

**U. S. Department of Justice**

**FY 2009 PERFORMANCE BUDGET**

**CIVIL RIGHTS DIVISION**

**Congressional Budget Submission**

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## **Overview for the Civil Rights Division**

### **1. Introduction**

In FY 2009, the Civil Rights Division (CRT) requests a total of \$123,151,000, 713 positions and 715 direct FTE, to enforce the country's civil rights laws in a fair and uniform manner.

### **2. Background**

CRT's enforcement mission has three significant prongs: (1) to fulfill the promise of federal laws entitling all persons to basic civil rights protections as they engage in everyday conduct throughout the United States; (2) to deter illegal conduct through the successful judicial enforcement of these federal laws; and (3) promoting voluntary compliance and civil rights protection through a variety of educational, technical assistance, and outreach programs. Each time compliance is achieved, a significant result has occurred.

Established in 1957 following enactment of the first civil rights statutes since Reconstruction, CRT is the sole program institution within the Federal Government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin.

CRT's mission supports the Strategic Plan of the Department of Justice (DOJ); specifically Strategic Goal #2 – Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People. These laws influence a broad spectrum of conduct by individuals as well as public and private institutions. CRT enforces laws that prohibit discriminatory conduct in housing, employment, education, voting, lending, public accommodations, access to services and facilities, activities that receive federal financial assistance, and the treatment of juvenile and adult detainees and residents of private institutions.

Within CRT, there are no regional offices; all Division employees are stationed in Washington, D.C. Since litigation activities occur in all parts of the United States nearly all CRT attorneys and, occasionally, some paralegal and clerical personnel are required to travel. This allows CRT employees to be deployed quickly to the areas requiring attention.

In 2005, CRT completed the Program Assessment Rating Tool (PART) review, as part of the review of components of the General Legal Activities (GLA) and Antitrust appropriations, and received an overall rating of "Effective"; the highest rating possible. An independent evaluation was recommended that must meet the Quality, Scope, Independence and Frequency set forth in the PART guidance.

In FY 2006, the Justice Management Division (JMD) offered a proposal to the Management and Planning Staff (MPS) and the Office of Inspector General (OIG) to

perform an independent evaluation of the GLA components. However, after an unsuccessful attempt to get onto the OIG's docket for FY 2007, GLA is reaching out to the Federal Consulting Group at the Department of Treasury. The FCG assists federal agencies in building an organization's program evaluation and performance measurement capacity.

### 3. Challenges

DOJ is the protector of the rule of law within the Executive Branch of government. Fair and uniform enforcement of federal laws is crucial to the public's trust of government and law enforcement. DOJ now includes numerous issues of national attention, including the trafficking of persons, the treatment of juvenile and adult detainees as well as residents of public institutions, official misconduct by law enforcement personnel, and bias motivated crimes. These unpredictable events require DOJ to respond both appropriately and creatively.

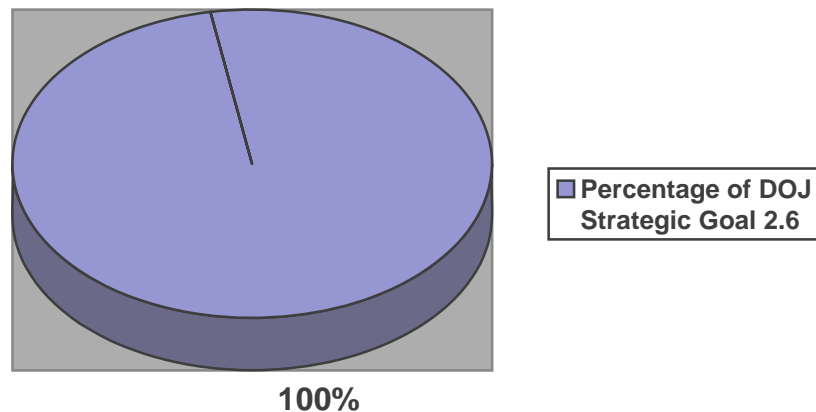
These and CRT's traditional responsibilities for fighting discrimination in housing, education, employment, mortgage lending, public accommodations, access by the disabled to services and facilities, and voting will continue to be high priorities in FY 2009.

#### **FY 2009 Total Civil Rights Request by DOJ Strategic Goal**

Following is a brief summary of the DOJ's Strategic Goal and Objective in which CRT plays a role:

#### **DOJ Strategic Goal 2: Prevent Crime, Enforce Federal Laws and Represent the Rights and Interests of the American People (FY 2009 Request: \$123,151,000)**

- Uphold the civil and constitutional rights of all Americans (2.6)



### 4. Full Program Costs

CRT's budget is integrated with its own priorities as well as the DOJ's Strategic Goal and Objective; therefore, each performance objective is linked with the costs of critical strategic actions.

CRT is requesting 713 permanent positions, 715 direct FTE, and \$123,151,000, to support DOJ's Strategic Goals, which represents no program increases over the FY 2008 enacted level.

Resources for each Strategic Goal and Objective that CRT supports are provided under each programmatic area. The total costs include the following:

- The direct costs of all outputs
- Indirect costs
- Common administrative systems

Both performance and resource tables define the total costs of achieving the strategies CRT will implement in FY 2009. The various resource and performance charts incorporate the costs of numerous strategies, which also contribute to the achievement of CRT's objectives. Also included are the indirect costs for continuing activities, which are central to the operation of CRT.

## **5. Performance Challenges**

DOJ is the chief agency of the Federal Government charged with upholding the civil and constitutional rights of all Americans. Our objective also requires that we educate the public to promote voluntary compliance with civil rights laws.

Among the most important challenges facing CRT are:

- Enforcing compliance with civil rights laws in an increasingly complex and diverse society;
- Responding to high profile incidents resulting in media attention and community interest requiring prompt attention; and
- Providing timely and adequate responses to the tens of thousands of complaints and other correspondence received each year.

The challenges that impede progress toward achievement of CRT's goals are complex and ever changing. Internal agency dynamics, technological developments, and compliance with civil rights statutes are only a few factors that can impact a litigating component's practices and pose challenges that demand attention. The following are challenges that CRT sees as potential obstacles.

### **External Challenges:**

- CRT's trafficking caseload has essentially tripled from FY 2001 – FY 2007. As these cases are extremely labor intensive, CRT's resources are being stretched to handle them. The workload associated with the 42 anti-trafficking task forces, funded by the Bureau of Justice Assistance (BJA), is also having a substantial impact on the program's workload. These task forces have begun to produce high volume and complex trafficking cases, often involving multiple districts and requiring significant coordination efforts by the Criminal Section (CRM). CRM foresees further, possibly exponential, expansion of its caseload and coordination responsibilities.

- Changes to the 2010 Census form and the subsequent data released may have significant impact on the development of the Division’s infrastructure needed to address the massive workload associated with the next redistricting cycle.
- CRT has limited control over the composition and size of its caseload. The Division has no control over the number of complaints it receives. Much of the work is defensive or based on referrals from other agencies. CRT's work is also closely related to the output of the U.S. Attorneys, Federal Bureau of Investigation (FBI) and other agencies. Its Supreme Court activity is dependent upon the number and types of cases that the Court decides to hear.
- The ability to secure the diverse array of testers needed throughout the country will affect CRT’s effort to fully implement the Attorney General’s Operation Home Sweet Home initiative. This includes increased testing for discrimination, and its continuing efforts to implement fully the President’s New Freedom Initiative in the area of access to housing for persons with disabilities, which includes outreach to encourage voluntary compliance.
- The Supreme Court, court of appeals, and district courts determine the pace of the litigation when they set briefing schedules, oral arguments, and trial dates. CRT must abide by those schedules regardless of other cases, matters, or events. Absent CRT’s timely and effective response, the government may face sanctions and default judgments. Alternatively, delayed resolution of cases may occur. Additionally, CRT continues to encounter uncooperative jurisdictions – necessitating initiation of lawsuits which require fiscal and human resources.
- The Department of Homeland Security (DHS) received a substantial increase in its budget to hire worksite investigators, and to sanction employers who hire undocumented workers. Pending legislation would also substantially increase the penalties imposed upon employers for hiring undocumented workers. In 1991, five years after the creation of employer sanctions, the Government Accounting Office (now the Government Accountability Office) determined that these sanctions led to a widespread pattern of discrimination – primarily against Hispanics and Asians. Likewise, we anticipate that higher penalties and enhanced enforcement of those sanctions will lead to an increase in discrimination charges filed with the Office of Special Counsel (OSC), because employers will be more hesitant about hiring workers who look or sound “foreign.”
- CRT’s workload will also increase if legislation is enacted requiring all employers to use a computerized employment eligibility verification program run by DHS and the Social Security Administration (SSA) to determine whether new hires are authorized to work in the United States. Studies have documented that employers sometimes use such systems in a discriminatory manner, including pre-screening applicants and prematurely terminating workers, which may lead to the receipt of additional charges.
- Pending immigration reform proposals, millions of workers may receive legal status that was not previously protected under the Immigration and Nationality Act’s (INA) anti-discrimination provision. Thus, upon receiving lawful permanent resident status, these individuals will be protected under the anti-discrimination provision and will be able to file charges with OSC.

- In September 2004, DOJ entered into a Memorandum of Understanding (MOU) with the Department of Labor (DOL) for enforcement of the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994. As more members of the National Guard and Reserve return from duty, it is anticipated that complaints against employers will increase. Since receiving this enforcement authority, CRT has received a considerable number of USERRA referrals from DOL. Assumption of this enforcement authority will continue to impact the workload of CRT in FY 2009 and into the immediate future.
- CRT faces the challenge of enforcing the Americans with Disabilities Act (ADA) at a time when national attention and resources must be focused on providing for the safety and well being of all citizens. State and local governments, as well as the business community, are burdened with monetary shortfalls that tend to place the correction of access violations at a lower priority. This places an increased premium on securing voluntary compliance.
- With the passage of the Voting Rights Reauthorization and Amendments Act of 2006, additional resources will need to be devoted to address the increased litigation workload. In addition, the amount of enforcement work necessary under Section 203 of Voting Rights Act of 1965 (VRA) will be dependent on the extent to which election officials take appropriate steps to ensure fully bilingual elections.
- CRT, in its legal counsel capacity, faces the challenge of providing formal opinions and informal advice on legal and policy matters to CRT's Assistant Attorney General's Office, CRT's litigating sections, and the U.S. Attorneys Offices that continue to rely upon CRT in its role as the government's expert in court of appeals litigation.

### **Internal Challenges:**

- Law enforcement relies primarily on people. Civil rights law enforcement is no different. Expanding skills and expertise through positive managerial intervention in areas of training, and policies supporting career development and upward mobility programs will play a critical role. DOJ needs to continue its efforts to attract the “best and brightest” of all talents, and should continue to provide an accessible, welcoming work environment that increases retention. Extensive training and development will be required for any new staff hired for those positions.
- Many of CRT's responsibilities are not performed by any other government agency. The recent loss of numerous senior staff has impacted CRT on many levels particularly in the loss of institutional memory, expertise and skill, all of which have been integral to our enforcement, training and outreach efforts. CRT expects this challenge to continue through FY 2008 and into FY 2009. Expanding the skills of existing employees through internal training and career development is critical.
- Training has increasingly become a challenge. While many of our incoming attorneys come to CRT with strong educational backgrounds, they have little or no litigation or substantive experience. The demands of our work-investigation,

negotiation, and litigation require that attorneys broaden their skill sets. Similarly, we have stepped up our efforts to require increased accountability (both fiscal and programmatic) from all sectors of our Division.

- Many of CRT's cases are extremely complex; requiring teams of two or three lawyers for each case. Such long-term efforts, which tie up lawyers and support personnel for months, challenge the remainder of the staff to "cover" for them.
- Several of CRT's current cases involve large developers who have built multiple housing complexes that do not comply with the accessibility requirements. This has resulted in large, complex, resource-intensive cases.

## F. Performance of Commercial Activities

Since ensuring compliance with civil rights laws is an inherently governmental function, CRT does not have a formal A-76 study underway.

## II. Summary of Program Changes

N/A

## III. Appropriations Language and Analysis of Appropriations Language

N/A

## IV. Decision Unit Justification

### A. Civil Rights Division

<b>Civil Rights Division TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE *</b>	<b>Amount</b>
2007 Enacted with Rescissions	733	751	\$113,597,000
2007 Supplementals	0	0	0
2007 Enacted w/Rescissions and Supplementals	733	751	113,597,000
2008 Enacted	713	731	114,450,000
Adjustments to Base and Technical Adjustments	0	0	8,701,000
2009 Current Services	713	731	123,151,000
2009 Program Increases	0	0	0
2009 Request	713	731	\$123,151,000
<b>Total Change 2008-2009</b>	<b>0</b>	<b>0</b>	<b>\$8,701,000</b>

\* Includes 16 reimbursable FTE in each fiscal year

**Civil Rights Division's IT infrastructure is funded through the Justice Consolidated Office Network (JCON).**

### 1. Program Description

An Assistant Attorney General, who is assisted by Deputy Assistant Attorneys General, heads CRT. They establish policy and provide executive direction and control over enforcement actions and the administrative management activities in CRT.

CRT is comprised of one decision unit and two programmatic areas: criminal and civil enforcement. These areas are broken down into ten program-related Sections and the Management and Administration (M&A) Section.

Following is a brief summary of the major programmatic responsibilities in enforcing the laws and regulations for which CRT is charged, and how these efforts tie to the strategic objectives in the DOJ Strategic Plan for its responsibilities in upholding the civil rights of all Americans.

**Criminal Enforcement (100 FTE; \$13,953,000)**

The Criminal Enforcement responsibilities of CRT frequently involve prosecuting significant cases; implicating violations of basic constitutional rights. These are invariably matters of intense public interest. CRT’s caseload includes violations of human trafficking and involuntary servitude statutes, and acts of racial, ethnic, or religious violence such as cross burnings and church arsons. CRT also handles “color of law” offenses by local and federal law enforcement officials, investigating and prosecuting allegations of excessive force, sexual assaults and other forms of official misconduct in violation of fundamental constitutional protections. Criminal Enforcement’s jurisdiction includes, as well, criminal violations of the Freedom of Access to Clinic Entrances (FACE) Act. The federal criminal civil rights statutes also provide for prosecutions of conspiracies to interfere with federally protected rights. CRT frequently prosecutes criminal statutes arising out of and related to civil rights investigations, such as obstruction of justice, weapons violations and immigration charges.

