issues, and directs the Department’s Equal Employment Opportunity (EEO) and Diversity Management programs.

During FY 2015, CRCL continued to partner with the Department’s Undersecretary for Management, the Department’s Office of the Chief Human Capital Officer (OCHCO), the Department’s Component EEO offices, and other internal and external stakeholders to promote equality, fairness, workforce diversity, and efficiency. The CRCL Deputy Officer, who serves as the Department’s Director for EEO and Diversity, is a member of the Secretary’s Employee Engagement Executive Steering Committee, which is now chaired by the Under Secretary for Management, and its mission is to identify strategies that will lead to improvements in employee morale throughout the Department. Throughout FY 2015, CRCL also maintained close working relationships with all Components. The CRCL Deputy Officer chairs the EEO Directors’ Council, in which all Component EEO and Civil Rights Directors participate. Effective communication and collaboration have continued to strengthen partnerships with the Components throughout FY 2015.

In FY 2015, the EEO Directors’ Council approved a Strategic Plan through FY 2020, which identifies six high-level goals for the Department’s EEO and Diversity communities. The Plan’s goals draw their inspiration from the elements of a model EEO program as delineated in EEOC Management Directive (MD) 715. Subsumed within each goal, the EEO Directors’ Council created working groups to advance the respective goals. Some examples include: (1) enhancing the professional competencies within the EEO occupational series, by identifying and advertising developmental detail assignments throughout the Department; (2) developing a training course on effective barrier analysis related to completing the MD-715 report, which will launch in FY 2016; (3) developing an awards program to recognize valuable contributions to EEO and

Diversity that are made by non-EEO practitioners; (4) conducting a Department-wide Section 508 compliance assessment to ensure the Department's websites are accessible to individuals with disabilities; and (5) establishing a Department-wide EEO communication strategy.

In FY 2015, CRCL collaborated with the Department's Components on making improvements to the Department-wide Alternative Dispute Resolution (ADR) program by establishing a Shared Neutrals Program. The Department's newly formed ADR Program Manager Council is responsible for overseeing the Department's Shared Neutrals Program and is working to increase the use of ADR in addressing workplace disputes. The Council includes an ADR Program Manager from each Component and a representative from the Office of the Chief Human Capital Officer.

The EEO pre-complaint process strengthened throughout FY 2015, as demonstrated by an increase in the number and percentage of timely counselings. Notably, three Components achieved timely counseling for 100 percent of their cases: U.S. Customs and Border Protection (CBP), U.S. Secret Service (USSS), and the U.S. Coast Guard (USCG). Department-wide, even though the overall number of counseling requests increased between FY 2014 and FY 2015, the number and percentage of timely counselings also increased in FY 2015. Specifically, during FY 2015, 87 percent (2,081 of 2,391) requests for EEO counseling were timely completed, compared to 85 percent (1,761 of 2,067) in FY 2014.

In FY 2015, in the dynamic area of formal complaints, there was a slight increase in the number of formal complaints filed. In FY 2015, there were 1,262 formal complaints filed, which is a four percent increase from the 1,213 formal complaints filed in FY 2014.

In FY 2015, the Department experienced some setbacks from the achievements made in the area of EEO investigations in FY 2014. In FY 2015, 865 investigations were completed by the Department, which is an eight percent decrease when compared to the 940 investigations completed in FY 2014. Moreover, there was a significant decrease in the number of timely investigations completed in FY 2015 (535), as compared to FY 2014 (658). Finally, the Department experienced a seven day increase in the average number of processing days for investigations completed in FY 2015 (253), as compared to the prior year (246).

Similarly, with regard to complaints adjudication, the Department issued 297 merit final agency decisions (FADs) during FY 2015, a one percent decrease over the number issued in FY 2014 (301). Moreover, due to resource challenges in this area during the year, CRCL was unsuccessful in meeting its goal of 45 percent timely merit FADs during FY 2015, instead issuing 40 percent (120 of 297) of merit FADs within the regulatory requirements of 45 or 60 days as set forth by the EEOC. This represented a 13 percent decrease from the 53 percent timely merit FADs issued in FY 2014.¹ CRCL anticipates receiving approval to backfill vacant positions during FY 2016, and, if approved, anticipates an upturn in the number of timely issued FADs during the coming year.

¹ Despite continued utilization of digital resources to streamline case reviews, preparation, review, and transmission, a decrease in available personnel for this specialized work affected the ability to issue FADs at the target goal.

In FY 2015, the Department issued 20 findings of discrimination. As compared to previous fiscal years, the FY 2015 findings reflected only small shifts in the bases of discrimination and issues alleged (race and color were the most frequently asserted bases, followed by reprisal and sex; the most frequently asserted issues were non-sexual harassment, non-selection/non-promotion, termination, and terms/conditions of employment).

During FY 2015, the Department had 218 civil actions pending in Federal District Court involving the various laws covered in the No FEAR Act. During FY 2015, Federal Court judges disposed of 93 cases: two of which were decided in favor of the Complainant, 65 of which were decided in favor of the agency and 18 of which were settled by the parties. Eight cases were disposed of using arbitration/mediation.

In FY 2015, the Department's reimbursement to the Judgment Fund totaled \$1,299,984.99, while the amount reimbursed to the Judgment Fund for attorney's fees in the same time period totaled \$7,515.00. During FY 2015, one employee was disciplined for discrimination, retaliation, harassment, or other infractions of provisions of law covered by the No FEAR Act.

I. LEGISLATIVE REQUIREMENT

This document responds to the reporting requirements set forth in Section 203 of the No FEAR Act (Pub. L. No. 107-174), which states:

(a) Annual Report. — Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year —

- (1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;
- (2) the status or disposition of cases described in paragraph (1);
- (3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;
- (4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);
- (5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));
- (6) a detailed description of —
 - (A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who —
 - (i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or
 - (ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and
 - (B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;
- (7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity

Commission in compliance with Part 1614 of Title 29 of the Code of Federal Regulations) including —

- (A) an examination of trends;
- (B) causal analysis;
- (C) practical knowledge gained through experience;
- (D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

Further guidance on each agency's reporting obligations is provided in 5 C.F.R. § 724.302, which also requires the submission of the annual report to the Director of OPM, for the implementation of a best practices study and the issuance of advisory guidelines.

II. BACKGROUND

The Department's mission is to ensure a homeland that is safe, secure, and resilient against terrorism and other hazards where American interests, aspirations, and way of life can thrive. The Department was established through the *Homeland Security Act of 2002*, Pub. L. No. 107–296, and Section 103(d)(5) of the Act provides for the presidential appointment of an Officer for Civil Rights and Civil Liberties (Officer). On October 26, 2012, the Secretary for the Department issued Delegation Number 19003, which delegated to CRCL the authority to render final decisions on behalf of the Secretary in EEO complaints, pursuant to 29 C.F.R. § 1614.110, or pursuant to the Departmental EEO Complaint Procedures, when that regulation is not applicable. Delegation Number 19003 superseded Delegation Numbers 3095 and 19002.

CRCL resides within the Office of the Secretary, and provides technical and policy advice to Department leadership on civil rights and civil liberties issues. The Officer, by statute, reports directly to the Secretary and assists senior leadership in shaping policy in ways that protect the civil liberties of all persons protected by our laws. In accordance with 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, CRCL's mission is to support the Department as it secures the Nation while preserving individual liberty, fairness, and equality under the law. CRCL performs four key functions to integrate civil rights and civil liberties into all of the Department's missions and activities:

1. Advising Department leadership, personnel, and partners about civil rights and civil liberties issues, ensuring respect for civil rights and civil liberties in policy decisions and implementation of those decisions.
2. Communicating with individuals and communities whose civil rights and civil liberties may be affected by Department activities, informing them about policies and avenues of redress, and promoting appropriate attention within the Department to their experiences and concerns.
3. Investigating and resolving civil rights and civil liberties complaints filed by the public regarding Department policies or activities, or actions taken by Department personnel.

4. Leading the Department's EEO programs and promoting workforce diversity and merit system principles.

In order to maximize its effectiveness, the Department seeks to maintain an exemplary EEO program with the goal of eliminating discrimination in the workplace. CRCL provides departmental guidance and standards for establishing and maintaining effective programs for EEO, as required under both Title VII of the *Civil Rights Act of 1964* (Title VII), 42 U.S.C. §§ 2000(e) -2000(e-17) (2015), and Section 501 of the *Rehabilitation Act of 1973* (Rehabilitation Act), 29 U.S.C. § 791 (2015). CRCL also works to advance the anti-discrimination protections set forth under the *Age Discrimination in Employment Act of 1967* (ADEA), 29 U.S.C. §§ 621-634 (2015), the *Equal Pay Act of 1963* (EPA), 29 U.S.C. § 206 (d)(1) (2015), and the *Genetic Information Nondiscrimination Act of 2008* (GINA), 42 U.S.C. §§2000(ff)-2000(ff-11) (2016). To meet these objectives, the Deputy Officer for CRCL and her staff develop policies and plans, deliver training, conduct oversight, adjudicate EEO complaints, and submit annual reports to stakeholders including Congress, the White House Initiatives Offices, the U.S. Department of Justice (DOJ), EEOC, and OPM.

III. RESULTS AND DATA

A. EEO Cases Filed in Federal District Court

During FY 2015, the Department had 218 pending or resolved civil actions in Federal District Court under the laws covered in the No FEAR Act. The majority of those Federal District Court filings arose under Title VII (138), followed by filings under the ADEA (45), the Rehabilitation Act (26), the *Whistleblower Protection Act of 1989*, 5 U.S.C. §1201 (7), Equal Pay Act (1), and GINA (0).

During FY 2015, 93 cases were disposed of in Federal District Court: 2 were decided in favor of the Complainant, 65 were decided in favor of the Department, 18 were resolved by settlement, and 8 were resolved by Arbitration/Mediation. For further information regarding FY 2015 employment discrimination and Whistleblower cases filed against the Department in Federal District Court, see Appendix 1.

B. Reimbursements to Judgment Fund

During FY 2015, as reported by the Department's Components, the Department reimbursed a total amount of \$1,299,984.99 to the Judgment Fund. The bulk of that reimbursement amount (\$1,204,984.99) was derived from cases filed under Title VII and came from CBP, the Transportation Security Administration (TSA), U.S. Immigration and Customs Enforcement (ICE), and the USSS. The remaining reimbursement amount was comprised of cases arising under the Rehabilitation Act in the amount of \$95,000. Attorney's fees accounted for \$7,515.00, all stemming from Title VII cases.

C. Disciplinary Actions

At the Department, each Component remains independent in its authority to issue personnel actions against its own employees. This includes the imposition of disciplinary action against individuals who have been found to have engaged in discriminatory, retaliatory, or harassing conduct, as set forth in findings of discrimination. As part of the ordered relief, CRCL's decisions order the consideration of disciplinary action against the individual(s) found to have been responsible for the discriminatory act(s). The Components' decisions regarding disciplinary action are made on a case-by-case basis, considering the specific facts and circumstances at issue. If disciplinary action is imposed, that information is reported to CRCL for inclusion in the Department's No FEAR Act report. If disciplinary action is considered, but not imposed, that information is also reported to the Department, along with other matters of compliance with the ordered relief. During FY 2015, one employee, who worked at ICE, was disciplined for discriminatory, retaliatory, or harassing conduct.

D. EEO Complaint Data

See Appendix 2 for the Department's No FEAR Act data for FY 2015, which are also posted online (<http://www.dhs.gov/homeland-security-no-fear-act-reporting>).

IV. ANALYSIS OF TRENDS AND CAUSALITY

A. EEO Complaint Activity

Section 203(a)(7) of the No FEAR Act requires federal agencies to examine trends and causes behind the data in their reports over the past five years. Here, however, the report includes data from FY 2009 through FY 2015, to look more broadly at the Department's EEO complaints program and determine any relevant trends. EEO complaint processing is a very dynamic environment. Table 1 shows the number of complaints filed Department-wide each year for the past seven years and the variance from the prior year's filing. At times, shifts in Department results can be attributed to a single component.

In FY 2009, there were 1,457 complaints filed within the Department. Notably, during that year, the Federal Emergency Management Agency (FEMA) experienced an abrupt rise in the number of formal complaints filed, which included 359 individual complaints filed subsequent to the closure of a FEMA facility in Puerto Rico (PR).² Excluding those cases for the purpose of comparison, the remaining number of complaints filed in FY 2009 was 1,098. Each year, the rate of complaints filed increases or decreases at modest rate, when compared with the prior year. From FY 2009 to FY 2011, the Department's workforce increased by 10,388

²All of the 359 cases involved the same issues and were filed by the same attorney. In FY 2010, the Department procedurally dismissed these cases from the administrative EEO process because they were filed in Federal District Court.

employees. However, each subsequent year (FY 2012 through FY 2015) showed a decrease in the workforce, resulting in an overall decrease of 869 employees since 2009. Although it would be logical to conclude that more or fewer employees each year would lead to a similar annual rise or fall in the number of complaints filed, we find that there is no discernable correlation between the changes in employee population and complaint filings year to year. See Table 1.

