



U.S. House of Representatives
Committee on Transportation and Infrastructure

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March 31, 2009

SUMMARY OF SUBJECT MATTER

TO: Members of the Subcommittee on Coast Guard and Maritime Transportation

FROM: Subcommittee on Coast Guard and Maritime Transportation Staff

SUBJECT: Hearing on “Civil Rights Services and Diversity Initiatives in the Coast Guard”

PURPOSE OF THE HEARING

On Wednesday, April 1, 2009, at 2:00 p.m., in Room 2167 of the Rayburn House Office Building, the Subcommittee on Coast Guard and Maritime Transportation will convene to receive testimony regarding civil rights services and diversity initiatives within the Coast Guard. The hearing will also consider the findings of a review of the Coast Guard’s Office of Civil Rights (OCR) entitled “United States Coast Guard Office of Civil Rights: Program Review,” conducted at the request of the Office’s Director by Booz | Allen | Hamilton and released to the public in February, 2009 (the “Booz | Allen | Hamilton report”).

Overview of the Office of Civil Rights

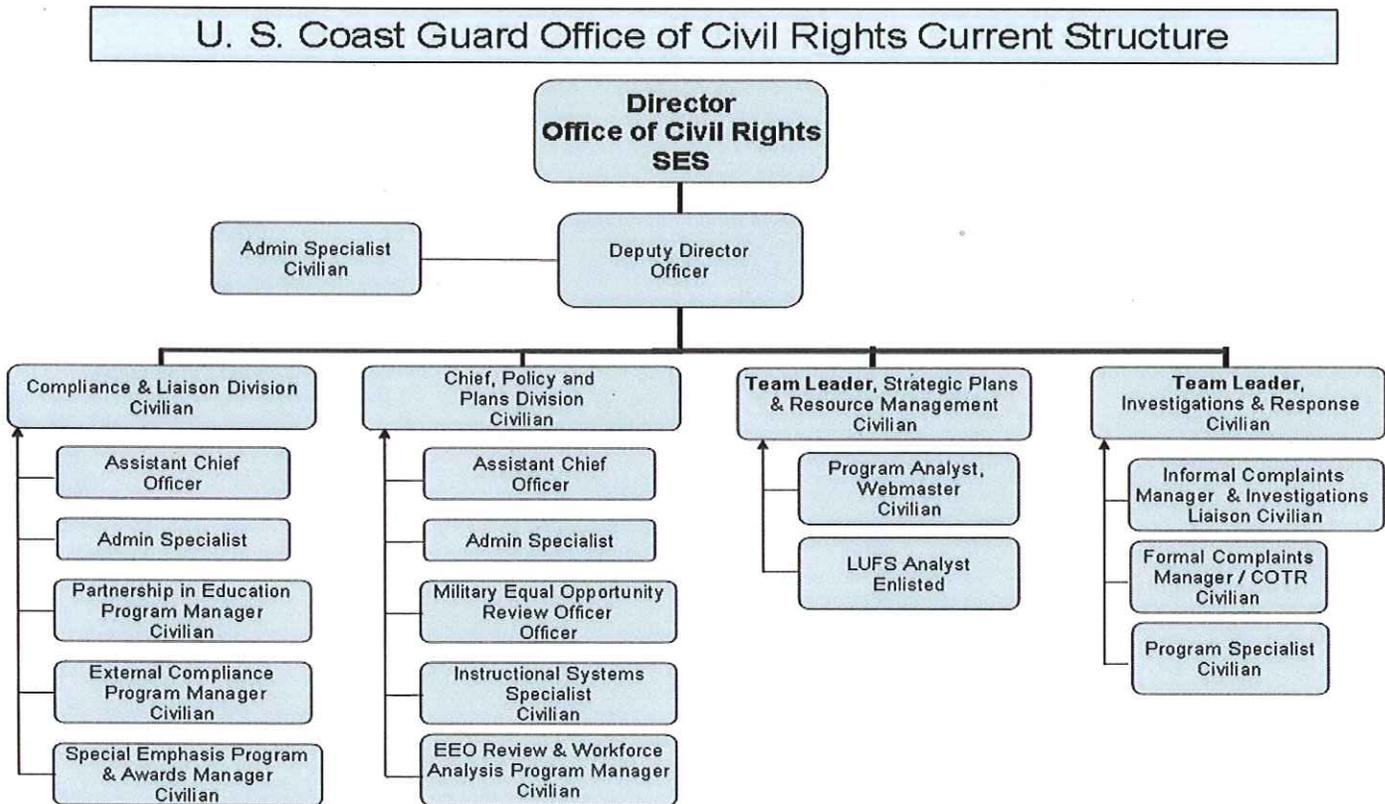
The OCR, located at Coast Guard headquarters, provides civil rights services to the officers, members, and employees of the Coast Guard and is tasked with helping to ensure the Coast Guard’s compliance with equal employment opportunity regulations and related federal laws, policies, and guidelines.

According to the OCR, its mission is “[t]o foster and maintain the model workplace in support of mission execution.”

The OCR consists of the following divisions:

- Compliance and Liaison Division, which implements the Coast Guard’s Affirmative Action and related programs established to analyze the service’s workforce and support the recruitment of a diverse pool of job applicants;
- Policy and Plans Division, which implements Equal Opportunity reviews and manages compliance with civil rights legislation and Equal Employment Opportunity (EEO) laws and related procedures to ensure equal participation in the workforce;
- Investigations and Response Team, which manages the processes through which both informal and formal EEO complaints are handled and implements the Coast Guard’s Alternative Dispute Resolution process; and,
- Strategic Plans and Resource Management Team, which oversees the OCR’s budget and administration functions, maintains the OCR webpage, and compiles OCR-related data.

An overview of the OCR’s current organization is provided in the chart below.



Source: U.S. Coast Guard

The OCR is led by a civilian Director and a military Deputy Director. The Director reports directly to the Commandant of the Coast Guard, in keeping with 29 C.F.R. §1614.102(b)(4), which requires that the Director of EEO functions in an agency report directly to the head of the agency.

The current OCR Director was hired in April 2006.¹ The Booz | Allen | Hamilton report indicates that the former Director of OCR retired in September 2004; for the next 19 months after that date, the OCR lacked a Director and was managed by the Deputy Director (a military officer).² In addition, OCR employs 17 full-time civilian and five military Civil Rights Service Providers.

