



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

Third Quarterly Report

April 2008 – June 2008

OFFICE FOR CIVIL RIGHTS AND CIVIL LIBERTIES

The *Implementing Recommendations of the 9/11 Commission Act of 2007*, Pub. L. 110-53, requires the Office for Civil Rights and Civil Liberties (CRCL) to report quarterly regarding: (1) the number and types of review of Department actions undertaken; (2) the type of advice provided and the response given to such advice; (3) the number and nature of complaints received by DHS for alleged violations; and (4) a summary of the disposition of such complaints, the reviews and inquiries conducted, and the impact of these activities.¹ In accordance with this requirement, this report serves as CRCL's third quarter report, covering the period from April 1, 2008, to June 30, 2008.

I. CRCL Mission

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

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

II. Fifth Anniversary of the Office for Civil Rights and Civil Liberties

During this quarter, CRCL celebrated its fifth anniversary on April 16, 2008. To commemorate its anniversary, CRCL and the DHS Privacy Office joined together to host two events. In one event, CRCL and Privacy hosted its government colleagues and community partners and recognized the work of outstanding office employees. In an event at the Heritage Foundation, DHS Secretary Michael Chertoff provided welcoming remarks followed by a panel discussion on the offices' achievements, milestones, and challenges of the past five years. The panel included: Daniel W. Sutherland, Officer for Civil Rights and Civil Liberties, and Hugo Teufel, Chief Privacy Officer, Peter P. Swire, Professor in Law and Judicial Administration at Ohio State University, and Kevin Lanigan, Director of the Law and Security Program at Human Rights First.

COMPLAINT INVESTIGATIONS

CRCL investigates complaints under 6 U.S.C. § 345 and 42 U.S.C. § 2000ee-1, which require the DHS Officer for Civil Rights and Civil Liberties to:

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

¹ See 42 U.S.C. § 2000ee-1(f)(1).

I. Summary of Complaints Received Under CRCL Statutes

During the third quarter, CRCL received 32 new complaints. They involved the following components: U.S. Customs and Border Protection (CBP) - 9; Immigration Customs Enforcement (ICE) - 15; Transportation Security Administration (TSA) – 5; and DHS - 3 (implicate more than one component). CRCL closed 36 complaints in the third quarter. These complaints involved the following components: ICE - 14; CBP - 13; TSA - 5; U.S. Citizenship and Immigration Services (USCIS) - 1; Federal Law Enforcement Training Center (FLETC) – 1; DHS - 2 (implicate more than one component).

Primary issues for new complaints are as follows:

Abuse of authority/color of law	4
Conditions of Detention	10
Discrimination	1
Due Process/Adm Processing	1
Profiling	2
Treatment	7
Unaccompanied Minors	7
Total	32

Primary issues for closed complaints are as follows:

Abuse of authority/color of law	9
Conditions of Detention	4
Discrimination	7
Profiling	9
Treatment	2
Unaccompanied Minors	2
Watch Lists	3
Total	36

II. Examples of Complaints Resolved by CRCL

A. Conditions of Detention for Adult ICE Detainees. CRCL issued a Final Report and Recommendations to ICE regarding complaints concerning conditions of detention at a facility in Massachusetts. CRCL conducted two on-site reviews of the facility. At the conclusion of our initial review we notified the ICE Office of Detention and Removal (DRO) regarding a number of issues. ICE DRO informed us of the applicable standards in place covering the concerns raised in the complaint and steps they would take to ensure that these standards are followed. Our follow-up review confirmed that appropriate steps had been taken. We continue to work with ICE DRO on additional recommendations for improvements in female detainee care including: increased access to the law library; appropriate out of cell time; and, improved access to staff-detainee communication. More broadly, CRCL recommended improvements in the ICE Detainee Handbook.

B. Complaints Filed Under Section 504 of the Rehabilitation Act of 1973. CRCL closed a complaint and issued a Final Report and Recommendations to the Federal Emergency Management Agency and Findings of Fact, Conclusions of Law and Remedy to the Complainant. The complaint alleged discrimination based on disability by officials of the Michigan Citizens Corps' Community Emergency Response Team (CERT), an organization which had received federal financial assistance from DHS. Upon completion of an investigation, CRCL concluded that no CERT officials discriminated against the Complainant based on her disability.