Table 1: Complaints Filed, FY 2009 – FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Department-wide Filings	1,457 (1,098 w/o FEMA PR complaints)	1,185	1,283	1,198	1,192	1,213	1,262
Variance from prior year complaints	n/a	-272 w/FEMA (+87 w/o FEMA PR complaints)	+98	-85	-6	+21	+49
Department-wide Population	189,507	191,072	199,895	199,554	194,922	190,067	188,638
Variance in employee population from prior year	n/a	+1,565	+8,823	-341	-4,632	-4,855	-1,429

B. Bases of Discrimination in EEO Complaints

During FY 2015, the Department’s most frequently alleged bases of discrimination in formal EEO complaints were, in order of frequency: reprisal, sex, and race. Similarly to the fluctuation in formal complaint filings year-to-year, the number of each of these alleged bases also differs year to year. See Table 2.

- *Reprisal*: The number of reprisal claims (576) filed against the Department in FY 2015 increased by roughly eight percent from FY 2014 (532), and reached its highest point since 2009 (558 in FY 2013; 528 in FY 2012; 523 in FY 2011; 493 in FY 2010; and 418 in FY 2009). The steady rise in reprisal as the leading basis of alleged discrimination at the Department is consistent with a government-wide rise in reprisal claims, as reported by the EEOC. At the Department, and across the federal sector, reprisal claims are almost always joined with an underlying EEO complaint on the basis of race, national origin, sex, etc. See EEOC’s “Annual Report on the Federal Workforce FY 2014” (<http://www.eeoc.gov/federal/reports/fsp2014/index.cfm>).

- *Sex*: During FY 2015, the Department received 430 complaints alleging discrimination on the basis of sex which includes female, male, and lesbian, gay, bisexual, and transgender (LGBT) claims.³ This is an increase of nine percent from FY 2014 (394). Since FY 2009, sex discrimination claims have numbered among the three most frequently filed bases of discrimination.
- *Race*: During FY 2015, race discrimination constituted the third most frequently raised basis, with 402 complaints.⁴ The number of complaints filed involving the basis of race remained lower in FY 2015 than in the years FY 2010 through FY 2013. Accordingly, the one-year upsurge from FY 2014 does not raise a need for deeper analysis at this time, and we will monitor FY 2016 results. Finally, we note as a matter of interest that the basis of race in FY 2015 complaints (402) only slightly exceeded the basis of age (392). Whereas age had been the third most frequently raised basis in FY 2014, it dropped to fourth during FY 2015.

Table 2: Bases of Discrimination, FY 2009 - FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Reprisal	418 ⁵	493	523	528	558	532	576
Sex	330	405	407	426	442	394	430
Race	322	409	460	413	451	322	402
Age	314	339	372	385	413	336	392
Disability	223	295	334	307	301	320	355
National Origin	157 ⁶	187	199	213	184	182	186
Color	88	131	137	146	155	122	165
Religion	52	51	56	31	56	63	58
Non-EEO	48	40	79	72	79	78	82

* Non-EEO includes parental status and sexual orientation.

When comparing each basis in Table 2 across the span of seven years, although there are ebbs and flows in each category,⁷ we see no sustained pattern of annual increase in how often any of the bases were alleged.

³ Sex-female was alleged the most frequently, with 298 complaints. The basis of sex-male was raised in 131 complaints, and sexual orientation was raised in one complaint.

⁴ The basis of race includes all races reported on the Department’s FY 2015 462 Report. However, race-Black/African American ranked the highest, with 236 of the 402 complaints.

⁵ For a more accurate comparison between the years, this number excludes the bases of the 359 cases filed due to the closure of a FEMA facility. If included, the number of reprisal claims would be 761.

⁶ This number excludes the bases of the 359 cases filed due to the closure of a FEMA facility. If included, the number of national origin claims would be 512.

⁷ The rise in FY 2009 bases of reprisal and national origin reflect the spike in FEMA cases that year and subsequent complaints filed due to a FEMA facility closure.

C. Issues in EEO Complaints

The two most frequently raised issues in EEO complaints at the Department during FY 2015 were harassment (non-sexual)⁸ (raised in 479 complaints) and disciplinary action (raised in 247 complaints). Non-sexual harassment has been the most frequently raised issue in EEO complaints at the Department over the course of the past seven years, as shown below, and is in keeping with the trend across the federal sector. See EEOC’s “Annual Report on the Federal Workforce FY 2014” (<http://www.eeoc.gov/federal/reports/fsp2014/index.cfm>).

In the Department, there was a substantial increase (26 percent) in complaints involving disciplinary action from FY 2014 (196) to FY 2015 (247) and a 55 percent increase since 2009. With respect to TSA complaints involving disciplinary actions (reprimands, suspensions, and removals), there were 162 complaints in FY 2014 and 185 complaints in FY 2015. This represents a 14 percent increase from FY 2014 to FY 2015.

In addition, promotion/non-selection was raised as an issue in 224 complaints, ranking third among the issues most frequently raised at the Department during FY 2015. As Table 3, below, shows, promotion/non-selection has been the second- or third-most frequently filed issue at the Department. The frequency with which this issue was raised increased from 159 complaints in FY 2014, to 224 complaints in FY 2015, but had actually fallen in FY 2014 from the prior year, when 272 complaints included this issue. Similarly to the Department, the issue of promotion/non-selection has been in the top three most frequently raised issues in EEO complaints government-wide. See EEOC’s “Annual Report on the Federal Workforce FY 2014” (<http://www.eeoc.gov/federal/reports/fsp2014/index.cfm>).

Table 3: Issues in Complaints, FY 2009 - FY 2015

	2009	2010	2011	2012	2013	2014	2015
Non-Sexual Harassment	588	406	476	474	498	482	479
Disciplinary Action	111	177	254	212	198	196	247
Promotion/Non-Selection	223	232	246	262	272	159	224
Assignment of Duties	365	107	103	104	98	104	141
Terms/Conditions of Employment	347	163	220	120	105	99	105

⁸ The No FEAR Act requires reporting of complaints involving sexual harassment (i.e., sex-based claims involving actionable unwelcome conduct of a sexual nature) and non-sexual harassment (i.e., claims involving actionable unwelcome conduct not of a sexual nature, e.g., race, sex, national origin, color, religion, age, disability, or reprisal).

V. COMPLAINTS PROCESSING AND ADJUDICATION DATA

A. EEO Counseling

In accordance with 29 C.F.R. § 1614.105(d), counseling on a potential EEO complaint must be completed within 30 calendar days, unless the aggrieved person agrees to extend the counseling period up to an additional 60 calendar days. Department-wide, there was an increase in the total number of counselings each year over the past five years. In FY 2015, 2,391 counselings were completed, compared to 2,067 in FY 2014. This significant increase is due to a 27 percent increase in the number of total counselings at TSA from FY 2014 (886) to FY 2015 (1,127). Notably, and as shown below in Table 3, despite the overall increase in counselings during FY 2015, more timely counselings were completed than in any year since 2009, and the timeliness percentage was the highest of all prior reporting years. In FY 2015, 87 percent of counselings (2,081 of 2,391) were timely completed. The number of cases counseled in a timely fashion increased by two percent to 2,081 in FY 2015, as compared to 1,761 in FY 2014, and is the most favorable percentage, to date. See Table 4.

Table 4: EEO Counseling at the Department, FY 2009 – FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Total Number	2,479	1,848	2,096	2,031	2,134	2,067	2,391
Timely Number	1,684	1,495	1,692	1,718	1,737	1,761	2,081
Percentage Timely	68	81	81	85	81	85	87

Individual Components' program accomplishments and enhancements to their programs, as highlighted below, contributed to the Department's increase in timely counselings in FY 2015:

- TSA created a user-friendly online link for employees to initiate the pre-complaint process, which provided easier access for employees than a multi-paged, hard copy form. This ease of contact may also have accounted for the rise in counselings at TSA during FY 2015; subsequent years' data will be examined to make further assessments in this regard.
- Three Components provided timely counseling in 100 percent of their cases: CBP completed 100 percent of its 443 cases within the regulatory time period; USSS timely completed 100 percent of its 51 cases for the third year in a row; and for the second year in a row, USCG timely completed 100 percent of its 87 cases.
- ICE achieved a dramatic increase in the percentage of timely counseled cases. This increase was due in large part to the elimination of a backlog in investigations of EEO cases, which allowed for a renewed focus on timely EEO counseling. In FY 2015, a total of 297 cases were counseled at ICE, an increase compared to the 283 cases the prior year.

ICE timely completed counseling in 184 of its 297 cases (62 percent) in FY 2015, an increase of 26 percent, as compared to the prior year.

- Finally, in FY 2015, the Department's Headquarters (HQ EEO) Office continued its progress in increasing the percentage of timely counseled cases. HQ EEO's improved team-wide efforts on internal case tracking contributed to its success in this area. In FY 2015, there were a total of 68 cases counseled, an increase compared to the 56 cases the prior year. HQ EEO timely completed counseling in 67 of its 68 cases (98 percent) in FY 2015; an increase of two percent as compared to the prior year.

B. EEO Investigations

In accordance with 29 C.F.R. § 1614.108(e), an investigation must be completed within 180 calendar days for most cases,⁹ unless the timeline is extended. Here, we examine the number of formal complaints filed Department-wide to the number of EEO investigations completed, and to those that were timely completed (see also Section VI.A, Figure 1).¹⁰

In FY 2015, a total of 865 investigations were completed Department-wide, an eight percent decrease from the 940 investigations completed in FY 2014. Similarly, the percentage of timely completed investigations also decreased by eight percent, from 70 percent in FY 2014, to 62 percent in FY 2015. Two Components, TSA and FEMA, dropped considerably in the percentage of timely completed investigations, which contributed to the Department's overall drop in timely completed investigations. TSA's percentage of timely completed investigations dropped sharply in FY 2015 to 49 percent (115 of 235), compared to 89 percent (307 of 346) in FY 2014. TSA attributed this decrease to staffing challenges, which included losing four case managers in their formal complaints section. TSA plans to address the staffing shortages during FY 2016, and this should result in more favorable investigation timelines going forward. Similarly, FEMA timely completed three percent (2 of 64) of its investigations in FY 2015, which is a decrease from the 14 percent (15 of 104) that were timely completed in FY 2014. This decrease was caused by several factors, including staff turnover and an office focus on completing older cases to reduce an inventory backlog. Additionally, a stop work order was directed due to a major data breach and cyber-attack on one of the contracting firms FEMA used to conduct EEO investigations; that work was recalled and subsequently reassigned for completion.

Despite the challenges that resulted in the completion of fewer overall and fewer timely investigations during FY 2015, there was only a modest impact in the number of average processing days for investigations when looking at the Department's aggregate data; average processing days rose an average of seven days, from 246 days in FY 2014 to 253 days in FY 2015. See Table 5.

⁹ The regulations at 29 C.F.R. § 1614.302(d)(1)(ii) require agencies to investigate mixed case complaints in 120 days. Mixed cases are complaints where the allegation of discrimination is related to or stems from an action that can be appealed to the Merit Systems Protection Board.

¹⁰ We note, however, that complaints filed in one fiscal year may not be investigated during the same fiscal year.

Table 5: EEO Investigations at the Department, FY 2009 – FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Total Formal Complaints Filed	1,457	1,185	1,283	1,198	1,192	1,213	1,262
Total Investigations	861	939	888	1046	871	940	865
Timely Investigations	561	566	531	596	651	658	535
Percentage Timely	65	60	60	57	75	70	62
Average Days	217	213	243	230	227	246	253

The downturn in some of the Components’ number of completed investigations and timeliness of those investigations had less of an impact on the Departmental results, due to other Components’ positive results in these areas during FY 2015.

- Three Components timely completed 100 percent of their EEO investigations: (1) for the third year in a row, FLETC timely completed 100 percent of its four cases; (2) for the second year in a row, USSS timely completed 100 percent of its 19 cases, and (3) USCG timely completed 100 percent of its 37 cases.
- CBP showed a 17 percent increase in the overall number of investigations completed (195), as compared to FY 2014 (167). This improvement is the result of processing efficiencies CBP implemented in the investigation process, to include going paperless and implementing a case triage process. In addition, these positive results are also attributed to experience gained from staff members’ career development, as many of CBP’s corps of EEO investigators moved from entry-level to mid-level positions. Moreover, along with the accomplishment of increasing the number of investigations completed, CBP’s timeliness rate decreased only two percent over the prior year. Specifically, CBP completed 97 percent of its investigations in FY 2015 (190 of 195), as compared to 99 percent in FY 2014 (166 of 167).
- Three Components showed continued progress in reducing the average number of processing days for EEO investigations. Notably, USCG had the lowest average processing time for investigations (165 days) of all the Department’s Components, which represented a 21-day decrease over FY 2014. USCG attributed a concerted focus on improving internal processing timelines and overall processing efficiencies for the low processing time. Additionally, ICE and CBP made improvements in their average processing times for investigations from FY 2014 to FY 2015. ICE’s average processing days decreased by 137 days (425 to 288), which is attributed to the elimination of a backlog of EEO cases. CBP’s average processing days decreased by 11 days (177 to 166), which is the result of the process efficiencies CBP implemented that are described above. Again, we see the impact of individual Components on the overall Departmental processing rates.