The Coast Guard maintains two programs to ensure equal opportunity and access among its personnel. Civilian employees of the Coast Guard are covered by the federal EEO program under the provisions of 29 C.F.R. 1614. Importantly, members of the Armed Forces, including the Coast Guard, are not covered by Title VII of the Civil Rights Act of 1964, and thus are not covered by the EEO program that covers civilian employees of federal agencies. However, the Department of Defense and the Department of Homeland Security (DHS) each maintain systems to ensure that members of the Armed Forces are not subjected to discriminatory practices. The officers and enlisted members of the Coast Guard are served by the Coast Guard's Equal Opportunity (EO) program; they can also bring complaints under the Uniform Code of Military Justice.

Within each field command, the Commanding Officer "is considered the senior EO officer for the particular command."³ Personnel who provide civil rights services are hired locally by individual commands, and report to the leadership of those commands. The Booz | Allen | Hamilton report indicates that the Coast Guard employs 29 personnel in field commands as full-time civil rights service providers, of whom a "significant portion" are members of the Coast Guard.⁴

There are also a number of individuals who have the provision of civil rights services as a collateral duty. According to the Coast Guard, a collateral duty civil rights officer is required to be assigned to each field unit with 50 or more personnel (whether military or civilian personnel or a combination thereof). The Coast Guard reports that there are more than 400 collateral duty civil rights officers.

Affirmative Program of Equal Employment Opportunity

Federal law requires that all employment decisions (including hiring decisions and promotion decisions) "be free of discrimination on the basis of race, color, religion, sex, national origin, reprisal or disability."⁵ Agencies are required by law to take specific and proactive steps to ensure that they meet this standard; the Equal Employment Opportunity Commission (EEOC) published Management Directive 715 to clarify agencies' specific responsibilities. Among other requirements, federal agencies are required "to take proactive steps to ensure equal employment opportunity for all their employees and applicants for employment."⁶ As part of this requirement, "[a]gencies must regularly evaluate their employment practices to identify barriers to equality of opportunity for all

¹ *United States Coast Guard Office of Civil Rights: Program Review*, Booz | Allen | Hamilton, February 5, 2009, page 2-1.

² *Ibid.*

³ *Ibid.*, page 2-2.

⁴ *Ibid.*, page 2-1.

⁵ Equal Employment Opportunity Commission, Management Directive 715, Introduction.

⁶ Management Directive 715, Part A, Section 717 of Title VII: Proactive Prevention of Unlawful Discrimination.

individuals” and when barriers are identified, they must “take measures to eliminate them.”⁷ The regular evaluation required of agencies includes a requirement that each agency complete an annual self-assessment to identify barriers, develop strategies for eliminating barriers, and monitor progress toward the elimination of previously identified barriers.

Barriers are described in Management Directive 715 as any policies, practices, or other agency actions that “impede free and open competition in the workplace” and prevent individuals of any racial or national origin, or those with a disability, or of either sex “from realizing their full potential.”⁸

The annual self-assessment reports developed by agencies, known as MD-715 reports, are submitted to the EEOC. The EEOC reviews them for content and approves or disapproves specific remediation plans to eliminate barriers. The EEOC also conducts periodic on-site assessments of agencies’ EEO programs.

Complaint Process

If an individual believes that he or she may have been the victim of discriminatory actions in employment decisions, that individual may file a complaint with his/her employing agency.

The Coast Guard’s military and civilian workforces begin the EO or EEO complaint processes by contacting a civil rights service provider (at this stage, their notification can be viewed as a “pre-complaint”). Under the EO process for military members, the command in which the issue giving rise to the notification has occurred has 15 days to try to resolve the issue; if that process is not successful, a counseling process begins which should be concluded within 30 days unless the person making the notification agrees to an extension of the counseling process. Under the EEO program for civilian employees, the 30-day counseling process begins immediately upon an individual’s submission of a pre-complaint to a civil rights service provider. During the counseling process, an EO or EEO counselor will advise the aggrieved party of the procedures in the EO or EEO process and seek to achieve resolution of the issue that provoked the notification. Agencies are also required to offer alternative dispute resolution processes, which the individual making the notification of a possible EEO or EO violation can elect to utilize.

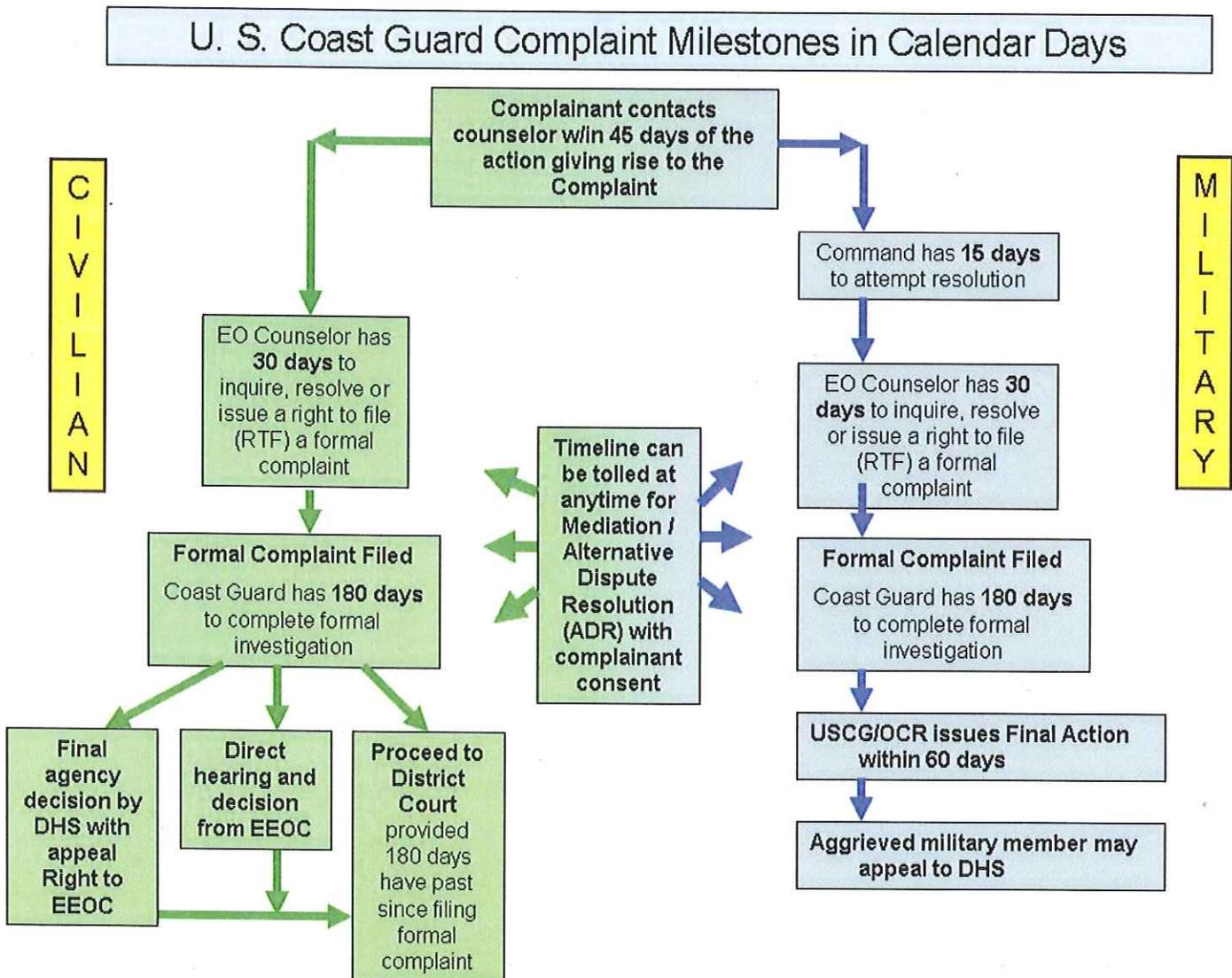
If counseling does not bring resolution to the matter, the aggrieved party can file a formal complaint; complaints must be filed within 15 days after the counseling process ends. In the Coast Guard, complaints brought under both the EEO and EO processes are sent to their Atlantic or Pacific Area Equal Opportunity Manager or the Headquarter Area Manager as appropriate for review and assessment. The Area Equal Opportunity Manager will prepare supporting documentation and must ensure that the file is complete; that Manager will also recommend to the OCR whether to accept. Importantly, complaints can be rejected only on procedural grounds – such as lack of timeliness or failure to specify a relevant claim of discrimination. OCR will then assign a contract investigator to the matter; the investigator will speak with both the complainant and the individual against whom the complaint has been lodged and collect all information pertinent to the case.