CRCL closed a complaint and issued a Final Report and Recommendations to the FLETC and Findings of Fact, Conclusions of Law and Remedy to the Complainant. The complaint alleged discrimination based on disability by FLETC officials when they prohibited the cafeteria food service manager, a blind contract employee, from using his service animal when traveling from his cafeteria office to the cafeteria serving line. Upon completion of an investigation, CRCL concluded that FLETC discriminated against the employee in violation of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; DHS Section 504 Interim Regulation, 6 C.F.R. Part 15; as well as the Homeland Security Act of 2002, as amended, 6 U.S.C. 345. Consequently, CRCL made recommendations to FLETC addressing their failure to offer the employee the preferred reasonable accommodation that he had requested. FLETC also filed a response to the finding claiming that the employee was offered the accommodation that the final report recommended.

CRCL also closed a complaint alleging discrimination based upon a disability through informal resolution. The complaint alleged that USCIS denied a naturalization application after granting a disability waiver for the examination. USCIS denied discriminating against the applicant and stated that she failed to provide sufficient

evidence of her disability. USCIS also suspected that the medical documentation provided by the applicant was fraudulent. CRCL mediated an informal resolution between the applicant and USCIS. The applicant agreed to obtain new medical documentation and USCIS agreed to make a determination based on the new documentation. The applicant was then granted a new interview and the matter was successfully resolved. This resolution was successful in producing an immediate remedy for the complainant while avoiding the need for an agency decision on the matter.

C. Complaints Involving Port of Entry Inspections by Customs and Border Protection. CRCL issued a Final Report and Recommendations to CBP and US-VISIT regarding two complaints, each alleging that a female was forced to remove her *hijab* for a photograph taken during processing at a Port of Entry. After concluding our investigation into these complaints, CRCL found that in one of the complaints there was a stored photograph of the Complainant not wearing her *hijab*. CRCL encouraged CBP to ensure that the Port of Entry complies with policies concerning the screening of religious headgear, which, in most circumstances, allow for the wearing of a head covering for religious purposes during an official photograph as long as the head covering does not obscure the face.

During the third quarter, CRCL also closed a referred complaint regarding the seizure of a foreign national's laptop. CRCL completed a review of documentation related to the seizure provided by CBP and concluded that CBP appropriately used their law enforcement authority to prevent unauthorized material from entering the United States. The foreign national forfeited his right to the laptop and CBP stated that they handled the material in accordance with current policy.

III. Examples of Ongoing issues Being Reviewed by CRCL

A. Conditions of Detention for Adult Detainees. CRCL opened 10 complaints alleging violations of the standards governing conditions of detention for ICE detainees.² Another 2 complaints were opened regarding alleged physical abuse of detainees by facility staff. During this period, CRCL also continued to receive complaints dealing with medical issues in detention, notably a complaint alleging denial of treatment for fungal tuberculosis at a detention center in Illinois. The Office also continued to provide input in the development of revised ICE detention standards on medical care that will replace current ICE standards at facilities housing ICE detainees. In addition, the Senior Advisor to the Officer for Civil Rights and Civil Liberties began participating in a multi-disciplinary working group initiated by the DHS Office of Health Affairs (OHA) in conjunction with ICE and other Federal stakeholders to review medical care provided to ICE detainees. OHA is the principal authority for all medical and public health matters for DHS. The working group is expected to provide the Secretary with recommendations to improve medical care, including mental health care, for ICE detainees in the first quarter of FY 2009.

B. Treatment of Unaccompanied Minors. CRCL continues to receive and handle complaints involving the treatment of unaccompanied minors. During the third quarter of FY2008, CRCL opened 9 new complaints and resolved 2 complaints concerning the treatment of unaccompanied minors in DHS custody. CRCL referred 3 new complaints to ICE and CBP, requesting an investigation of the allegations and final reports for each. Allegations included physical and verbal abuse, inadequate food and bedding, inadequate medical attention in DHS facilities, and delays in the transfer of minors to appropriate placements.

C. Complaints Involving DHS Law Enforcement Operations. CRCL also continued to receive complaints alleging violations by law enforcement officers during operations. Some complaints received by CRCL implicated Fourth Amendment issues and associated search and seizure law and policy. For example, CRCL received a complaint alleging improper entry, search, and seizure at a private residence resulting in the detention by ICE of various individuals. Another complaint alleges improper conduct by law enforcement officers when interacting with employees of a non-governmental organization during an enforcement action.