C. Procedural Dismissals

Not all formal complaints that are filed result in an EEO investigation. Instead, an agency may procedurally dismiss an EEO complaint for several reasons, including: failure to state a claim; untimely initial contact with an EEO counselor; filing the identical claim in Federal District Court; and failure to provide necessary information to the agency, among other reasons. *See* 29 C.F.R. § 1614.107(a). At the Department, Components submit to CRCL requests for dismissal of complaints that meet appropriate regulatory criteria. With the exception of an anomaly in FY 2010,¹¹ there has been a steady decline in the number of complaints procedurally dismissed by the Department since FY 2009. In FY 2015, CRCL issued 92 dismissals on behalf of the Department, fewer than the 125 dismissals that it issued in FY 2014. The 163 average processing days in FY 2015 represents a 20 percent increase from the number of processing days in FY 2014 (136). The increases in average processing days in FY 2014 and FY 2015 follow a period of significant decreases from FY 2011 to FY 2013, and are the result of more stringent case reviews by CRCL prior to dismissal of complaints. Further, additional CRCL staff members were involved in learning this aspect of complaint adjudication in order to expand knowledge areas and enhance skills, as well as to supplement staffing shortages in its cadre of adjudication specialists. Accordingly, the emphasis on training new individuals in this function necessitated additional time for coaching, decision preparation, and review of procedural dismissals. CRCL expects this to become an increasingly expedited process in FY 2016. See Table 6.

Table 6: Procedural Dismissals, FY 2009 – FY 2015

	2009	2010	2011	2012	2013	2014	2015
Total Number	204	546	163	164	131	125	92
Average Number of Processing Days	241	332	153	129	104	136	163

D. Findings of Discrimination

The following tally of the Department’s findings of discrimination from FY 2009 to FY 2015 illustrates the protected bases upon which the findings were made, and the types of issues involved in the findings during this period.

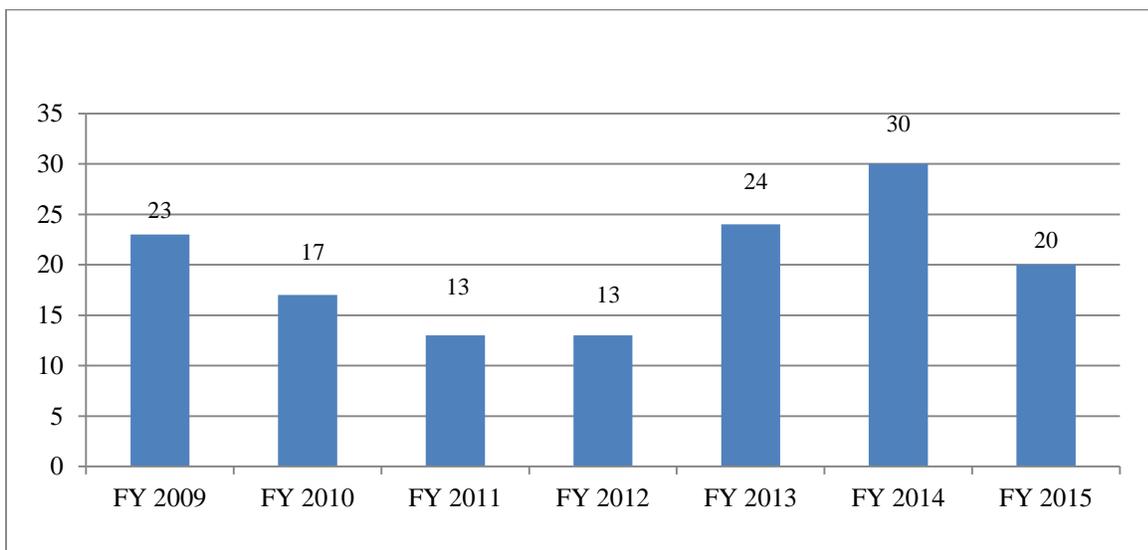
Overall, from FY 2009 to FY 2015, the Department has processed 140 findings of discrimination through the issuance of merit FADs or Final Orders following an EEOC Administrative Judge’s (AJ) decision. In FY 2015, the Department processed 20 cases in which findings of discrimination were made. These cases included four merit FADs (without an EEOC AJ’s decision); 12 decisions from an EEOC AJ finding discrimination that the Department fully implemented; and four EEOC AJ decisions finding discrimination that the Department did not fully implement, but instead appealed to EEOC’s Office of Federal Operations (OFO). The 20

¹¹ The closure of a FEMA facility in Puerto Rico led to the filing of 359 formal complaints in FY 2009. In FY 2010, these 359 complaints were procedurally dismissed in accordance with 29 C.F.R. § 1614.107(a)(3) because civil actions were filed in U.S. District Court for each case.

findings in FY 2015 mark a decrease in the number of findings from 30 in FY 2014, which included 17 merit FADs (without an EEOC AJ’s decision); five decisions from an EEOC AJ finding of discrimination that the Department fully implemented; and eight EEOC AJ decisions finding of discrimination that the Department did not fully implement, but instead appealed to OFO. The number of findings in 2015 represents a 33 percent decrease from the prior year; however, the number of findings reflects only a small portion of the Department’s complaints overall. The 20 findings represent four percent of the 495 merit FADs and Final Orders the Department issued in FY 2015. This is slightly higher than the Federal-wide percentage of findings of discrimination in FY 2014, which was three percent (162).

In the examination of findings issued during FY 2015, no significant patterns or trends have been identified, and no specific reasons have been found to account for the decrease from FY 2014. Moreover, the fluctuation in findings from FY 2009 to FY 2015, shown below, is not attributable to any particular reason, nor does it indicate a pattern Department-wide or within a particular Component. See Figure 1.

Figure 1: Complaints with Findings, FY 2009 – FY 2015



1. Protected Bases

In FY 2015, the majority of findings of discrimination issued were based on age (11), reprisal (8), and disability (8). It is important to note that the total number of bases within findings of discrimination may exceed the total number of findings issued because one decision may find discrimination on more than one basis. In addition, these FY 2015 complaints also contained findings based on race (5), sex (5), and color (1). The number of findings based on age and disability represents a numerical increase from FY 2014 of six and one, respectively. There was a decrease in the number of findings based on:

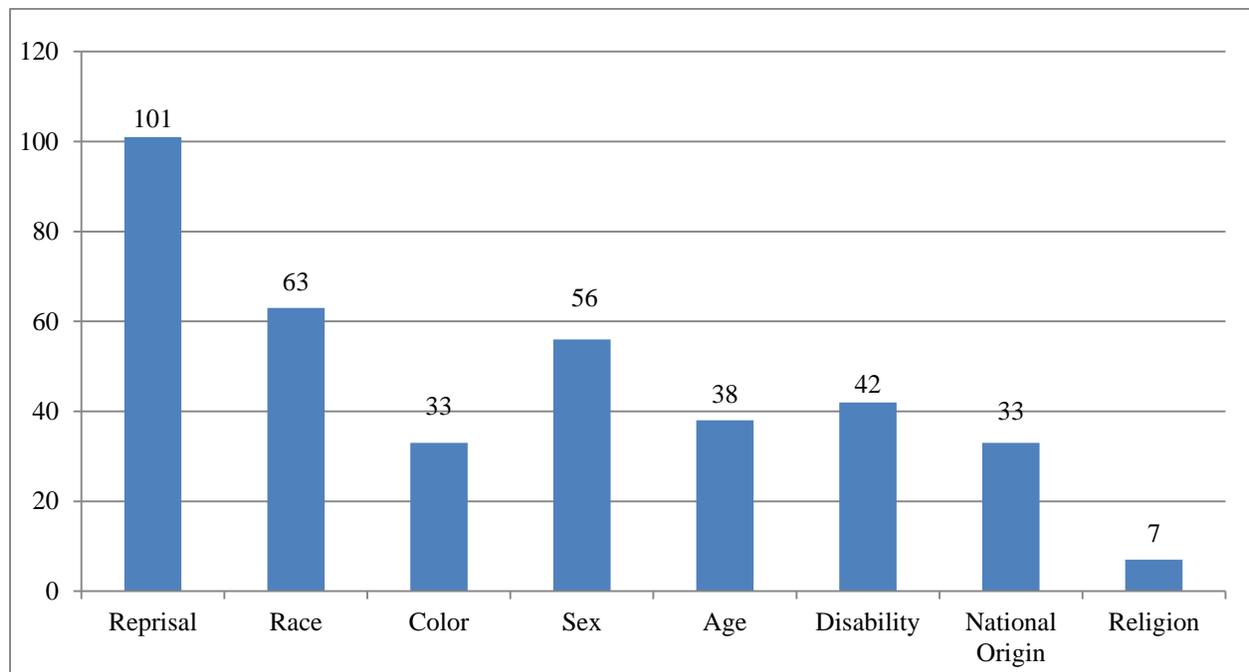
- Race - five in FY 2015, as compared to 19 in FY 2014;
- Color – one in FY 2015, as compared to 13 in FY 2014;

- Reprisal – eight in FY 2015, as compared to 27 in FY 2014;
- Sex – five in FY 2015, as compared to 19 in FY 2014; and
- National Origin - none in FY 2015, as compared to 11 in FY 2014.

The decrease in findings on many of the bases does not appear to signify any particular trend because, as discussed above, there was a significant decrease in the overall number of decisions finding discrimination; therefore, it follows that the number of bases on which those findings were made would decrease similarly.

The total number of findings by basis from FY 2009 to FY 2015 is shown in Figure 2.

Figure 2: Findings by Basis, FY 2009 – FY 2015



2. Issues

The FY 2015 findings of discrimination involved complaints raising issues consistent with previous fiscal years, and do not suggest any particular pattern or trend. In FY 2015, the Department findings predominantly involved harassment (non-sexual) (8), non-selection/non-promotion (5), termination (3), and terms/conditions of employment (3). Other issues in FY 2015 findings included: assignment of duties (2), evaluation/appraisal (2), training (2), disciplinary action (1), duty hours (1), and reasonable accommodation (1). For the third year in a row, there were no findings in the area of pay/overtime. Additionally, there were no findings in the area of appointment/hire. Further, in FY 2015, there was a decrease in the number of findings relating to harassment (non-sexual): eight in FY 2015, as compared to 18 in FY 2014. As explained above, as with protected bases, the total number of issues within findings of

discrimination may exceed the total number of findings issued because one decision may find discrimination with regard to multiple issues. The decrease in findings on many of the issues does not appear to signify any particular trend because, as discussed above, there was a significant decrease in the number of decisions issued finding discrimination; therefore, it follows that the number of issues on which those findings were made would decrease similarly. See Table 7.

Table 7: Findings by Issue, FY 2009 – FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>Total</i>
Appointment/hire	0	1	1	0	2	1	0	5
Assignment of duties	0	0	0	3	3	2	2	10
Disciplinary action	4	4	1	3	5	1	1	19
Duty hours	0	0	2	1	0	0	1	4
Evaluation/appraisal	0	0	0	2	1	2	2	7
Harassment (non-sexual)	10	3	3	3	18	18	8	63
Non-selection/non-promotion	5	6	0	5	1	4	5	26
Pay/overtime	0	0	0	1	0	0	0	1
Reasonable accommodation	1	2	5	1	2	2	1	14
Termination	4	2	1	2	2	4	3	18
Terms/conditions of employment	2	1	2	0	7	2	3	17
Training	0	0	0	1	0	0	2	3

VI. PRACTICAL KNOWLEDGE GAINED THROUGH EXPERIENCE, AND ACTIONS PLANNED OR TAKEN TO IMPROVE THE COMPLAINTS OR CIVIL RIGHTS PROGRAM

A. Improvements in the Department’s CRCL EEO Program

During FY 2015, the Department continued to capitalize on program enhancements started in FY 2014, as well as produce new initiatives. CRCL broadened its collaborative work with the Department’s EEO Directors and Component EEO offices in a number of areas. Efforts also continued toward improving the Departmental EEO data and document management system, in order to facilitate the timely flow of cases through the process.

1. Focusing on Timely Issuance of Merit FADs

Merit FADs are issued after a complainant files a formal complaint alleging discrimination, the agency conducts an investigation, and a request is made for the agency to issue a decision as to whether the discrimination occurred. This request may be made from the complainant or from the Component's EEO office, as a result of the complainant failing to make an election at the expiration of the election period. The EEOC Regulations, at 29 C.F.R. Part 1614, require merit FADs to be issued within 60 days of election, or failure to elect a FAD or hearing. In FY 2015, CRCL produced a timely merit FAD issuance rate of 40 percent (120 of 297). Table 8 shows CRCL's six-year trend in merit FAD issuances.

Table 8: Timeliness for Merit FADs FY 2009 – FY 2015

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>
Backlog at Year End	420	247	0	0	0	0	0
Total FADs Issued	303	507	457	337	455	301	297
Number Timely Issued	16	17	119	163	185	161	120
Percentage Timely	5	3	26	48	41	53	40
Average Processing Days	567	807	237	143	164	117	115

As shown in Table 8, the percentage of timely merit FAD issuances decreased between FY 2014 (53 percent) and FY 2015 (41 percent), and overall numbers dropped both in terms of total FADs issued and total FADs timely issued when comparing those two years. Staffing shortages within this specialized area of CRCL during FY 2015 played a direct role in decreased issuance of merit FADs and CRCL's inability to meet its goal of issuing 45 percent timely merit FADs. In addition to the decreased availability of subject matter experts who prepare and review merit FADs, it is important to note that CRCL has no control over when FAD requests are submitted by the Components; therefore, timely issuance of a merit FAD is dependent upon CRCL receiving the case from the Components within the timeframe outlined in the Department's EEO complaint procedures, and having the resources to address the incoming work.¹² However, it is noted in the FAD when the Components have delayed in sending in the request in a timely manner. In addition to the resource challenges in this area of the adjudication program, CRCL's role in leading strategic efforts within the Department's EEO and Diversity program initiatives also required that staff members become involved in broader strategic initiatives, as explained below.

