



Legal  
Representation,  
Enforcement  
of Federal Laws,  
and Defense of  
U.S. Interests

III



## PERFORMANCE GOAL 3.1.1

### HATE CRIMES

*DOJ will continue to develop increased attention to hate crime cases, with the Civil Rights Division (CRT), the Federal Bureau of Investigation (FBI), U.S. Attorneys, the Office of Justice Prevention/Bureau of Justice Statistics (OJP/BJS), and the Community Relations Service (CRS) working to implement a coordinated plan to improve the Federal response to hate crimes.*

*DOJ officials will work closely with other Federal law enforcement entities including the Bureau of Alcohol, Tobacco and Firearms (ATF), state and local prosecutors, law enforcement, and community groups, to effectuate a comprehensive approach to hate crime enforcement. Efforts will be undertaken to further the development of procedures to (1) expand education and training in the area of hate crimes; (2) improve the quality and accuracy of hate crime statistics; (3) improve the geographic coverage of hate crime statistics; and (4) implement procedures that will result in reliable hate crime trend data.*

In response to growing concern about hate crimes, the Department continued vigorous efforts to investigate and prosecute hate crime incidents. For example, it is conducting an intensive investigation into the August 10, 1999, fatal shooting of an Asian-American postal worker in Los Angeles and the shooting into a Jewish community center there that injured five people. Several Justice components continued to play a critical role in the Hate Crimes Initiative, which established community-based hate crime working groups and training initiatives through U.S. Attorney's offices around the country. These working groups—the centerpiece of the Department's hate crimes strategy—developed enforcement strategies, shared best practices, and educated the public about hate crimes.

In addition, the Department worked to combat arson and the desecration of our Nation's houses of worship resulting from racial and ethnic biases. Through the efforts of the National Church Arson Task Force (NCATF)—created in 1996 by the President and the Attorney General—church fires in this country are on the decline. The 35-percent rate of arrest in NCATF arson cases is more than double the 16-percent rate nationwide.

In FY 1999, hate crime investigations were up by about 33 percent, to 615, exceeding the target number by 116 investigations. Hate crime prosecutions were up about 83 percent from 1998, slightly exceeding the target number.

Performance Goal 3.1.1			Hate Crimes	
Performance Indicator	1997 Actual	1998 Actual	1999 Planned	1999 Actual
Number of investigations and prosecutions of hate crimes, and cooperative efforts made with state attorneys general, local prosecutors and law enforcement officials, and community groups (CRT information only)				
Hate crime investigations	366	464	499	615
Hate crime prosecutions	21	17	28	31

**Data Source:** EOUSA, FBI, and CRT case management systems and manual records.

## PERFORMANCE GOAL 3.1.2

### PATTERN OR PRACTICE CIVIL RIGHTS VIOLATIONS

*DOJ will devote increased attention to pattern or practice violations in civil rights cases, including fair housing, fair lending, employment discrimination, disability, and police misconduct matters.*

Pattern or practice civil rights violations cases involved important matters of alleged discrimination on the basis of race, national origin, or other reasons, and required extensive use of litigation and alternative dispute resolution (ADR) approaches. Specific areas addressed police misconduct, rights for people with disabilities, fair housing rights, employment and education, rights for persons in institutions, and worker exploitation. Efforts in these various categories are summarized in the paragraphs below.

**Police Misconduct.** The Department continued to prosecute law enforcement officials who used their positions to deprive people of constitutional rights, such as the right to be free from unwarranted assaults, illegal arrests and searches, and deprivation of property without due process of law. The Department also authorized civil lawsuits against:

- The City of Columbus, Ohio, to remedy police misconduct there. Additionally, the Department monitored compliance with two consent decrees to remedy misconduct in police departments in Pittsburgh, Pennsylvania, and Steubenville, Ohio.
- The New Jersey State Police for racial profiling in traffic stops on the New Jersey Turnpike. The Department entered discussions to resolve the matter.

**Clinic Access.** Pursuant to its authority under the Freedom of Access to Clinic Entrances (FACE) Act, the Department continued to protect the rights of patients and health care providers against threats of force and physical obstruction of reproductive health facilities. Following the shooting of Dr. Barnett Slepian in New York, the Attorney General in November 1998 announced a National Task Force on Violence against Health Care Providers. The task force has participated

## Decisions Open Up Mainstream of Life for People with Disabilities

In *Cedar Rapids Community School District v. Garrett F.*, the Supreme Court agreed with the Solicitor General's position as a "friend of the court" that the Individuals with Disabilities Education Act requires a school district to provide a student who is paralyzed from the neck down and breathes with the use of an electric ventilator with the services needed to benefit from special education. In *Olmstead v. L.C.*, the Supreme Court, agreeing with the Solicitor General, held that a state violates the ADA if it institutionalizes people with disabilities without first seeing whether they could get the services they need in a community setting. The Court held that states must place persons with mental disabilities in community settings when such placement can be reasonably accommodated.

in investigations and prosecutions of FACE violations, including the investigation of the killing of Dr. Slepian.