⁷ Ibid.

⁸ Ibid.

The Coast Guard has 180 days under both the EEO and EO processes to complete an investigation from the time the complaint is filed (the EEO timeline is governed by 29 C.F.R. 1614.106(e)(2)). At the end of the 180-day period, a complainant under the EEO process can: elect to have the agency review the case file and render a Final Agency Decision (FAD), which will be rendered by DHS; request a hearing from an Administrative Judge with the EEOC; or take the matter to the appropriate District Court. A complainant under the EO process can elect only for a FAD; an EO complainant does not have the option of requesting a hearing before an EEOC Administrative Judge or taking the matter to a District Court. Both civilian employees and members of the Coast Guard can also elect to withdraw their complaints without seeking a final resolution. The Coast Guard reports that the average duration of time between the filing of a complaint under both the EEO and the EO processes until the closure of the complaint is 18 months.

The stages of the EEO and EO complaint management processes are outlined in the chart below.



Source: U.S. Coast Guard

According to data provided by the Coast Guard, in fiscal year 2008, a total of 111 pre-complaints were initiated through the EEO and EO processes. Of these, 8 pre-complaints – all filed by civilians – were resolved by counseling either within the specified 30-day period or during extension periods agreed to by the aggrieved parties.

From among the 111 pre-complaints initiated through the Coast Guard’s EEO or EO processes, 75 formal complaints were filed. Thirty complaints were based on a single base factor (such as discrimination on the basis of race, sex, color, age, or disability). Twenty-three complaints were based on two bases (such as race and sex, race and age, or age and disability). Fourteen complaints were based on three bases, 6 complaints were based on four bases, and two complaints were based on five bases. Of these 75 complaints, 50 were filed by civilian employees of the Coast Guard and 25 were filed by members of the Coast Guard (tracking data does not show how many of those filing complaints were officers and how many were enlisted personnel).

In fiscal year 2008, five cases – each of which originated in a previous year – were concluded with findings that discrimination had occurred.

The Booz | Allen | Hamilton report compares complaint filings in the Coast Guard with complaint filings in select other DHS component agencies, as shown below.

Department of Homeland Security Component Complaint Filings⁹

DHS Component	FY 2006 Workforce	FY 2006 Formal Complaints	FY 2007 Workforce	FY 2007 Formal Complaints
Transportation Security Administration	56,279	297	57,853	345
Coast Guard	46,484	60*	48,473	58*
Customs Service	43,545	263	47,606	267
Federal Emergency Management Agency	27,590	108	16,859	150

*Includes military and civilian complaints.

Source: U.S. Coast Guard

Findings of the Booz | Allen | Hamilton Program Review Report

⁹ *United States Coast Guard Office of Civil Rights: Program Review*, Booz | Allen | Hamilton, February 5, 2009, page 4-17.

In April 2008, the Director of the OCR asked DHS to commission and supervise an independent examination of the OCR and of the civil rights services provided throughout the Coast Guard. The Director asked for the assessment to “determine the extent to which the structure, policies, procedures, and personnel of the Office of Civil Rights are meeting Coast Guard’s equal opportunity missions, and whether it performs in accordance with the Equal Employment Opportunity Commission (EEOC) regulations set forth at 29 C.F.R. 1614; EEOC’s MD110 and MD 715; the Coast Guard Equal Opportunity Manual, COMDTINST M5350.4.B (EOM), and the Uniform Code of Military Justice (10 U.S.C. Chapter 47).”¹⁰ The Director also asked that the independent examination study such things as the office climate in the OCR, the management of the confidential information, and the effectiveness of office personnel.

In her request for this independent review, the Director also noted that the OCR and many of its personnel had been the subject of numerous accusations lodged in web logs (blogs), which she noted “report employee dissatisfaction that has allegedly arisen in the recent past.”¹¹

The Booz | Allen | Hamilton team focused in large part on identifying “organizational challenges that may affect the productivity of the civil rights program” and recommending “areas for organizational change that would enable OCR to increase its overall efficiency and effectiveness.”¹² The report presents a number of findings that indicate significant challenges in some aspects of the administration of the Coast Guard’s civil rights services. Central findings from the Booz | Allen | Hamilton report are summarized below.