2. Advancing Joint Opportunity Initiatives and Development of a Department-wide Strategic Plan

In FY 2015, the EEO Director's Council approved a five-year Strategic Plan aimed at the Department's EEO and Diversity communities. The Plan's goals draw their inspiration from the six elements of a model EEO program as delineated in EEOC's MD-715. The EEO Director's

¹² The complaint procedures require Components to submit FAD requests within five calendar days of receipt of a FAD request from a complainant, or ten calendar days of the expiration of the complainant's election period to request a FAD or EEOC hearing.

Council created working groups for each goal to identify objectives and strategies to advance the respective goals. Some examples of the objectives and strategies include: (1) enhancing the professional competencies within the EEO occupational series, by identifying and advertising developmental detail assignments throughout the Department; (2) developing a training course on effective barrier analysis related to completing the MD-715 report, which will launch in FY 2016; (3) developing an awards program to recognize valuable contributions to EEO and Diversity that are made by non-EEO practitioners; (4) conducting a Department-wide Rehabilitation Act Section 508 compliance assessment to ensure the Department's websites are accessible to individuals with disabilities; (5) establishing a Department-wide EEO communication strategy; and (6) organizing an inaugural Department-wide EEO and Diversity training conference to be held in FY 2016.

The Plan's first goal is securing and sustaining commitment by leadership within the Department and its Components. The purpose of the goal is to ensure that the EEO and Diversity program has the support of the highest levels of the Department's leadership. To advertise the work of the Council, the working group is also developing promotional materials highlighting the activities of all of the working groups.

Integrating EEO and Diversity into Departmental and Component strategic plans is the second goal of the Plan. This working group is conducting a Department-wide review of its senior leaders' EEO and Diversity communication strategies to identify best practices. At the conclusion of the review, the group intends to issue an instruction, setting forth a comprehensive, Department-wide EEO communication strategy. This working group is also developing a Department-wide awards program to recognize the valuable contributions to EEO and Diversity made by EEO practitioners and non-EEO practitioners alike. In the same vein, the group is developing a toolkit to assist the Components in the development of Component-specific awards programs.

The third goal of the Plan is geared towards promoting voluntary resolution of workplace disputes involving EEO issues. This working group is undertaking activities to promote the effectiveness and efficiency of the Department's ADR programs. The group is currently reviewing a draft Department-wide ADR Instruction, aimed at standardizing core aspects of the ADR program across the Department. Later in the year, the group plans to develop a promotional video to encourage the use of ADR, where appropriate, and to design and conduct a one-hour refresher training module for the Department's ADR practitioners.

The Plan's fourth goal is harnessing data to prevent unlawful discrimination. This working group is focused on using data to identify and address potential discrimination. In FY 2016, the group is working to develop a common framework for the Department and its Components' EEO-related reports (e.g., the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints ("462 report") and the MD-715 report) to allow for more meaningful analysis of the reports across Components. With data from these reports, as well as the Federal Employee Viewpoint Survey, the group will look for common trends, triggers, and barriers to EEO. Later, the group will develop a framework to address these findings.

The fifth goal of the Plan is ensuring coordination, effectiveness, and efficiency of Departmental and Component EEO and Diversity programs. This working group has developed a SharePoint site to facilitate sharing best practices across Components. The group will encourage Components to populate the site with examples of letters, policies, and directives for use by other Components. The site will also contain a cross-Component events calendar advertising Special Emphasis Program events and other activities. The group has also developed a barrier analysis course for the Department's Special Emphasis Program managers, to allow them to more effectively conduct their programs. Additionally, the group is planning a Department-wide EEO and Diversity conference for the end of the fiscal year.

Finally, the group is working to ensure that the Department's EEO practitioners have the skills necessary to perform their duties. The group has begun identifying and advertising developmental detail assignments to enhance practitioners' professional competencies. The details, ranging from 60 to 120 days, include work in formal complaint processing, EEO counseling, data analysis, special emphasis program management, drafting FADs, and reasonable accommodation request processing.

The Plan's sixth and final goal is ensuring responsive and legal compliance by Departmental and Component EEO and Diversity programs. This group is conducting a comprehensive review of Departmental and Component websites to ensure that they are compliant with Section 508 of the Rehabilitation Act. Last year, the group reviewed the EEOC's updated Management Directive (MD) 110 and ensured that practitioners were aware of the relevant changes.

In FY 2015, CRCL collaborated with the Department's Components to make improvements to the Department-wide ADR program. The Department's first Shared Neutrals Program and the ADR Program Managers Council (ADR Council) were officially established in FY 2015. The ADR Council is responsible for overseeing the Department's Shared Neutrals Program and working to increase the use of ADR in addressing workplace disputes. The ADR Council includes an ADR Program Manager from each Component and a representative from the Office of Chief Human Capital. An ADR Program Managers Council Charter was drafted and approved to officially recognize the Council. Additionally, in August and September 2015, 41 Departmental employees completed the Basic Mediator training and became the inaugural class of collateral duty mediators for the Department's ADR Program.

3. Collaborating and Leading the Department's Components

CRCL led and otherwise participated in a number of collaborative initiatives in FY 2015, continuing to strengthen partnerships between CRCL and other Departmental Components. First, CRCL continued to provide leadership and guidance with regard to improving the quality and consistency of EEO investigations by the Components. CRCL refined and issued guidance to EEO offices at all the Department's Components regarding best practices for conducting effective EEO investigations. In addition, CRCL developed an electronic feedback tool that will enable CRCL to provide more detailed feedback about the quality of Component's investigations; the feedback tool is scheduled to be piloted and launched in FY 2016.

Additionally, CRCL continued to administer a detail program, which resulted in two EEO specialists from USCG serving 60-day details and being mentored in how to prepare FADs. Each detailee was assigned a FAD-writing Analyst as a mentor and was assigned a docket of cases. The detail program assists CRCL with its case load, while it also affords the detailee the opportunity to learn new skills that will help them in their position with their Component, where they are responsible for work completed during earlier stages of the complaint process. The detail program continued to thrive and be highly regarded throughout the Department's EEO community during FY 2015. It is expected to continue to grow in FY 2016, in conjunction with the developmental assignment initiative of the strategic plan working group to ensure coordination, effectiveness, and efficiency of Departmental and Component EEO and Diversity programs.

CRCL continued to provide leadership and guidance with regard to improving the quality and consistency of EEO investigations by the Components. A thorough review was completed on all the cases that were remanded to the Components for supplemental investigation when CRCL determined that the investigative records were not legally sufficient to render a decision. The key findings were accumulated in an EEO investigations best practices guide that was provided/distributed to Components. During FY 2015, CRCL staff members also worked to create an electronic feedback tool that will enable CRCL to provide more detailed feedback to the Components' EEO Complaint Managers about the quality of the investigative records for all the cases that come to CRCL for a FAD. CRCL will launch this initiative in FY 2016.

CRCL led quarterly meetings of the Department's EEO Complaint Managers and presented or arranged for the presentation of topics of interest and encouraged open discussions amongst the group members. Topics presented during FY 2015 included updated guidance on EEO complaint management and reporting, training on the Department's enterprise EEO database and document management system, legal updates from CRCL attorney-advisors, and a briefing on the Department's ADR program.

CRCL embraces its overarching responsibility to share resources and provide training to increase proficiency and build unity of effort within the Department's EEO community. In FY 2015, CRCL promoted the concept of "sharing knowledge" by paying for an audio conference entitled "Dismissing Federal EEO Complaints without Fear of Reversal," with a top practitioner in the EEO field. In February 2015, CRCL hosted the audio conference and invited staff from Component EEO offices to attend. CRCL plans to continue to host Component EEO offices for more webinars and audio conferences in FY 2016.

Several CRCL members and the program's attorney-advisors actively participated in preparation of the quarterly EEOD digital publication "Focus on EEO and Diversity" by identifying topics of interest for the publication and drafting articles. Additionally, most CRCL members are participating in one or more of the working groups that have been formed to implement the goals contained in the EEO and Diversity Council's Strategic Plan. These collaborative efforts will continue in FY 2016 and beyond.

4. Leading Technology Initiatives

CRCL hosted two enterprise EEO database user forums for EEO personnel across the Department. These sessions created opportunities for Component personnel to enhance their knowledge and collaborate with each other to effectively use the comprehensive tracking and reporting system and to receive individualized coaching from the Department's database administrator and Senior Complaints Manager. The goal of these sessions was twofold: (1) to increase the accuracy of data input, and (2) to enable Component personnel to better utilize the system's advanced reporting features.

Additionally, the Department participated in a pilot program sponsored by the EEOC's OFO, implementing the new Federal Sector Portal (FedSEP) for digital case submission to the Commission. The FedSEP portal enhanced EEOC's web-based reporting by adding a hearings and appeals section, allowing federal agencies to upload documents directly to EEOC. CRCL volunteered to help test this section of the portal prior to full implementation and provided valuable input and feedback to EEOC on shaping the design features and the ease of usage of FedSEP; many of CRCL's recommendations were implemented by EEOC.

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

B. The Department's Component EEO and Civil Rights Offices

The Department's Components continued to move forward with process efficiency initiatives during a year of many staffing and resource challenges. With the centralization of EEO information and documents into the Department's icomplaints enterprise database system, Component offices have leveraged the benefits of consistency and the reliability of having a robust enterprise data system.

1. Federal Emergency Management Agency

Infrastructure

FEMA Office of Equal Rights (OER) provides EEO services to FEMA's 13,715 employees. The OER has 25 authorized permanent full-time positions, with three cadre on-call response (CORE) employees and a reservist workforce currently staffed at 45. Five of the authorized permanent positions support civil rights and external compliance responsibilities. One permanent and one CORE employee support disability and affirmative employment activities. Four positions cover the leadership and administrative/financial support. Nine permanent positions, two of which were vacant in FY 2015, support formal complaints processing and contract management. In addition, during the third quarter, the office hired a full-time CORE employee to conduct investigations to supplement contract investigative services. The remaining permanent and CORE employees are assigned to pre-complaint, ADR, and training activities.

Complaint Processing

In FY 2015, FEMA timely counseled 78 percent of its cases (117 of 150), which is consistent with the percentage of timely cases counseled in FY 2014. There was a slight increase in the number of complaints filed in FY 2015 (82), compared to FY 2014 (78). In the area of investigations, FEMA timely completed three percent (2 of 64) of its investigations in FY 2015, which is a decrease from the 14 percent (15 of 104) that were timely completed in FY 2014. This dramatic decrease was caused by several factors, including staff turnover and an office focus on completing older cases to reduce an inventory backlog. Additionally, a stop work order was directed because of a major data breach and cyber-attack on the contracting firm FEMA used to complete investigations.

Diversity and Inclusion

FEMA issued an updated Diversity and Inclusion (D&I) Plan in June 2015, developed in coordination with FEMA's Diversity Management Advisory Council, the OER, and the Office of the Chief Component Human Capital Officer. The plan provides a roadmap for building an inclusive work environment that leverages diversity to achieve mission goals and business objectives.

Other highlights in the area of D&I include the establishment of an Employee Engagement Council (EEC), which serves as the principal advisor to the Human Capital Governance Board on programs and strategies to build and sustain employee engagement. The EEC also provided input into the Department's Employee Engagement "Bold Initiatives" effort, which outlined 70 proposed initiatives to improve employee engagement across the Department. Additionally, the EEC also provided a prioritized list of the top three FEMA Senior Executive Service (SES) employee engagement initiatives to the Department's Employee Engagement Executive Steering Committee. The EEC also assisted with the planning and coordination of an observance for Black History Month in February.

Services and Proactive Engagement

FEMA offered a number of training opportunities to employees on disability programs during the fiscal year, including processing requests for and providing timely reasonable accommodations, and recruitment and hiring of individuals with disabilities. Additional topics included hiring flexibilities for veterans, such as Veterans Recruitment Appointments, temporary appointments of 30 percent or more disabled veterans, and other non-competitive hiring processes.

FEMA modified its diversity awareness course to address changes to agency demographics, including LGBT information and disability language and etiquette. The revised course launched in January 2016. To promote the hiring of veterans within FEMA, hiring managers and human resources personnel received training on the Department of Defense's (DoD) Operation Warfighter (OWF) program.¹³ In FY 2015, FEMA sponsored 13 individuals from the OWF program, and hired one program participant. Additionally, FEMA continued its long-standing partnership with DoD's Computer/Electronic Accommodations Program (CAP). During FY

¹³ The OWF is a federal internship program providing recuperating service members with meaningful activity outside of the hospital environment that assists in their wellness and offers a formal means of transition into the civilian workforce.

2015, FEMA employees, managers, and supervisors applied for and received 48 individual assistive technology services and supplies totaling more than \$17,000.

The OER completed its efforts in updating the Agency's reasonable accommodation procedures which were published in May 2015. This update included additional guidance on the use of Service Animals, Emotional Support Animals, Therapy Animals, Comfort Animals, telework, and other disaster workforce-related accommodations. The Agency continued its efforts to develop internal procedures to streamline the process for accommodation-related reassignments.

2. The Federal Law Enforcement Training Centers

Infrastructure

The Federal Law Enforcement Training Centers (the FLETC) EEO Division provides services to 1,190 FLETC employees and is composed of the EEO Officer, the Complaints Manager, five EEO Specialists, one Staff Assistant, and one Visual Information Specialist. Each EEO Specialist serves as a Special Emphasis Program Manager (SEPM) for at least one program, and two EEO Specialists coordinate the Disability Program, one of whom serves as the Disability Program Manager.