**Rights for Persons with Disabilities.** The Department continued its comprehensive program under the Americans with Disabilities Act (ADA) to open up the mainstream of American life to people with disabilities. This effort includes ensuring that students with disabilities receive services to allow them to benefit from special education and that unjustified institutionalization of individuals with disabilities is prohibited (see sidebar). The Department also struck an agreement with Greyhound Lines, Inc., to improve the availability and quality of bus service for persons with disabilities. In addition to paying nearly \$20,000 in damages, Greyhound agreed that on 48 hours notice, it will make reasonable efforts to provide an accessible bus between any of its approximately 2,600 points of service.

**Fair Housing and Lending Rights.** In 1999, the Department continued to make fair housing and lending enforcement a high priority. Of 41 new cases filed to enforce the Fair Housing Act, 17 were resolved through consent decrees or settlement agreements. Settlements were reached in 26 cases filed in previous years. Nine of the recent case filings seek to enforce the Act's requirement that new multifamily housing units be built with accessible features for persons with disabilities.

**Employment and Education.** In 1999, the Department continued to investigate and pursue cases alleging both individual and patterns or practices of employment discrimination. For example, in *United States v. Southeastern Pennsylvania Transit Authority*, the Court of Appeals for the Third Circuit held that the employer could not use a physical performance test that effectively excluded women from becoming police officers, without demonstrating that the pass point on the test represented the minimum qualifications required for successful job performance.

The Department also enforced laws designed to ensure that public schools do not discriminate against students on the basis of race, gender, disabilities, and other factors. Highlights from 1999 include the U.S. Supreme Court's agreeing with the Department's argument that an educational institution may be held liable for damages under Title IX if it responds with deliberate indifference to known acts of student-on-student harassment in its programs or activities (see sidebar, next page). The United States also continued to monitor the assimilation of women at the Virginia Military Institute (VMI) in *United States v. Virginia* and at the Citadel in *United States and Mellette v. Jones*. The Department successfully defended against VMI's efforts to have the case dismissed, arguing the need for further monitoring.

**Rights for Persons in Institutions.** In 1999, the Department continued efforts to secure basic constitutional rights for persons in institutions. For example, the Department settled two

major sexual misconduct suits against Arizona and Michigan. Under the agreements, the two states will take a broad range of measures to minimize sexual misconduct and unlawful invasion of privacy by corrections staff against inmates at five Arizona women's prisons and two Michigan women's prisons. In addition, to continue efforts to protect the rights of incarcerated juveniles, the Department filed suit against Louisiana over conditions at four secure juvenile facilities and continued to monitor compliance with settlement agreements covering all the secure juvenile correctional facilities in Georgia, Kentucky, and Puerto Rico.

**Worker Exploitation.** In FY 1999, the Department continued efforts to combat worker exploitation through active participation on the interagency Worker Exploitation Task Force, co-chaired by the Acting Assistant Attorney General for Civil Rights and designed to let investigators and prosecutors share information and coordinate enforcement efforts. In December 1998, the Attorney General announced the creation of Regional Worker Exploitation Task Forces by the Departments of Labor and Justice, and in January 1999, the U.S. Attorneys designated representatives from their offices to participate on them.

While the total of 76 cases fell slightly short of the target of 80 cases for FY 1999, increases in total number of pattern or practice cases was up 3 percent from last year.

### School Board Can Be Held Liable for Bullies

In *Davis v. Monroe County Board of Education*, the Supreme Court, agreeing with the Solicitor General's position, held that an individual victimized by severe, pervasive, and objectively offensive student-on-student harassment could bring a private action against a school board for damages. Title IX of the Education Amendments of 1972 would govern the action, where the school board had actual knowledge of the harassment and reacted with deliberate indifference.