Criminal cases are investigated and prosecuted differently from civil cases. Additional and stronger evidence is needed to obtain a criminal conviction than to win a civil suit. Should the defendant be acquitted, the Government has no right of appeal.

In FY 2007, former Attorney General recently announced a Cold Case Initiative to pursue unsolved civil rights era murder cases. CRT has teamed up with the U. S. Attorneys’ Offices, the FBI and local prosecutors in an effort to investigate and, when possible, prosecute historical civil rights era murders.

These criminal enforcement responsibilities play an integral role in DOJ’s Strategic Plan, designed to uphold the civil rights of all Americans.

The Trafficking Victims Protection Act (TVPA) of 2000 expanded the scope of federal enforcement authority over human trafficking offenses. The law strengthened CRT’s ability to investigate and prosecute modern day slavery offenses. The Act broadened the reach of servitude statutes to include psychological and non-violent forms of coercion. CRT works closely with the FBI, DOJ’s Criminal Division, DHS, the U.S. Attorneys Offices, DOL, Non-governmental organizations (NGOs), and the 42 BJA-funded task forces to identify victims of illegal trafficking, many of whom are women and children.

Trafficking in humans stands among the most offensive moral scourges in America. It is a form of modern day slavery. Each year, an estimated 600,000 to 800,000 individuals around the world are trapped, tricked, bought, sold, or transported across international borders and held in sexual or labor servitude. There are estimates that 14,500 to 17,500 victims are trafficked into America annually.

The majority of the victims of human trafficking are female. Trafficking profits support organized crime. Trafficking has also been linked to other serious crimes including document fraud, money laundering, and migrant smuggling.



***U.S. v. Calimlim (E. D. Wisconsin): 3 defendants convicted, two defendants sentenced to four years imprisonment, and two defendants ordered to pay \$950,000 in restitution to Filipina victim from an impoverished rural village (1<sup>st</sup> picture above) whom the defendants held as a domestic servant in their suburban Milwaukee mansion (2<sup>nd</sup> picture below) for 19 years.***

In addition, working with DHS, DOL, and the Department of Health and Human Services (HHS), as well as State and local law enforcement and NGOs, DOJ has formed 42 anti-trafficking task forces across the country. Task forces have been established in

The anti-discrimination statutes enforced by the Civil Rights Division reflect one of America's highest aspirations: to become a society that provides equal justice under law. Our mission is clear: uphold the civil rights of all Americans.

Houston, Northern Virginia, New York, Los Angeles, Miami, the District of Columbia, and other locations. CRT also enforces several criminal statutes to uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil right laws, including:

- Criminal provisions of the CRA of 1964 and 1968, which prohibit using force or threats of force to injure or intimidate any person involved in the exercise of certain federal rights and activities because of that person's race, religion or ethnicity;
- The Church Arson Prevention Act of 1996, which amended 18 U.S.C. §247, strengthened the criminal law against church burning and desecration by broadening the interstate commerce nexus, adding a racial motive element, and eliminating the \$10,000 damage requirement; and
- Relevant provisions of the Partial Birth Abortion Ban Act of 2003, which bans partial birth abortions. The Act provides both criminal and civil penalties for individuals who perform such abortions. Immediately, after the Act was signed into law, federal judges in California, Nebraska, and New York enjoined enforcement of the Act against abortion providers and their affiliates nationwide.

### **Performance and Resources Table – Criminal Enforcement**

The Performance and Resources Table displays four performance measures, two outcome measures associated with CRT's criminal enforcement responsibilities, and is included in six Division-wide measures regarding cases and matters. The performance measures reflect the number of cases filed and defendants charged, by both trafficking of persons enforcement responsibilities and all criminal civil rights violations. The outcome measures reported are the percentage of criminal cases favorably resolved, and the number of trafficking victims successfully prosecuted. Accomplishments are described under section IVA3a Performance Plan and Report for Outcomes.

### **B. Civil Enforcement (615 FTE; \$109,198,000)**

The Civil Enforcement responsibilities of CRT encompass a vast array of responsibilities, including enforcement of the CRA of 1957, 1960, 1964, and 1968; the VRA of 1965, as amended through 1992; the Rehabilitation Act of 1973, as amended; the Fair Housing Amendments Act of 1988; the Equal Credit Opportunity Act; the ADA; the National Voting Registration Act (NVRA); the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); the Voting Accessibility for the Elderly and Handicapped Act (VAEH); the Help American Vote Act (HAVA), and additional civil rights provisions contained in other laws and regulations. These laws prohibit discrimination on a variety of grounds including: disability; race; sex; national origin; and religion in areas such as education;

employment; credit; housing; zoning and land use; public accommodations and facilities; State and local government offices; voting and certain federally funded and conducted programs.

CRT enforces the Civil Rights of Institutionalized Persons Act (CRIPA) of 1980, which authorizes the Attorney General to seek relief for persons confined in public institutions where conditions exist that deprive residents of their constitutional rights; the Religious Land Use and Institutionalized Persons Act (RLUIPA); the FACE, the Police Misconduct Provision of the Violent Crime Control and Law Enforcement Act of 1994; the pattern or practice provisions of the Omnibus Crime Control and Safe Streets Act of 1968; and Section 102 of the Immigration Reform and Control Act of 1986 (IRCA), as amended, which prohibits discrimination on the basis of national origin and citizenship status as well as documented abuse and retaliation under the INA.

The civil enforcement responsibilities also play an integral role in achieving the overall goals and mission of DOJ. CRT's civil enforcement responsibilities are reflected in the eight program areas and its Appellate Section. They perform civil responsibilities to uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil rights laws. These program areas, listed below in alphabetical order, perform many integral responsibilities to protect the rights and interests of the American people by legal representation.

### **Appellate Section (APP)**

APP has primary responsibility for handling civil rights cases in the courts of appeals and, in cooperation with the Solicitor General, in the Supreme Court. APP also provides legal counsel to other components of DOJ regarding civil rights law and appellate litigation.

Most of APP's appeals are from district court judgments in cases originally handled by trial sections within CRT. The appellate caseload is both affirmative and defensive. Thus, APP handles all appeals from both favorable and adverse judgments in which the government participates.

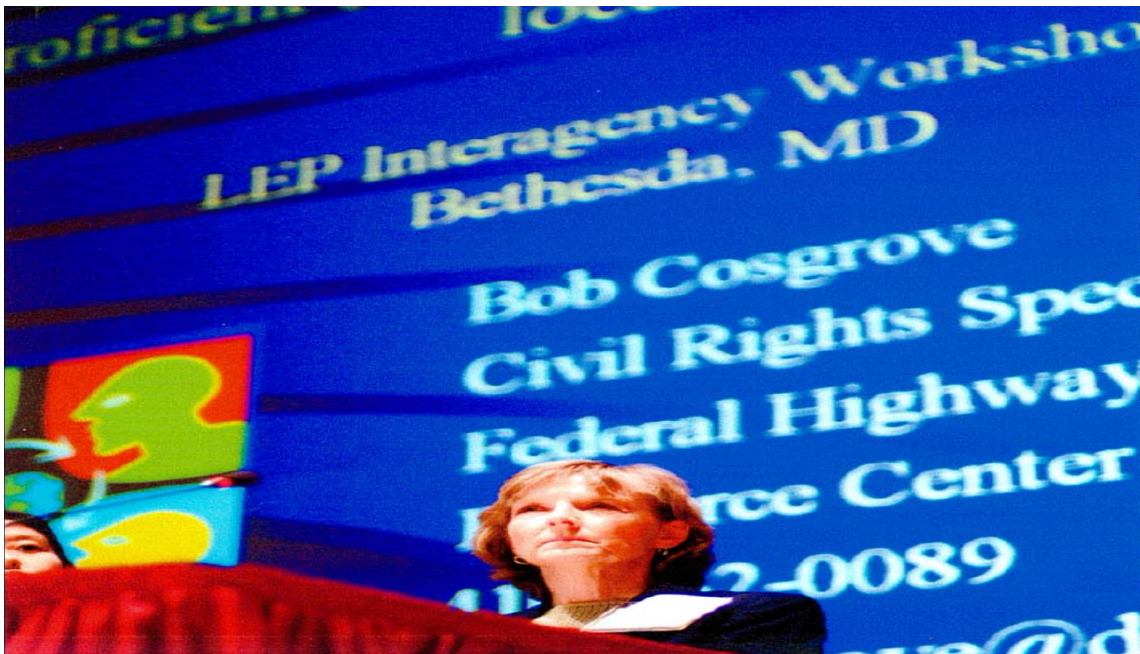
A significant proportion of APP's work involves participation as amicus curiae (friend of the court) or as intervenor in cases that have the potential for affecting CRT enforcement responsibilities. In this capacity, APP closely monitors federal court cases to which the United States is not a party. In many of these cases, especially those concerned with developing or problematic areas of civil rights law, APP uses the Federal Government's authority to file an amicus curiae brief to register the government's position. APP also intervenes in a substantial number of cases to defend the constitutionality of federal statutes.

### **Coordination and Review (COR)**

COR operates a comprehensive, government-wide program of technical and legal assistance, training, interagency coordination, and regulatory, policy, and program review, to ensure that federal agencies consistently and effectively enforce various landmark civil rights statutes and related Executive Orders that prohibit discrimination in federally assisted programs and in the Federal Government's own programs and activities.

Under Executive Order 12250, COR coordinates and ensures consistent and effective enforcement of Title VI of the CRA of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education and training programs; and other assistance-related statutes that prohibit discrimination on the basis of race, color, national origin, sex, or religion in federally assisted programs. The approximately 30 federal agencies that provide federal financial assistance are subject to these nondiscrimination statutes.

COR plays a central role in the Administration's priority of ensuring implementation and enforcement of civil rights laws affecting persons with Limited English Proficiency (LEP). COR has taken significant steps to implement Executive Order 13166, which mandates meaningful access for LEP individuals in federal and federally funded programs. In addition, COR continues to work with approximately 80 federal agencies to ensure that they produce plans to provide meaningful access to LEP individuals in their own conducted programs. COR provides a training and outreach program, which includes regular LEP presentations to recipients and other groups, as well as widespread distribution of LEP materials to DOJ recipients. COR also oversees the Interagency Working Group on LEP, which has active representation by more than 35 federal agencies, as well as the Working Group's LEP website, [www.lep.gov](http://www.lep.gov), which is a prime source of LEP information for federal agencies, recipients, and community groups.



***FY 2007 LEP Workshop in Bethesda, MD***

In order to ensure consistent and effective enforcement, COR engages in a wide variety of activities, including the development or review and approval of model regulations, policies, and enforcement standards and procedures. It also reviews plans and data submitted by all federal funding agencies, which describe their civil rights enforcement

priorities, activities, and achievements. It provides ongoing technical assistance to federal agencies and, upon request, assists agencies in investigations of particular complaints and compliance reviews raising novel or complex issues.

COR also has an implementation and interagency coordination role with respect to Executive Order 13160, which applies to approximately 90 federal agencies. It prohibits discrimination in federally conducted education and training programs on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent.

### **Disability Rights Section (DRS)**

The ADA extends the promise of equal access to everyday life to people with disabilities. Through its multi-faceted approach toward achieving compliance with the ADA, DRS works to make this promise a reality. DRS' enforcement, certification, regulatory, coordination, and technical assistance activities, required by the ADA, combined with an innovative mediation program, provide a cost-effective and dynamic approach for carrying out the ADA's mandates. DRS also carries out responsibilities under Section 504 of the Rehabilitation Act, the HAVA of 2002, the Small Business Regulatory Enforcement Fairness Act, Executive Order 13217, Community-based Alternatives for Individuals with Disabilities, Executive Order 12250, and the President's New Freedom Initiative, designed to improve the lives of millions of Americans with disabilities. DRS activities affect more than seven million businesses and non-profit agencies, 80,000 units of State and local government, over 50 million people with disabilities, and more than 100 other federal agencies and commissions in the Executive Branch.

A 31-page booklet giving an overview of the ADA's requirements for ensuring equal opportunity for persons with disabilities in employment, State and local government services, public accommodations, commercial facilities, and transportation, is available from the ADA Information Line 1-800-514-0301 or 1-800-514-0383 (TDD) or at [www.ada.gov](http://www.ada.gov)

DRS' wide variety of enforcement activities serves to encourage compliance with Titles I, II, and III of the ADA. Shortly after taking office, President George W. Bush launched the "New Freedom Initiative" to advance the promise of the ADA – expanding access and equality for people with disabilities in every facet of American life. CRT has pioneered a multi-track approach to advancing these important rights by: promoting expanded opportunities through cooperative compliance assistance; providing technical assistance; and backing these up with a robust enforcement program.

DOJ's Project Civic Access (PCA) has worked cooperatively with local governments to expand access to public facilities, services, and programs. Since January 2001, DOJ has signed 155 agreements under PCA. Through PCA, DOJ assesses entire towns and counties, providing local officials with a roadmap to bringing all of their facilities, services, and programs into compliance with federal law. PCA settlement agreements cover important civic facilities such as town halls, courthouses, polling places, libraries, and police stations. They also include recreational facilities, sidewalks, parks, emergency services, and shelters. Participants, including both local officials and people with disabilities, have lauded DOJ for the access and opportunity the PCA program has brought to their communities.

DRS is the only government entity with authority to initiate litigation under Title I (Employment) against State and local government employers. Consequently, investigations and litigation have resulted in numerous formal and informal settlement agreements enforcing the ADA's employment provisions throughout the country. DRS has also made case law and achieved consent decrees, formal settlement agreements, and informal resolutions with respect to hundreds of complaints or compliance reviews under Titles II (State and local government programs) and III (public accommodations and commercial facilities).



DRS has built an impressive mediation program to assist with the disposition of the thousands of complaints received each year and the mediation program receives a portion of these to expeditiously address these issues. For FY 2007, as of September 30, 2007, the mediation program referred 318 matters, completed 226 of these matters and successfully resolved 84% of these cases, the highest success rate achieved since the inception of this program in FY 1999.

The Technical Assistance Program, mandated under Section 506 of the ADA, provides answers to questions and free publications to businesses, State and local governments, people with disabilities, and the general public. The ADA Information Line and the ADA Website are utilized by millions of individuals each year, providing an unparalleled reference source on DOJ's enforcement and interpretation of the ADA.