The FLETC EEO Office was realigned to report to the FLETC Director's Office in October, 2015. The realignment of the EEO Office brings the FLETC into compliance with the requirements of the EEOC's August 2015 MD-110, which implements Title 29 C.F.R. Part 1614 and requires that federal EEO Directors report directly to the Agency head.

Complaint Processing

During FY 2015, the FLETC completed 100 percent (4) of its formal EEO complaint investigations within the regulatory timeframe of 180 days or 270 days with an approved extension. The FLETC EEO Division also processed one case for another Departmental Component due to a conflict of interest. The FLETC EEO Division continues to manage the entire EEO investigative process. The FLETC has consistently completed all of the EEO investigations within the EEOC's regulatory timeframes for the past three fiscal years. The FLETC remains committed to its goal of ensuring all EEO investigations are completed in a timely manner and, in an effort to fulfill this goal, the FLETC EEO Division continues to work closely with the EEO contract investigators, Responding Management Officials, the Human Capital Office (HCO), and the Office of Chief of Counsel.

During FY 2015, the FLETC scheduled mediation for five EEO cases; three of the five cases were resolved. The FLETC has enjoyed great success after establishing a cost-effective approach through the use of FEMA mediators to resolve EEO cases. The FLETC management's strong support for the process contributed to the successful mediations. The FLETC's continued proactive approach to EEO complaints has resulted in successful resolution of EEO complaints and cost savings to the government by resolving conflicts at the lowest level. Based on early intervention, education about the process, early screening of claims, and gathering of information before the cases are counseled, fewer conflicts result in formal complaints, costly investigations, and lengthy litigation. The FLETC EEO Division is currently reviewing and developing new training materials that will further enhance EEO services and goals.

Diversity and Inclusion

The FLETC's EEO Division and HCO continued to collaborate to develop, review, and implement objectives in support of the FLETC D&I Strategic Plan for FY 2012-2015. The plan provides the framework for recruiting a diverse workforce, creating an inclusive workplace, ensuring management accountability, and serves as a dynamic road map to guide FLETC's efforts in creating and sustaining a high-performing workforce and a model employer.

As part of the FLETC D&I Council's FY 2014 planning activities, four objectives relative to the three goals of the FLETC's 2012-2015 D&I Strategic Plan were targeted. The FLETC D&I Council met quarterly in FY 2015 to monitor progress on targeted objectives. Several objectives from the FLETC's D&I Strategic Plan have been accomplished or are ongoing activities. They include modifications to the FLETC Merit Staffing Policy and Procedures Directive to encourage diverse interview panels; providing training to managers on reasonable accommodation procedures; and expanding a new employee career development program through the Developmental Assignment Program.

Services and Proactive Engagement

During FY 2015, the Department's Deputy Officer for Civil Rights and Civil Liberties and Director for EEO and Diversity visited the FLETC in Glynco, Georgia, participated in a tour of training areas, and presented training for senior staff members on EEO processes, including: appeals, ADR/mediation, hearings, harassment, protected classes, retaliation, management inquiries, lesbian, gay, bisexual and transgender issues, and case law updates.

The FLETC requires all new employees to complete No FEAR Act training within 30 calendar days of entering on duty and existing employees to complete No FEAR Act training biennially. During FY 2015, the FLETC EEO Division processed 57 reasonable accommodation requests made by or through employees, managers, and students. These requests included sign language interpreters, job restructuring, modified work schedules, and assistive electronic devices. During FY 2015, 171 employees received disability training on "Employment of People with Disabilities: A Roadmap to Success," and 981 employees received training on "Diversity on the Job: The Importance of Diversity and the Changing World," which was provided through the FLETC learning management system.

During FY 2015, 13 new supervisors and managers participated in the FLETC's New Supervisor Training Program, which is a week-long program that is mandatory for all new supervisors within their first year of supervision. Training modules on both the EEO process and reasonable accommodation procedures are included in the program. Additionally, three supervisors attended the Law Enforcement Supervisory Leadership Training Program, which is also a requirement for the FLETC's new supervisors.

The FLETC's Critical Incident Stress Management Program Specialist conducted presentations to the FLETC's managers on "Best Practices for Understanding and Managing the Veteran's View," on September 22 and September 23, 2015. Similar training was delivered to the FLETC EEO counselors in June 2015 on Post Traumatic Stress Disorder, and remarks were tailored to situations the EEO counselors might encounter while interacting with employees and students.

3. Headquarters EEO Office

Infrastructure

HQ EEO, an office within CRCL, supports over 7,250 employees that serve in the Office of the Secretary and the Office of the Undersecretary for Management. The HQ EEO staff is composed of an EEO Director, a Formal Complaints Manager, an Informal Complaints Manager, a Disability Program Manager, a Staff Assistant, and a Complaints Manager who provides services specifically to the National Protection and Programs Directorate's Federal Protective Service (FPS).

During FY 2015, HQ EEO re-competed and awarded a contract for counseling and investigative support. In January 2015, the EEO Director returned from a detail assignment to OCHCO. In addition, HQ EEO and CRCL continued their collaborative efforts by having four CRCL staff members serve as collateral-duty EEO Counselors, thereby providing expanded coverage for HQ EEO and career development opportunities for employees.

HQ EEO also made strides in enhancing the digital infrastructure in the office, resulting in increased processing efficiencies and case accountability. For instance, HQ EEO continued its use of network drives and created simple access to uniform documents and templates. To save time and money, HQ EEO also continues to use secure email instead of regular mail to send EEO documents issued in relation to the processing of complaints, thereby improving efficiency of transmission and response. Moreover, in awarding a new counseling and investigation contract, HQ EEO ensured that the contractor would produce fully Section 508-compliant electronic versions of investigative files. HQ EEO also established an online customer service survey for customers to complete regarding HQ EEO staff interactions; this information is included within HQ EEO staff members' email signature blocks.

Complaint Processing

In FY 2015, HQ EEO made improvements in processing cases within regulatory timeframes. Specifically, HQ EEO counseled 68 cases and 99 percent (67 cases) of those were timely counseled, which is an increase from the 96 percent (54 of 56) timely counseled in FY 2014. Similarly, HQ EEO improved its timely processing of investigations in FY 2015. In FY 2015, HQ EEO investigated 42 cases and 98 percent (41) of these cases were timely investigated. These improvements were the result of a team-wide effort to develop and update internal complaint tracking processes to supplement the Department's enterprise complaint tracking system, in-depth case discussions between the EEO Director and Complaints Managers to track cases and address unique issues, and careful monitoring of progress by all members of the team to prioritize timeliness and customer service.

Diversity and Inclusion

HQ EEO continued to reinforce to employees the importance of EEO and Diversity at Headquarters. HQ EEO provided diversity and inclusion and reasonable accommodation training to employees and supervisors in the Office of the Chief Information Officer (OCIO). HQ EEO also hosted a number of special observance events celebrating and teaching about various cultures.

Further, HQ EEO made great strides in the tracking and efficiency of its reasonable accommodation program; within one quarter of FY 2015, HQ EEO shifted operations to an all-digital system. By the end of FY 2015, 100 percent of HQ EEO's reasonable accommodation requests were entered into and tracked on the Department's Accessibility Compliance Management System, and a complementary in-house system was also created to satisfy internal reporting needs and to store sensitive information. In FY 2015, HQ EEO received 180 requests for accommodations, which is a 72 percent increase from the 50 accommodation requests received in FY 2014. This dramatic increase may be attributed to increased marketing of the program, which in turn, resulted in more requests being submitted directly to HQ EEO, rather than being handled solely by a manager. Despite the substantial increase in accommodation requests, HQ EEO maintained an average of 65 days to process the requests, which is consistent with FY 2014.

Services and Proactive Engagement

During FY 2015, HQ EEO engaged in a number of proactive initiatives intended to advance EEO mandates. First, HQ EEO provided training to HQ offices on diversity, inclusion, anti-harassment, and EEO laws and procedures. In FY 2015, HQ EEO also continued to provide EEO briefings at all new employee orientations sessions, and provided monthly refresher training to its collateral duty EEO Counselors. HQ EEO also updated its poster, which outlines the EEO complaint process. Copies of the poster were provided to all HQ offices for posting in prominent areas around their offices.

4. Transportation Security Administration

Infrastructure

TSA's Office of Civil Rights & Liberties, Ombudsman and Traveler Engagement (CRL/OTE) provides EEO services to a workforce of more than 60,000 employees. Within CRL/OTE, the Civil Rights, Diversity & Inclusion (CRDI) Division is organized into three main branches: the EEO Management Branch, the Affirmative Employment Branch, and the Diversity and Inclusion Branch. During FY 2015, CRDI hired several new staff members. CRDI currently has 39 full-time federal employees and six administrative contract employees.

The EEO Management Branch hired three new EEO Counselors and an EEO Assistant in the Informal Complaints Section, as well as four additional EEO Specialists (Case Managers) in the Formal Complaints Section. In FY 2015, CRDI also created a dedicated ADR Coordinator position to manage its ADR efforts. Similarly, a Disability Program Manager position was also created to manage TSA's Disability Program.

In FY 2015, TSA maintained an effective records management program by purging more than 955 closed case file records that were destroyed internally, in accordance with The National Archive Records Administration General Record Schedule. TSA continues to closely monitor its case files to determine which files are eligible for destruction in FY 2016.

Complaint Processing

In the area of pre-complaint processing, EEO counselings increased 27 percent in FY 2015 (1,127), as compared to FY 2014 (886). In spite of this significant increase in EEO counselings,

TSA's EEO counseling timely completion rate was 86 percent (971 of 1,127). Furthermore, in FY 2015, CRDI achieved a mediation offer rate of 87 percent and a participation rate of 50 percent during the pre-complaint process. Although there was a significant increase in cases counseled, through effective informal counseling and the Agency's ADR efforts, there was only a moderate increase in new formal complaints filed (553 complaints in FY 2015, as compared to 543 in FY 2014).

In FY 2015, the EEO Management Branch experienced staffing challenges with the departure of four EEO Case Managers from the Formal Complaints Section. TSA aggressively responded to these staffing challenges by onboarding four additional EEO Specialists (Case Managers). Additionally, all team members in the EEO Management Branch received complaint processing training in FY 2015, including cross-training EEO Counselors and Investigators to assist conducting initial reviews of formal complaints filings.

Diversity and Inclusion

The Diversity and Inclusion Branch continued implementation of TSA's Diversity and Inclusion Strategic Plan. TSA's Plan aligns with the President's August 2011 Executive Order 13583 on "Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce"; OPM's "Guidance for Agency-Specific Diversity and Inclusion Strategic Plans"; and the Department's Diversity and Inclusion Strategic Plan.

The Diversity and Inclusion Branch led TSA's efforts in planning the Eighth Annual Diversity and Inclusion Celebration at both TSA Headquarters and field locations. The celebration, and other special emphasis programs held throughout the year, recognized the richness of diversity in the agency and raised awareness and understanding of different cultures, as represented by TSA's diverse workforce.

Services and Proactive Engagement

During FY 2015, CRDI began the process to obtain services from a private vendor to conduct an in-depth analysis to uncover whether unlawful barriers to equal opportunity exist in TSA's workforce. This effort will continue in FY 2016, and will involve a thorough analysis of TSA's workforce data, policies, procedures, and personnel practices.

In FY 2015, in-person EEO training was provided to approximately 2,500 TSA managers and supervisors. This training supplemented TSA's Online Learning Center's No FEAR Act training, which employees are required to complete every other year. The TSA No FEAR Act training incorporates a module addressing Transgender Awareness information. TSA also requires all new employees to complete the No FEAR Act training within the first 90 calendar days of entering service.

In FY 2015, CRDI began hosting training and informational webinars to foster awareness and increased understanding of EEO issues and topics that have a direct impact on the quality of employees' workplace experiences. Training included information on the EEO and ADR processes and procedures, reasonable accommodation, and diversity and inclusion topics. Additionally, in FY 2015, as part of CRDI's outreach effort, CRDI began an "Ask the Expert" lecture series. Lectures were conducted by subject matter experts and offered TSA employees

additional education on a wide-range of topics, including religious garb, unconscious bias, and diversity and inclusion.

5. U.S. Citizenship and Immigration Services

Infrastructure

The mission of USCIS's Office of Equal Opportunity and Inclusion (OEOI) is to: provide quality services and programs to eradicate discrimination and harassment in the workplace; build, leverage, and sustain a diverse workforce; and promote an inclusive work environment utilizing data-driven, strategic, and innovative approaches. OEOI services a USCIS federal workforce of 14,249 employees at over 200 offices worldwide.

In October 2014, USCIS realigned its organizational structure to allow its Chief of OEOI to report directly to the USCIS Office of the Director, a change that underscores the Director's commitment to the importance of EEO as an integral part of the USCIS mission to ensure a workplace free from discrimination. OEOI is organized into three divisions: the Complaints Resolution Division (CRD); the Disability Accommodation Program (DAP); and the Diversity and Inclusion (D&I) Division. As a result of five vacancies, OEOI staff currently consists of 22 full-time employees and one intern. Additionally, USCIS employs the assistance of approximately 100 collateral duty SEPMs and reasonable accommodation coordinators at various USCIS offices nation-wide to assist it in achieving its EEO, outreach, and education objectives.