#### Performance Goal 3.1.2

#### Pattern or Practice Civil Rights Violations

Performance Indicator	1997 Actual	1998 Actual	1999 Planned	1999 Actual
Number of and percent increase in pattern or practice cases (CRT)	(baseline) 67	74 (10%)	80 (8%)	76 (3%)

**Data Source:** CRT case management systems and manual records.

#### Explanation For Not Meeting Target

These cases involved important matters of alleged discrimination on the basis of race, national origin, or other reasons, and required extensive use of such time-consuming approaches as ADR, pretrial preparation, and extended litigation. In addition, in pursuing certain cases related to the accessibility requirements of the Fair Housing Act, CRT has had to rely on outside experts to review blueprints. The planned hiring of an in-house architect should help expedite the conclusions of these investigations and the filing or resolution of these cases.

### PERFORMANCE GOAL 3.1.3

#### PROTECTION OF VOTING RIGHTS

*DOJ will devote increased attention to the enforcement of the Voting Rights Act and the review of electoral redistricting plans within the statutory 60-day requirement.*

In FY 1999, the Department continued efforts under the Voting Rights Act of 1965 to ensure that minorities are not denied a fair opportunity to participate in the political process and to elect candidates of their choice. Examples of 1999 accomplishments include successfully defending a single-member district electoral system drawn in consideration of voters' race (among other factors) by the City of Cocoa, Florida. This was an important, precedent-setting case, in which CRT served as a friend of the court. Targets both for reviewing such redistricting plans and for successfully litigating complex voting cases were met at 100 percent in 1999.

Performance Goal 3.1.3		Protection of Voting Rights		
Performance Indicator	1997 Actual	1998 Actual	1999 Planned	1999 Actual
Percent of redistricting plans reviewed within statutory guidelines (CRT)	100%	100%	100%	100%
Number of complex voting cases successfully litigated (CRT)	4	3	3	3

**Data Source:** STAPS.

### STRATEGIC GOAL 3.2

Safeguard America's environment and natural resources.

Environmental enforcement and protection is a high priority of this Administration. In 1999, the Department continued to safeguard America's environment and natural resources and to enhance the health of all Americans by vigorously pursuing violators of environmental laws. The Environmental and Natural Resources Division (ENRD), U.S. Attorneys' offices, and the FBI joined forces with state and local governments, as well as with other Federal agencies—most notably the Environmental Protection Agency (EPA)—to strengthen civil and criminal enforcement efforts. We also worked with the Department of the Interior (DOI) and various Indian tribes to defend and preserve public lands, natural resources, and tribal sovereignty. Along with prosecuting landmark cases, the Department provided extensive training for agents and prosecutors, including tribal prosecutors. This Strategic Goal addresses the Department's enforcement of natural resources laws.

## PERFORMANCE GOAL 3.2.1

### ENFORCEMENT OF NATURAL RESOURCE LAWS

*DOJ attorneys and investigators will continue efforts to ensure the vigorous pursuit of violators of environmental laws, thereby enhancing the health of all Americans. DOJ will increase efforts to enforce Federal agency regulations implemented to effectuate the goals of the Administration's Clean Water Action Plan and the defense of the Federal Government's use, transportation, and storage of hazardous materials. In addition, DOJ will cooperatively participate in activities and lead toward the effective protection of tribal sovereignty, lands, and natural resources.*

Successful enforcement of environmental laws in FY 1999 resulted in \$3.2 billion in fines, penalties, restitutions, and injunctive relief that will undo past harm and prevent future damage to the environment. This is a 54-percent increase over FY 1998. In FY 1999, the Department actively pursued environmental violators and penalties and engaged in protection activities at sites all across the country. Brief summaries of these efforts follow.

**Prosecuting Violators of Environmental Laws.** During 1999, the Department worked extensively with other Federal agencies, state and local governments, and international entities to strengthen prosecution of environmental crimes, such as preventing the pollution of oceans and inland waters by ships (see sidebar). Other highlights include the following:

- I Chlorofluorocarbon (CFC) smuggling. CFCs, used in automobile air conditioners, destroy the protective ozone layer in the atmosphere. Following a ban on their importation in 1996, a black market in illegally imported CFCs developed in the United States. As of September 1999, the Department secured more than 80 convictions in CFC smuggling cases, resulting in more than 51 years of incarceration, \$50 million in fines, and \$30 million in restitutions.
- I Oil drilling operations. The U.S. subsidiary of the third largest oil company in the world admitted that it failed to report the release of hazardous substances into the environment on the north slope of Alaska. As part of its probation, the company agreed to implement, at a cost of \$15 million, a nationwide environmental management system at all of its U.S. facilities engaged in oil exploration, drilling, and production.
- I Wildlife protection. The world's threatened coral reefs are the "tropical rain forests" of the oceans; trafficking in protected corals harms other species dependent upon them. In FY 1999, the Department obtained the first convictions in this country for illegal importation of protected corals and continued to crack down on international reptile smuggling.