## Educational Opportunities Section (EOS)

The Supreme Court's landmark decision in *Brown v. Board of Education* held that the segregation of students on the basis of race in public schools was a violation of the U.S. Constitution. Subsequent federal legislation and court decisions mandate that school officials not discriminate against students on the basis of race, color, national origin, sex, religion, language barriers, or disabilities. Thus, the work of the EOS covers a variety of legal issues involving both elementary and secondary schools and institutions of higher education.

Q: What is the relationship between the Department of Education's Office of Civil Rights (OCR) and CRT's Educational Opportunities Section (EOS)?

A: If OCR, after investigating a charge of discrimination determines that a violation of the law has occurred and conciliation efforts are unsuccessful, the Department of Education may refer the charge to EOS who, within its prosecutorial discretion, may initiate litigation.

EOS enforces federal statutes that prohibit discrimination in public elementary and secondary schools and public colleges and universities. The laws enforced by EOS include Title IV of the CRA of 1964, and the Equal Educational Opportunities Act of 1974. EOS also initiates enforcement activities upon receiving a referral from other agencies to enforce Title VI of the CRA of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the ADA; and the Individuals with Disabilities Education Act. EOS may intervene in private lawsuits which allege violations of the Equal Protection Clause or the education related anti-discrimination statutes referred to above. EOS also participates as amicus curiae, addressing issues in which the government has an interest. EOS represents the Department of Education in certain types of suits filed against or on behalf of it.

Among EOS' most important priorities is its responsibility to monitor approximately 308 school districts currently covered by desegregation orders in cases in which the United States is a party. To ensure that districts comply with their obligations, EOS routinely reviews matters relating to student assignment, faculty assignment and hiring, transportation policies, extracurricular activities, the availability of equitable facilities, and the distribution of resources. EOS also routinely responds to requests by other parties to modify court orders to reflect current circumstances. It also responds to requests by parties and courts regarding unitary status and the ultimate dismissal of the lawsuit. As a result of these activities, EOS obtained relief in a number of cases, including: improved facilities for minority students; the elimination of one-race classrooms and schools; consolidation of schools to ensure desegregation; the desegregation of faculty and recruitment of minority faculty and staff; more equitable transportation routes for minority students; the elimination of segregative transfers; and the elimination of racially dual awards. Also, where appropriate, EOS agreed that the desegregation process had been completed and agreed to declarations of unitary status.

Additionally, EOS is proactive in other important areas involving discrimination in schools. For instance, EOS reviews districts' compliance with their obligations to provide appropriate services to English Language Learner students under the Equal Educational Opportunities Act of 1974 (EEOA). EOS also participates in matters involving religious discrimination in schools, such as equal access and religious harassment. Further, EOS is expanding its role in investigating allegations of discrimination based on disability.

## **Employment Litigation Section (ELS)**

ELS enforces the provisions of Title VII of the CRA of 1964, as amended and related federal laws such as the Crime Control Act prohibiting employment practices that discriminate on grounds of race, sex, religion, and national origin.

ELS initiates litigation under Title VII and other federal laws in two ways. Under the statutes it enforces, the Attorney General has authority to bring suit where there is reason to believe that pattern or practice discrimination exists. Generally, these are factually and legally complex cases that seek to alter an employment practice, such as one involving recruitment, hiring, assignment or promotion, which has the purpose or effect of denying employment or promotional opportunities to a class of individuals. Under its pattern or practice authority, ELS typically obtains relief in the form of employment offers or promotion, back pay and other remedial relief for individuals who have been the victims of unlawful employment practices. These cases are frequently resolved by consent decree prior to trial.

ELS also files Title VII suits based upon individual charges of discrimination referred to it by the Equal Employment Opportunity Commission (EEOC). These charges are filed with the EEOC by individuals who believe that they were unlawfully denied an employment opportunity or otherwise discriminated against by a State or local government employer. If, after investigation, the EEOC determines that the charge has merit and efforts to obtain voluntary compliance are unsuccessful, the EEOC refers it to ELS. ELS may also intervene in Title VII lawsuits filed against public employers by private plaintiffs.

Enforcement authority for USERRA is the responsibility of ELS. USERRA complaints are initially filed with DOL. DOL investigates the complaints, makes determinations as to whether they have merit, and attempts to voluntarily resolve those that it determines have merit. If DOL does not resolve a complaint, it refers the complaint to DOJ upon the request of the service member who filed the complaint. Upon receipt of an unresolved USERRA complaint from DOL, ELS reviews DOL's investigative file accompanying the complaint and makes a determination as to whether to extend representation to the complainant. Under USERRA, DOJ has authority to appear on behalf of a claimant in a suit filed in federal district court if it is satisfied that the claimant is entitled to the rights or benefits being sought. Since the transfer of USERRA enforcement authority in 2004, ELS has been actively reviewing complaints referred to it by DOL and has initiated several lawsuits on behalf of service members.

ELS also represents DOL, the Department of Transportation, and other federal agencies when they are sued. In addition, ELS has authority to prosecute enforcement actions upon referral by DOL of complaints arising under Executive Order 11246, which prohibits discrimination in employment by federal contractors.

## **Housing and Civil Enforcement Section (HCE)**

HCE enforces the Fair Housing Act (FHA), which prohibits discrimination in all types of housing transactions. FHA applies not only to actions by direct providers of housing such as landlords and real estate companies, but also to actions by local governments, banks, insurance companies, and other entities whose discriminatory practices make

housing unavailable to persons because of their race, color, religion, sex, national origin, handicap, or familial status. The statute authorizes DOJ to bring lawsuits to address discriminatory policies or “patterns or practices.” It also creates a mechanism by which individuals may file a complaint with the Department of Housing and Urban Development (HUD), a process that sometimes results in a lawsuit brought by DOJ.

HCE also enforces the fair lending provisions of both the FHA, which prohibits discrimination in residential real estate loans, and the Equal Credit Opportunity Act, which prohibits discrimination in these and other types of lending, such as commercial and consumer loans. Discrimination in home mortgage lending has been a particular focus of HCE’s enforcement efforts, because home ownership is so important to American families. HCE works with the Federal Reserve Board, Federal Deposit Insurance Corporation, and other banking regulatory agencies to promote voluntary compliance with the fair lending requirements.

Section 2 of the RLUIPA of 2000 prohibits State and local governmental actions that discriminate on the basis of religion in land use and zoning practices or impose substantial burdens on religious exercise. HCE enforces the land use provisions of this Act.

HCE also enforces the prohibition against discrimination and segregation in public accommodations under Title II of the CRA of 1964, and public facilities under Title III of the CRA of 1964. The public accommodations cases include those involving claims of systemic discrimination by restaurants and hotels.

As of the second half of FY 2006, HCE has enforced the Servicemembers Civil Relief Act, which provides for the temporary suspension of judicial and administrative proceedings and civil protections in areas such as housing and credit for military personnel while they are on active duty.

### **Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC)**

OSC enforces the anti-discrimination provision of the INA, which prohibits citizenship status and national origin discrimination with respect to hiring, firing and recruitment or referral for a fee, unfair documentary practices during the employment eligibility verification process, and retaliation. OSC receives discrimination complaints directly from the public, including U.S. citizens, lawful permanent residents, asylees and refugees, many of whom have limited English proficiency and are low wage workers. On its own initiative, OSC opens independent investigations where there is reason to believe that employers are engaging in a pattern or practice of discrimination. For meritorious claims, OSC brings litigation before administrative law judges if settlement discussions are not successful.

Congress created OSC based on concerns that employers subject to civil and criminal sanctions, for knowingly hiring individuals unauthorized to work in the U.S. might discriminate, either against those who look or sound "foreign", or against legal immigrants who are not U.S. citizens.

Through its employer and worker hotlines, OSC conducts informal telephone interventions with workers and employers to explain lawful employment practices. This is done to prevent discrimination from occurring promptly and remedy unlawful practices. A large number of complaints are resolved each year through this process, generally resulting in the immediate return to work of the injured party and obviating the

need for a formal charge. OSC also leverages its effectiveness through its public education grant program by awarding grants to organizations with ties to immigrant workers and employers. In addition, it cultivates a network of grantees and other nonprofit and government partners, who educate employers and workers on the requirements of the INA and who, when appropriate, refer possible violations to OSC for review. OSC also conducts direct outreach throughout the country, providing speakers for presentations and distributing a large volume of outreach materials in several languages, upon request.

OSC anticipates that its workload will increase significantly during FY 2008 and FY 2009 based upon a number of external factors that are likely to have a significant impact on OSC's enforcement and outreach work.

First, DHS has increased resources to address the escalating number of undocumented workers in the United States, including bringing criminal actions against employers that knowingly employ undocumented workers. As DHS's efforts continue to expand in this regard, OSC expects to see an increase in discrimination charges filed by U.S. citizens and work authorized immigrants who look or sound foreign.

Second, legislation has made possible the greater use of computerized verification systems by private employers to determine whether new hires are authorized to work in the United States. Proposed legislation would make such systems mandatory for employers. Studies have documented that many employers use such systems in a discriminatory manner, which may also lead to an increase in the number of charges filed with OSC.

### **Special Litigation Section (SPL)**

SPL protects the constitutional and federal statutory rights of persons confined in certain institutions owned or operated by or on behalf of State and local governments. These institutions include: facilities for individuals with mental illness or developmental disabilities; nursing homes; juvenile justice facilities; and adult jails and prisons. SPL derives its primary authority in this area from CRIPA, enacted in 1980. CRIPA gives the Attorney General the authority to investigate institutional conditions and file suit against State and local governments for a pattern or practice of egregious or flagrant unlawful conditions. SPL also is responsible for enforcing Title III of the CRA of 1964, which prohibits discrimination in public facilities on the basis of race, religion, or national origin.

As a result of SPL's CRIPA efforts, tens of thousands of institutionalized persons who were living in dire, often life-threatening, conditions now receive adequate care and services. SPL's work in institutions has focused recently on abuse and neglect in nursing homes and facilities for persons with mental illness or developmental disabilities; abuse and victimization of juveniles; inadequate special education services in facilities serving children and adolescents; and the unmet mental health needs of inmates and pre-trial detainees.

SPL enforces the police misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994, which authorizes the Attorney General to seek equitable and declaratory relief to redress a pattern or practice of illegal conduct by law enforcement agencies and agencies responsible for the administration of juvenile justice. SPL also

enforces the pattern or practice provisions of the Omnibus Crime Control and Safe Streets Act of 1968, which authorizes the Attorney General to initiate civil litigation to remedy discrimination based on race, color, national origin, gender or religion involving services by law enforcement agencies receiving financial assistance from DOJ.

The civil provisions of FACE are also within the area of enforcement for the SPL. Its attorneys work closely with offices of the U.S. Attorneys and State Attorneys General by providing technical assistance and conducting joint FACE prosecutions.

RLUIPA was signed into law on September 22, 2000. SPL has enforcement responsibilities under Section 3 of the Act, which protects the rights to free exercise of religion for institutionalized persons. Pursuant to this authority, SPL is authorized to investigate and bring civil actions for injunctive relief to enforce compliance with RLUIPA. The vast majority of these cases have led swiftly to local rules being changed to end the challenged discrimination.

### **Voting Section (VOT)**

VOT is responsible for the enforcement of VRA of 1965, NVRA of 1993, VAEH, UOCAVA, HAVA and other statutory provisions designed to safeguard the right to vote of racial and language minorities, disabled and illiterate persons, overseas citizens, and military personnel.

To carry out its mission, VOT brings lawsuits against States, counties, cities, and other jurisdictions to remedy violations of the above statutes. With respect to VRA, high priority has been given to enforcement of Section 203 of the Act to ensure that appropriate language assistance is provided to citizens who are limited English proficient. In addition, extensive activities have been taken to enforce Section 2 of the Act with respect to denials and abridgements of the right to vote on account of race, color, or membership in a language minority. VOT also defends lawsuits that the VRA authorizes to be brought against the Attorney General.

VOT also has extensive programs to enforce two other provisions of the VRA. First, it reviews changes in voting laws and procedures administratively under Section 5 of the VRA. Section 5 of the VRA of 1965 is one of the special provisions of the VRA that apply to nine States in their entirety and one or more counties in seven other States. Second, VOT has an extensive election monitoring program pursuant to Section 8 of the Act which authorizes the assignment of federal observers to those jurisdictions certified by the Attorney General and through the assignment of staff to monitor elections in other parts of the country.

VOT is also responsible for enforcing the NVRA of 1993, UOCAVA, and HAVA. The HAVA, signed into law in October 2002, aims to improve the administration of elections in the United States, primarily by: 1) creating a new federal agency to serve as a clearinghouse for election administration information; 2) providing funds to States to improve election administration and replace outdated voting systems; and 3) creating uniform and nondiscriminatory election technology and administration requirements that States must implement for all federal elections. Most of these requirements were effective as of 2004; the remaining requirements became effective in 2006. VOT has taken the lead in outreach and monitoring of this law. It also has ongoing outreach and monitoring efforts to ensure effective and timely implementation by the States.

## **2. Performance and Resource Tables**

The Performance and Resource Table reflects two programmatic activities (criminal and civil). The table displays performance, outcome, and efficiency measures associated with CRT's enforcement responsibilities. The performance measure included in the Department's Performance and Accountability Report (PAR) reflects the percentage of cases favorably resolved. Accomplishments are described under section IVA3a of the Performance Plan and Report for Outcomes.