- **OCR Staff Issues:** The Booz | Allen | Hamilton report describes a number of climate issues in the OCR office, which it states are “lingering signs of the past behaviors passed on through the organizational culture and inherited by the current management team.”¹³ The report indicates that the previous Director of OCR (who had a more than 20-year career in that position) led an office that was “formal, conservative, and somewhat autocratic.”¹⁴ The interviews conducted by the Booz | Allen | Hamilton team revealed that staff reported “the office climate began to deteriorate in summer 2003 and continued to decline” until the then-Director’s retirement in 2004.¹⁵ After that, the OCR lacked stable leadership for a 19-month period during which it was managed by a succession of military officers.¹⁶ The Booz | Allen | Hamilton team reported that they found that in that period, senior staff “unofficially ran the office,” good discipline was not maintained, and there was a “lack of general well-being throughout the office.”¹⁷ Importantly, the team emphasizes that “former employees readily stepped forward to attest that a climate of tension, distrust, and divisiveness predates the current director.”¹⁸ Nonetheless, interview feedback suggests that the promulgation of blog reports – many negative – “have had an adverse impact on morale

¹⁰ Memo of T.A. Dickerson, Director of OCR, to Carmen H. Walker, Deputy Director, Equal Employment Opportunity Programs, DHS, 25 April 2008.

¹¹ Ibid.

¹² Booz | Allen | Hamilton report at page 1-2.

¹³ Ibid., 5-3.

¹⁴ Ibid., page 5-2.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Ibid., pages 5-2 and 5-3.

¹⁸ Ibid., page 5-3.

in the office in that OCR and its programs are frequently the subject of unsubstantiated criticism.”¹⁹

- **Disconnect Between OCR and Field Civil Rights Staff:** The Booz | Allen | Hamilton report describes a “disconnection” between OCR personnel and civil rights staff in Coast Guard Areas and Districts, which it found to be “a function of the overall USCG (United States Coast Guard) civil rights organizational framework through which the Field Civil Rights Service Providers report directly to their respective commands rather than to OCR.”²⁰ Interactions appeared focused around training and development events and “structured teleconference calls.”²¹ The team found that this structure “lacks the organizational accountability achievable from a cohesive, centralized reporting structure” and “has resulted in inconsistent policy application and lack of uniformity.”²²
- **Management of Confidential Information is Inadequate:** In 2007, DHS issued a memorandum instructing its constituent agencies to promulgate instructions on the handling of personally identifiable information (PII). The Coast Guard established a “Cross Functional CG Privacy Team” to assess the handling of personnel-related data in both paper and computerized data formats. The CG privacy Team “completed the DHS Self Assessment for Personnel-Related Data and ensured that all employees with access to personnel-related data have taken the mandated private and security awareness training.”²³ Booz | Allen | Hamilton found that these measures are apparently not ensuring the proper handling of personnel-related data, and reported that “much of the handling of documents varies as a function of command practices and is not conducted in a prescribed and standardized manner”; “files containing PII were observed unattended and unlocked at Field locations, although it was noted that there is limited storage space for complaint files.”²⁴ The team concluded that “the lack of a comprehensive strategy that prescribes uniform and secure management of sensitive data exposes employees and the agency to increased risk with respect to disclosing personnel-related and complaint-related information.”²⁵ In reviewing blog sites, the team found that “improper disclosures of information regarding complaint activity has occurred” and that “inconsistent privacy and records management programs are used and based on local practices and policies.”²⁶ The team indicates that OCR has worked to “curtail” the release of PII, including initiating a complaint with Coast Guard Investigative Services,²⁷ and recommended that the adoption of Standard Operating Procedures, which would better ensure the appropriate handling of PII and related materials.

In addition to the system-wide problems with the management of PII found by the team, the team also found that EEO Counselors who are unfamiliar with the handling of complaints “have inappropriately released PII to Responsible Management Officials during

¹⁹ Ibid.

²⁰ Ibid., page 2-5.

²¹ Ibid.

²² Ibid., page 2-7.

²³ Ibid., page 3-1.

²⁴ Ibid., page 3-1.

²⁵ Ibid.

²⁶ Ibid., page 3-2.

²⁷ Ibid.

the complaint process in violation of the Privacy Act of 1974.”²⁸ The team also found that the database in which complaint files are stored may be accessible to people who are not authorized to access the information.²⁹ Finally, the team found that the Equal Opportunity Manual itself may outline procedures that violate certain privacy protections afforded by the Privacy Act of 1974 to those who file complaints.³⁰

- **Barrier Analysis Inadequate:** The Booz | Allen | Hamilton team found that “there is very little workforce analysis ongoing in the field or examination of barriers that may inhibit equal employment opportunity in the workplace.”³¹ The team found that the agency’s MD-715 Report contains Executive Summaries, “which are robust and provide comprehensive information on affirmative employment activities,” but that “there is little indication of ongoing strategic analysis by the Policy and Plans Division to support the findings and next steps delineated in the MD-715 Report.”³² The report does note the success of the Coast Guard’s Equal Opportunity and Civil Rights Individual Awards programs in recognizing individuals and units for their accomplishments as well as of the National Partnership in Education Program. However, the team found that the OCR’s Compliance and Liaison Division, tasked with leading Affirmative Action programs and supporting the recruitment of a diverse workforce, had no “reporting activities” or “processes” by which the Division measures the impact of Special Emphasis programs on the achievement of diversity goals and that there was little guidance available in the Equal Opportunity Manual to the personnel who are responsible for implementing Special Emphasis programs as a collateral duty.³³
- **Equal Opportunity Reviews Lack Metrics to Define Success:** The Booz | Allen | Hamilton report raised questions about the efficacy of the current Equal Opportunity review process, including the fact that the Equal Opportunity Manual “lacks specificity regarding the purpose, format, and structure of EO Reviews” and the fact that the EO Review process “lacks metrics to define success.”³⁴ Further, when the process identifies problems within a command, root cause analyses are not performed to identify the cause of the problems; as a result, commands tend to “narrow problems to discrete areas for improvement.”³⁵ OCR has set a goal of 22 EO Review site visits, but the Booz | Allen | Hamilton could not find “a business case for the annual target goal of 22 EO Reviews”, and noted that many agencies have forgone on-site reviews in favor of other mechanisms for gathering data on the extent to which equal opportunities are assured.³⁶
- **EEOC Counselors Untrained:** The team found that “in some instances USCG personnel are not receiving training as required by the EEOC.”³⁷ In particular, the team found that not all individuals serving as EEOC Counselors are “documented as having satisfied the

²⁸ Ibid.

²⁹ Ibid.

³⁰ Ibid., page 3-3.

³¹ Ibid., page 4-2.

³² Ibid., page 4-7.

³³ Ibid., page 4-3.