² This number includes a complaint that was retained by the DHS Inspector General for investigation.

D. Airport Searches by the Transportation Security Administration. CRCL opened an investigation into allegations that TSA officials at Ft. Lauderdale/Hollywood International Airport (FLL) subjected a woman to an improper security screening after her titanium hip implant alarmed a walk-through metal detector. TSA implemented remedial measures (suspensions and additional training requirements) as a result of its internal administrative inquiry into the matter. CRCL has been working with TSA on additional training requirements and is planning to monitor implementation and completion of the training and performance of future private searches at FLL.

E. Traveler Redress Inquiry Program. DHS TRIP serves as a single point of contact for individuals who have inquiries or seek resolution regarding difficulties they experienced during their travel screening at transportation hubs. For additional information on how travelers may file a complaint, visit www.dhs.gov/trip. CRCL receives from DHS TRIP inquiries from travelers who assert that they have been discriminated against on the basis of race, disability, religion, gender, or ethnicity by DHS employees. In the third quarter, CRCL opened three complaints based on records received from DHS TRIP.³ During this period DHS TRIP received 6,893 requests for redress and 292 individuals alleged DHS employees had discriminated against them.

CRCL PROGRAMS

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

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

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

CRCL leads the Interagency Coordinating Council (ICC) on Emergency Preparedness and Individuals with Disabilities, which is comprised of more than 20 Federal Departments and agencies. CRCL, on behalf of the ICC, convened a meeting with nongovernmental stakeholders in May. The primary agenda item was a presentation on a Disaster Case Management Pilot Project that is being developed collaboratively between HHS and the Federal Emergency Management Agency (FEMA). This project aims to provide a single point of contact for disaster assistance applicants and create a coordinated system to help applicants obtain services in a streamlined manner.

Additionally, CRCL hosted a Table Top Exercise of the ICC's Incident Community Coordination Team (ICCT) on June 11, 2008. The emphasis of the ICCT is coordination and decision-making during a disaster. ICCT members are expected to have appropriate authority to actively engage their respective organizations to assist accordingly during a disaster. This exercise was viewed as a "starting point" for us to be ready to effectively act when needed. The exercise was successful in generating valuable discussion regarding how communication should occur and can lead to quick resolution of problems when a disaster occurs.

Beginning in mid-June, CRCL also became centrally involved in activities related to the emergency response operations underway as a result of the severe flooding in the Midwest. CRCL was in direct contact with the FEMA Disability Coordinator, Protection and Advocacy staff, and Centers for Independent Living staff in the affected area. Information gathered was then distributed to both ICC member representatives and Non-Governmental Organization (NGO) partners so that consistent information sharing took place. Response activities were reported to be much improved from previous disasters as it relates to the services provided to special needs populations.

B. Outreach Efforts. CRCL continued its outreach efforts through conferences and presentations to educate others on the importance of emergency planning, response, and recovery for individuals with special needs. Examples of outreach in the third quarter include:

³ Note that two of these CRCL complaints were TRIP inquiries received in second quarter.

- On April 22-23, 2008, CRCL attended the quarterly meeting of the National Council on Disability (NCD). Presentations were given by government leaders and leaders in the advocacy field on the topic of homeland security and emergency preparedness issues for people with disabilities;
- On May 14-15, CRCL presented at the emergency preparedness planning meetings hosted by the North Carolina Council on Developmental Disabilities (NCDD). NCDD is collaborating with other state offices to model workplace preparedness practices fully inclusive of state employees and visitors with disabilities. CRCL shared the latest special needs planning considerations that are emerging from the development of new DHS/FEMA guidance to emergency managers;
- CRCL participated in a panel discussion introducing the Emergency Management Planning Guide for Special Needs Populations at the National Voluntary Organizations Active in Disaster annual conference held in Little Rock, Arkansas, in May;
- On May 29, CRCL participated as a panelist at the White House Conference on Faith-Based and Community Initiatives held in New Orleans, Louisiana. The conference focused on the unique partnerships between Faith-Based and Community-Based Organizations and federal, state and local governments and ways to leverage the Faith-Based and Community Organizations' expertise to help prepare, respond to and recover from disaster;
- CRCL staff presented on "The Paradigm Shift in Planning for Special Needs Populations" at the FEMA Higher Education Conference in June. CRCL stressed the importance of utilizing key principles of disability law throughout emergency management activities and also provided information on planning considerations, including the development of assessments and the implementation of registries as part of emergency planning; and
- On June 4, CRCL staff presented at the annual conference of the Mid America Alliance (MAA). The MAA is a consortium of 10 states (Colorado, Iowa, Kansas, Missouri, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming) whose goal is to provide a framework for mutual assistance among states during a situation that stresses one individual state's resources but does not initiate a governor declared state of emergency.

