

Statement of Thomas E. Perez
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Department of Justice
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Committee on the Judiciary
United States House of Representatives
At a Hearing Entitled
“The Civil Rights Division of the Department of Justice”
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Chairman Nadler, Chairman Conyers, Ranking Member Sensenbrenner and members of the Subcommittee, thank you for the opportunity to testify today. It is a great privilege to appear before you as the newly installed Assistant Attorney General for the Civil Rights Division. I look forward to an active and ongoing dialogue with this Subcommittee and the full Judiciary Committee regarding the work of the Division. My goal today is to respond to the GAO Report and to offer my perspective on the challenges and opportunities confronting the Civil Rights Division.

Thank you for your leadership in commissioning the two GAO reports. We accept them, and intend to implement their recommendations, and have already begun to do so.

This is my first opportunity to appear before this Committee as Assistant Attorney General for Civil Rights, although I worked very closely with your top flight staff when I served on Senator Kennedy’s Judiciary Committee staff. I want to take a moment to introduce myself.

I have been on the job for less than two months, but I am no stranger to the Civil Rights Division. I began as a summer clerk in 1986 under Attorney General Meese, was hired as a career prosecutor in 1989, and had the privilege of serving on the Hiring Committee for the Honors Program in 1992, 1993 and 1994. I stayed at the Department until 1999, and was Deputy

Assistant Attorney General for Civil Rights at the time of my departure. I am proud of my service under both Republican and Democratic administrations.

I know firsthand the commitment and dedication of the career staff, and I have great respect for them and for the work they do. More than 50 years after its creation, the Division's mission and scope have grown exponentially, but the Division continues to serve as the conscience of the nation within the Federal government.

Our mandate in the Civil Rights Division is clear: to enforce *all* of the civil rights laws under our jurisdiction fairly, independently and in a non-partisan fashion.

Regrettably, as documented in the two GAO reports we will discuss today and the January 2009 Inspector General's report, there have been times when the Division failed to fully live up to this mission. Upon becoming Assistant Attorney General, my goal has been to determine what has been working well and stick with it, and figure out what is broken and fix it. The GAO Report has been instructive in this effort, as was the Inspector General's Report released about a year ago.

When I entered the Division, I observed that there are a number of areas where the Bush administration had aggressively and effectively enforced the law. For example, there was a strong focus on human trafficking enforcement, combating religious discrimination and enforcing the language minority provisions of the Voting Rights Act. These are important pieces of the protection of civil rights in our nation, and they will remain important areas of focus for the Division.

However, our obligation is to enforce the civil rights laws, all the laws, and to utilize all available lawful tools in our arsenal. The GAO Report and other data clearly document critical civil rights areas where enforcement waned or was virtually nonexistent.

- During the years covered in the Report, the Division pursued few pattern or practice cases in the employment context;
- Despite considerable evidence of abusive, discriminatory behavior by lenders and underwriters that contributed to the foreclosure crisis, the Division did not make use of critical tools in its law enforcement arsenal (The Fair Housing Act, Equal Credit Opportunity Act) to hold lenders accountable.
- In the Clinton administration, the Appellate Section filed 643 briefs in Courts of Appeal; in the Bush administration, the figure fell to 424.
- In the Clinton administration, the Disability Rights Section brought 228 lawsuits, compared with 126 in the Bush administration.
- In the Clinton administration, the Housing Section brought 676 cases, compared with 324 cases in the Bush administration. Just last month, the Housing Section settled the largest Fair Housing Act case in its history, involving a large landlord in Los Angeles.
- From 2005 until 2007, a total of 16 USERRA cases were brought. In the first eight months of the Obama administration, 18 such cases were filed.
- In the Clinton administration, the Voting Section filed 35 Section 2 cases, compared with 15 filings in the Bush administration.

- In Fiscal Year 2006, the Division prosecuted the lowest number (10) of hate crime cases in more than a decade. Comparatively, in Fiscal Year 2009, the Division prosecuted more than twice as many (24) as in FY 2006.