³⁴ Ibid., page 4-11.

³⁵ Ibid., page 4-12.

³⁶ Ibid., page 4-10.

³⁷ Ibid., page 4-13

legislatively mandated 32-hour training requirement for new federal EEO Counselors or, the required 8 hours of continuing EEO Counselor training;" in some instances, "delinquencies as great as 5 years" were noted.³⁸ Further, the report found that those who have EEO as a collateral duty "often do not possess the requisite experience to serve as effective EEO Counselors and that the skillset required is not being attained through the EEO Counselor training and/or periodic counseling assignments."³⁹ The Coast Guard has indicated that OCR is not always advised whenever a new person is placed in a civil rights services provider assignment; further, OCR is not always apprised when a person is assigned the provision of civil rights services as his/her collateral duty and the Coast Guard reports that the assignment of this collateral duty can change rapidly (even within less than a year). The OCR does organize periodic training conferences for both full-time and collateral duty civil rights service providers.

- **Handling of EEO Complaints Inconsistent:** The team found that unlike other agencies within DHS, the EEO complaint processing function in DHS is very decentralized. The team found that Coast Guard "Areas and Districts have developed their own sub-processes that induce wide variation" in complaint management.⁴⁰ As a result, the team found instances in Civil Rights Service Providers were "attempting to independently resolve complaints on their own, thereby circumventing the EEOC requirements;" in other instances, Counselors "encouraged prospective complainants to file grievances and not participate in the EEO counseling process."⁴¹ The team noted that such variations in the processing of complaints "puts the organization at-large at risk because there is no way to fully ensure that the complaint resolution methods and techniques employed are in compliance with 29.C.F.R. 1614."⁴² The team also noted that while formal complaints are received by OCR, informal complaints are "tracked locally and are not consistently reported to OCR."⁴³ The Booz | Allen | Hamilton team emphatically stated that "the command structure does not routinely possess the requisite civil rights subject matter expertise to provide input and guidance" into the handling of complaints; and "at various times, commands have delegated authority for complaints to persons not authorized to make decisions or possessing the requisite subject matter expertise to make such decisions."⁴⁴
- **Civil Rights Related Training Issues:** The Booz | Allen | Hamilton report indicates that the Coast Guard has no formal training in place to educate personnel, including individuals in leadership positions, on EEO-related policies and procedures.⁴⁵ The service does require its personnel to undergo regular training on Human Relations Awareness and Sexual Harassment Prevention; however, some personnel do not receive these training programs, particularly the Human Relations Awareness training, at the required times, the courses were not found to be "standardized," and after their initial review by the Defense Equal

³⁸ Ibid.

³⁹ Ibid., page 4-14.

⁴⁰ Ibid., page 4-17.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid., page 4-16.

⁴⁴ Ibid., page 4-17.

⁴⁵ Ibid., page 4-13.

Opportunity Management Institute, “there is no indication that these materials are reviewed thereafter for content accuracy and training best practices.”⁴⁶

➤ **OCR Staff Lack Understanding of the “Vision, Business Goals, and Key Success Indicators” of OCR:** The Booz | Allen | Hamilton report indicates that staff members in the OCR did not “understand the vision, business goals and key success indicators of OCR.”⁴⁷ Additionally, work products developed by staff for presentation to the OCR Director were reported as often containing “typographical and grammatical errors and substantive inconsistencies” and “required substantial changes before finalization.”⁴⁸ Additionally, the Booz | Allen | Hamilton team found that:

- Business practices at the OCR have never been formally defined and the office lacks Standard Operating Procedures.⁴⁹ As a result, Field staff interviewed by the team “indicated that they perform their duties on the basis of informal understandings, their own interpretation of 29.C.F.R. 1614, and their understanding of the associated functional requirements.”⁵⁰
- Some senior staff interviewed noted “a lack of teamwork among the senior staff and the Director” of OCR and that staff meetings could at times lead to interpersonal “conflict and disagreements” that could even involve the “disclosure and discussion of protected information.”⁵¹
- Even weekly staff meetings within OCR appear to be instances when climate issues can come to the foreground. Thus, the team commented on “the propensity of some participants to initiate conflict and disagreements and, as well, insist on disclosure and discussion of protected information.”⁵²

➤ **Assignment of Military Personnel to the OCR:** Regarding the military personnel assigned to the OCR⁵³, the Booz | Allen | Hamilton report found that they “are assigned to critical functions within the office and often enter with minimal, if any, previous EEO/civil rights experience” and then “leave their post just as they are becoming oriented to the position.”⁵⁴ Thus, the team stated that “[a]lthough the military personnel add tangible value during their tours with OCR, the institutional knowledge that is lost when they leave bi-annually is significant and affects the organization.” Additionally, the team found that some of the military officers assigned to OCR “perform duties that are significantly below their skillsets,” which “can have an adverse impact on their careers” and has led some to seek work opportunities outside of their assignments to better position themselves for promotion.⁵⁵

⁴⁶ Ibid.

⁴⁷ Ibid., page 2-3.

⁴⁸ Ibid., page 4-9.

⁴⁹ Ibid., page 2-6.

⁵⁰ Ibid.

⁵¹ Ibid., page 2-5.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid., page 2-1.

⁵⁵ Ibid., page 6-2.

- **Some Blog Reports “False and Inaccurate”:** The report indicates that while it could not examine every blog accusation, it found some to be “false and inaccurate,” including claims that “17 individuals have left the USCG civil rights organization as the direct result of dissatisfaction with the Director of OCR” and claims that “the Director has not visited commands.”⁵⁶

The Booz | Allen | Hamilton team made numerous recommendations for improving civil rights service provision within the Coast Guard. Importantly, the team emphasized that the “implementation of recommendations will need to be openly endorsed at the highest level of the Coast Guard organization to ensure the cooperation of, and participation by, key stakeholders.”⁵⁷ The team’s crosscutting recommendations include the following:

- Assess the skills of civil rights service providers and prepare a comprehensive skills development program to ensure that providers are prepared to meet all requirements;
- Assess training needs throughout the Coast Guard and prepare suitable training materials to respond to identified gaps;
- Assess the workload of the OCR and utilize the results to improve the functioning and management of civil rights services;
- Revise the service’s Equal Opportunity Manual to better guide civil rights service provision in the Coast Guard;
- Develop standard operating procedures for civil rights services and for each division within OCR; and
- Strengthen the strategic planning processes within the OCR to ensure that each division is fully supporting the Office’s missions.⁵⁸

The Booz | Allen | Hamilton team also recommended: organizational changes within OCR, such as the hiring of a Senior Advisor to the Director; institution of a records management program to ensure the effective handling of sensitive personnel information; the EO review process be completely re-designed; and EEO counselors have all required training. Importantly, the team also recommended that the Coast Guard “[r]ecruit and hire full-time experienced EEO Counselors and Civil Rights Service Providers and discontinue the use of collateral duty staff” and hire contractors where needed to handle workload volumes.⁵⁹

In a memorandum provided on the Coast Guard’s website with the Booz | Allen | Hamilton report, the Commandant of the Coast Guard, Admiral Thad Allen, wrote that he has asked the Director of the OCR to brief the Coast Guard’s Leadership Council on the recommendations contained in the Booz | Allen | Hamilton report, particularly those that “need the support of other senior leaders to implement longer-term Service-wide

⁵⁶ Ibid., page 2-3.