### Department Secures Record Fine Against Cruise Ship

The Department obtained the largest criminal fine ever in a vessel pollution case when one of the world's largest cruise ship lines pled guilty to 21 felony counts in six districts for illegally dumping waste oil and chemicals and for making false statements to the U.S. Coast Guard. The company agreed to pay \$18 million in criminal fines, in addition to \$8 million in fines paid the previous year. Along with the record penalty, the cruise ship line agreed to operate for the next 5 years under a court-supervised environmental compliance plan.

**Conducting Civil Enforcement.** In 1999, the Department obtained extensive injunctive relief and had a record-setting year in recovering monies for hazardous waste site cleanup. Through enforcement of pollution laws, responsible parties and not the public bear the burden of paying for environmental cleanups across the country. One area of focus was to improve the Nation's water quality—part of efforts to carry out the Administration's Clean Water Action Plan. The Department reached settlements with the Cities of Atlanta and Baltimore requiring them to repair aging municipal sewer and water systems and to pay civil penalties of \$3.2 million and \$1 million, respectively. The Department also brought action against a Missouri animal feeding operation for polluting water through discharge and runoff of wastes from 1 million animals.

The Department is also working closely with EPA, among other agencies, on the Mississippi River Basin Initiative—a comprehensive Federal effort to keep pollution out of the river and restore it and surrounding communities to their historical grandeur.

Other major civil enforcement successes included the following in 1999:

- A settlement involving seven heavy-duty diesel engine manufacturers that will prevent 75 million tons of nitrous oxide (NO<sub>x</sub>) air pollution over the next 27 years, reduce by one-third the total NO<sub>x</sub> emissions from diesel engines by 2003, and provide for an \$83.4 million civil penalty—the largest Clean Air Act penalty ever.
- The largest civil penalty ever under the Resource Conservation and Recovery Act—\$11.8 million—for violations involving mismanagement of dangerous phosphorus wastes in ponds on an Idaho Indian reservation. The defendant agreed to build a \$40-million waste treatment plant and to participate in more than a dozen supplemental environmental projects to improve air quality in the Pocatello area.

**Preserving Natural Resources and Public Lands.** The Department was instrumental in protecting important ecosystems and public lands in the United States in 1999, working with Federal agencies such as DOI and local governments. Responsibilities in this area included acquiring land—either by direct purchase or through condemnation proceedings—for purposes of preserving environmentally sensitive areas. In FY 1999, the Department:

- Reached an agreement with the State of California to permanently protect the world's largest remaining privately held old growth redwood grove in the "Headwaters" area of Northern California.
- Assisted with the purchase of 50,000 acres of an Everglades sugar plantation and *is assisting* in land acquisition to expand Everglades National Park and

Big Cypress National Preserve. This action will substantially help to restore the Everglades.

- Helped to protect crucial wintering habitat for bald eagles in California.

**Defending Environmental Programs.** Another important aspect of the Department's work in the environmental arena is the defense of Federal programs in lawsuits involving environmental issues. Money saved by the Government in favorable outcomes from defensive litigation amounted to approximately \$2.4 billion—a 60-percent increase over FY 1998. For example, in FY 1999, the Department:

- Overcame challenges to flood control projects in the lower Mississippi River Valley and in the Los Angeles Basin, protecting these areas from catastrophic flooding.
- Defended Government programs for safe disposal of the Nation's stockpile of chemical weapons and radioactive wastes.
- Protected the American people's right to know about toxic releases in their neighborhoods by defeating a challenge to EPA's effort to expand the number of facilities required to report such releases.

**Promoting Partnerships with Indian Tribes.** The Department also continued to protect and defend Indian hunting and fishing rights in several cases, including where the Supreme Court upheld the treaty rights of the Mille Lacs Band of Chippewa Indians to hunt, fish, and gather wild rice on off-reservation lands in Minnesota. In other cases, the Department:

- Successfully defended the Jicarilla Apache Tribe's water rights settlement from litigation challenges by a coalition of non-Indian water users of the San Juan River in New Mexico.
- Collected more than \$1 million for the Confederated Salish and Kootenai Tribes for damage to their lands in Montana from forest fires.
- Resolved two of the remaining five Indian Claims Commission (ICC) cases originally filed in the 1950s, one with the Minnesota Band of Chippewas and the other with the Menominee Tribe. These cases grew out of a law directing the U.S. Government to sell the tribes' lands and other assets to establish and manage a fund for tribal purposes. Although these actions resulted in numerous claims for compensation by many different Indian tribes, only three ICC cases remain.