C. Exercises. During the third quarter, CRCL participated in the planning and implementation of several government exercises. For example, in May, CRCL participated in the Eagle Horizon Exercise which occurred in Winchester, Virginia. This was a full-scale exercise (FSE) designed to establish a learning environment to exercise continuity plans, policies, and procedures as they pertain to both natural and man-made events.

II. Engagement with Cultural, Ethnic, and Religious Communities

The CRCL "Engagement Team" leads the effort to regularly engage with community leaders from cultural, ethnic and religious communities and non-profit organizations across the country. The following is a brief summary of some of CRCL's work in this area during the third quarter of FY 2008:

- On April 11, USCIS Director Emilio Gonzalez held a farewell meeting, facilitated by CRCL, with leaders of American Arab, Muslim, Sikh and South Asian communities. At this meeting, Director Gonzalez and Deputy Director Jonathan "Jock" Scharfen announced significant improvements in processing times for naturalization applications as well as a set of benchmarks for the completion of the FBI Name Check backlog that so heavily affected members of these communities;
- On April 17, Special Envoy to the Organization of the Islamic Conference Sada Cumber heard the thoughts and concerns of leaders of American Arab, Muslim, Sikh and South Asian communities at a meeting facilitated by CRCL;
- On May 1 and June 26, CRCL attended a BRIDGES meeting in Boston, Massachusetts. These meetings bring together leaders of American Arab, Muslim, Sikh and South Asian communities with representatives of federal, state and local government and law enforcement authorities. Community concerns regarding media reports of mosque surveillance activities by federal law enforcement agencies were addressed;
- On May 20, CRCL attended a meeting hosted by the FBI with approximately 10 leaders from the Somali American community in Columbus, Ohio, in order to learn more about the issues and concerns of this community in their interactions with federal, state and local government and law enforcement agencies;

- From May 26 to May 30, CRCL traveled to Amman, Jordan, with USCIS Acting Director Scharfen to observe the interviewing and processing of Iraqi refugees for resettlement to the United States. On this trip, CRCL established connections with key colleagues in several agencies: USCIS; the Department of State's Bureau of Population, Refugees & Migration; the International Organization for Migration (IOM); and the United Nations High Commissioner for Refugees (UNHCR). All of these agencies are important players in the U.S. Government's efforts to address the needs of Iraqi refugees and internally displaced persons;
- On June 13-15, CRCL participated in the annual American Arab Anti-Discrimination Committee (ADC) Convention, attending panel discussions, staffing an information booth, and giving a number of talks on civic engagement in the United States; and
- On June 20, CRCL spoke on career opportunities in the federal government for students of Arabic at an orientation for the State Department's 2008 Critical Language Scholarship program.

III. Immigration Initiatives

During the third quarter of FY 2008, CRCL continued to work with its DHS colleagues on the civil rights and civil liberties impacts of the Department's immigration policy initiatives. For example:

- On April 5 and May 21, CRCL participated in the annual meeting of the American Immigration Lawyers' Association (AILA). The CRCL representative discussed civil rights and civil liberties in the context of the E-Verify program;
- On May 14 and June 11, CRCL conducted civil rights training for new employees with the USCIS Verification Division, which oversees the E-Verify and SAVE programs;
- On May 14, CRCL participated in meetings with a coalition of civil rights and immigration groups chaired by the National Immigration Forum. CRCL provided updates on its work in the immigration field, and received updates from the participants about issues involving immigration and the work of the Department;
- On June 11, CRCL attended a meeting between ICE and several leading immigration NGOs regarding its Alternatives to Detention program;
- On June 11, CRCL's Senior Policy Advisor for Immigration received the Director's Award from U.S. Citizenship and Immigration Services for his contributions to the E-Verify program;
- On June 17, CRCL conducted civil rights training related to E-Verify in Chicago for USCIS community relations officers;
- On June 17, CRCL attended a meeting between CBP and several immigration NGOs regarding procedures to address the needs of aliens requesting asylum at the border;
- On June 23, CRCL hosted the third Immigrant Worker Roundtable in Washington, D.C. The attendees included leading civil rights and immigrant rights organizations and representatives of Federal agencies, including the Equal Employment Opportunity Commission, the National Labor Relations Board, and the Department of Labor. The group received updates from Federal participants about their work in areas involving low wage immigrant workers;
- CRCL attended numerous workshops sponsored by USCIS during the third quarter of FY 2008 to address improvements in E-Verify operations.

