



THE DEPARTMENT OF JUSTICE

ACCOMPLISHMENTS 2017 - 2021





Introduction

The United States Department of Justice’s mission is to “enforce the law and defend the interests of the United States according to the law; to ensure public safety against threats foreign and domestic; to provide federal leadership in preventing and controlling crime; to seek just punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration of justice for all Americans.” During the past four years, the Department continued its pursuit of justice while focusing on several overriding priorities: to safeguard national security and combat violent crime, protect constitutional liberties, and prosecute those who exploit vulnerable Americans. Under the leadership of Attorneys General Jefferson B. Sessions and William P. Barr, as well as Acting Attorneys General Matthew Whitaker and Jeffrey A. Rosen, the Department of Justice achieved many significant victories on those priorities. Some of the Department’s most important accomplishments in these areas are described below*

Key Priorities

Protecting National Security

The Department has worked tirelessly to meet its most important responsibility—protecting the American people. On December 21, 2020, Attorney General Barr announced that the United States had filed criminal charges against the former Libyan intelligence officer who allegedly made the bomb that destroyed Pan Am Flight 103 over Lockerbie, Scotland in 1988—an act of terrorism that killed 259 people, including 190 Americans, and that ranks as the second-deadliest terrorist attack against the United States other than 9/11. In October 2020, the United States announced criminal charges against ISIS terrorists who, as part of a cell known as “the Beatles,” allegedly participated in the brutal torture and murder of four American hostages in Syria in 2014. These prosecutions send the unmistakable message that no amount of time or distance will stop the United States from seeking to hold accountable those who kill Americans—particularly through acts of terrorism.

The Department has also taken significant steps to protect national security by prosecuting former military or intelligence community officials who engaged in espionage for foreign countries and prosecuting leakers who endangered national security by releasing highly classified information. The Department has also increased the number of prosecutions for cyber-attacks—including by foreign state actors in Russia, China, North Korea, and Iran—to protect American security against new and high-tech vulnerabilities.

Attorney General Sessions launched the China Initiative on November 1, 2018, against the background of previous findings by the Trump Administration concerning China’s practices. The Initiative, led by the Department’s National Security Division, reflects the strategic priority of countering Chinese national security threats and reinforces President Trump’s overall national security strategy. The initiative identified a number of goals for the Department, ranging from increased focus on the investigation and prosecution of trade secret theft and economic espionage, to better countering threats posed by Chinese foreign investment and supply chain vulnerabilities.

*This booklet focuses primarily on the accomplishments of the Main Justice Department. Department of Justice Components such as the Federal Bureau of Investigation; Bureau of Alcohol, Tobacco, Firearms, and Explosives; Drug Enforcement Administration; United States Marshals Service; and Bureau of Prisons all have significant accomplishments that are addressed separately on their own websites.



Since the launch, the Department has arrested and prosecuted dozens of individuals accused of working on the People's Republic of China's behalf. Some examples include, on April 23, 2019, a former General Electric engineer and a Chinese Businessman were charged with economic espionage and theft of General Electric's trade secrets. On November 22, 2019, a former CIA case officer was sentenced to 19 years in prison for conspiring to communicate, deliver, and transmit national defense information to China. Also, on July 21, 2020, the Department indicted two Chinese hackers, working with the Ministry of State Security, and charged them with a global computer intrusion campaign targeting intellectual property and confidential business information, including COVID-19 research.

Reducing Violent Crime

Protecting Americans from violent crime is a core mission of the Department of Justice. This Administration accordingly made reducing violent a top priority immediately in 2017, and FBI statistics indicate that crime rates fell in 2017, 2018, and 2019, after having increased in 2015 and 2016. Attorney General Barr launched Project Guardian on November 13, 2019, as an initiative designed to reduce gun violence and enforce federal firearms laws across the country. Project Guardian was designed to draw on the Department's earlier achievements, such as the "Triggerlock" program, and to serve as a complementary effort to the success of Project Safe Neighborhoods. In addition, the initiative emphasizes the importance of using all modern technologies available to law enforcement to promote gun crime intelligence. On October 13, 2020, the Department announced it has charged more than 14,200 defendants with firearms-related crimes during Fiscal Year (FY) 2020, despite the challenges of COVID-19 and its impact on the criminal justice process. When violent crime began to increase this summer after civil unrest and amid the pandemic, Attorney General Barr launched Operation Legend in Kansas City, MO., on July 8, 2020, as a sustained, systematic, and coordinated law enforcement initiative in which federal law enforcement agencies work in conjunction with state and local law enforcement officials. Operation Legend was expanded to Chicago, Illinois and Albuquerque, New Mexico, on July 22, 2020; to Cleveland, Ohio, Detroit, Michigan, and Milwaukee, Wisconsin, on July 29, 2020; to St. Louis, Missouri, and Memphis, Tennessee, on August 6, 2020; and to Indianapolis, Indiana, on August 14, 2020. To date, over 6,000 arrests – including approximately 467 for homicide – have been made; more than 2,600 firearms were seized; and more than 32 kilos of heroin, more than 17 kilos of fentanyl, more than 300 kilos of methamphetamine, more than 135 kilos of cocaine, and more than \$11 million in drug and other illicit proceeds have been seized. Of the more than 6,000 individuals arrested, approximately 1,500 have been charged with federal offenses.