**Performance Goal 3.2.1**

**Enforcement of Natural Resource Laws**

<b>Performance Indicator</b>	<b>1997 Actual</b>	<b>1998 Actual</b>	<b>1999 Planned</b>	<b>1999 Actual</b>
(1) Number of convictions in criminal environmental and wildlife cases (ENRD, USAs)*	383	431	NA	432
(2) Number and percent of affirmative cases resolved successfully (ENRD, USAs)*	698 (98%)	691 (98%)	NA	695 (98%)
(3) <del>Percent of amount at issue saved in Land Acquisition cases (ENRD)**</del>	76%	67%	NA	NA
(4) Dollar value of fines, penalties, injunctive relief, supplemental environmental projects, and natural resources damages (ENRD)*	\$1.817 billion	\$2.188 billion	NA	\$3.801 billion

\*Actual numbers for 1997 and 1998 were adjusted to reflect corrections in the counting of cases between ENRD and USAs. These numbers were adjusted to include Superfund dollars, for consistency with other GPRA indicators.

\*\*This indicator was discontinued during 1999 because it was too subjective and not statistically valid. It has been replaced by a new performance indicator, "Amount of money saved by the Government in ENRD defensive environmental cases," which will be reported on in future reports.

**Data Source:** ENRD CMS.

**STRATEGIC GOAL 3.3**

Promote competition in the U.S. economy through enforcement of, improvements to, and education about antitrust laws and principles.

The Antitrust Division saves U.S. consumers and businesses billions of dollars annually by enforcing Federal civil and criminal antitrust laws that promote and maintain competitive markets. In FY 1999, the Department intensified its focus on detecting and prosecuting criminal antitrust conspiracies and on reviewing increasingly complex merger transactions for competitive issues. The Department successfully challenged anticompetitive practices in 1999 and expanded cooperative efforts with international enforcement authorities. This Strategic Goal's specific Performance Goal addresses the many aspects of promoting competition.

**PERFORMANCE GOAL 3.3.1**

**PROMOTION OF COMPETITION**

*DOJ will review the growing number of increasingly complex and international merger transactions for potential competitive issues, successfully challenge anticompetitive practices in the civil nonmerger area, intensify the focus on detecting and successfully prosecuting massive criminal antitrust conspiracies, expand cooperative efforts with international enforcement authorities, and increase the dollar value of savings to the consumer from its enforcement actions.*

Merger enforcement is extremely important to promoting competition, particularly given the present economic expansion and

the increasing number of mergers taking place—especially strategic and transnational mergers. Between FY 1995 and FY 1999, the number of pre-merger filings rose 65 percent to 4,642 filings, and the value of U.S. merger activity rose 257 percent, to \$1.79 trillion. The 97-percent success rate for merger transactions challenged exceeded the target number. This unparalleled trend of merger transactions is expected to continue.

The success rate in civil nonmerger matters was 100 percent in FY 1999. The Antitrust Division also pursued major investigations and trials involving alleged anticompetitive practices in various sectors. These included high technology (Microsoft), financial services (Visa-MasterCard), transportation (American Airlines), and health care (Dentsply and Federation of Physicians and Dentists). The current level of civil nonmerger investigation and litigation is unprecedented in the last 20 years.

Responding to increasing economic globalization, the Department's criminal enforcement strategy also targeted the growing number of international cartels affecting American consumers and businesses. Between FY 1991 and FY 1999, the percentage of foreign corporate defendants has grown from roughly 1 percent to 50 percent. In FY 1999, the Antitrust Division obtained more than \$1 billion in criminal antitrust fines associated with international cartels, a significant increase over prior years and a new record. Indeed, the Antitrust Division secured more criminal fines than in the entire 109-year

**Performance Goal 3.3.1**

**Promotion of Competition**

<b>Performance Indicator</b>	<b>1997 Actual</b>	<b>1998 Actual</b>	<b>1999 Planned</b>	<b>1999 Actual</b>
(1) Success rate for merger transactions challenged (ATR)	94%	98%	90%	97%
(2) Success rate for civil nonmerger matters where Antitrust Division expressed concern (ATR)	NA	93%	90%	100%
(3) Dollar amount of [U.S.] commerce affected in relevant markets where positive outcome was achieved in criminal matters* (ATR)	NA	\$2.32 billion	NA	\$2.45 billion
(4) Number of Division requests for assistance from international antitrust enforcement authorities (ATR)	15	11	15-20	12