In addition to these troubling facts, a number of changes took place in longstanding operating practices that greatly hampered the Divisions effectiveness.

- The career staff was in most instances frozen out of the hiring process for career staff. In many instances, section chiefs were notified on one day that a new lawyer or set of lawyers would be starting in their office the following week.
- When I served on the hiring committee under both Republican and Democratic administrations, the hiring process was governed by the same principle: search for the best qualified candidates. In the Bush administration, as documented in the IG Report, hiring was frequently governed by improper ideological considerations.
- Communication between sections, and between career and non-career staff has been a key to the effective operation of the Division. During the Bush administration, appellate section lawyers were forbidden from communicating with lawyers from other sections about case matters, absent approval from the political leadership. Other communication breakdowns hampered morale and effectiveness.

It should come as a surprise to nobody that 70 percent of the career attorneys working in the Civil Rights Division in 2003 had left the Division by 2007.

From the moment the new Administration took office, the Division, with the Attorney General's full backing, took decisive steps to emphasize core enforcement priorities in each of the four litigating sections that were the subject of the reports, and throughout the Division as a

whole. With respect to the three recommendations regarding case management that are contained in the GAO report, I concur with all of them, and I have already issued a memo Division-wide to achieve compliance.

In the months before my arrival, much was accomplished under the leadership of the Attorney General and Acting Assistant Attorney General Loretta King. I want to personally and publicly thank Loretta for her service as the senior career attorney in the front office of the Civil Rights Division across multiple administrations.

I also think it is important to recognize the efforts of former Attorney General Michael Mukasey to begin the process of depoliticizing hiring in the Department generally and in the Civil Rights Division.

Our task ahead is one of restoration and transformation. Our goal is not to recreate the Civil Rights Division of years back, but to create a Civil Rights Division capable of responding to today's and tomorrow's civil rights challenges, both emerging and longstanding. It is a formidable task, but it is one that can and will be accomplished.

We recognize that committed career attorneys and professional staff are the most critical single ingredient to fulfilling our enforcement responsibilities, and we have moved aggressively to continue the efforts to depoliticize Division hiring. One of the Division's first priorities has therefore involved revamping our hiring processes to ensure that the very best candidates for the job are selected through a process that is conducted fairly, transparently and without any consideration of the candidates' political views. Working with career leadership, I am implementing written policies governing hiring of career staff that will be available for review by anyone.

We will continue to invest resources in areas such as religious discrimination, human trafficking and section 203 enforcement which were appropriate areas of focus of the previous administration. But we can and will do much more in a wide range of areas, including lending discrimination, hate crimes, and voting rights. By better leveraging resources, making the most of the additional resources already in the President's FY 2010 budget, and through more effective management, we will enforce all of the laws in the Division's arsenal aggressively and comprehensively.

We are actively engaged in the enforcement of new federal hate crimes law, the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, and I was proud to have testified recently in the Senate HELP Committee to express the President's strong support for the Employment Nondiscrimination Act. Last week was a landmark week for our disability rights enforcement efforts, as we filed briefs in three separate cases urging enforcement of the Supreme Court's decision in *Olmstead v. L.C.*, a ruling requiring States to eliminate unnecessary segregation of persons with disabilities and to move persons who can function in the community out of segregated facilities. And last month we obtained the largest monetary settlement ever obtained by the Department in a Fair Housing Act case when the owners of numerous Los Angeles apartment buildings located in the Koreatown section of the city agreed to pay \$2.7 million to settle allegations that they discriminated against African-Americans, Hispanics, and families with children, preferring instead to rent units to Korean tenants.

I know it will not be easy, but the Civil Rights Division will meet the new challenges it faces. We will implement the GAO's recommendations and do much more by enforcing all the laws in fair, aggressive and independent fashion, using all the tools available to us. We will need

your help, input, and support in fulfilling our mission, and I look forward to working with you in the months and years ahead.

Thank you once again for the opportunity to testify. I welcome your questions.