Complaint Processing

In the area of pre-complaint processing, the number of informal cases completed also increased slightly in FY 2015 (155), as compared to FY 2014 (152). Formal complaint filings increased slightly in FY 2015 (90), as compared to FY 2014 (83). In FY 2014, CRD began transitioning its investigations to internal investigators, who are full-time OEOI employees. This change allowed CRD to have more control over the timeliness and quality of the investigations. Early results indicate success: in FY 2015, CRD surpassed its goal to conduct 75 percent of investigations internally, reaching 79 percent. All internal investigations were completed timely and the average processing days for internal investigations was 176 days. CRD staff members are cross-trained across program areas to better respond to work flow issues and to process pre-complaint and formal complaint workloads in an expeditious manner. CRD plans to pilot a quality review project in FY 2016, to assess the impact of utilizing internal investigators.

In FY 2015, the participation rate of informal cases in the OEOI ADR program increased to an all-time high of 68 percent, up from 57 percent in FY 2014. In August 2015, USCIS participated in the newly established Department-wide Shared Neutrals Program, with five USCIS employees attending certification training as mediators and joining the Department-wide roster to support the program. OEOI also conducted ad hoc telephonic training to small groups of Designated Management Officials (DMOs) who were involved in pending mediations at their request. The purpose of the training was to explain the role of a DMO, discuss the goals and benefits of mediation, and to familiarize them with the mediation process.

Diversity and Inclusion

Throughout FY 2015, OEOI expanded the visibility of special observance events through strategic communications, collaborations, and increased senior leadership involvement, which resulted in more than 700 events and activities.

USCIS conducted its first EEO and diversity climate survey in 2014. This survey serves as a critical management tool to better assess employee perceptions concerning the USCIS work climate and as a vehicle to target future efforts to effectively address any identified concerns. In FY 2015, OEOI conducted initial analysis of the FY 2014 climate survey results and provided information on the results to senior leadership and USCIS employees. In FY 2016, a follow up survey is planned. The survey results from FY 2014 will provide a baseline to identify program needs and, when combined with FY 2016 survey results, will assist in OEOI being better able to target future program efforts and activities.

Services and Proactive Engagement

OEOI coordinated numerous training sessions during FY 2015, despite tight travel and training funding restrictions. CRD implemented a mandatory online anti-harassment training module that 12,697 USCIS employees successfully completed in FY 2015. Additionally, during FY 2015, 128 employees received instructor-led anti-harassment training provided by OEOI personnel. DAP continued to host quarterly disability accommodation training webinars for both new supervisors and non-supervisory personnel, presented by an instructor from the EEOC. In all, 517 individuals took this training in FY 2015, with more than 3,500 managers and supervisors having participated in these sessions since they were initiated in FY 2011.

During FY 2015, USCIS also facilitated a wide variety of training opportunities for employees, including webinars on deaf awareness and hiring authorities, workplace diversity and respect, disability etiquette, and EEO basics. In all, more than 642 employees participated in these training opportunities. Finally, in FY 2015, DAP provided guidance and support to managers and employees in connection with 963 disability accommodation requests, with more than 96 percent of the requests receiving approval. Additionally, in FY 2015, USCIS increased its use of OPM's Schedule A appointing authority to hire 48 appointees.

6. U.S. Coast Guard

Infrastructure

The USCG Civil Rights Directorate (CRD) provides EEO services to 9,777 employees.¹⁴ The EEO complaint processing program is comprised of headquarters staff and four geographical regions of responsibility. Each region is further divided into geographical zones totaling 14 zones in all. The Regions and their respective zones conduct the informal complaint processing and the formal complaint process is managed at USCG headquarters. Each region has a Regional Director and each Region has Zone Managers and EEO specialists that conduct the pre-complaint process. At the headquarters level, there is an informal manager, Chief of the

¹⁴ USCG also provides Equal Opportunity (EO) services to over 45,000 military personnel.

Solutions and Complaints Division, the IT specialist position, an ADR manager and ADR specialist. The formal complaint process has one formal manager.

CRD completed the third year of its Strategic Plan of Action 2016, which is the framework for achieving CRD's mission. Some of the achievements during FY 2015 include the following:

- CRD partnered with its Civil Engineering Unit in Oakland, California and the Shore Infrastructure Logistics Center to renovate space and co-locate the CRD Zone manager and Equal Opportunity (EO) Specialist in Honolulu, Hawaii. This better enables them to provide expert and cost effective EEO/EO services to members within their geographical region.
- USCG's Partnership in Education (PIE) program is a command-sponsored volunteer activity that engages educators and other community members in the creation of enhanced educational opportunities and career awareness for students, especially in communities with large underserved populations. These partnerships create student awareness of the USCG's missions and people. In FY 2015, CRD saw a 20 percent increase in registered PIE programs, with 171 units across the USCG actively taking part in this highly valuable, community service outreach program.

In FY 2016, a design team will re-evaluate CRD's current strategic dashboard, for implementation over the next quadrennial cycle, maintaining CRD's alignment with stated goals, while enhancing supervision and mentorship opportunities available to staff members.

Complaint Processing

USCG administered an efficient and effective EEO complaint processing program throughout FY 2015, positively contributing to the Department's overall program.¹⁵

In FY 2015, USCG timely counseled 100 percent (87) of its pre-complaints, of which only 38 resulted in formal complaints. Furthermore, the agency achieved a 100 percent (37) timely investigation rate. Additionally, in FY 2015, USCG reduced the number of average processing days for investigations to 165 days; compared to 186 days on FY 2014.

USCG continued to achieve a sustained level of ADR participation. During FY 2015, USCG accomplished a 100 percent offer rate for ADR, and attained a 54 percent pre-complaint participation rate, which marked a 13 percent increase from FY 2014.

USCG's reasonable accommodation program recognized a 47 percent increase in requests (261) that were fulfilled during FY 2015, as compared to 177 in FY 2014. Additionally, through a partnership with the U.S. Department of Transportation, Disability Resource Center, USCG provided 196 instances of interpreting services, offering more than 600 hours in FY 2015.

¹⁵ USCG also processes military EO complaints; and offers them a complaint process that mirrors the process described by 29 Code of Federal Regulations (CFR) §1614 for civilian employees to the extent allowable. While EO complaint processing performance for FY 2015 was equally positive, military data is not represented in this report, as it is not covered under the No FEAR Act.

Diversity and Inclusion

As prescribed by the MD-715, USCG performs annual EEO climate assessments of its units to determine if there are any perceptions or triggers that would affect the command EEO climate. In FY 2015, USCG conducted 14 onsite EO reviews, a 75 percent increase, as compared to eight reviews conducted in FY 2014.

During FY 2015, USCG administered in-person EEO/EO awareness training to 19,716 USCG military and civilian members. The number trained is on par with those trained in FY 2014. EEO/EO awareness training is required triennially by all workforce members.

The Defense Equal Opportunity Management Institute's Equal Opportunity Climate Survey was completed by 21,270 USCG members (roughly half of the USCG's workforce) during FY 2015. This tool is designed to solicit workforce perceptions and concerns; the results are used by leadership to implement plans for improving the workforce climate.

Services and Proactive Engagement

CRD continues to publish its monthly newsletter "Civil Rights on Deck," distributing it to a wide internal and external audience and on official USCG social media platforms. The newsletter features articles on a variety of topics, including: handling EEO complaints; best practices; emerging civil rights issues; solutions; leadership tools and resources; EEO/EO awards; special observances; and new policies.

USCG conducted "Unconscious Gender Bias" training to address the low participation of women in major occupations and in grades GS-13 through GS-15. In FY 2015, USCG trained 8,365 employees on D&I, as compared to 58 employees in FY 2014.

7. U.S. Customs and Border Protection

Infrastructure

CBP's Privacy and Diversity Office (PDO) within the Diversity and Civil Rights Division (DCRD) provides EEO, diversity and inclusion, and civil rights and civil liberties services to approximately 60,000 CBP employees. The DCRD is composed of a Director, who is supported by two Field Directors. In addition, there are Assistant Field Directors and the Policy, Planning, and Performance Division.

Complaint Processing

CBP has timely counseled 100 percent of their complaints over the past five years. During FY 2015, CBP counseled 443 complaints, representing a nine percent increase, as compared to 407 counseled in FY 2014. CBP's sustained performance in this area has greatly contributed to increasing the Department's overall timely counseling rate. In FY 2015, 235 formal complaints were filed, representing a modest seven percent increase from FY 2014, when 220 complaints were filed. The number of investigations completed increased by 17 percent in FY 2015, when 195 investigations were completed, as compared to 167 investigations in FY 2014. This improvement is the result of processing efficiencies CBP's EEO office implemented, to include going paperless and implementing a case triage process. In addition, these decreases can also be attributed to experience gained from career development, as many of CBP's corps of EEO

investigators moved from entry-level to mid-level positions. Despite the increase in investigations, efficiency increased — the average processing time decreased in FY 2015 by 11 days to 166 days. Of the completed investigations, 83 percent (162) were completed in 180 days or less with an average processing time of 146 days. CBP completed 97 percent of its investigations within the regulatory timeframe in FY 2015, as compared to 99 percent timely rate in FY 2014.

In FY 2015, the PDO developed and completed a comprehensive “EEO Complaint Process Map,” which is available as both a training tool for new employees and a resource guide for current employees. The map outlines the EEO complaint process, the negotiated grievance process, as well as the ADR process.

Additionally, CBP has placed great emphasis on resolution of EEO complaints, including a robust ADR focus. During FY 2015, the PDO took the following actions:

- Developed a “Guide to Case Review Briefings” to assist the PDO staff in preparing and presenting weekly case review briefings. This unique weekly discussion within the PDO has assisted CBP in the resolution of employment discrimination claims, tailoring efforts to conduct inquiries and investigations, and in preparing related reports and correspondence. Case review briefings also provide a mechanism to promote communication and open dialogue with colleagues where questions can be asked and feedback provided to assist in early resolution of disputes.
- Created and distributed an internal advertisement entitled “Don’t Wait, Mediate,” which aired in 335 CBP locations. Additionally, a SharePoint training presentation titled “What Managers and Supervisors Can Expect During Mediation” was created for managers and supervisors to view prior to participating in mediation, and was designed to supplement existing ADR materials from the PDO.
- Supported the Department’s ADR Advisory Council in the overall development of the Department’s Shared Neutrals ADR program by sharing the CBP ADR Handbook, forms, and approving five collateral-duty mediators to participate in the Department’s program. The CBP ADR Program Coordinator also serves as an active member of the Department’s ADR Council.
- Held nine monthly mediator training conferences, training a total of 219 mediators, which represented an 83 percent increase over FY 2014. Further, collateral-duty mediator attendance at monthly conferences increased by 89 percent, to an average of 24 individuals, between FY 2014 and FY 2015. Collateral-duty mediators facilitated over 200 mediation sessions during FY 2015. In addition, 48 mediator recertification meetings were conducted, to ensure that CBP’s records were accurate and that the mediators were performing within agency expectations. CBP is reviewing the effect these efforts have made and plans to be able to show measurable results in FY 2016.

CBP has embraced technology and workplace innovation. Eighty percent of the PDO staff assigned to complete EEO investigations telework full-time, eliminating the need for government

paid office space. PDO also continued to support innovation and good stewardship with its paperless green initiative by sustaining a culture of conservation resulting in tremendous monetary savings across the board. Full-time teleworkers are 100 percent paperless and complete investigations solely via automated systems and programs, eliminating the need for paper, printers, and faxes. In addition, 100 percent of the PDO staff has fully transitioned to utilizing the EEOC's FedSEP for hearing and appeal submissions.

Diversity and Inclusion

CBP continues to make efforts to build and maintain a talented, diverse, and highly engaged and inclusive workforce. CBP issued an Anti-Discrimination and Anti-Harassment Policy Statement during FY 2015, which affirmed its commitment to embedding EEO principles throughout all elements of CBP. Employees were reminded of their responsibility to report misconduct, which includes discriminatory or harassing behavior. Furthermore, employees were also reminded that individuals who report, provide information related to a report, or file a complaint alleging unlawful employment discrimination or harassment shall not be subjected to any form of reprisal.

Services and Proactive Engagement

CBP continuously strives to translate EEO into everyday practice and make diversity and inclusion principles a fundamental part of CBP's organizational culture. CBP has instituted a D&I Strategic Plan (Plan) covering Fiscal Years 2013-2018. The Plan aligns CBP's strategic goals with EEO principles, helping to make CBP a model workplace. The Plan identifies specific efforts that CBP will undertake to further advance workforce diversity and workplace inclusion, encourage respect, promote fairness and personal accountability, and stimulate innovation.

CBP completed various workforce analyses, in support of the early identification of potential trends, including: EEO complaints from FY 2010 – FY 2014; merit promotions filled through the Competency-Based Assessment Process from January 2013 – August 2014; and agency-wide and training academy attrition from FY 2012 – FY 2014. These analyses have helped CBP to further understand existing trends, gain a more nuanced view of the workforce, and develop measures to address early intervention of emerging trends.

CBP utilizes D&I Program Committees (DIPCs), staffed with collateral-duty staff members, in its efforts to establish and maintain a diverse, inclusive, and highly engaged workforce. During FY 2015, CBP had 132 DIPCs with 861 committee members who sponsored almost 1,100 workplace diversity and inclusion observances, which had a total attendance of over 96,000.

CBP is committed to investing in the leadership development of its managers and supervisors. All new supervisors are required to complete Supervisory Leadership Training, which includes modules on Diversity and EEO awareness. During FY 2015, 537 new supervisors completed this training. Also, 3,230 CBP employees completed various training courses related to diversity and inclusion, affirmative employment, EEO awareness, and reasonable accommodation through CBP's Virtual Learning Center.