**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Civil Rights Division**

**DOJ Strategic Goal/Objective: 2.6 Uphold the civil and Constitutional rights of all Americans.**

<b>WORKLOAD/ RESOURCES</b>		<b>Final Target</b>		<b>Actual</b>		<b>Projected</b>		<b>Changes</b>		<b>Requested (Total)</b>	
		<b>FY 2007</b>		<b>FY 2007</b>		<b>FY 2008 Enacted</b>		<b>Current Services Adjustments and FY 2009 Program Changes</b>		<b>FY 2009 Request</b>	
<b>Workload : Investigations/Technical Assistance/Mediation/Prosecution</b>											
<b>Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)</b>		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		735 [16]	\$113,597	660 [9]	\$113,568	715 [16]	\$114,450	0	8,701	715[16]	\$123,151
<b>TYPE/ STRATEGIC OBJECTIVE</b>	<b>PERFORMANCE</b>	<b>FY 2007</b>		<b>FY 2007</b>		<b>FY 2008 Enacted</b>		<b>Current Services Adjustments and FY 2009 Program Changes</b>		<b>FY 2009 Request</b>	
		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
<b>Program Activity</b>	Criminal	100 [0]	\$13,140	86 [0]	\$12,833	100 [0]	\$13,255	0	\$698	100[0]	\$13,953
<b>Performance Measure</b>	Number of criminal cases filed	75		93		84		0		84	
<b>Performance Measure</b>	Number of defendants charged	120		193		161		0		161	
<b>Performance Measure</b>	Number of trafficking cases filed	22		32		24		0		24	
<b>Performance Measure</b>	Number of trafficking defendants charged	40		89		67		0		67	
<b>OUTCOME</b>	% of criminal cases favorably resolved	80		95		80		0		80	
<b>OUTCOME</b>	# of trafficking victims successfully protected	67		128		96		0		96	

**PERFORMANCE AND RESOURCES TABLE**

**Decision Unit: Civil Rights Division**

**DOJ Strategic Goal/Objective: 2.6 Uphold the civil and Constitutional rights of all Americans.**

<b>WORKLOAD/ RESOURCES</b>		<b>Final Target</b>		<b>Actual</b>		<b>Projected</b>		<b>Changes</b>		<b>Requested (Total)</b>	
		<b>FY 2007</b>		<b>FY 2007</b>		<b>FY 2008 Enacted</b>		<b>Current Services Adjustments and FY 2009 Program Changes</b>		<b>FY 2009 Request</b>	
<b>Workload : Investigations/Technical Assistance/Mediation/Prosecution</b>											
<b>Total Costs and FTE (reimbursable FTE are included, but reimbursable FTE are bracketed and costs are not included in the total)</b>		<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		735 [16]	\$113,597	660 [9]	\$113,568	715 [16]	\$114,450	0	\$8,701	715 [16]	\$123,151
<b>TYPE/ STRATEGIC OBJECTIVE</b>	<b>PERFORMANCE</b>	<b>FY 2007</b>		<b>FY 2007</b>		<b>FY 2008 Enacted</b>		<b>Current Services Adjustments and FY 2009 Program Changes</b>		<b>FY 2009 Request</b>	
<b>Program Activity</b>	Civil	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>	<b>FTE</b>	<b>\$000</b>
		635 [16]	\$100,457	574 [9]	\$100,735	615 [16]	\$101,195	0	\$8,003	615 [16]	\$109,198
<b>Performance Measure</b>	Number of matters successfully resolved	300		318		300		0		300	
<b>Performance Measure</b>	Number of successful mediations	150		190		150		0		150	
<b>Efficiency Measure</b>	Percentage of matters successfully resolved through mediation	75		84		75		0		75	
<b>OUTCOME</b>	% of civil cases favorably resolved	80		100		80		0		80	

<b>PERFORMANCE AND RESOURCES TABLE</b>
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<b>Decision Unit: Civil Rights Division</b>
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<b>DOJ Strategic Goal/Objective: 2.6 Uphold the civil and Constitutional rights of all Americans.</b>
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**DATA DEFINITION AND QUALITY ASSURANCE:**

All Workload and Performance Indicators: The data source for all indicators is the Civil Rights Division's Interactive Case Management (ICM) System, which will be transitioning to the Litigative Case Management Systems (LCMS) in FY 2009. The Requirements phase of the project will begin in the Spring of FY 2008. The Design and Development phases will follow after the completion of the Requirements phase through the implementation in FY 2009.

Quality assurance efforts include: regular interviews with attorneys to review data listings for each case; input screens programmed to preclude the entry of incorrect data; exception reports which list data that is questionable or inconsistent; attorney manager review of numerous monthly reports for data completeness and accuracy; and verification of representative data samples. Despite these measures, some data limitations do exist. Most significantly, incomplete data can cause the system to under-report case terminations and attorney time.

**ISSUES AFFECTING SELECTION OF FY 2008 AND 2009 ESTIMATES:**

An entry of N/A reflects information that was not available at the time, for that specific measure.

**PERFORMANCE MEASURE TABLE**

**Decision Unit: Civil Rights Division**

Performance Report and Performance Plan Targets		FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007		FY 2008	FY 2009
		Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
<b>Performance Measure</b>	Number of criminal cases filed	93	76	63	95	83	89	75	93	84	84
<b>Performance Measure</b>	Number of criminal defendants charged	190	122	126	151	157	200	120	193	161	161
<b>Performance Measure</b>	Number of trafficking cases filed	N/A	10	11	25	34	32	22	32	24	24
<b>Performance Measure</b>	Number of trafficking defendants charged	N/A	40	27	43	93	111	40	89	67	67
<b>Performance Measure</b>	Number of civil matters successfully resolved	416	522	429	341	399	385	300	318	300	300
<b>Performance Measure</b>	Number of successful mediations	105	203	212	170	184	183	150	190	160	150
<b>Performance Measure</b>	Number of matters received	4,716	3,989	3,990	3,615	3,626	2,989	3,500	2,287	2,500	2,500
<b>Performance Measure</b>	Number of cases received	345	327	213	260	403	331	280	240	260	250
<b>Performance Measure</b>	Number of matters opened/pending	6,358	6,077	6,076	5,518	5,714	5,215	6,200	4,911	5,000	5,200
<b>Performance Measure</b>	Number of cases opened/pending	1,365	1,314	1,276	1,149	1,148	1,211	1,200	1,141	1,200	1,200
<b>Performance Measure</b>	Number of matters closed/resolved	4,941	3,952	4,197	3,679	4,063	3,263	3,500	2,473	2,500	2,500
<b>Performance Measure</b>	Number of cases closed/resolved	409	365	340	261	346	340	300	331	320	320
<b>Efficiency Measure</b>	Percentage of matters successfully resolved through mediation	N/A	N/A	N/A	74	78	82	75	84	75	75
<b>OUTCOME Measure</b>	% of criminal cases favorably resolved *	88	91	96	87	94	92	80	95	80	80
<b>OUTCOME Measure</b>	# of trafficking victims successfully protected	N/A	54	33	72	249	93	67	128	96	96
<b>OUTCOME Measure</b>	% of civil cases favorably resolved *	86	90	88	90	97	95	80	100	80	80
<b>OUTCOME Measure</b>	% of successful trafficking prosecutions	100	100	84	100	100	98	80	92	80	80

\* Denotes inclusion in the DOJ Performance and Accountability Report (PAR)

### 3. Performance, Resources, and Strategies

#### a. Performance Plan and Report for Outcomes

Our Nation's civil rights laws prohibit discriminatory conduct in a wide variety of settings, such as housing, employment, voting, mortgage lending, education, public accommodations, access by the disabled to services and facilities, activities that receive federal financial assistance, and the treatment of juvenile and adult detainees as well as residents of public institutions. The federal civil rights laws also provide safeguards against criminal actions such as official misconduct by law enforcement personnel, trafficking in persons, and bias motivated crimes. The Department of Justice ensures compliance with basic federal civil rights protections through a multifaceted program of criminal and civil enforcement designed to target and deter discriminatory conduct. We also seek voluntary compliance with civil rights statutes through a variety of educational, technical assistance, and outreach programs.

**Strategies:** CRT intends to achieve its objective by fairly and evenhandedly enforcing each of the laws within the scope of its responsibility. The Division strives to make individualized litigation decisions based on the application of the law to the facts of each case.

Among CRT's enforcement strategies are: (1) improving efforts to eradicate the modern-day slavery of human trafficking, including the trafficking of women, children, and other vulnerable victims, through more vigorous and intensified enforcement efforts, interagency coordination, and continued efforts to rescue the victims of this atrocity; (2) implement infrastructure upgrades needed to process the 2009 Census rehearsal data into a new database structure; (3) expanding the President's New Freedom Initiative for Project Civic Access to ensure that persons with disabilities have access to our nation's civic life in accordance with the ADA; (4) combating religious discrimination and promoting religious liberty for persons of all religious faiths and denominations; (5) enhance efforts to investigate unsolved civil rights era crimes involving racial or religious violence; (6) combating housing discrimination through "Operation Home Sweet Home," which seeks to ensure equal access to housing by improving and increasing the Division's fair housing testing program; (7) expanding efforts (a) to address voting rights violations, (b) to ensure access to the polls for all who qualify, (c) to protect the integrity of the ballot process, and (d) to promote voter confidence in our country's democratic system through activities such as vigorous election monitoring, outreach, and the Department's Ballot Access and Voting Integrity Initiative; (8) vigorously enforcing the requirements of Title VII by more carefully targeting governmental employers who discriminate in employment; and (9) strategic targeting of outreach programs, technical assistance, and training efforts that will promote voluntary compliance with our Nation's civil rights laws.

**Long-term outcome goals:** CRT will target specific actions through vigorous litigation as part of its comprehensive strategy to safeguard the civil rights of all persons residing in the United States. CRT also will continue to be vigilant and aggressive in its enforcement, outreach, and training efforts. These efforts span the full breadth of its' jurisdiction, from fair housing opportunities, equal access to the ballot box, and criminal civil rights prosecutions to desegregation in America's schools and protection of the

rights of the disabled. Additionally, CRT has worked swiftly and aggressively to pursue its newfound enforcement responsibilities over its expanded jurisdiction, including aggressive enforcement of USERRA, TVPA, and RLUIPA.

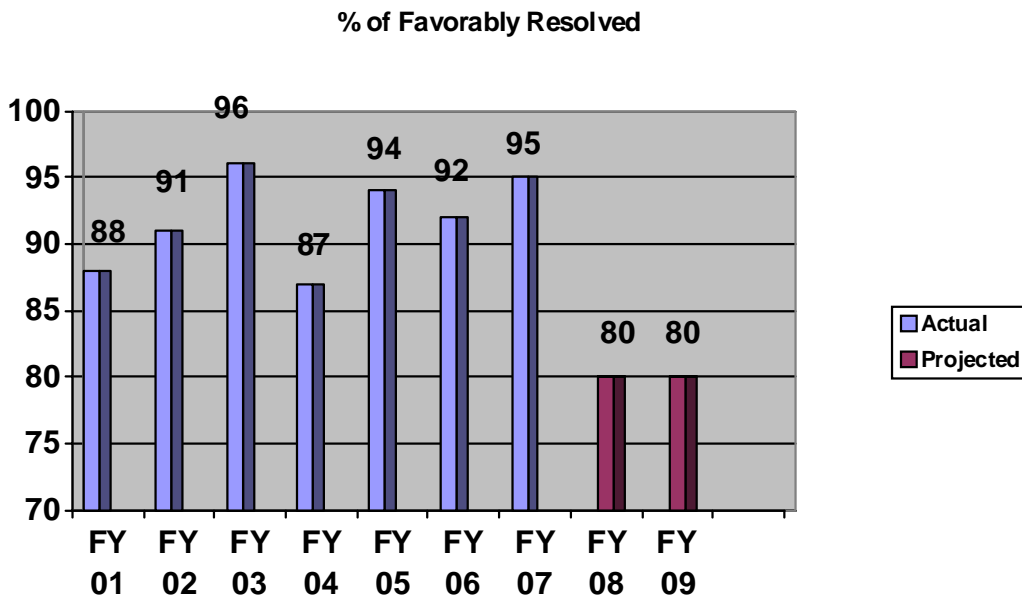
In the proceeding Performance and Resources Tables, CRT’s performance, resources and outcomes are illustrated by these two programmatic areas. CRT’s Interactive Case Management (ICM) System provides the data source for all indicators. The ICM System provides uniform guidance and reporting guidelines for the workload tracking system. A regular validation process is in place to ensure the System’s integrity.

In support of DOJ’s Strategic Objective 2.6 (Uphold the civil and constitutional rights of all Americans), CRT reports outcome measures in DOJ’s Performance and Accountability Report (PAR). CRT reports outcome performance measures for its accomplishments in percent of cases favorably resolved (both criminal and civil related cases) in the PAR.

The Criminal enforcement area includes performance measures to track enforcement efforts to protect victims from involuntary servitude and human trafficking, an important Attorney General initiative. CRT works closely with the FBI and DHS’s Immigration and Customs Enforcement (ICE) to identify victims, many of whom are women and children, of illegal trafficking.

In the area of DRS’ mediations program, the percentage of successful mediations has increased this fiscal year, despite the increasing complexity of matters referred. As of September 30, 2007, the mediation program referred 318 matters, completed 226 of these matters and successfully resolved 84% of these cases, the highest success rate achieved since the inception of this program in FY 1999. The mediation program saves the tax payers a significant level of funding, versus these cases having to resort to costly litigation, while bringing the most expeditious resolution to the issues.

**Criminal Enforcement:**



During FY 2007, CRM received more than 10,000 complaints alleging criminal interference with civil rights, with more than 1,050 requiring investigation by the FBI and other investigative agencies. Ninety-three new cases were filed charging 193 defendants with civil rights violations. CRM convicted the highest number of defendants ever in the history of the Section (189), which surpassed last year's record number of 181 defendants.

Allegations of police abuse and other official misconduct, which comprise the majority of complaints reviewed by CRM, continue to be a high priority. Eighty-five law enforcement officers, including police officers, deputy sheriffs and State and federal prison correctional officials, were charged with having used their positions to deprive individuals of constitutional rights, such as the right to be free from unwarranted assaults and illegal arrests and searches. This was the second highest number of defendants charged in the history of CRM.

On November 1, 2007, a deputy with the Harrison County Sheriff's Department in Mississippi was sentenced to life in prison following his conviction on charges of brutally assaulting an arrestee, causing injuries that resulted in the arrestee's death. Nine additional officers were convicted for their roles in violating the civil rights of inmates.

In Wisconsin, seven officers with the Milwaukee Police Department were convicted of federal civil rights charges arising out of the assault of a biracial man and an African American man in an effort to intimidate the men into submitting to a search. The defendants forced one victim to sit on a curb at knife point, then cut that victim on his cheek with a knife. For nearly ten minutes, the defendants repeatedly punched and kicked the second victim, stabbed a sharp object into both of his ears, causing permanent hearing loss, cut his clothes from his body with a knife, and threatened him with a knife and a gun. The lead defendant was sentenced to 208 months imprisonment, and the other two defendants were sentenced to 188 months imprisonment. The remaining defendants were sentenced to terms of incarceration ranging from one year to 32 months.