⁵⁷ Ibid., page 7-1.

⁵⁸ Ibid., pages 7-1 and 7-2.

⁵⁹ Ibid., page 7-10

solutions.”⁶⁰ The Commandant also wrote that he has tasked the Leadership Council to “evaluate broad issues of organizational structure, Human Resource practices and needs related to our Equal Employment Opportunity program, diversity, and climate, as well as address skills assessments and training, workload analysis, upkeep of policy directives, and promulgation of Standard Operating Procedures.”⁶¹

2001 Review of the Coast Guard’s Civil Rights Programs

The Coast Guard commissioned a review of its civil rights program in 2001. This review, prepared for the Commandant, Civil Rights Directorate, was conducted by KPMG Consulting and issued on September 21, 2001. The report states that it was conducted at the request of the Commandant through the Civil Rights Directorate (then known as G-H) and constituted a “Top-to-Bottom Review of the Coast Guard’s Civil Rights/Equal Opportunity and Equal Employment Opportunity (CR/EO and EEO) Programs.”⁶² This study included a review of the Air Force’s Military Equality Opportunity and civilian Equal Employment Opportunity programs for the purposes of enabling comparisons to be drawn between these programs and the Coast Guard’s programs. Many of the issues that are identified in the Booz | Allen | Hamilton report are echoed in this earlier KPMG report.

Among its general findings, the KPMG team reported that interviews with “command leadership, service providers, and focus groups” revealed that there was an “inconsistency” between the way CR/EO and EEO programs were described in the program manual and how they were “actually implemented,” and this gap “created a perception that the program is not necessarily a priority among senior leadership.”⁶³

In its assessment of the human relations awareness and sexual harassment training programs, the KPMG team found that training materials for these two programs was “rarely updated” and that the quality of training programs depended largely on the abilities of the individual conducting the training.⁶⁴ Poor attendance at these training sessions by “senior leadership” was reported and this was found by the KPMG team to have left among the focus groups it interviewed “the impression that the training and the program is not a priority.”⁶⁵ The KPMG team also noted that “gaps in compliance exist in nearly every facet of the Human Relations Awareness and Sexual Harassment Prevention training.”⁶⁶

Regarding the Coast Guard’s implementation of the complaint management process, the KPMG team found that Coast Guard personnel were very familiar with how to access the complaint process and that “Civil Rights service providers were widely known at field installations visited.”⁶⁷ Further, the team found that the “Command also was well aware of the initial access points to the

⁶⁰ *Memorandum Regarding Program Review – Office of Civil Rights*, Commandant Thad Allen, February 19, 2009.

⁶¹ *Ibid.*

⁶² *United States Coast Guard: Top to Bottom Review of Civil Rights/Equal Opportunity and Equal Employment Opportunity Programs*, KPMG Consulting, Contract GS 23F-9796H, Task DTG23-01-A-HHA313, 21 September, 2001, page 1.1.

⁶³ *Ibid.*, page 4.1.1.5.

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*, page 4.1.1.6.

⁶⁶ *Ibid.*, page 4.1.1.8.

⁶⁷ *Ibid.*, page 4.1.2.5.

complaint process” and “expressed a willingness to take questions and concerns to the CRO.”⁶⁸ However, the KPMG team reported that the complaint process was apparently being used to settle personnel matters that did not necessarily involve acts of discrimination. Thus, the KPMG team reported it “heard of numerous cases where initial mishandling of a personnel concern led to the filing of a complaint due to perceived non-responsiveness by the supervisor” – a problem that “was particularly pointed out by civilians in relation to military supervision of civilian staff.”⁶⁹ Expanding on this point, the KPMG team wrote, “Service providers and commanding officers alike indicated that, particularly on the civilian side, many cases they receive are either administrative issues or personality conflicts between the aggrieved and the accuser.”⁷⁰

The KPMG report indicates that once complaints were filed, they were not handled in a timely and efficient manner. Complaints could take a year or more to reach final resolution; the KPMG team found that the average military complaint reached resolution after 320 days while the average civilian complaint was resolved in 410 days.⁷¹

Regarding military personnel who provide civil rights services as a collateral duty, the KPMG team found that there “is great variation in the quality of collateral duty EEOC Counselor service performance.”⁷² In some instances, the team found that individuals with “personal agendas” were seeking out collateral duty positions and were even conducting their own “informal investigations” and reporting their findings with complaint documents.⁷³ The KPMG team further reported that “a substantial amount of evidence gathered throughout our several weeks in the field and at Headquarters indicated that service providers do not consistently maintain impartiality” and “were not remaining neutral in their handling of various complaints”, and that eventually, “a number of EEO Counselors and other Civil Rights service providers” began filing their own complaints.⁷⁴ The KPMG report also indicated that at that time, the number of complaints resolved at the informal or counseling stage was declining. Thus, the KPMG team reported that “the number of complaints resolved informally has decreased for both civilian and military personnel in absolute terms and as a percentage of total complaints filed.”⁷⁵

The KPMG report raises a number of questions about EEO and affirmative action programs. At the time the KPMG report was prepared, the Coast Guard was implementing what was known as the Coast Guard Affirmative Action Plan (CGAAP). The goals of the plan were to be tailored and “routinely revised” to respond to the findings of the annual “assessment of the status of women and minorities in the Coast Guard.”⁷⁶ The headquarters G-H unit was “primarily responsible for development, implementation, and revision of the CGAAP,” but the KPMG team found that the CGAAP development and revision process was also not working at an optimal level.⁷⁷

⁶⁸ Ibid., page 4.1.2.5.

⁶⁹ Ibid., page 4.1.2.6.

⁷⁰ Ibid.