\*The dollar amount of U.S. commerce affected in criminal matters is estimated by the Antitrust Division based on the best available information from investigative and public sources. It serves as a proxy for the potential effect of anticompetitive behavior. Suspect conspiracies usually are more extensive, sometimes far more extensive, than are formally charged in an indictment; therefore, the dollar amount of commerce affected is likely to be significantly understated. These values are estimates for the specific fiscal year and reflect only U.S. commerce. Previously reported data (for 1997 actual, 1998 actual, and 1999 planned) included estimates of the dollar amount of commerce affected over the duration of the conspiracy and included global commerce. ATR changed its methodology for estimating the dollar amount of commerce affected in criminal matters to be consistent with calculations for dollar amount of commerce affected in merger and civil nonmerger matters. The "NA" for 1997 actual and 1999 planned stems from this change, as we lack revised data for 1997.

**Data Source:** MTS and ATR staff.

history of Sherman Act enforcement, including the largest fine ever obtained by the Department—a \$500 million fine paid by one defendant for its part in a vitamin conspiracy.

#### **Explanation For Not Meeting Target**

(4) The decline in Antitrust Division requests for assistance in FY 1999 was due in part to an increase in the use of its Corporate Leniency program. Instituted in 1993, this program accords leniency to corporations reporting their illegal antitrust activities directly to the Division at an early stage, if certain conditions are met. The majority of international matters had one or more conspirators use this program in FY 1999, with the practical effect of reducing the number of Division requests for assistance from foreign government authorities—as the Division was able to work closely and cooperatively with many of the identified conspirators.

### **STRATEGIC GOAL 3.4**

**Promote the fair, correct, and uniform enforcement of Federal tax laws and the collection of tax debts.**

In 1999, Department attorneys emphasized promoting compliance with U.S. and foreign tax laws, guided by the principles of fair and uniform treatment for all categories of taxpayers. Through heightened cooperation with U.S. Attorneys and the Internal Revenue Service (IRS), the Department furthered efforts to fairly pursue civil and criminal tax violators, focusing especially on illegal tax protests aimed at undermining compliance with the Internal Revenue Code and at evading payment of Federal income taxes. The Tax Division's 1999 accomplishments include successfully prosecuting criminal tax cases ranging from large corporations to individuals who attempt to defraud the United States. Specifically, this Strategic Goal includes two Performance Goals that address fair and uniform enforcement of tax laws and international tax compliance.

#### **PERFORMANCE GOAL 3.4.1**

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##### **FAIR AND UNIFORM ENFORCEMENT OF TAX LAWS**

*DOJ will further efforts to fairly pursue civil and criminal violators of our tax laws, focusing particularly on illegal tax protest efforts to undermine compliance with the IRS code and evade or avoid Federal income taxes.*

Members of the Tax Division, the U.S. Attorneys' offices, and the IRS work closely to achieve joint goals and objectives. Various cross-cutting initiatives (e.g., Tax Gap Project, Illegal Tax Protest Initiative, International Compliance Initiative, Abusive Trust Initiative, and Workforce Restructuring) focus on mutually desired outcomes and results by promoting the deterrence of tax fraud, encouraging voluntary payment of taxes, collecting tax debts, and managing these programs efficiently and effectively.

With the recent IRS Restructuring and Reform Act of 1998 (RRA98), radical adjustments have been made to the functions of the IRS, the Tax Division's principal client agency. The Tax Division has been applying significant resources to interpret RRA98's numerous new provisions, whose full effect is not yet known. It is working with the IRS to arrive at consistent and fair positions and to train litigation staff to handle court cases involving these provisions. The IRS' much publicized shift in resources away from audit and collection to new legislation and customer service has reduced the number of case receipts in the Tax Division, but the cases received have been larger and more complex. This circumstance partly accounts for the fewer number of successfully resolved cases in 1999, compared to the year before; however, successfully resolved taxpayer appeals are up.

**Performance Goal 3.4.1**

**Fair and Uniform Enforcement of Tax Laws**

<b>Performance Indicator</b>	<b>1997 Actual</b>	<b>1998 Actual</b>	<b>1999 Planned</b>	<b>1999 Actual</b>
(1) Taxpayer appeals (civil) successfully resolved, at least in part, by the government (TAX)	418	376	NA	392
(2) Number of successfully resolved civil cases (TAX)	NA*	3,582	NA	3,078
(3) Level of voluntary compliance rate (TAX)**	82%	82%	82%	Discontinued

\*The Tax Division previously reported 564 successfully resolved civil cases, but changed this number to "NA" because it lacks statistics for 1997. The earlier version indicated that the 564 cases were U.S. Attorney cases for this period.