Racial and religious violence incidents remain another priority area for prosecution. During FY 2007, 16 defendants were convicted in connection with crimes such as cross-burnings, arson, vandalism, shootings and assault. As part of CRM's hate crime enforcement responsibility and in support of the war on terrorism, it has spearheaded DOJ's law enforcement response to address post-September 11th "backlash" violence and threats against Arabs, Muslims and South Asians. The FBI has investigated more than 800 incidents. Federal charges have been brought in 30 cases against 38 defendants, yielding the convictions of 34 defendants. Also, in response to a rash of noose hanging incidents around the country, CRM launched the racial threats initiative to prioritize and aggressively investigate these incidents.

In February 2007, then Attorney General Gonzales announced a Cold Case Initiative to pursue unsolved civil rights era murder cases. CRT has teamed up with USAO, FBI, and local prosecutors in an effort to investigate and, when possible, prosecute historical Civil Rights era murders. In August 2007, a former member of the Ku Klux Klan was sentenced to three life sentences following his conviction on charges of kidnapping and conspiracy related to his role in the abductions and slayings of two African American men in 1964. The defendant and other Klansmen abducted and drove two young men into the Homochitto National Forest where they beat the victims and interrogated them at

gunpoint. The defendant and his accomplices then bound the two men with duct tape and drove them to Parker's Landing where the victims were secured to weights and thrown into the Old Mississippi River. No one was prosecuted previously for these murders.

Additionally, DOJ enforces the criminal provisions of FACE, working in conjunction with CRT's Special Litigation Section, which has enforcement responsibility over the civil provisions of that Act. During FY 2007, four criminal cases were filed charging four defendants with obstructing or attempting to obstruct access to reproductive health clinics. During that same time period, five defendants were convicted, including one defendant responsible for the murder of Dr. Barnett Slepian, a provider of abortion services.

CRM lawyers regularly participate in training and outreach programs relating to criminal civil rights enforcement. For example, CRM participated with training agents from DHS, the Office of Professional Responsibility, and the FBI on issues related to official misconduct and compelled statements by law enforcement officers; lectured at FBI In-Service Training of local law enforcement supervisors from across the country at the FBI training center in Quantico; and trained new diplomatic security agents for the State Department.

CRM continues to devote substantial attention to combating human trafficking. The TVPA, enacted in October of 2000, broadened the servitude statutes to reach psychological and non-violent forms of coercion. During FY 2007, 122 victims were protected as a result of federal charges filed in 32 new cases against 89 defendants for holding persons in involuntary servitude and forced labor. In January 2007, former Attorney General Gonzales announced the creation of the Human Trafficking Prosecution (HTP) Unit within CRM. HTP was designed to develop new strategies to combat modern-day slavery by focusing the Division's human trafficking expertise and expanding its anti-trafficking enforcement program to further increase human trafficking investigations and prosecutions throughout the nation.

CRM has trained thousands of federal, State, and local law enforcement officers and NGO representatives, including through our JTN Broadcast to all USAO's, the National Conference in New Orleans and at training programs in cities across the nation. Division personnel also trained foreign officials from a wide variety of countries, including Azerbaijan, China, India, Indonesia, Mexico, Russia, and Thailand, among others.

The following are a few human trafficking case examples:

A defendant pled guilty to conspiring to commit sex trafficking and extortion for luring young women to sign modeling contracts and then using force, threats and coercion to compel the women into prostitution. The defendant also attempted to collect extension of credit by using threats of violence and other threats of harm to the victims.

A husband and wife pled guilty in Los Angeles to bringing a retired Filipina school teacher to their home where she was confined as their domestic servant. The victim was subjected to verbal and physical abuse, humiliation, debt bondage and other forms of punishment to compel her continued service.

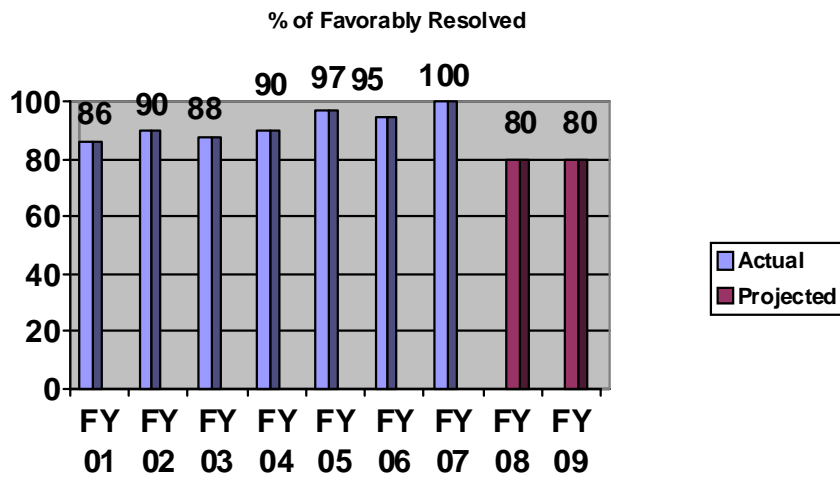
A former professional wrestler was convicted in Atlanta on multiple charges of sex trafficking and slavery related to a scheme to force women into prostitution. The defendant kidnapped some of his victims and lured others to come live with him by promising to train them as professional wrestlers. Once he got the women to his home, he imposed a strict military structure, administered beatings, used threats of force and kept the women financially indebted to him to force the women to work for him as prostitutes.

Eight defendants in Houston pled guilty to forcing women to work as “bargirls” in Houston area bars. The defendants had smuggled the women into the United States from Honduras and El Salvador, and sold some of the women to other bar owners. The defendants threatened to harm the women and their families if they tried to escape or stop working in the bar. One defendant was sentenced to nineteen months in prison. The remaining defendants are awaiting sentencing.

A husband and wife were sentenced to 17 years and five years in prison, respectively, for conspiring to hold a young girl from Cameroon in involuntary servitude. The defendants brought the 14-year-old girl to the United States with the promise of an American education. However, during the four and one-half years she was held in the defendants' home, she was beaten and sexually assaulted. She was not allowed to attend school and was made to care for three young children, clean the home and prepare meals. In addition, the judge ordered the defendants to pay \$100,000 restitution to the victim.

TVPA investigations are inherently fact driven and unpredictable; it is difficult to forecast the anticipated number of victims in future years. While new investigations initiated and cases brought remain at a historically high level, CRM simply does not have control over the number of victims that are involved in any given involuntary servitude/human trafficking litigation effort.

**Civil Enforcement:**



This measure was established for reporting Department-wide targets for its legal components. As of September 30, 2007, the level of success was 100%. Target levels of an 80% success rate are being established for both FY 2008 and

FY 2009. This includes enforcement responsibilities associated with eight of the programmatic areas within CRT.

A summary of significant civil programmatic accomplishments is included below:

**APP:** In FY 2007, APP filed 79 briefs and substantive papers in the Supreme Court, the courts of appeals, and the district courts. Twenty-eight of these filings were appellate briefs for the Office of Immigration Litigation (OIL). Excluding OIL decisions, 89% of the decisions reaching the merits were in full or partial accord with CRT's contentions. The Supreme Court reached the merits in four cases; all were consistent with the government's position. The courts of appeals rendered 20 merits decisions, 95% of which were in full or partial accord with CRT's contentions.

In the Supreme Court, our successes have included the following:

*Board Education of the City School District of the City of New York v. Tom F.*, No. 06-637 (S. Ct.): The Supreme Court, by an equally divided court (without participation by Justice Kennedy), affirmed the Second Circuit's ruling that Section 612(a)(10)(C)(ii) of the IDEA, 20 U.S.C. 1412(a)(10)(C)(ii), was not meant to deny reimbursement to students who have never been enrolled in public school, because ruling otherwise would require parents to enroll children in inadequate public schools in order to be eligible for tuition reimbursement. Respondent, a parent of a child with a disability, argued that petitioner denied his child free appropriate public education and sought private school tuition reimbursement. The United States filed a brief as amicus in support of respondent.

*Parents Involved in Community Schools v. Seattle School Dist. No. 1*, No. 05-908, and *Meredith v. Jefferson County Public Schools*, No. 05-915 (S. Ct.): The Court held that the school districts failed to show that their use of racial classifications met either of the two prior justifications recognized by the Court as serving a compelling interest: (1) as a means to remedy *de jure* segregation, or (2) as one component in an effort to achieve overall diversity in the context of higher education. The Court also held that the minimal effects of the schools' use of race, and the schools' admitted failure to consider methods other than explicit racial classifications, are evidence that the schools' use of race was not narrowly tailored. Petitioners, parents of students who were, or who may be, denied assignment to their schools of choice under the student assignment plans of the Seattle and Jefferson County (KY) public school districts, filed suit against their respective school districts alleging that the districts' assignment plans violate the Equal Protection Clause. The Sixth and Ninth Circuit Courts of Appeals held that the plans served a compelling state interest of maintaining racially diverse schools because the schools sought educational and social benefits similar to those recognized in *Grutter v. Bollinger*, 539 U.S. 244 (2003), as flowing from a "genuinely diverse student body," and were narrowly tailored to achieve that interest. A plurality of Justices determined that a goal of achieving racial diversity in elementary and secondary schools does not serve a compelling interest. The United States filed briefs as amicus curiae in support of petitioners.

In the courts of appeals, our successes have included the following:

*United States v. Chang*, No. 06-11229 (5th Cir.): The Fifth Circuit issued an opinion affirming defendant's sentence. Defendant Chang pleaded guilty to forced labor and conspiracy to obtain forced labor and was sentenced to a term of ten years. Chang appealed a four-level enhancement to his sentence as a leader or organizer of an "otherwise extensive" criminal activity, arguing that he was an end user of the smuggling network and no credible evidence supported a finding that he led or organized efforts to recruit and bring women into the United States. He also appealed a two-level enhancement for vulnerable victims, arguing that the women were not vulnerable in any way not applicable to all victims of forced labor and that this factor was already taken into account in the sentencing guidelines.

*United States v. Lee*, No. 05-10478 (9th Cir.): The Ninth Circuit affirmed defendant's 14 counts of conviction for violations of 18 U.S.C. 241 (civil rights conspiracy), 18 U.S.C. 1584 (involuntary servitude), 18 U.S.C. 1951 (extortion), and 18 U.S.C. 1956(a)(1)(A)(i) (money laundering), and his sentence of 40 years. The court held that the district court (1) correctly denied defendant's motion to dismiss the indictment for lack of jurisdiction and/or improper venue; (2) did not abuse its discretion in denying defendant's motion for a mistrial based on comments government counsel made during rebuttal argument; (3) was not required to refer to American Samoan law when it instructed the jury; and (4) was entitled to decide whether to impose consecutive sentences pursuant to 18 U.S.C. 3584.

*United States v. Skinner & Acosta*, No. 05-3346 (2d Cir.): The Second Circuit issued a per curiam published opinion and an accompanying unpublished summary order affirming the convictions. Skinner and Acosta, former Buffalo Police Department narcotics detectives, were convicted after a jury trial of violating 18 U.S.C. 241, several counts of 18 U.S.C. 242, and related firearms charges (18 U.S.C. 924(c)) after they (and several co-conspirators) knowingly executed unlawful search warrants on the homes of suspected drug dealers, and then stole money and property from the subjects of the investigation.

*United States v. Simmons*, Nos. 05-60419 & 05-60587 (5th Cir.): The Fifth Circuit affirmed defendant's conviction and vacated his sentence and remanded for resentencing. Defendant, while on duty as a police officer, took a 19-year-old woman into custody, drove her to a remote wooded area in the middle of the night, and then raped her repeatedly, as another police officer served as a lookout. Defendant was convicted of violating 18 U.S.C. 242 by committing sexual assault that involved "aggravated sexual abuse" and resulted in bodily injury to the victim. The district court sentenced him to 20 years in prison, even though the Sentencing Guidelines (as appropriately applied) called for life imprisonment. Defendant appealed his conviction, and the United States cross-appealed his sentence.

**COR:** The mission of COR is multi-faceted, with responsibilities under Executive Order 12250 for overseeing the implementation and enforcement by federal agencies of Title VI of the CRA of 1964, as amended, and similarly worded non-discrimination statutes. In addition, COR is responsible for overseeing the implementation of Executive Order 13166, which requires access for persons with limited English proficiency (LEP) in federal and federally assisted programs.

COR spear headed a two-day Interagency LEP Conference during FY 2007 which was attended by representatives from federal, State and local agencies; community organizations; and interpreters and translators from around the country. The Conference was so successful that the working group of federal agencies that sponsored it is now working on plans for a subsequent LEP Conference in September of 2008. COR will be holding periodic meetings of the Conference Committee of the Federal Interagency Working Group on LEP to plan the 2008 Conference.

A large number of projects for COR have resulted from the Conference, and COR will be working on them during FY 2008 and FY 2009. These include: working on technical assistance projects with federal funders and recipients; adding juvenile justice and emergency planning chapters to the "Tips and Tools" document; drafting articles for publication in trade magazines on LEP and corrections and LEP and courts; and working more closely with federal agency partners and within DOJ to ensure federal compliance with Executive Order 13166 including updating of DOJ's Language Access Plan. COR has begun work on all of these projects and has also revamped both its own website and [www.LEP.gov](http://www.LEP.gov) to make them more user-friendly and provide for more comprehensive resources. COR plans to begin development of web-based LEP training and LEP training for Justice Television Network during FY 2008 and into FY 2009.

COR is currently working extensively on issues relating to emergency preparedness, response, and recovery with respect to LEP persons and other communities covered by Title VI. For example, COR has devoted extensive time to providing comments to the National Response Framework issued by DHS and drafting a technical assistance tool on LEP issues during emergencies. In early FY 2008, COR also worked with DHS on a joint statement addressing language access and national origin discrimination concerns following the fires in Southern California. In FY 2008 and FY 2009, COR expects to continue devoting substantial time to these issues, including meeting with agencies that have relevant duties during the emergencies to discuss requirements, planning considerations, and best practices.

COR is continuing its work leading the Census Committee to the Federal Interagency Working Group on LEP. The Census Committee is currently working closely with the U.S. Census Bureau to create a web-based seminar series to occur in FY 2008 that will provide basic instruction on how to use Census data tools, with an emphasis on extracting relevant language data for use in identifying and properly serving LEP persons. For FY 2009, the Census Committee is considering a number of projects including expanding its mission to include compiling relevant sources of LEP-specific demographic information other than census data.