IV. Civil Liberties Impact Assessments

CRCL staff is regularly called upon to give civil rights and civil liberties advice on a variety of policies and programs. The Civil Liberties Impact Assessment (CLIA) provides a formal, written evaluation of a program to identify potential civil liberties concerns. Ideally, the CLIA should be conducted early in the program life cycle to assist the program office in developing strategies and measures to address civil rights and civil liberties concerns. CRCL has drafted a Department Directive on CLIAs that is anticipated to be finalized in early FY 2009. The following is a brief update of the CLIAs in process and completed during the third quarter of FY 2008:

- Homeland Security Information Sharing Fellows Program: mandated in Section 512 of the 9/11 Act, this CLIA was completed and delivered to Congress on April 18, 2008.

- State, Local and Regional Fusion Centers: mandated in Section 511(d)(2) of the 9/11 Act, this CLIA is complete and submission to Congress is awaiting formal Departmental clearance of the accompanying Concept of Operations. CRCL has also visited several fusion centers and gathered additional materials and information to draft a one year follow-up CLIA;
- National Application Office (NAO) and National Immigration Information Sharing Office (NIISO): Title VII of the 2008 Omnibus Appropriations Act, Public Law 110-161, provided that no funds would be available to commence operations of the NAO and NIISO until the GAO reviews a certification by the Secretary that these programs comply with all existing laws, including all applicable civil liberties standards. CRCL conducted a CLIA for the NAO as part of the Secretary's certification. The NAO CLIA was forwarded to Congress and GAO. A CLIA for NIISO is in draft; and
- Interagency Threat Assessment and Coordination Group: mandated in Section 521(c) of the 9/11 Act. As required, a draft CLIA is being coordinated with the DHS Privacy Office, the Chief Privacy and Civil Liberties Officer for the Department of Justice, and the Civil Liberties Protection Officer at the Office of the Director of National Intelligence.
- Northern Border Railroad Passenger and Cargo Screening: mandated in Section 1523 (b)(1)(2) of the 9/11 Act, the CLIA is complete and submission to Congress by CBP is awaiting formal Departmental clearance.

V. Civil Liberties Institute

The Civil Liberties Institute has distributed multiple training products, provided classroom training, and is partnering with other agencies to co-sponsor and approve training products.

CRCL has been fulfilling its statutory mandate to provide training and training support on civil rights and civil liberties to those who work in State and Local Fusion Centers (SLFCs), including Department personnel. In partnership with the DHS Privacy Office, CRCL created and presented two on-line webinars (April 30 and June 12) on these issues to the twenty-five DHS intelligence analysts deployed at SLFCs. In addition, CRCL/Privacy presented classroom training to the analysts on related issues via a workshop held in conjunction with the DHS Protective Security Advisors conference. The session materials are continually refined and trainers' notes will be added to institutionalize these sessions for the future use as new analysts join the DHS and are detailed to the field.

Additionally, work is underway, in partnership with the Department of Justice, to create a more expansive toolkit of resources for use by all personnel at State and Local Fusion Centers on privacy, civil rights and civil liberties issues in the information sharing environment. Other partners in this project will include the Information Sharing Environment Program Managers Office and GLOBAL. During this quarter, CRCL met with DOJ representatives and created an interagency agreement to guide the joint training development effort. The in-house development work on the toolkit will continue through FY 2008.