8. U.S. Immigration and Customs Enforcement

Infrastructure

The ICE Office of Diversity and Civil Rights (ODCR) provides EEO services to 18,766 ICE employees. ODCR has an in-house counsel to provide legal services to the ICE Assistant Director, an SES appointee, and three operational divisions. In FY 2015, ICE hired a Disability Program Manager. Additionally, in partnership with the Office of the Principal Legal Advisor (OPLA), ODCR obtained a GS-14 Management and Program Analyst to serve a nine-month detail to assist in providing oversight and guidance to the Investigations Unit. ICE selected and assigned a GS-14 employee to oversee the investigation process, from the assignment of investigators, to the submission of the final report of investigation. This employee serves as a liaison between investigators and organizational entities that produce evidence for the investigations, to ensure a timely and quality product.

Complaint Processing

In FY 2015, ICE had a 22 percent increase in pre-complaint counseling, with 298 pre-complaints initiated; compared to 245 pre-complaints initiated in FY 2014. ODCR reported that it is unaware of any particular reasons for this increase, but plans to re-examine their data and complete additional analysis to try to identify any causes. Despite this increase, ODCR timely completed 184 of 297 (62 percent) of its counselings during FY 2015, compared to 103 of 283 (36 percent) in FY 2014. This major improvement is due in large part to ODCR's elimination of a backlog of investigations, which was accomplished in May 2015. As ODCR worked to eliminate the backlog of cases, it employed a strategy of focusing on the oldest cases first, which caused the newer cases to be untimely processed. Since ODCR eliminated the backlog, the office has renewed its focus on timely counselings, which is evident from the improvements noted above.

In FY 2015, ICE participated in the newly established Department-wide ADR Shared Neutrals Program consisting of a cadre of trained mediators to provide low-cost mediation services throughout the Department. In addition, through ICE's continued efforts to market the ADR program to all ICE employees, ICE improved its ADR offerings in FY 2015, to 93 percent (278 of 298) of all initiated pre-complaints, as compared to 89 percent in FY 2014 (219 of 245). However, despite these efforts, in FY 2015, ICE's ADR participation rate declined to 44 percent as compared to 58 percent in FY 2014. Nonetheless, 28 percent (34 of 121) of pre-complaints that were accepted into the ADR process resulted in no formal complaint being filed. In FY 2016, ICE plans to explore possible reasons for the decline in ADR participation.

ICE experienced a slight decrease of four percent in the number of formal EEO complaints filed in FY 2015, with 177 formal EEO complaints filed, as compared to 185 formal EEO complaints filed in FY 2014. Notably, in FY 2015, ICE saw improvements in the timeliness and number of EEO investigations completed over those completed in FY 2014. Specifically, ICE completed 202 investigations in FY 2015, compared to 167 in FY 2014 — a 21 percent increase. And the average processing time for EEO investigations in FY 2015 was 288 days, a significant drop as compared to 425 days in FY 2014, and a 32 percent increase in timely completions. These improvements are attributed to the completion of the backlog of cases, as well as the assignment

of an Investigations Manager to oversee the entire investigation process and ensure a backlog does not recur.

Additionally, ICE continued refining its cadre of internal collateral-duty ICE Special Agents in the GS-1811 series by assigning select cases for investigation. By using internal investigators, ICE saved \$45,702.00 in contract investigative costs during FY 2015.

Diversity and Inclusion

ICE's leaders are determined to foster a work environment that is inclusive, fair, collaborative, and one that respects, values, and empowers all employees. Full inclusion promotes employee engagement and enables the agency to maximize the talents of all of its employees so that each may fully contribute to the agency's mission success. A diverse workforce will allow ICE to recruit and retain the best and the brightest personnel, as well as improve equal employment opportunities, and enhance the agency's ability to engage with the public it serves.

ICE established an Executive Diversity Advisory Council (EDAC) composed of the Deputy Directors of ICE's major program offices. The EDAC serves in an advisory capacity to the ICE Director, and will operate in adherence to the goals and objectives outlined in the ICE D&I Strategic Plan (2013 to 2017). ICE has accomplished a total of 40 of 43 objectives towards achieving its goals in its 5-year D&I Implementation Plan. ICE continues to update its Diversity Best Practices List available to all Directorates and Program Offices to use to achieve greater inclusion, a positive work environment, and a higher quality of work life.

Services and Proactive Engagement

In FY 2015, ICE's Reasonable Accommodation Program processed 163 requests. Over 90 percent of those requests were processed within the established timeframes, with an average processing time of 16 days. In FY 2015, ICE published standard operating procedures on reasonable accommodation, entitled "Procedures to Facilitate the Processing of Reasonable Accommodations." Additionally, ICE completed a successful reasonable accommodation fund pilot and received approval to begin an agency-wide Centralized Accommodation Fund in FY 2016. The Diversity Management Division continued conducting quarterly visits for ICE managers and supervisors to DoD's CAP, to provide them the opportunity to observe and experience assistive technology resources available to their employees.

ICE also continued its proactive efforts to minimize and eliminate potential workplace disputes, EEO and Inspector General complaints, and union grievances by use of the Organizational Climate Assessment (OCA) process. The OCA process evaluated interpersonal relationships and workgroup effectiveness by using an integrated assessment process, which consisted of an initial validated survey, a series of follow-up interviews of both individuals and focus groups, a review of relevant files and records, and personal onsite observations by assessment team members. In FY 2015, at the request of Program Office Assistant Directors, ODCR conducted three OCAs. ODCR has received an overwhelming number of requests for OCAs and has a waiting list of 13 program offices.

ICE continued providing their electronic delivery option ("e-service") to all complainants. This initiative provides complainants, as well as ICE managers and internal stakeholders, with an

opportunity to receive all EEO-related correspondence electronically, which speeds transmission and receipt while eliminating standard mailing delays. Through the use of this initiative, ICE reduced the amount of returned documents marked as “undeliverable.”

In accordance with No FEAR Act requirements, employees must receive No FEAR Act training every two years. ICE trains one-half of the workforce every year in order to meet this requirement. At the end of FY 2015, ICE successfully met the bi-annual training requirement, with 9,435 employees having completed the No FEAR Act training, and with more than 50 percent of the workforce trained.

9. U.S. Secret Service

Infrastructure

The USSS’s Office of Equal Employment Opportunity and Diversity (OEEOD) provides EEO services to 6,320 USSS employees. The office is led by the Director and includes formal complaints and informal complaints branches. The OEEOD has 11 positions, which include the EEO Director, Deputy EEO Director, Pre-Complaint Program Managers, Formal Complaints Program Manager, Affirmative Employment Program Manager, EEO Program Analyst, Sign Language Interpreter, EEO Specialist – Generalist, EEO Specialist – Complaints, and an EEO Assistant. The OEEOD is aligned directly under the Office of the Director of the USSS, and the EEO Director reports directly to the Director. There are 23 collateral-duty EEO Counselors located throughout the organization and three contract EEO Investigators.

During FY 2015, OEEOD hired an Affirmative Employment Program Manager and an EEO Specialist position that had become vacant earlier in the fiscal year. The OEEOD re-classified the EEO Specialist position from a GS-13 to a career progression position, GS-0260-9/13. Additionally, an EEO Assistant position became vacant during FY 2015, and it is expected to be filled in January 2016.

Complaint Processing

During FY 2015, USSS experienced a 35 percent increase in completed EEO counselings. There were 51 pre-complaints counseled in FY 2015, compared to 35 completed counselings in FY 2014. Additionally, USSS has maintained a 100 percent timely counseling rate for the past three years.

During FY 2015, the USSS’s Early Dispute Resolution Program (EDRP) was implemented. In the past the USSS’s ADR endeavors were performed by collateral-duty staff in the Ombudsman’s office. The OEEOD procured the services of a contracting firm to conduct mediation services, as part of the EDRP; which will allow for an increased participation rate in the early process of conflict resolution. Individuals involved in both EEO and non-EEO related conflicts are strongly encouraged to participate in mediation services as a means of resolving workplace conflicts. Plans are underway to continue marketing the EDRP and the benefits of early dispute resolution.

In FY 2015, USSS experienced a 32 percent increase in the number of investigations completed, with 19 completed in FY 2015, compared to 13 during FY 2014. For the second year in a row, USSS has timely investigated 100 percent of their cases.

Diversity and Inclusion

The OEEOD published the USSS D&I Strategic Plan for Fiscal Years 2015 – 2019. The agency’s Director, Deputy Director, and executive leaders were briefed on the goals, objectives, and strategies of the D&I Strategic Plan. Throughout the year, supervisors and managers were also briefed on the D&I Strategic Plan including their role in ensuring the overall success of a diverse and inclusive workplace.

The OEEOD partnered with the Office of Chief Counsel to deliver a briefing entitled, “Making the Secret Service a More Diverse and Inclusive Workplace through Every Action, Every Day,” to members of the Uniformed Division’s White House Branch. The purpose of the briefing was to engage in an open dialogue and active discussion about the importance of ensuring a diverse and inclusive workplace – both internally, as well as with in our external relationships with members of the public.

Additionally, the OEEOD and the Office of the Chief Financial Officer sponsored the agency’s Fifth Annual Unity Day celebration entitled: “Building a Bridge to a Better Tomorrow by Uniting Our Differences Today,” at the USSS’s Headquarters. Two additional Unity Day events were held at the USSS’s Dallas Field Office and Los Angeles Field Office.

Services and Proactive Engagement

The USSS conducts analysis to identify barriers that may exist as it relates to employee recognition and awards, selection for senior-level positions, separations and participation rates for major occupations.

Although the USSS has a robust recruitment and outreach strategic plan, additional initiatives are planned in FY 2016 to increase some areas currently with low participation rates. The USSS plans to engage in various initiatives and partnerships to address areas of needed improvement, including planned activities for targeted outreach and recruitment with community organizations, faith-based organizations, and veterans service organizations, and working closely with the OEEOD, Human Capital Division, Workforce Planning Division, and Security Clearance Division to identify potential barriers in the recruitment and selection process.

Throughout FY 2015, the USSS supported employee retention and development through partnerships with internal stakeholders and collaboration with other federal agencies to hold formal and informal mentoring sessions.

The USSS continued to use the flexibilities of the Pathways Internship Program to attract and develop the talents of its diverse student population. The current cadre consists of 18 students who are employed at both USSS Headquarters and field office locations throughout the country. A total of five students were converted into full-time permanent positions after graduation. The

USSS will continue to utilize the Pathways Internship Program whenever funded positions are available.

As a proactive measure, the OEEOD continued its partnership with the Office of Chief Counsel, in providing education and training to ensure the workforce is informed on the reasonable accommodation program and the anti-harassment policy. In addition, information on the USSS's reasonable accommodation policy is made available to all employees during the new employee orientation training.

The OEEOD held an educational training session entitled "Deaf Culture and Deaf Awareness." This session included additional guidance on "Protocols for Requesting Interpreting Services," by the OEEOD's Staff Interpreter. The USSS also attended Gallaudet University's Spring Internship and Job Fair, and Disabled Career Fair. Finally, a Lactation Working Group was established to develop a policy and to implement the USSS's Worksite Lactation Program, which provides a space for working mothers to express breast milk during the work day. Worksite lactation programs help ease the transition for women to go back to work after childbirth, and encourage the continuation of breastfeeding, which is strongly associated with positive effects on maternal and child health.

CONCLUSION

The information in this report highlights the Department's numerous EEO program successes and challenges during FY 2015. The ebb and flow inherent in complaint processing has been examined in terms of the number of complaints filed, the type of allegations raised, and the investigations conducted. As shown throughout the report, the number of complaints filed at each Component, and the timelines in which those complaints are processed, impact individual programs significantly, and also have an impact on the broader Departmental program. A comparison of FY 2015 to FY 2014, and across a seven-year span of time, gauged whether there are any developing patterns or trends at the Department. The results of the review indicate that, while individual Components experience year-to-year fluctuations in the number of complaints filed and processing timelines achieved, the Departmental program has remained sound, with only minor fluctuations overall. An examination of the reasons for processing challenges at Components, as well as within CRCL, was conducted during FY 2015. In some situations, negative results during FY 2015 were directly related to staffing challenges within particular program areas, which are temporary situations, as plans are underway to backfill vacant positions. And in other situations, downturns in efforts to timely process complaints included the strategic emphasis on the elimination of complaint backlogs and the necessity to issue a stop work order to a contract company. Thus, these were also temporary setbacks that should show improvement in the coming year.

This report also provides an opportunity to share an overview of each individual Component's EEO and Civil Rights program. Through this dedicated section of the report it is shown that, while the Department puts forth numerous collaborative and collective efforts, each Component must also provide dedicated focus on its individual leadership initiatives, employee population, and resulting unique needs and goals.

Finally, several new initiatives have been showcased that have sprung from the EEO Directors' Council strategic planning efforts during FY 2015. The Council's leadership and strategic direction has resulted in CRCL and Component personnel forming several working groups and developing new partnerships in the process. This unity of effort embodies the spirit of teamwork and collaboration within the Department's EEO program, and will result in shared program achievements going forward. It is anticipated that the FY 2016 inaugural EEO and Diversity Training Conference will serve as a pathway for providing training to EEO and Diversity professionals within the Department, and also provide opportunities to recognize and reward accomplishments across the Department's overall EEO and Diversity program. Also, the Department's burgeoning ADR program is an area that holds great promise for FY 2016 and beyond, in the area of resolving EEO complaints and other workplace conflicts.