\*\*This performance indicator has been discontinued. The 82-percent figure shown is an IRS statistic that the Tax Division can neither corroborate nor defend. Missing a way to statistically identify the Division's impact on the rate of voluntary compliance makes this indicator unmeaningful.

**Data Source:** Manual methods for recording and retrieving performance data and Tax Doc.

**PERFORMANCE GOAL 3.4.2**

**INTERNATIONAL TAX COMPLIANCE**

*DOJ attorneys will place special emphasis on promoting compliance with U.S. and foreign tax laws through appropriate litigation in the Nation's trial and appellate courts.*

The use of tax haven countries as well as other offshore countries to evade U.S. taxes has been a longstanding concern. And the problem is intensifying. Some of the growth stems from the decreased attractiveness of more traditional domestic tax shelters occasioned by 1986 tax law changes. Also, use of the Internet and other electronic technology makes the promotion and use of foreign trusts and other offshore schemes easier to accomplish and more popular—as well as more difficult to detect. The common thread in all these schemes is use of tax haven countries that impose little or no tax, offer strict bank secrecy laws not covered by treaty provisions, and refuse to extradite fugitives charged with tax crimes.

In 1999, the Tax Division was able to exceed requests for litigation and investigation advice by 11 percent for international tax compliance. Joint criminal enforcement and civil litigation efforts helped the Tax Division successfully meet its goal.

**Performance Goal 3.4.2**

**International Tax Compliance**

<b>Performance Indicator</b>	<b>1997 Actual</b>	<b>1998 Actual</b>	<b>1999 Planned</b>	<b>1999 Actual</b>
(1) Requests for litigation advice in international matters (TAX)	NA	175	175	196
(2) Percent of requests for litigation and investigative advice honored in international matters (TAX)	NA	95%	95%	100%

**Data Source:** Manual methods for recording and retrieving performance data and Tax Doc.

### STRATEGIC GOAL 3.5

Represent the United States in all civil matters for which the Department has jurisdiction.

The Civil Division represents the United States in any civil or criminal matter within its scope of responsibility—protecting the public fisc, ensuring legal consistency by the Federal Government, preserving the intent of Congress, and advancing the credibility of the Government before the courts. Civil cases have a major impact on the regulated community and advance client agencies' goals for program integrity, thereby protecting the public's interest and finances. An example is the Civil Division's success in several appeals affirming the Government's role as official overseer of competition in local telephone service. U.S. Attorneys also represent the United States, both as defendant and plaintiff in civil matters. The Affirmative Civil Enforcement (ACE) program allows the U.S. Attorneys to actively fight fraud, waste, and abuse inflicted upon the United States, including health care fraud, defense, or other procurement fraud, financial institution fraud, and Government program or grant fraud.

This Strategic Goal includes three Performance Goals that address protecting the public fisc, civil enforcement, and alternative dispute resolution (ADR).

#### PERFORMANCE GOAL 3.5.1

##### PROTECTING THE PUBLIC FISC

*DOJ will protect the public fisc by recovering money owed to the Government and by defeating unmeritorious monetary claims against the Government in civil cases. DOJ will successfully resolve challenges to congressional enactments, Federal programs, and policy initiatives.*

When it comes to litigation and collection of civil debts owed to other Federal agencies, the Department of Justice serves as the Federal Government's "collector of last resort." We also enforce

collection of fines and restitutions imposed by the U.S. courts in criminal cases. In FY 1999, recovery of both criminal and civil debts was nearly \$1.5 billion—making this the sixth consecutive year of exceeding a billion dollars in cash collections. This amount is the third highest cash collection figure recorded by the Department for a fiscal year.

In FY 1999, the Civil Division worked to ensure payment only of meritorious claims and to achieve maximum monetary recoveries: nearly \$7 billion in unwarranted claims were defeated in 1999, with nearly \$529 million secured in judgments and settlements stemming from the Government's claims. For instance, the Civil Division continued to protect the public fisc in the massive Winstar litigation. This lawsuit was spawned by the Financial Institutions Reform and Recovery Enforcement Act (FIRREA), enacted to address the savings and loan crisis. Four trials were completed in 1999: *Glendale* (\$909 million awarded out of \$2.1 billion sought), *Calfed* (\$23 million awarded out of \$1.5 billion sought), *La Salle* (\$5 million awarded out of \$1.2 billion sought), and *Suess* (damages not yet determined). Additionally, the Department reached two highly favorable settlements in that *Maco* and *Vermont Federal* were held to \$1 million, a fraction of the almost \$300 million in claimed damages. In total, the Department collected approximately \$1.4 billion from affirmative civil actions and prevailed in 93 percent of defensive civil monetary cases.