In the areas of Title VI, LEP, Title IX, investigations and other training, COR provided 31 training sessions during FY 2007. As of December 12, 2007, COR has received requests for legal and investigations training from 15 federal agencies; these sessions are presently being scheduled for the coming months. In addition, COR has given Title VI and LEP training to five outside organizations during early FY 2008 and is scheduled to provide training to a city agency in January 2008. COR expects requests for this training to continue to grow in FY 2008 and FY 2009. COR is currently working on a special Title VI project focusing on outreach to local communities. Staff on this focus team are

meeting with community organizations and providing training on Title VI, including LEP. The work on this project will continue throughout FY 2008 and into FY 2009.

COR continues to pursue negotiations with a number of police departments, courts and corrections departments to resolve complaints against those recipients, especially in the area of LEP issues. COR recently signed a LEP agreement with the city police department of Lake Worth, Florida addressing its policies and procedures under Title VI and expects to reach more agreements in the future. During FY 2009, COR expects to continue receiving and investigating LEP cases.

COR will be spending a substantial amount of staff time during FY 2008 reviewing regulations that will be submitted by a number of federal agencies. This is a long-term project, as it requires extensive coordination and legal review, including approval by the Attorney General, in order for the agencies to publish such regulations. COR anticipates substantial regulation work in FY 2009, as well.

At the beginning of FY 2008, COR had a docket of 132 open administrative complaints of discrimination against recipients of DOJ assistance and a caseload of 53 active investigations (in which the recipient has been formally notified of the initiation of the investigation). Of those 53 cases, 30 allege discrimination on the basis of national origin because of denial of services to LEP individuals and the remaining matters involve other types of discrimination on the basis of race, color, national origin, or religion. COR will continue, during FY 2008 and FY 2009, to investigate and resolve administrative complaints.

**DRS:** Since the January 2001 signing of the New Freedom Initiative, CRT has achieved results for people with disabilities in over 2,400 ADA actions including lawsuits, settlement agreements, and successful mediations. Examples of the DRS's most meritorious resolutions are:

DOJ has signed 155 settlement agreements with 144 communities under its PCA initiative, a wide-ranging effort to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA. These agreements with communities in all 50 States and the District of Columbia improve access at town halls; police and fire stations; courthouses; recreation facilities and parks; as well as the accessibility of sidewalks; voting technology; disaster response planning; and government websites. Some of the communities recently reaching agreements with DOJ include Shreveport, LA, Kanawha County, WV, Pike County, KY, Hernando, MS, New Orleans, LA and Harrison County, MS.

DRS entered into a consent decree with the owners and operators of Madison Square Garden, the premier sports and entertainment arena in New York City. Under the terms of the settlement, a total of 52 wheelchair and companion seats and 60 accessible aisle seats will be added in dispersed locations throughout the arena for basketball, hockey, and concert seating between November 2007 and October 2008. In addition, hundreds of architectural barriers along the routes between the entrances and the newly accessible seats will be remedied, ensuring that patrons with disabilities will be able to use all of the restaurants, bars, elevators, bathrooms, telephones, and drinking fountains that line the routes to their seats. Because the arena owners are currently planning to either relocate to a new facility or undertake significant renovations at the current facility, the owners agree

to comply fully with the ADA if the arena is relocated or substantially renovated and, if not, to make additional changes in the existing facility beginning with the 2010-2011 season to further enhance accessibility for individuals with disabilities. The arena owners also agreed to pay \$55,000 to the United States and to expend at least \$10,000 per year for the next three years on advertisements promoting the availability of accessible seating.

DRS entered into a comprehensive agreement with Swarthmore College under which the college will make its campus and services more accessible to individuals with disabilities. The agreement stems from a compliance review during which DRS found barriers to access in existing facilities and elements such as doors, restrooms, seating, signage, and interior and exterior circulation routes. By Dec. 1, 2008, the college will submit a plan to DRS to make alterations to its facilities within six years. The college will also relocate services and programs to accessible facilities with prior notice. The agreement addresses a wide variety of services and facilities, including administrative buildings, housing, access between facilities, parking, directional signage, and emergency preparedness.

DRS signed an agreement with Sylvan Learning Centers resolving a complaint alleging that it had refused to provide a sign language interpreter to enable a prospective student who is deaf to participate in its tutoring program. Sylvan operates a variety of tutoring programs for students in grades K-12. This agreement covers more than 200 centers owned by Sylvan nationwide. Sylvan agreed to provide appropriate auxiliary aids and services, including qualified sign language interpreters, to students who are deaf or hard of hearing when necessary to ensure effective communication; to adopt and incorporate into its operations manual an effective communication policy for students who are deaf or hard of hearing; to compile and maintain a list of available interpreter providers; to post and maintain its effective communication policy on its website and in a prominent location in the public areas of each of its centers; to provide staff training on the ADA and Sylvan's obligations to provide effective communication; to establish a grievance procedure; to pay \$1,000 in compensatory damages to the prospective student; and to pay a civil penalty of \$25,000 to the United States.

DOJ's ADA Technical Assistance Program carries out a wide variety of activities to promote voluntary compliance with the ADA, providing free information and technical assistance directly to businesses, State and local governments, people with disabilities, and the general public. Highlights as of September 30, 2007, include:

- More than 47,000 calls to the ADA Information Line were answered by ADA Specialists who assisted callers in applying the ADA to their own unique situations.
- The ADA Website has been visited more than three million times and its pages and graphics viewed more than 40 million times, increases of 17% over FY 2006.
- Participated in 71 speaking events, reaching approximately 4,500 people. Sent staff to distribute information and answer questions at 11 national conferences, with a combined estimated audience of 250,000 people.

- Continued its initiative to help small businesses comply with the ADA. The ADA Business Connection conducted four leadership meetings in three cities with almost 200 participants from small and mid-sized businesses, large corporations, and organizations of people with disabilities.
- Developed “Accessible Neighborhoods: Business Information Exchange” meetings, a new initiative to reach small towns and communities throughout the United States. The goal of this expansion of the ADA Business Connection is to bring the disability, business, and business education communities together to design projects and implement strategies to eliminate barriers to access in small communities. The first of four scheduled meetings was held on October 10, 2007, in Pittsburg, KS. The remaining three meetings will be held in Birmingham, AL (mid-March 2008); Boulder, CO (May/June 2008); and Great Falls, MT (September 24, 2008).

In FY 2008 and 2009, CRT will continue its innovative and multi-faceted approach toward achieving compliance with the ADA. Activities will include:

DRS continuing its successful PCA initiative to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA.

DRS continuing to work to ensure that new facilities are constructed in compliance with the ADA Standards for Accessible Design and that covered entities, including universities, hospitals, public transit systems, social service agencies, and sports and cultural establishments, meet all applicable accessibility obligations.

DRS continuing to provide free information and technical assistance directly to businesses, State and local governments, people with disabilities, and the general public. Both the highly-acclaimed ADA Information Line and the popular ADA website anticipate significant increases in the number of people served in FY 2008 and FY 2009, especially as related to the Notice of Proposed Rule Making (NPRM), and adoption of updated ADA Standards for Accessible Design.

DRS continuing to respond to States requesting that their accessibility codes be evaluated for consistency with ADA standards. Currently, five State codes are under review, including one request for technical assistance.

DRS continuing to offer complainants and respondents the opportunity to resolve complaints by participating in mediation.

DRS expanding the ADA Business Connection to reach small towns and communities through its new initiative the “Accessible Neighborhoods: Business Information Exchange”, conducting meetings, and developing additional technical assistance materials.

DRS will broaden its testing program to assess ADA compliance by businesses providing transportation, as well as other public services.

**EOS:** EOS's school desegregation docket was active and fluid in FY 2007. It opened 16 investigations, initiated 43 case reviews, identified 13 districts as needing further relief, and negotiated five consent decrees and seven out-of-court settlements. EOS also obtained relief in four litigated cases. As a result of these efforts, schools and classrooms were desegregated; facilities for minority students were improved; faculty was desegregated; minority faculty and staff were recruited; segregative transfers and the practice of granting awards on a racially dual basis were eliminated; and intervention to parties whose interests did not further the goals of the cases were denied. EOS worked with school districts to achieve unitary status, and as a result, 38 of the long-standing desegregation lawsuits were dismissed.

EOS encouraged and assisted school districts to increase compliance with extant court orders. In U.S. v. Calhoun Co. Sch. Dist. (SC), EOS negotiated a court-ordered consent decree that will reduce racial disparities amongst the schools. Currently, the district has two schools serving grades PK-5 and one serving grades 6-8. The decree provides for construction of a new school serving grades PK-8 that will replace two majority black schools in poor condition and make the facilities at the new majority black school equitable with those at the current majority white school. Furthermore, the majority white PK-5 will become a PK-8 and new attendance zone lines will reduce the current significant racial disparities of the existing schools. In U.S. v. West Carroll Parish School Board (LA), the court granted EOS's summary judgment motion, finding that the school board failed to eliminate vestiges of the dual system in student assignments. Thereafter, the court entered a negotiated consent order that requires the District to close two elementary schools and assigns those students to two PreK-12 schools to reduce the number of white schools from three to one. In several districts, including Irwin County, Georgia and England, Arkansas, the districts were using race as a selection criteria in extra-curricular activities, such as homecoming court. Through EOS involvement, the districts ceased using race.

In FY 2007, to ensure equal educational opportunities for English Language Learners (ELL), EOS, as part of a nationwide effort, opened 11 investigations involving school districts in California, Illinois, Kansas, Massachusetts, New York, Oregon, and Virginia. These districts have significant or new immigrant populations. The purpose of the investigations is to ensure that ELL students are receiving proper services to enable them to overcome language barriers that impede equal participation in the school districts' educational programs. In several districts, including ones in Massachusetts, Illinois, and California, EOS has reviewed data, conducted site visits of schools and intake centers in the district, and had follow-up communications with the districts regarding issues observed through the data review and visits. In Lewiston School District (ME), after a four-year investigation of the District's instruction and services ELLs – particularly among the District's large population of Somalian refugees – EOS and the Lewiston School District entered into a settlement agreement. The agreement requires the District to develop, among other things: standardized curricula for ELLs; adequate teacher training and collaborative opportunities; systematic monitoring and reporting on the academic progress of ELLs; and a comprehensive ELL program evaluation model.

To ensure the civil rights of all children, EOS will continue in FY 2008 and FY 2009 with its initiative begun in FY 2005 to ensure equal educational opportunities for ELL. This will ensure that children are receiving proper services to assist them in overcoming language barriers.

EOS also continued its religious discrimination docket to ensure that students are not discriminated against on the basis of religion in public schools. In FY 2007, 23 investigations were opened into complaints alleging discrimination on the basis of religion in, among other areas, free speech, religious dress, access to facilities, and harassment. In Lewisville School District (TX), after conducting a site visit and interviewing school district employees, EOS entered into a settlement agreement with the District whereby the District will provide space for Muslim students to pray at lunchtime. In O.T. v. Frenchtown Elem. Sch. Dist., EOS filed an amicus brief arguing that the District's refusal to allow a student to sing a religious song in a talent show constituted religious viewpoint discrimination. The court, ruling in favor of the plaintiff, relied heavily on EOS's reasoning and analysis in its opinion.

**ELS:** As of September 30, 2007, the following suits have been filed: two Section 707 pattern or practice suits under Title VII (filed by USAO's, Southern District of New York) and nine Section 706 suits under Title VII, as well as six USERRA suits; 11 judgments, consent decrees and out-of-court settlements have been obtained; and 49 investigations, including several investigations of 706 charge referrals, have been initiated. Following are some highlights:

**TITLE VII, SECTION 706/707 SUIT:**

On May 21, 2007, a complaint was filed in United States v. City of New York, (E.D.N.Y.), alleging that, since 1999, the City of New York has discriminated against black and Hispanic applicants for the position of entry-level firefighter in the Fire Department of the City of New York ("FDNY"), in violation of Title VII. Specifically, the complaint alleges that the City's use of two written examinations as pass/fail screening devices and the City's rank-order processing of applicants from its firefighter eligibility lists based on a combination of applicants' scores on the written examinations and a physical ability test have resulted in disparate impact against black and Hispanic applicants and are not job related and consistent with business necessity. This matter is being handled jointly by ELS and the USAO's for the Eastern District of New York.

**TITLE VII, SECTION 706 SUIT:**

On August 27, 2007, the District Court for Southern Florida entered a consent decree in U.S. v. Palm Beach County, that requires Palm Beach County, Florida to offer to reemploy William Stewart as a park ranger with remedial seniority and an accommodation for his religious observance, practice and/or belief of attending Church and refraining from work on Sundays, and to offer to pay him back wages and interest in excess of \$31,000. ELS had filed a complaint with the Court against the County, together with the proposed consent decree, after an investigation of this matter revealed that the County had discriminated against Stewart in violation of Title VII of the Civil Rights Act of 1964.

**USERRA SUIT:**

On October 12, 2007, ELS filed Marshall v. Hillsborough County and Clerk, alleging that upon Marshall's return from military deployment, the Clerk failed to return Marshall to her pre-service position as supervisor of the Court Clerk II Section in violation of

USERRA. The complaint also alleges that the Clerk's Office violated USERRA by retaliating against Marshall for filing a USERRA claim with the Department of Labor.

In FY 2008 and FY 2009, ELS will continue its current target efforts of: (1) conducting investigations of several jurisdictions for possible Title VII §707 violations; monitoring jurisdictions that are under a consent order or consent decree; (2) investigating USERRA matters referred to the Section by DOL; (3) reviewing and investigating §706 charges of violations by State and local governments referred to ELS by the EEOC under §706 of the Title VII; and (4) as a part of a consortium of five federal agencies, continue to assist in the development of the 2010 Census EEO Special File.

**HCE:** The program continues to implement the Attorney General's February 2006 initiative to combat housing discrimination – called "Operation Home Sweet Home" – with improved targeting of discrimination testing, increased testing, and expanded public awareness efforts:

- To implement Operation Home Sweet Home, HCE set the ambitious goal of doubling the number of paired tests conducted in FY 2005 by FY 2007. HCE exceeded this goal in FY 2007, more than doubling the number of tests conducted in FY 2005 and achieving an all-time, single-year high of testing in FY 2007.
- In addition to maintaining this record high level of testing, HCE will continue to enhance its efforts to obtain the type of testers required, in the locations needed, and at the time needed. Contract testers give HCE a greater ability to respond quickly to allegations of discrimination and to expand the types of discrimination and locations that can be tested.
- The expanded testing conducted in FY 2006 - FY 2007 already has produced results. In FY 2007, HCE filed four lawsuits based on evidence from the testing program, including its first testing case ever alleging housing discrimination against Asian Americans. We expect that the sustained high level of testing in FY 2008 – FY 2009 will continue to produce substantial evidence to support cases alleging systemic housing discrimination that otherwise would not be identified.
- In order to better target our testing, and focus our general enforcement efforts, HCE has broadened its outreach efforts to private fair housing groups, as well as to government agencies that enforce State and local fair housing laws, by contacting those groups by mail and speaking at major fair housing conferences.