⁷¹ Ibid., page 4.1.2.7.

⁷² Ibid.

⁷³ Ibid., page 4.1.2.8.

⁷⁴ Ibid., page 4.1.2.10.

⁷⁵ Ibid., page 4.1.2.8.

⁷⁶ Ibid., page 4.1.3.2.

⁷⁷ Ibid., page 4.1.3.3.

Thus, the KPMG team wrote that the G-H unit “does not appear to be disseminating sufficient information about how to implement the CGAAP” and while it “does provide the field units with . . . workforce imbalance data,” it “does not specify how to interpret the information and establish initiatives to resolve the issues.”⁷⁸ Further, the KPMG team reported that numerous delays were observed in data collection and dissemination practices and that “As monitoring and reporting are at the core of the program’s priorities,” such delays “disable any effort to modify Coast Guard procedures in support of CGAAP goals.”⁷⁹ This was found to be “particularly true regarding personnel and recruiting procedures.”⁸⁰

The KPMG team also found that the Coast Guard’s Affirmative Employment Plan was “not fully implemented.”⁸¹ The KPMG team found that reports on affirmative action “are completed and disseminated, but report interpretation and action is left up to the individual unit commands, who may or may have the required time and knowledge to legally apply the affirmative action program as a factor in hiring and promoting.”⁸²

Regarding EO reviews, the KPMG team found that prior to its study, the G-H unit had not regularly conducted EO reviews. The team further found that the “[r]esults of the program proved difficult to measure in light of the lengthy cessation of its operation” and that there were “no measures or metrics . . . by which to evaluate local command’s program performance.”⁸³

1998 Review of Coast Guard Civil Rights Services

The Coast Guard commissioned another review of its civil rights program in 1998. That review was conducted by PriceWaterhouseCoopers (PwC); it was prepared for the Commandant, Civil Rights Directorate, and issued on May 10, 1999.⁸⁴

During the development of the report, members of PwC interviewed 25 personnel within the Coast Guard’s Civil Rights headquarters unit, Human Resources unit at headquarters, Personnel Command, Recruiting Command and the Department of Transportation Civil Rights Office (at that time, the Coast Guard was still part of the Department of Transportation).

During the initial meeting between the Coast Guard’s Senior Project Management Team and PwC, the parties discussed the current state and PwC included in its report notes on what was discussed. The PwC team reported that people in the field perceived Civil Rights to be a Headquarters’ program; field officers reported that because of their extensive workload, they did not focus on civil rights issues. It was also discovered that “[u]nit commanders will try to solve discrimination complaints informally to avoid an administrative burden.”⁸⁵ The parties discussed the

⁷⁸ Ibid., page 4.1.3.4.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Ibid., page 4.1.3.6.

⁸² Ibid., page 4.1.3.6-4.1.3.7.

⁸³ Ibid., page 4.1.5.3.

⁸⁴ *United States Coast Guard: Top to Bottom Review of Civil Rights Program*, PriceWaterhouseCoopers, Contract GSA-23F-9758H, Task DTCG23-98-F-HHA187, May 10, 1999.

⁸⁵ Ibid., Minutes of Meeting held on September 2, 1998.

extended amount of time it appeared to take to get complaints resolved.⁸⁶ Also, there was no standardized provision of diversity training for field collateral duty civil rights personnel.⁸⁷

Echoing more recent reports, the 1999 report concluded that “the current civil rights program is relatively ineffective at preventing civil rights complaints and the current program office at headquarters is inefficient in discharging their responsibilities.”⁸⁸ The report recommended that “the Coast Guard should focus attention on increasing diversity and preventing civil rights issues from arising; the civil rights program office should be integrated into the human resources function.”⁸⁹

EEOC Feedback to the Coast Guard

In May 2008, the EEOC provided information to the Coast Guard on trends it observed in its MD-715 reports from fiscal years 2004 to 2006 as well as through review of other relevant materials. The EEOC’s letter indicates that many of the challenges identified in assessments of the Coast Guard’s civil rights programs by independent third-parties have been identified by the Coast Guard itself and reported to the EEOC in past years.

In its feedback letter, the EEOC wrote that in fiscal years 2004 and 2005, the Coast Guard “reported that agency personnel policies, procedures, and practices were not examined regularly to determine whether there are hidden impediments to equality of opportunity.”⁹⁰ The Coast Guard had, however, initiated a process intended to identify barriers and formulate corrective plans by September 2007. To that end, the service reviewed personnel actions and grievances and prepared statistical summaries of complaints and other data; however, the Coast Guard reported that “the information obtained was inconclusive,” but that data collection and analysis will continue.⁹¹

The EEOC also noted that in its fiscal year 2004 report, the Coast Guard “indicated that EEO officials did not have the knowledge, skills, and abilities to carry out the full duties and responsibilities of their positions.”⁹² In fiscal year 2005, however, the service reported that all Counselors had received their initial or refresher training as required.

The EEOC reported that the Coast Guard had not submitted complete MD-715 reports for 2004, 2005, or 2006 – albeit progress was being made in providing all required reporting data. The EEOC commented that “the importance of collecting and analyzing this data cannot be overstated” and noted that of particular concern was the absence of applicant data, without which “there can be no meaningful review of the effectiveness of the agency’s recruitment efforts.”⁹³

The EEOC noted that some of the Coast Guard’s recruitment practices for positions in the civilian workforce created “unintended barriers” to diversity, including lack of career ladder positions, the filling of positions with civilians from other federal agencies and with retired Coast

⁸⁶ Ibid.

⁸⁷ Ibid.

⁸⁸ Ibid., Executive Summary.

⁸⁹ Ibid.

⁹⁰ Equal Employment Opportunity Commission feedback letter to the Coast Guard, May 2008, page 3.

⁹¹ Ibid., page 3-4.

⁹² Ibid., page 4.

⁹³ Ibid., page 6-7.