During the third quarter, CRCL completed the "Roadmap to Success: Hiring Employees with Disabilities" on-line training module for DHS managers. The course was posted on-line and made available to all DHS staff. A targeted outreach plan was developed and outreach was initiated via contacts with the cross-agency Federal Disability Workforce Consortium. Additionally, the technical review of the new Asylum Seekers training module was completed and the course was posted on the various component learning management systems for use by DHS personnel who encounter aliens requesting asylum in the course of their law enforcement activities. The Civil Liberties Institute also provided technical assistance to the Programs Division effort to develop a video on the E-verify program. Finally, CRCL worked closely with the GLOBAL Initiative to create and integrate a series of questions and answers on civil rights and civil liberties issues in the information sharing environment. This product will become an on-line FAQ on Privacy and Civil Liberties Issues due to be published on-line by DOJ during the first quarter of FY 2009.

VI. Office on Accessible Systems & Technology

The Officer for Civil Rights and Civil Liberties and the DHS Chief Information Officer (CIO) continue to

collaborate to fully implement and enforce the provisions of Section 508⁴ throughout the Department.

A. Accessibility Helpdesk. OAST processed 255 helpdesk requests from 13 DHS components, other agencies, and public entities. Assistance was provided in the following areas: Technical Assistance (104); IT Requests (67); Document Reviews (43); Application Reviews (18); COTS/GOTS Reviews (11); EA Reviews (7); and 504 Accommodations (5). Of the 255 requests received, 204 were closed, 27 were left pending, and 14 were still open. The distribution is as follows: DHS HQ (93); USCIS (48); CBP (23); NPPD (15); USSS (14); USCG (13); S&T (10); FEMA (10); FEMA-EMI (10); FEMA-USFA (7); ICE (5); and I&A (4).

B. Coordinators Activity Reporting Tool. In April, OAST launched the Coordinators Activity Reporting Tool (CART). The purpose of this tool is to gather Section 508-related data on component-level activities from each 508 coordinator within DHS. This data is added to an OAST database and compiled so we can better and more accurately report on the overall progress that DHS is making towards Section 508 compliance.

C. Document Accessibility. OAST personnel assisted DHS employees from various components in reviewing and remediating 43 document files including simple forms and memorandums to several budget-related documents ranging from 89 to 150 pages long. Additionally, OAST trained 34 individuals across DHS in creating their own accessible documents. OAST continues to encourage participation in training to increase proficiency in creating accessible documents department-wide.

D. Training. OAST personnel successfully trained 155 employees this quarter from numerous DHS components. These trainings covered document accessibility, Web testing procedures, application testing tools and procedures, accessible multimedia, and introduction to Section 508. OAST is in the process of creating a Disability Awareness Training to better educate the DHS IT Helpdesk in assisting personnel with disabilities. The course is scheduled to be completed in July and go live in August, 2008. In June, the OAST created Section 508 Web Standards and Compliance Online Training Course went live on DHScovery. OAST is currently in the process of having it loaded onto component-level LMSs that are not served by DHScovery.

E. Website Accessibility & Remediation Assessments. OAST conducted the Third Quarter Web Accessibility reviews. In all, 105 websites consisting of 276,888 files were evaluated utilizing HiSoftware AccRepair, an automated software testing application for Section 508 compliance. The results show overall improvements and continue to reflect joint efforts being made to provide accessible information to the public and employees that DHS serves.

F. Application Accessibility Assessments. OAST personnel tested 11 COTS/GOTS applications for compliance. Three applications passed including CMAX, NAVFit98 and GEMS- Object Inspector. Eight applications failed including MSA Verify, Remedy- Blind, Remedy- Low Vision, EAIR, GEMS- Image Desktop, GEMS- Law Manager and GEMS- Image Worksite. OAST personnel conducted 4 e-Learning and 6 Web application reviews this quarter. Overall, 3 e-learning courses and 1 Web application passed. One application failed to meet the Section 508 technical requirements. In some cases, OAST staff are working with developers to help them better understand what needs to be done differently in order to make their applications Section 508 compliant.

G. Reviews. OAST processed a total of 8 Enterprise Architecture reviews this quarter: Program Alignments (5) and Technical Insertions (3). OAST personnel processed a total of 141 acquisition reviews. In all, 138 were approved, 3 are currently pending and 10 National Security Exceptions (NSE) were granted.