FY15 Annual No FEAR Act Report – Federal Court Cases

DEPARTMENT OF HOMELAND SECURITY

*Number of Cases Filed in Federal Court,
Pending or Resolved Under Section 724.302(a)(1)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Number of cases filed, pending, or resolved	139	45	1	26	0	7

*Number of Cases and Reimbursement by Status
Under Section 724.302(a)(1-2)*

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Cases pending hearing	62	22	0	11	0	1
Cases heard/pending decision	18	8	0	4	0	1
Decision issued in favor of the Complainant (either in its entirety or partial)	1	0	0	0	0	1
Decision issued in favor of the Agency	41	10	1	9	0	4
Arbitration/Mediation	5	3	0	0	0	0
Settlement	13	3	0	2	0	0
Appeal	8	3	1	0	0	3
Remand	1	0	0	0	0	1
Amount of Reimbursement	\$1,204,984.99		0	\$95,000.00	0	0
Amount of Reimbursement for Attorney Fees	\$7,515.00	0	0	0	0	0

Number of Employees Disciplined in Cases Under Section 724.302(a)(3)

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	1	0	0	0	0	0
Suspension without pay	0	0	0	0	0	0
Reduction of grade or pay	0	0	0	0	0	0
Removal	0	0	0	0	0	0

***Number of Employees Disciplined, Whether or Not in Connection with Federal Cases Under
Section 724.302(a)(5) (i.e. Including EEO Administrative Cases)***

	TITLE VII	ADEA	EPA	REHABILITATION ACT	GINA	WHISTLEBLOWER
Reprimand	0	0	0	0	0	0
Suspension without pay	2	0	0	0	0	0
Reduction of grade or pay	1	0	0	0	0	0
Removal	0	0	0	0	0	0

Equal Employment Opportunity Data Posted Pursuant to the No Fear Act: Department of Homeland Security FY 2015

Complaint Activity	Comparative Data					
	Previous Fiscal Year Data					2015
	2010	2011	2012	2013	2014	
Number of Complaints Filed	1202	1297	1211	1212	1222	1262
Number of Complainants	293	294	245	229	207	1221
Repeat Filers	18	28	14	16	10	36
Complaints by Basis	Comparative Data					
	Previous Fiscal Year Data					2015
	2010	2011	2012	2013	2014	
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>						
Race	409	460	413	454	382	402
Color	131	137	147	156	137	165
Religion	56	63	53	58	64	58
Reprisal	541	603	562	584	579	576
Sex	397	474	451	457	437	430
PDA	0	2	7	8	7	22
National Origin	208	222	223	193	191	186
Equal Pay Act	0	4	2	3	12	4

Age	356	430	401	424	381	392
Disability	279	328	288	274	311	355
Genetics	3	4	2	6	6	5
Non-EEO	42	85	72	80	89	82
Complaints by Issue	Comparative Data					
	Previous Fiscal Year Data					2015
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints filed.</i>	2010	2011	2012	2013	2014	
Appointment/Hire	56	80	67	68	60	80
Assignment of Duties	107	103	104	99	117	141
Awards	21	25	20	21	15	19
Conversion to Full-time	0	2	1	1	2	0
Disciplinary Action						
Demotion	9	12	18	8	9	4
Reprimand	58	88	73	77	57	63
Suspension	63	74	65	63	64	70
Removal	17	31	34	24	41	52
Other	30	49	22	28	61	59
Duty Hours	23	34	17	21	20	29
Evaluation Appraisal	91	98	94	81	81	132
Examination/Test	7	6	4	10	9	5
Harassment						
Non-Sexual	406	476	474	498	512	479
Sexual	50	41	36	46	39	32
Medical Examination	10	8	12	8	13	21
Pay (Including Overtime)	16	39	26	34	47	50

Promotion/Non-Selection	232	247	262	272	171	224
Reassignment						
Denied	24	30	25	30	23	28
Directed	36	55	40	34	47	30
Reasonable Accommodation	52	64	65	59	69	74
Reinstatement	6	7	11	3	3	5
Retirement	8	8	9	3	3	7
Termination	188	163	86	103	93	91
Terms/Conditions of Employment	163	220	120	106	113	105
Time and Attendance	47	52	56	46	51	71
Training	35	33	36	31	24	25
Other	88	64	31	34	74	44
Processing Time	Comparative Data					
	Previous Fiscal Year Data					2015
	2010	2011	2012	2013	2014	
Complaints pending during fiscal year						
Average number of days in investigation	215.02	237.91	233.03	238.73	260.46	257.46
Average number of days in final action	392.42	152.84	88.07	105.22	71.65	77.48
Complaint pending during fiscal year where hearing was requested						
Average number of days in investigation	204.35	231.61	230.83	232.92	253.93	256.45
Average number of days in final action	61.80	71.68	54.38	54.44	39.67	46.49
Complaint pending during fiscal year where hearing was not requested						
Average number of days in investigation	231.26	253.09	237.04	248.93	273.58	259.19

Average number of days in final action	752.81	234.00	138.21	167.77	117.94	116.11								
Complaints Dismissed by Agency	Comparative Data													
	Previous Fiscal Year Data											2015		
	2010	2011	2012	2013	2014									
Total Complaints Dismissed by Agency	195	138	155	124	123	92								
Average days pending prior to dismissal	379	169	130	106	142	163								
Complaints Withdrawn by Complainants														
Total Complaints Withdrawn by Complainants	112	110	139	102	104	119								
Total Final Agency Actions Finding Discrimination	Comparative Data													
	Previous Fiscal Year Data											2015		
	2010	2011	2012	2013	2014									
	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	4		8		15		19		13		20			
Without Hearing	0	0	0	0	0	0	0	0	0	0	4	20		
With Hearing	4	100	8	100	15	100	19	100	13	100	16	80		
Findings of Discrimination Rendered by Basis	Comparative Data													
	Previous Fiscal Year Data											2015		
	2010	2011	2012	2013	2014									
<i>Note: Complaints can be filed alleging multiple bases. The sum of the bases may not equal total complaints and findings.</i>	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Total Number Findings	5		9		8		19		24		20			
Race	1	20	2	22	0	0	4	21	5	21	5	25		
Color	0	0	2	22	1	13	1	5	1	4	1	1		
Religion	0	0	1	11	0	0	0	0	0	0	0	0		
Reprisal	2	40	4	44	4	50	10	53	11	46	8	40		

Sex	1	20	1	11	3	38	7	37	11	46	5	25
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	1	11	1	13	2	11	4	17	1	1
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	2	40	1	11	2	25	1	5	5	21	11	55
Disability	1	20	3	33	1	13	6	32	8	33	8	40
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	1	13	0	0	1	4	0	0
Findings After Hearing	4		6		7		5		7		16	
Race	1	25	2	33	0	0	1	20	1	14	4	25
Color	0	0	2	33	0	0	0	0	0	0	0	0
Religion	0	0	1	17	0	0	0	0	0	0	0	0
Reprisal	2	50	2	33	4	57	4	80	3	43	8	50
Sex	0	0	1	17	3	43	2	40	1	14	5	31
PDA	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	1	17	0	0	1	20	1	14	0	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0
Age	2	50	1	17	2	29	1	20	1	14	8	50
Disability	1	25	2	33	1	14	1	20	4	57	6	38
Genetics	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	1	14	0	0	0	0	0	0
Findings Without Hearing	1		3		1		14		17		4	
Race	0	0	0	0	0	0	3	21	4	24	1	25
Color	0	0	0	0	1	100	1	7	1	6	1	25

Religion	0	0	0	0	0	0	0	0	0	0	0	0	0
Reprisal	0	0	2	67	0	0	6	43	8	47	0	0	0
Sex	1	100	0	0	0	0	5	36	10	59	0	0	0
PDA	0	0	0	0	0	0	0	0	0	0	0	0	0
National Origin	0	0	0	0	1	100	1	7	3	18	1	25	0
Equal Pay Act	0	0	0	0	0	0	0	0	0	0	0	0	0
Age	0	0	0	0	0	0	0	0	4	24	3	75	0
Disability	0	0	1	33	0	0	5	36	4	24	1	25	0
Genetics	0	0	0	0	0	0	0	0	0	0	0	0	0
Non-EEO	0	0	0	0	0	0	0	0	1	6	0	0	0
Findings of Discrimination Rendered by Issue	Comparative Data												
	Previous Fiscal Year Data											2015	
	2010		2011		2012		2013		2014				
	#	%	#	%	#	%	#	%	#	%	#	%	
Total Number Findings	5		9		8		19		24		20		
Appointment/Hire	0	0	1	11	0	0	1	5	2	8	0	0	
Assignment of Duties	0	0	0	0	1	13	1	5	2	8	2	10	
Awards	0	0	0	0	0	0	0	0	0	0	0	0	
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	0	0	
Disciplinary Action													
Demotion	0	0	0	0	0	0	0	0	0	0	0	0	
Reprimand	0	0	1	11	0	0	2	11	0	0	0	0	
Suspension	0	0	0	0	0	0	1	5	2	8	0	0	
Removal	0	0	0	0	0	0	0	0	0	0	0	0	
Other	0	0	0	0	0	0	0	0	1	4	0	0	
Duty Hours	0	0	1	11	0	0	0	0	0	0	1	1	

Evaluation Appraisal	0	0	0	0	1	13	1	5	1	4	2	10
Examination/Test	0	0	0	0	0	0	0	0	0	0	0	0
Harassment												
Non-Sexual	1	20	1	11	2	25	9	47	11	46	8	40
Sexual	1	20	0	0	0	0	1	5	3	13	1	1
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	1	13	0	0	0	0	0	0
Promotion/Non-Selection	2	40	0	0	3	38	1	5	5	21	5	25
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	1	1
Directed	1	20	0	0	0	0	2	11	3	13	1	1
Reasonable Accommodation	0	0	2	22	1	13	2	11	1	4	1	1
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	1	20	2	22	1	13	1	5	3	13	3	15
Terms/Conditions of Employment	1	20	2	22	0	0	3	16	2	8	3	15
Time and Attendance	0	0	0	0	0	0	1	5	1	4	2	10
Training	2	40	0	0	0	0	0	0	0	0	2	10
Other - User Defined	0	0	0	0	1	13	1	5	1	4	0	0
Findings After Hearing	4		6		7		5		7		16	
Appointment/Hire	0	0	0	0	0	0	0	0	1	14	0	0
Assignment of Duties	0	0	0	0	1	14	0	0	1	14	2	13
Awards	0	0	0	0	0	0	0	0	0	0	0	0
Conversion to Full-time	0	0	0	0	0	0	0	0	0	0	1	1
Disciplinary Action												

Demotion	0	0	0	0	0	0	0	0	0	0	0	0
Reprimand	0	0	0	0	0	0	1	20	0	0	0	0
Suspension	0	0	0	0	0	0	1	20	1	14	1	1
Removal	0	0	0	0	0	0	0	0	0	0	0	0
Other	0	0	0	0	0	0	0	0	1	14	0	0
Duty Hours	0	0	1	17	0	0	0	0	0	0	0	0
Evaluation Appraisal	0	0	0	0	1	14	0	0	0	0	1	1
Examination/Test	0	0	0	0	0	0	0	0	0	0	2	13
Harassment												
Non-Sexual	1	25	1	17	1	14	1	20	3	43	7	44
Sexual	0	0	0	0	0	0	1	20	1	14	1	1
Medical Examination	0	0	0	0	0	0	0	0	0	0	0	0
Pay (Including Overtime)	0	0	0	0	1	14	0	0	0	0	0	0
Promotion/Non-Selection	2	50	0	0	3	43	0	0	1	14	3	19
Reassignment												
Denied	0	0	0	0	0	0	0	0	0	0	1	1
Directed	1	25	0	0	0	0	2	40	0	0	1	1
Reasonable Accommodation	0	0	2	33	1	14	1	20	0	0	1	1
Reinstatement	0	0	0	0	0	0	0	0	0	0	0	0
Retirement	0	0	0	0	0	0	0	0	0	0	0	0
Termination	1	25	1	17	1	14	0	0	1	14	3	19
Terms/Conditions of Employment	1	25	2	33	0	0	1	20	0	0	3	19
Time and Attendance	0	0	0	0	0	0	0	0	1	14	1	1
Training	2	50	0	0	0	0	0	0	0	0	1	1
Other - User Defined	0	0	0	0	1	14	0	0	0	0	0	0

Termination	0	0	1	33	0	0	1	7	2	12	0	0
Terms/Conditions of Employment	0	0	0	0	0	0	2	14	2	12	0	0
Time and Attendance	0	0	0	0	0	0	1	7	0	0	1	25
Training	0	0	0	0	0	0	0	0	0	0	1	25
Other - User Defined	0	0	0	0	0	0	1	7	1	6	0	0
Pending Complaints Filed in Previous Fiscal Years by Status	Comparative Data						2015	Previous Fiscal Year Data				
	2010	2011	2012	2013	2014							
Total complaints from previous Fiscal Years	787	728	934	936	1119	1409						
Total Complainants	727	676	853	879	1050	1321						
Number complaints pending												
Investigation	65	48	90	115	103	201						
ROI issued, pending Complainant's action	12	6	6	12	8	9						
Hearing	426	548	666	707	912	1222						
Final Agency Action	235	109	154	103	98	303						
Appeal with EEOC Office of Federal Operations	236	374	473	614	742	743						
Complaint Investigations	Comparative Data						2015	Previous Fiscal Year Data				
	2010	2011	2012	2013	2014							
Pending Complaints Where Investigations Exceed Required Time Frames	164	188	189	209	161	294						