Guard members.⁹⁴ In fiscal year 2005, the Coast Guard reported plans to remedy these barriers but did not provide information on whether it met its target goals.⁹⁵ The Coast Guard reported in each of fiscal years 2005 and 2006 a “decline in participation of women in its permanent workforce.”⁹⁶

Regarding the complaint process, the EEOC wrote that there was a significant increase in the number of pre-complaints counseled in a timely manner between fiscal years 2004 and 2006.⁹⁷ However, the number of complaint investigations completed in a timely manner declined from 100 percent of cases in fiscal year 2004 to just 67 percent of cases in fiscal year 2006.⁹⁸ Further, in fiscal years 2005 and 2006, the Coast Guard “reported that there was insufficient staff to conduct adequate analysis of civilian workforce data,” and it reported in each of fiscal years 2004, 2005, and 2006 that it “has not implemented an adequate data collection and analysis system and had not tracked recruitment efforts.”⁹⁹ However, the EEOC notes that the Coast Guard reported “[i]t began a plan to replace part-time EEO officials with full-time staff in accordance with the Civil Rights Top-to-Bottom Review implementation plan by September 30, 2010,” and that new full-time equivalents were being added.¹⁰⁰

Critically, the EEOC wrote that “[i]n all reporting years, the Coast Guard has reported that its EEO Director does not have funding sufficient to implement action plans and conduct a thorough barrier analysis of the workforce, but that it has ongoing plans to advocate for increased funding for the civil rights program, now targeted for fulfillment by September 2008.”¹⁰¹

Coast Guard’s Diversity Office

The Coast Guard maintains a Diversity Office under the command of the Assistant Commandant for Human Resources. The structure of the office is shown below.

⁹⁴ Ibid., page 7.

⁹⁵ Ibid.

⁹⁶ Ibid.

⁹⁷ Ibid., page 12.

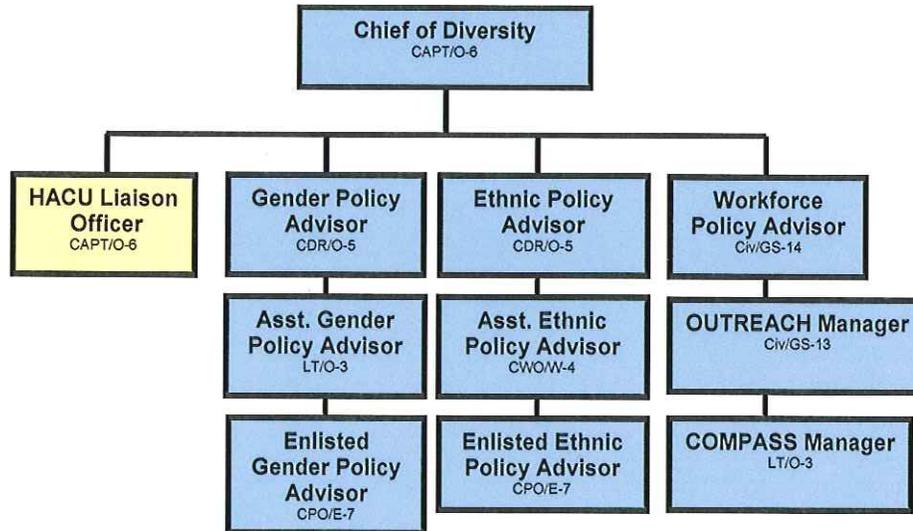
⁹⁸ Ibid., page 13.

⁹⁹ Ibid.

¹⁰⁰ Ibid.

¹⁰¹ Ibid., page 4.

Coast Guard Diversity Staff



 = CG Headquarters Washington, DC

 = San Antonio, TX

Source: U.S. Coast Guard

The staff of the Coast Guard Diversity Office includes three full time advisors and assistants who work for the Chief of Diversity.

The policy advisors assigned to the Office:

- Coordinate diversity awareness and diversity management training for leadership development programs within the Coast Guard;
- Counsel and support employees on leadership practices and diversity management;
- Evaluate diversity issues within the Coast Guard; and
- Offer career guidance, counseling and mediation if needed to employees on diversity issues.

To promote retention and advancement, the diversity staff ensures Coast Guard members and employees are aware of the Commandant's Diversity Policy. They liaise and partner with affinity groups such as the National Naval Officers Association, Sea Services Women's Leadership Symposium, Association of Naval Services Officers, etc., and encourage Coast Guard participation in affinity group events. The staff participates in various career fairs and actively recruits military members, civilians and for the Coast Guard Academy. The Diversity Strategy Group (DSG) and Diversity Advisory Council (DAC) are managed by the staff of the Diversity Office.

Coast Guard's Leadership and Diversity Action Plan

On July 25, 2008, the Commandant of the Coast Guard, Admiral Thad Allen, set forth the Coast Guard's leadership and diversity initiatives at the annual National Naval Officers Association (NNOA) in Portsmouth, Virginia. In August, the Commandant issued a message to all Coast Guard personnel that provided an update on action taken to implement the initiatives. Additionally, a 20-point action plan has been developed by the Coast Guard's Diversity Advisory Council, Diversity Strategic Group, and the Diversity Staff, in conjunction with the Director of Civil Rights.

The Commandant's message to all Coast Guard personnel announced the following:

- Every CG Flag officer and Senior Executive Service (SES) will attend at least one affinity group national-level conference annually (e.g. National Naval Officers Association, Coast Guard Women's Leadership Association, Blacks in Government, Association of Naval Service Officers, etc). Commanding Officers with the rank of Lieutenant Commander and above will also attend at least one of these conferences during their command tour. The Commandant also strongly encouraged Commanding Officers to send their officers, enlisted and civilians to affinity group conferences.
- Every Flag Officer and SES has committed to partnering with a Minority Serving Institution, Hispanic Serving Institution, or Tribal Council Institution to raise the Coast Guard's visibility with these schools by developing and maintaining an ongoing relationship. The Flag Officers and SES staff members and the active duty alumni of these schools will be paired for outreach to the schools. Rear Admiral Tom Ostebo, the Assistant Commandant for Engineering and Logistics, adopted North Carolina A&T University.
- The Commandant directed a total force recruiting approach to be undertaken through which all members of the Coast Guard, including active duty, enlisted, civilian, and Auxiliarists will be recruiters to ensure all markets are clearly recognized and the best possible applicants are identified.
- The College Student Pre-Commissioning Initiative program is being modified to target institutions with more diverse student populations.
- The Commandant initiated a prototype extracurricular program at the Maritime Industries Academy in Baltimore, MD, which is a high school with a significant minority population. The outreach effort include increasing student awareness of Coast Guard missions, supporting the excellence in education, and improving the diversity of applicants interested in the full spectrum of Coast Guard opportunities.

PREVIOUS COMMITTEE ACTION

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on "Diversity in the Coast Guard, including Recruitment, Promotion, and Retention of Minority Personnel" during the 110th Congress.

WITNESSES

Ms. Terri Dickerson
Director, Office of Civil Rights
United States Coast Guard

Rear Admiral Jody Breckenridge
Assistant Commandant for Human Resources
United States Coast Guard