**Performance Goal 3.5.1**

**Protecting the Public Fisc**

Performance Indicator	1997 Actual	1998 Actual	1999 Planned	1999 Actual
(1) Dollar amount collected from affirmative civil cases (JMD)	\$1.830 billion	\$1.123 billion	NA	\$1.377 billion
(2) Percent of favorable resolutions in defensive civil monetary cases (CIV)	91%	94%	NA	93%

**Data Source:** (1) JMD internal files. (2) CASES.

**PERFORMANCE GOAL 3.5.2**

**CIVIL ENFORCEMENT**

*DOJ efforts will focus on (1) continuing to combat health care fraud against federally funded programs in concert with Federal and state law enforcement programs; (2) aggressively pursuing fraud against financial institutions and pension funds; and (3) continuing to combat terrorism, seeking to remove criminal aliens and enforcing the Nation's immigration laws by defending administrative decisions and INS programs and policies.*

In 1999 alone, the Civil Division represented the Government's interests in 28,000 cases challenging the laws and policies of the United States. It helped recover millions of taxpayer dollars lost through fraud, such as health care fraud and fraud against financial institutions. The Division also defended administrative decisions related to immigration and filed suit against nine tobacco companies.

In defending immigration laws and policies and administrative judgments regarding alien removal, the Civil Division upholds the intent of Congress and secures the combined efforts of immigration agencies. Two significant decisions were obtained in 1999: The Supreme Court unanimously sustained the Attorney General's denial of asylum to violent criminals in *Aguirre-Aguirre*, and also upheld the Attorney General's rejection of a selective prosecution defense raised by alien supporters of a foreign terrorist organization in *American-Arab Anti-Discrimination Committee*. The Department obtained favorable resolutions in 90 percent of civil immigration cases in 1999.

The Department was successful in *all* its civil health care fraud cases in 1999, attaining favorable settlements in 100 percent of cases. In the first courtroom test of the ongoing investigation of Columbia/HCA, the largest health care fraud case ever undertaken by the Government, two Columbia executives were found guilty of six criminal counts of defrauding Medicare and other federally funded health insurance programs. They now face up to 5 years in prison and a \$250,000 fine on each count. The Civil Division also obtained a \$51-million civil settlement and more than \$10 million in criminal fines from Olsten Corporation and a subsidiary, Kimberly Home Health Care. These actions resolved allegations related to sales of home health agencies to Columbia/HCA and subsequent management arrangements. As part of the settlement, Olsten agreed to cooperate fully in the Government's continuing investigation. Total favorable resolutions in all civil cases totaled 82 percent.

Performance Goal 3.5.2		Civil Enforcement		
Performance Indicator	1997 Actual	1998 Actual	1999 Planned	1999 Actual
(1) Percent of favorable resolutions in civil immigration cases (CIV, USAs)	NA	93%	85%	90%
(2) Percent of favorable resolutions in civil health care fraud cases (CIV)	NA	100%	85%	100%
(3) Percent of favorable resolutions in civil cases (CIV, USAs)	NA	83%	80%	82%

**Data Source:** (1) and (3) CIV: CASES. USAs: LIONS. (2) CASES.

### PERFORMANCE GOAL 3.5.3

#### ALTERNATIVE DISPUTE RESOLUTION

*DOJ attorneys will increase efforts to employ ADR, including mediation, negotiation, and other litigation-streamlining techniques in appropriate civil cases.*

During FY 1999, the Office of Dispute Resolution (ODR) continued its vigorous promotion of dispute resolution in the Department by training more than 400 Department attorneys in effective dispute resolution advocacy; providing advice and guidance to Department attorneys on the use of these processes;

maintaining an outreach program with businesses, professional communities, and the courts about using dispute resolution; and working with client agencies to get buy-in for using dispute resolution processes to settle litigation involving them. In addition, ODR assisted the Attorney General in her role as chair of the Interagency ADR Working Group, a presidentially established organization of more than 60 Federal agencies. It was formed to create dispute resolution programs throughout the Federal Government to address issues related to workplace disputes, contract and procurement disputes, monetary claims against the Government, and civil enforcement programs.

**Performance Goal 3.5.3**

**Alternative Dispute Resolution**

<b>Performance Indicator</b>	<b>1997 Actual</b>	<b>1998 Actual</b>	<b>1999 Planned</b>	<b>1999 Actual</b>
Number of cases in which ADR was used (ODR)	1,579	1,805	2,000	NA*

\*1999 figures were not available by publication time. We will report these figures next year.

**Data Source:** Component reporting to ODR.