HCE plays an integral role in implementing the Attorney General's First Freedom Project to combat religious discrimination, which was announced on February 20, 2007, through enforcement and outreach. HCE's Section Chief or a Deputy Chief is a key presenter at every First Freedom Project Regional Seminar throughout the country.

- Two RLUIPA cases are in litigation, and HCE recently filed an amicus brief in a case involving a local government's efforts to block the building of a mosque.

HCE is continuing its Multi-Family Housing Access Forum, a twice yearly program which educates housing professionals and establishes a dialogue between housing

professionals and disability advocates, about compliance with the accessibility requirements of the FHA. HCE held another successful program in Miami on November 29, 2007, and is planning the next program for the spring of FY 2008.

HCE has continued to achieve major accomplishments in its enforcement efforts including the following:

- **Fair Lending:** In November of 2007, HCE resolved its first-ever sexual harassment case under the fair lending laws, in which we alleged harassment by a bank vice president against female borrowers and obtained a \$350,000 settlement. In September 2007, HCE resolved two cases against car dealerships for charging higher dealer markups on car loan interest rates to African American customers, obtaining up to \$457,000 for victims and a structured, non-discriminatory system for setting future markups.
- In February 2007, HCE resolved (in a \$1.75 million settlement) a case alleging that a southern bank discriminated based on marital status by charging thousands of co-applicants who were not husband and wife higher rates on auto loans.
- HCE is conducting a variety of significant fair lending investigations including several involving alleged pricing discrimination in home loans.
- **Fair Housing:** As of December 13, 2007, HCE was litigating a major pattern or practice case alleging race, national origin and familial status discrimination against one of the largest landlords in the Los Angeles area; the case was filed in FY 2006. In October 2007, HCE obtained a \$760,000 settlement in a group home case alleging discrimination based on disability.
- In August 2007, HCE settled a systemic race discrimination case for \$725,000 and a case alleging systemic discrimination against residents of a senior housing complex that use mobility aids for \$560,000. In August 2007, HCE obtained a \$400,000 settlement of a case involving systemic sexual harassment of female tenants by a landlord.
- **Housing Accessibility:** HCE continues to enforce vigorously the FHA's accessibility requirements for multi-family housing and other prohibitions against disability discrimination. During FY 2007, HCE filed six housing accessibility cases, and settled seven such lawsuits. HCE is ensuring the on-time availability of the more than 14,000 new accessible housing opportunities in 25 States resulting from its settlements since October 2004.
- HCE also distributed \$700,000 to victims in an accessibility case in December 2007 and over \$1 million to victims in another disability discrimination case in August 2007.
- In addition, HCE settled three cases in FY 2007 on behalf of persons with disabilities who reside in group homes.

In the second half of FY 2006, the Department transferred authority to enforce the Servicemembers Civil Relief Act (SCRA) from its Civil Division to CRT, with HCE

being tasked with that responsibility. As of December 13, 2007, HCE has opened several investigations under the SCRA and has resolved its first such investigation with a favorable outcome.

**OSC:** Since the beginning of FY 2007, OSC has received 277 charges filed by U.S. citizens and legal immigrants (or their representatives) alleging unlawful employment discrimination based upon citizenship status or national origin, unfair documentary practices during the employment eligibility process, or retaliation. During this period, OSC issued letters of resolution or entered into settlement agreements in 89 charges, or 27.22% of the 327 charges closed during this period, and recovered \$157,547 in back pay for victims. Employers also agreed to change discriminatory practices so that all U.S. workers, both U.S. citizens and legal immigrants, would not face unnecessary hurdles in seeking or retaining employment.

OSC's investigations covered the full gamut of employers, from the nation's largest employers to small businesses with only a few employees. Investigations also included a broad range of industries, including food processing, restaurant and hospitality, retail, and job referral agencies. OSC's successful resolutions included charges filed by U.S. citizens who alleged adverse treatment in favor of temporary visa holders or undocumented workers and by work authorized immigrants who were denied hire, or were fired, because of their legal status or discrimination in the employment eligibility verification process. For example, a charge against Ford Motor Company that was filed by a work authorized asylee was resolved in response to an OSC investigation. The employee alleged that when she applied for employment, the company stated that it only hired U.S. citizens and lawful permanent residents. As a result of OSC's investigation, the company paid the employee \$13,000 in back pay, and, using OSC educational materials, trained its human resource staff company-wide on their responsibilities under the anti-discrimination provision of the INA.

Similarly, in *Luis A. Lopez v. GALA Construction, Inc.*, a lawful permanent resident from Mexico was refused employment because a construction company rejected his unrestricted Social Security card and Resident Alien card for employment eligibility verification. OSC settled the charge. As a result, the charging party received over \$11,000 in back pay and front pay, and the company agreed to train its managers in proper employment eligibility verification procedures and non-discriminatory hiring practices.

In addition, OSC has investigated charges of citizenship status discrimination filed by the Programmers Guild, a non-profit organization representing technical and professional workers in the information technology (IT) field, against numerous software and IT companies. These charges, arising in multiple jurisdictions, allege that the respondent companies placed job advertisements on various internet job search engines seeking temporary visa holders to the exclusion of U.S. citizens and work authorized immigrants. OSC successfully resolved 55 of these charges. Consequently, IT companies across the nation have agreed to end hiring preferences for temporary visa holders over other U.S. workers and will no longer post discriminatory job advertisements. They have also agreed to post equal employment opportunity notices on their websites, and train their recruitment and human resources personnel.

OSC also conducts an extensive, nationwide public education campaign to teach workers, employers and concerned organizations about the anti-discrimination provision of the INA. An essential component of OSC's outreach includes its grant program. In FY 2007, OSC awarded grants to 11 organizations to educate workers and employers in areas with sizable and/or emerging immigrant populations about their rights and responsibilities under the INA. Directly and through its grantees, in FY 2007, OSC participated in 843 public outreach sessions. OSC also handled approximately 8,154 calls through its employer and worker hotlines, and distributed approximately 87,105 pieces of written educational materials to the public.

In FY 2008 and 2009, OSC's workload may increase significantly based upon a number of factors that portend increased discrimination against U.S. citizens and legal immigrants who look or sound "foreign." DHS is expected to continue to significantly expand its efforts to address the large number of undocumented workers in the United States, including heightened enforcement of employer sanctions by ICE. GAO has determined that employer sanctions have resulted in a widespread pattern of discrimination – primarily against Hispanics and Asians. Thus, heightened enforcement of employer sanctions is likely to lead to an increase in discrimination charges received by OSC. We expect this phenomenon to be magnified by greater (and possibly mandatory) use of computerized employment eligibility verification systems, such as DHS' E-Verify, by employers to determine whether new hires are authorized to work in the United States. Studies have documented that some employers use such systems in an unlawfully discriminatory manner. Studies have also shown that foreign-born work authorized employees are more likely to receive tentative non-confirmations than U.S. born employees, thereby subjecting a greater percentage of foreign born work authorized employees to potential discrimination arising from the computerized verification system. The release by DHS of a new employment eligibility verification form (Form I-9), a new Form I-9 Handbook, and new regulations providing employers with guidance on how to address SSA no match letters will also likely increase OSC's workload and calls received by its hotline.

Finally, State and local immigration-related statutes and ordinances that have been enacted to deter the hiring of illegal immigrants have led to an increase in public inquiries and charges received. OSC is concerned that discrimination against lawful immigrants and U.S. citizens who look or sound foreign will be precipitated by these local statutes and ordinances.

**SPL:** CRT continues to build on its impressive record of actively protecting the rights of institutionalized persons under CRIPA. These investigations involve a range of issues, including: abuse and neglect in nursing homes and facilities for persons with mental illness or developmental disabilities; abuse and victimization of juveniles; and the unmet mental health needs of inmates and pre-trial detainees; sexual misconduct; and the use of excessive force.

As of September 30, 2007, CRT conducted 121 investigatory and compliance tours, and is handling CRIPA matters and cases involving over 191 facilities in 32 States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Territories of Guam and the Virgin Islands.

SPL also continues its investigations of 94 facilities, and monitoring the implementation of consent decrees, settlement agreements, memoranda of understanding, and court orders involving 97 facilities.

During FY 2007, SPL opened 12 new investigations of 37 facilities, including a country-wide investigation involving 19 juvenile facilities, and obtained seven settlement agreements and issued 11 findings letters.

Also, in *U.S. v. Puerto Rico*, the consent decree mandating reforms at 13 juvenile justice facilities, SPL defended against the Commonwealth's motion (filed in March) to terminate the consent decree under the Prison Litigation Reform Act (PLRA). In May 2007, the Court approved the parties' joint motion seeking denial of the Commonwealth's PLRA motion and extended certain significant remedial measures of the consent decree that remain necessary to correct continuing deficiencies. To ensure ongoing enforcement of the consent decree, CRT may be required to re-tour and re-assess the conditions at each of the facilities in order to demonstrate ongoing harmful conditions.

In FY 2007, CRT aggressively pursued contempt actions against recalcitrant jurisdictions to address their failure to achieve compliance with agreed-upon settlement remedies. Most notably, we have invoked the cure provision of our consent decree with Mississippi and filed a motion for further relief for the State's failure to implement the consent decree the Department secured to ensure the safety of juveniles residing at two facilities in Mississippi. SPL initially filed suit in December 2003 following an investigation that found evidence of shockingly abusive practices, including hogtying, pole-shackling, and placing suicidal students for extended periods of time into a "dark room," naked, with only a hole in the floor for a toilet. Similarly, regarding its juvenile justice settlement with the Commonwealth of Puerto Rico, SPL applied for a temporary restraining order and preliminary injunction directing Puerto Rico to immediately prevent facility staff, criminally charged with institutional child abuse, from having contact with confined youth in Puerto Rico's juvenile facilities. The court granted the relief requested and directed Puerto Rico to report when a staff person is criminally charged with child abuse and separate such staff from having contact with confined youth.

On December 15, 2006, CRT filed suit against Oklahoma to address a pattern or practice of unlawful conditions at the L.E. Rader Center, a juvenile justice facility. During the investigation SPL found evidence of numerous civil rights violations, including youth-on-youth violence, staff-on-youth violence, youth-on-staff violence, sexual misconduct between youths and staff, sexual misconduct among youths, and inadequate system to prevent suicide and self-injurious behavior, and inadequate psychotropic medication administration. In April 2007, CRT successfully defended its suit against the motion to dismiss filed by the State. SPL filed a Preliminary Injunction motion in August 2007. Discovery continues until January 2008 and trial is set for April 2008.

In addition, in FY 2007, SPL filed four additional lawsuits pursuant to CRIPA to address conditions at jail and juvenile facilities, a nursing home, and a facility for persons with mental illness. The Division also closed six investigations of seven facilities during FY 2007.

As of December 17, 2007, SPL has already opened five new CRIPA investigations. In FY 2009 and FY 2010, SPL plans to open at least 10-14 new CRIPA investigations, covering juvenile justice facilities, nursing homes, and facilities for persons with developmental disabilities and mental health disorders; issue 8-14 findings letters, enter 6-12 agreements resolving investigations; and tour over 100 facilities.

Regarding our police misconduct statutory authority, SPL continues to pursue all allegations of constitutional violations we receive to determine if a pattern or practice investigation is warranted. During FY 2007, CRT focused its resources on vigorously monitoring the enforcement of its eight existing settlement agreements to ensure timely, compliance with the terms of those agreements. Working in close partnership with these jurisdictions, and through the provision of cost-free technical assistance, we have been able to implement reform which has allowed us to return oversight to local control. SPL has successfully and timely terminated its police reform settlements with Mt. Prospect, Illinois (January 2007); Prince George's County, Maryland (March 2007), and Cincinnati, Ohio (April 2007). Additionally, SPL opened three new police investigations in FY 2007 and as of December 2007, has opened one in FY 2008.

Additionally, SPL anticipates continuing in FY 2009 and FY 2010 to work cooperatively with police departments to implement widespread reforms, including training, supervising, and disciplining officers and implementing systems to receive, investigate, and respond to civilian complaints of misconduct.

**VOT:** In FY 2007, VOT continued to place major emphasis on the monitoring of elections. VOT monitored 107 elections in 91 political subdivisions in 24 States, using 875 federal observers from the Office of Personnel Management (OPM) and 479 DOJ staff.

VOT's priority on enforcement of Section 203, which mandates that certain jurisdictions provide language assistance to affected language minority communities, continued throughout FY 2007. In FY 2007, VOT filed nine Section 203, 4(f)(4) and/or 208 lawsuits; the courts also approved a consent decree in nine cases in Arizona, New Mexico, Pennsylvania and Texas and another claim was resolved by a Memorandum of Agreement in Florida.

Section 2 prohibits voting practices and procedures that are intended to be racially discriminatory or shown to have a racially discriminatory impact. In FY 2007, a Section 2 case was filed against the Village of Port Chester, NY. VOT obtained favorable judgments in lawsuits brought against Osceola County, FL, Noxubee County, MS, and the City of Euclid, OH.

VOT filed a lawsuit against the State of New Jersey to enforce requirements of the list maintenance requirements of the NVRA. This case was also filed under HAVA and resolved by court order. VOT also amended a 1993 complaint against Cibola County, NM, under Sections 2 and 203, to add claims under the NVRA and HAVA and obtained relief in a consent decree. In an amended complaint against the City of Philadelphia, PA, relief was granted for NVRA and HAVA claims in a Memorandum of Agreement. In addition, court orders were obtained in Cochise County, AZ and Galveston County, TX under Sections 203 and HAVA.

With respect to Section 5 of the VRA, the level of submissions continued to exceed comparable years. In FY 2008 and FY 2009, VOT will assist in the design and implementation of a new Submissions Tracking and Processing System (STAPS) and Geographic Information Systems (GIS) for use associated with the 2010 Census data.