VII. Intelligence Community Activities and Information Sharing

CRCL provides civil rights and civil liberties advice to DHS senior leaders and program managers on intelligence and information sharing programs and activities to ensure that such activities are conducted in a

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

lawful manner consistent with Constitutional, statutory, regulatory, and other legal and policy requirements, including applicable civil liberties standards. During the third quarter, CRCL contributed to departmental programs and policies, such as the State and Local Fusion Center Program, Suspicious Activity Reporting, standards for information sharing outside of the Department, and Cyber security initiatives. CRCL has also been involved in formally reviewing programs, policies, and activities through a civil liberties impact assessment. This formal review is detailed in Section IV, Civil Liberties Impact Assessments, on page 7.

CRCL also continued to actively participate in the DHS Information Sharing Coordinating Council (ISCC). In this role, CRCL co-lead an integrated project team along with the DHS Policy Office to write and develop the Department's Information Sharing Strategy. On April 18, 2008, the Secretary signed and officially released the Strategy, available at http://www.dhs.gov/xlibrary/assets/dhs_information_sharing_strategy.pdf. CRCL also provided civil rights and civil liberties training to intelligence analysts deployed to State and Local Fusion Centers. For additional information on this initiative, see Section V, Civil Liberties Institute, on page 7.

EQUAL EMPLOYMENT OPPORTUNITY

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

I. EEO Complaint Program Management

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

DHS continued to have a robust informal EEO counseling process. At the end of third quarter FY 2008, DHS provided counseling to 1247 aggrieved individuals alleging employment discrimination and other workplace issues (excluding requests for counseling from FEMA). Recognizing that Alternative Dispute Resolution (ADR) offers an opportunity for the parties to address both the instant complaint and other underlying issues in an expedited manner, DHS continued its ADR efforts. For the first three quarters of FY 2008, DHS presented ADR to 589 counselees and ADR was attempted 311 times (excluding requests for ADR from FEMA). Mediation, the most often used ADR technique, offers a substantial savings in time and money when compared to administrative processing of a typical EEO complaint.

In the first three quarters of FY 2008, the number of formal complaints filed totaled 696 (excluding complaints filed at FEMA). With regard to issues alleged during that time period, the most common were promotion/non-selection (152) and non-sexual harassment (138). Note that complaints can be filed alleging multiple issues.

B. Effective Processing of Final Actions in EEO Complaints. By the end of third quarter FY 2008, DHS CRCL received requests for 705 Final Actions (FAs) (including requests by FEMA) and issued 605 FAs. Of these closures, 78 were resolved by settlement, 36 were resolved by withdrawal, and 419 were FAs issued by CRCL. As of June 31, 2008, the inventory of FAs consisted of 496 cases.

C. Proactive EEO Compliance Program. In order to have a model EEO Program, DHS must ensure legal compliance through full and timely response to final EEOC orders directing corrective action and relief. CRCL's goal is to have an EEO compliance program that is proactive, i.e., monitors relief, ensures implementation of remedies, and informs EEOC of the status of its cases. By the end of third quarter FY 2008, CRCL closed 5 cases for a pending compliance inventory of 60 cases.

II. Headquarters Equal Employment Opportunity

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

- Participated in job fairs for disabled veterans at both Fort Meade and the Disabled American Veterans Career Fair;

- Continued to work with Operation War Fighter and the Walter Reed Army Medical Center.
- Presented at the Department of Transportation EEO Director's Summit on hiring individuals with disabilities;
- Briefed over 100 Office of Inspector General managers and supervisors on HQ's EEO program, Rights and Responsibilities and Mediation (ADR); and
- Presented at the Deaf and Hard of Hearing Conference for Federal employees on Schedule A hiring authorities.

III. Tribal Colleges and Universities

On April 25, 2007, CRCL submitted the Department of Homeland Security (DHS) Fiscal Year 2007 Annual Federal Performance Report on Executive Agency Actions to Assist Tribal Colleges and Universities (TCUs) to the Office of the White House Initiative on Tribal Colleges and Universities, Department of Education. Highlights from this report include a significant increase of \$229,051 in financial assistance to TCUs from \$59,350.00 in FY 2006.

CONCLUSION

As required by the 9/11 Act, this third quarter report provides a summary of CRCL's activities from April 1, 2008, to June 30, 2008. CRCL will continue to work with Congress, its colleagues in other Federal departments and agencies, and the public to ensure our civil rights and civil liberties are protected in our homeland security efforts.