Under its' enforcement responsibility under Title III of HAVA, VOT continues to place priority on compliance with expansive requirements that went into effect in 2006 including integrated State voter registration lists and new accessible voting devices in polling places. VOT continues its multi-faceted approach to informing State and local officials of their obligations under the new law.

VOT anticipates an increased workload in FY 2008 and 2009 for the following reasons:

On July 27, 2006, President Bush signed the Fannie Lou Hamer, Rosa Parks and Coretta Scott King Voting Rights Reauthorization and Amendments Act of 2006. The Act has been strengthened so as to make objections and litigation under the statute more likely. In addition, a number of individuals and groups have indicated that they will attempt to challenge the new provisions, and one such case has already been filed. This will involve VOT in a significant volume of contested litigation; and there may be unanticipated litigation in FY 2008 and FY 2009 resulting from the new Act.

VOT anticipates increasing activity under Section 2. VOT has initiated a major outreach effort that has identified problems for language minority groups, and is initiating outreach to Arab American and South Asian groups. This outreach promises to result in the identification of additional cases of discrimination.

VOT expects to continue vigorous enforcement activity under Sections 203 and 208; increased litigation under Section 5 of the VRA; increased activity under the bailout provisions of VRA; increased litigation under the NVRA using a SSA list of deceased Americans and matching that list against State voter registration lists to identify violations of the NVRA list maintenance provisions; increased litigation under UOCAVA, as it is a federal election year, to ensure the protection of voting rights of overseas military personnel during the 2008 federal elections; increased HAVA litigation; and address a high level of election monitoring in FY 2008 leading up to and including the federal Presidential election in early FY 2009.

## **b. Strategies to Accomplish Outcomes**

In FY 2007 and continuing throughout FY 2009, CRT will perform its mission of protecting the civil rights of all Americans by: (1) improving efforts to eradicate the modern-day slavery of human trafficking, including the trafficking of women, children, and other vulnerable victims, through more vigorous and intensified enforcement efforts, interagency coordination, and continued efforts to rescue the victims of this atrocity; (2) implement infrastructure upgrades needed to process the FY 2009 Census rehearsal data into a new database structure; (3) expanding the President's New Freedom Initiative for Project Civic Access to ensure that persons with disabilities have access to our nation's civic life in accordance with the ADA; (4) combating religious discrimination and promoting religious liberty for persons of all religious faiths and denominations; (5) enhance efforts to investigate unsolved civil rights era crimes involving racial or religious violence; (6) combating housing discrimination through "Operation Home Sweet Home,"

which seeks to ensure equal access to housing by improving and increasing the Division's fair housing testing program; (7) expanding efforts (a) to address voting rights violations, (b) to ensure access to the polls for all who qualify, (c) to protect the integrity of the ballot process, and (d) to promote voter confidence in our country's democratic system through activities such as vigorous election monitoring, outreach, and the Department's Ballot Access and Voting Integrity Initiative; (8) vigorously enforcing the requirements of Title VII by more carefully targeting governmental employers who discriminate in employment; and (9) strategic targeting of outreach programs, technical assistance, and training efforts that will promote voluntary compliance with our Nation's civil rights laws.

**Long-term outcome goals:** CRT will target specific actions through vigorous litigation as part of its comprehensive strategy to safeguard the civil rights of all persons residing in the United States. CRT also will continue to be vigilant and aggressive in its enforcement, outreach, and training efforts. These efforts span the full breadth of its' jurisdiction, from fair housing opportunities, equal access to the ballot box, and criminal civil rights prosecutions to desegregation in America's schools and protection of the rights of the disabled. Additionally, CRT has worked swiftly and aggressively to pursue its newfound enforcement responsibilities over its expanded jurisdiction, including aggressive enforcement of USERRA, TVPA, and RLUIPA.

#### **Other Initiatives:**

DOJ's PCA initiative will be one of the focal points for DRS. This initiative ensures that cities, counties, towns, and villages throughout the United States comply with the ADA. Pattern or practice cases will continue to be a high priority also, including a vigorous pursuit of access to transportation and travel (including mass transit and privately operated transportation services), gateways to economic self-sufficiency (higher education, child care, and employment), consumer access to the free market (health care, access for people with assistance animals, physical access to consumer goods), voting, and Olmstead issues (making sure people with disabilities can live and receive services in their own communities and with their own families).

In order to maximize voluntary compliance with the ADA, DOJ has launched the "ADA Business Connection" to bring together a community's senior business leaders and disability advocacy groups in order to build trust and understanding with regard to the needs of and challenges facing Americans with disabilities. DOJ has reached out specifically to small businesses.

Training is a vital tool to sharpen our enforcement efforts – both across the Department and within CRT. The PDO, created in November 2005, has spearheaded CRT's creation of two training conferences at the NAC this year. These national training seminars continue our mission of educating, encouraging, and working collaboratively with the U.S. Attorney's Offices in the vigorous enforcement of the civil rights laws; two training conferences were held this year. PDO also has created – for the first time in CRT's history – a formal program of training for new Division attorneys, as well as programs to provide continuing legal education for experienced Division attorneys.

CRT has resolved major police misconduct investigations with numerous police departments across the United States. This dramatic increase in successful resolutions

reflects DOJ's innovative cooperative approach to such matters, focusing on fixing the problems, not the blame. Previously, DOJ approached such investigations with a purely litigation mindset, which requires secrecy and creates adversaries. The Administration determined early on that this approach was largely counterproductive. Rather, CRT has begun approaching these investigations with a cooperative model, with litigation held as a fallback position if cooperation does not work. This model is driven by the assumption that most, if not all, police departments want to comply with the law and provide quality public service in a constitutional manner. This cooperative approach has implemented more reform – faster, in more cities – than would have been possible solely through litigation. Moreover, ongoing monitoring and technical support enhances the success of these agreements and ensures their enforcement.

In other sections, to ensure the civil rights of children, EOS will continue in FY 2009 with its initiative begun in FY 2005 to ensure equal educational opportunities for ELL this is to ensure that immigrant children are receiving proper services to assist them in overcoming language barriers. Monitoring elections will continue as a priority for VOT to ensure compliance with Section 203 (which mandates that language assistance be provided), the UOCAVA, and Title III of HAVA.

Activities promise a continued mix of litigation, amicus briefs, formal and informal settlements, and mediated resolutions. Much of CRT's enforcement efforts will continue to focus on resolution without litigation. For example, under a contract, DOJ refers complaints to professional mediators who have been trained in the legal requirements of the ADA. Since January 2001, the mediation program has successfully resolved more than 1,200 complaints. The average cost of a successfully mediated case is about \$2,800 in mediation contractor costs, minimal when compared to the costs of investigating and litigating individual cases. The mediation program allows DOJ to rapidly resolve individual cases to achieve meaningful ADA compliance while utilizing fewer resources -- both in terms of cost and staff hours. It also has resulted in increased access for thousands of individuals throughout the country. This reflects CRT's commitment to linking resources and performance.

Outreach and technical assistance will continue to play a significant role in many of the programmatic areas to ensure compliance with the civil rights statutes. This will include operating a comprehensive, government-wide program of technical and legal assistance, training, interagency coordination, and regulatory, policy, and program review, to ensure that federal agencies consistently and effectively enforce various landmark civil rights statutes and related Executive Orders.

CRT will provide technical assistance and speakers to educate immigrants, national origin minorities, State and local governments, and service providers to combat discrimination. Countless informal complaints will be resolved each year through this process, generally resulting in the immediate resolution to the issue, negating the need for a formal charge or litigation. For example:

- OSC will teach workers, employers, and concerned organizations about the anti-discrimination provision of the INA;

- CRM attorneys will participate in training and outreach programs relating to criminal civil rights enforcement, such as trafficking of persons, training Border Patrol Agents, lecturing at the FBI training center, etc;
- COR will provide technical assistance and training as requested by State and local recipients, federal agencies, organizations and the public such that individuals from across the country can learn the importance of language access; and
- VOT will work with the United States Election Assistance Commission on voluntary guidance to jurisdictions on compliance with HAVA.

In the area of Human Capital Workforce Planning, specific activities and/or actions are planned to meet the standards for success under the Human Capital initiative of the President's Management Agenda (PMA) include:

- Using the skills assessment study conducted by DOJ to determine employee development needs and targeting recruitment for employees to fill skills gaps;
- Improving recruitment and selection through improved productivity permitted by use of the Web based assessment system, AVUE;
- Continuing the use of digital fingerprinting of applicants to speed security approvals;
- Ensuring that all new supervisors have received appropriate training within the first three to six months after selection;
- Improving opportunities for, and completion of, training for attorneys to improve mission effectiveness; and
- Continuing to respond to DOJ initiatives to improve human resources management.

In the PMA area of improved financial performance, CRT continues to implement new measures to streamline operations and strengthen internal control processes. The Administrative Section created the position of Comptroller to restructure CRT's financial and business processes. This allows all financial activities to be managed uniformly. Sound financial management is the foundation of an effective organization.

In addition, CRT has implemented new automated tracking systems to help ensure timely, accurate, and reliable financial reports. Key performance information is carefully tracked to continually improve program performance and overall cost effectiveness. CRT continues to excel in its ratings on DOJ's financial audits.

### **c. Results of Program Assessment Rating Tool (PART) Reviews**

During FY 2005, CRT was assessed through OMB's PART along with five other litigating components (**ATR, CIV, CRM, ENRD, and TAX**), collectively named the GLA Program. At the end of the assessment, the GLA Program received a rating of "Effective". Other findings showed that:

- The Program effectively achieves its goal of resolving cases in favor of the government. Favorable resolutions, in turn, punish and deter violations of the law; ensure the integrity of federal laws and programs; and prevent the government from losing money through unfavorable settlements or judgments.
- The Program collaborates effectively with its partners, notably the U.S. Attorneys Offices. The two programs work closely to share expertise, make referrals, and designate cases for prosecution, while minimizing any overlap of responsibilities.
- The Program exhibits good management practices. This includes strong financial management, collecting and using performance information to make decisions, and holding managers accountable for program performance.

Additionally, to exhibit continual improvement of our practices, the Program was to perform the following follow-up actions:

- Seek regular, independent evaluations of the Program's effectiveness at resolving cases in favor of the government. GLA components are contemplating possible options to perform our independent evaluation.
- Complete leadership training and mentoring program to improve the quality of the program's management. CRT has completed this task with the establishment of PDO. The program offers two five-day training courses to new and recently hired attorneys. PDO has been coordinating training material with staff throughout CRT. This effort is on-going.
- Work with the Department's Chief Information Officer to evaluate and purchase litigation software that will improve productivity and efficiency.”
  1. CRT began using A.L. Coder - (Artificial Intelligence Corder) This application streamlines the process of coding by automating the process.
  2. CRT purchased Optical Character Recognition (OCR) software to convert 3 million voting applications to VOT's STAPS application. This provides a portable readable format allowing significant efficiencies.
  3. Software implemented by CRT as a version control to track all changes to source code written. This also allows programmers to recoup previous versions, as a safety control.
  4. The Justice Management Division is leading an effort to consolidate the case management functions of all Litigating components into one system. The new Litigation Case Management System (LCMS) will introduce new technology to the Department, increase efficiency, and provide seamless information sharing. CRT will be transitioning to LCMS in FY 2009. The Requirements phase of the project will begin in the Spring of FY 2008. The Design and Development Phases will follow after the completion of the Requirements phase through the implementation in FY 2009. This effort is on-going.

## V. E-Gov Initiatives

### E-Government Initiatives

The Justice Department is fully committed to the President’s Management Agenda (PMA) and the E-Government initiatives that are integral to achieving the objectives of the PMA. The E-Government initiatives serve citizens, business, and federal employees by delivering high quality services more efficiently at a lower price. The Department is in varying stages of implementing E-Government solutions and services including initiatives focused on integrating government wide transactions, processes, standards adoption, and consolidation of administrative systems that are necessary tools for agency administration, but are not core to DOJ’s mission. To ensure that DOJ obtains value from the various initiatives, the Department actively participates in the governance bodies that direct the initiatives and we communicate regularly with the other federal agencies that are serving as the “Managing Partners” to ensure that the initiatives meet the needs of the Department and its customers. The Department believes that working with other agencies to implement common or consolidated solutions will help DOJ to reduce the funding requirements for administrative and public-facing systems, thereby allowing DOJ to focus more of its scarce resources on higher priority, mission related needs. DOJ’s modest contributions to the Administration’s E-Government projects will facilitate achievement of this objective.

#### A. Funding and Costs

The Department of Justice participates in the following E-Government initiatives and Lines of Business:

Business Gateway	E-Travel	Integrated Acquisition Environment	Case Management LoB
Disaster Assistance Improvement Plan	Federal Asset Sales	IAE - Loans & Grants - Dunn & Bradstreet	Geospatial LoB
Disaster Assist. Improvement Plan - Capacity Surge	Geospatial One-Stop	Financial Mgmt. Consolidated LoB	Budget Formulation and Execution LoB
E-Authentication	GovBenefits.gov	Human Resources LoB	IT Infrastructure LoB
E-Rulemaking	Grants.gov	Grants Management LoB	

The Department of Justice E-Government expenses – i.e. DOJ’s share of e-Gov initiatives managed by other federal agencies – are paid for from the Department’s Working Capital Fund. These costs, along with other internal E-Government related expenses (oversight and administrative expenses such as salaries, rent, etc.) are reimbursed by the components to the WCF. CRT’s reimbursement amount is based on the anticipated or realized benefits from an e-Government initiative. The table below identifies CRT’s actual or planned reimbursement to the Department’s Working Capital Fund. As such, CRT’s E-Government reimbursement to the WCF is \$180,000 for FY 2008. The anticipated CRT e-Government reimbursement to WCF is \$84,000 for FY 2009.

**B. Benefits**

CRT established baseline cost estimates for each IT investment being (or planned to be) modified, replaced, or retired due to the Department's use of an E-Government or Line of Business initiative. CRT is measuring actual costs of these investments on an ongoing basis. As CRT completes migrations to common solutions provided by an E-Government or Line of Business initiative, CRT expects to realize cost savings or avoidance through retirement or replacement of legacy systems and/or decreased operational costs.

**Based on the phased-in implementation of these initiatives, CRT will not realize any savings associated with these projects in either FY 2008 and FY 2009.**