Combatting gang violence has been a top priority for this Administration, with President Trump and the Department putting an exceptional emphasis on dismantling Mara Salvatrucha, or MS-13, within the United States. In February of 2017, President Trump issued Executive Order 13773, directing the whole-of-government to develop and execute a comprehensive approach to dismantle Transnational Criminal Organizations (TCOs) such as MS-13 and restore safety for the American people. On August 16, 2019, Attorney General Barr created Joint Task Force Vulcan (JTFV) to coordinate and lead the efforts of the Department and U.S. law enforcement agencies against MS-13 in order to eradicate the group. On July 15, 2020, President Trump and Attorney General Barr joined together to announce significant cases related to JTFV. The two announced the first time an MS-13 member had been charged with terrorism-related offenses, a coordinated multi-district takedown of the leadership of the Hollywood clique of MS-13, and the Attorney General's decision to seek the death penalty



against an MS-13 defendant. On October 21, 2020, the Department released a report, titled “Full Scale Response: A Report on the Department’s Efforts to Combat MS-13 from 2016-2020.” Data from the report showed that since 2016, the Department has prosecuted approximately 749 MS-13 gang members. So far, more than 500 of these MS-13 gang members have been convicted, including 37 who received life sentences. Department prosecutors have used more than 20 federal criminal statutes to prosecute MS-13 members. The data also showed that for decades MS-13 has exploited weaknesses in border enforcement policies, as approximately 74 percent of the defendants prosecuted were unlawfully present in the United States. The report describes the Department’s efforts to combat MS-13 internationally through increased partnerships with law enforcement in Mexico and Central America.

Finally, after President Trump signed the historic First Step Act in 2018, the Department of Justice (particularly the Bureau of Prisons) undertook extensive efforts to implement the new law on the expedited timetable directed by Congress. By developing a new and sophisticated assessment tool, BOP is better able than ever before to identify inmates who pose a minimal risk of recidivism and to provide programming designed to reduce the recidivism risk in others. The innovative programs adopted by BOP over the past two years in response to the First Step Act will allow thousands of inmates to develop new skills, prepare to transition back to productive and law-abiding lives, and reduce violent crime long into the future.

Battling the Drug Crisis

Confronting the opioid became one of the Trump Administration and Department of Justice’s earliest priorities. While the President declared a Public Health Emergency in 2017, the Department announced new tools to combat the ongoing opioid epidemic and growing methamphetamine threat. The Attorney General issued a directive to require all U.S. Attorneys to designate an Opioid Coordinator who was responsible for facilitating opioid prosecutions in his or her district and convening a local task force to identify appropriate opioid cases for prosecution. On February 27, 2018, Attorney General Sessions announced a new Prescription Interdiction & Litigation Task Force and that the Department of Justice will be filing a Statement of Interest in a multi-district action regarding hundreds of lawsuits against opioid manufacturers and distributors. The Department hosted two summits, in 2018 and 2020, to highlight the destruction opioids had caused to countless communities around the country and the strategic work being done to combat that destruction. In October 2018, the Criminal Division announced the formation of the Appalachian Regional Prescription Opioid Strike Force (ARPO Strike Force), in order to identify and investigate health care fraud schemes in the Appalachian region and surrounding areas, and to effectively and efficiently prosecute medical professionals and others involved in the illegal prescription and distribution of opioids. In 2018, the Department also created Operation Synthetic Opioid Surge, a program designed to reduce the supply of deadly synthetic opioids in high impact areas as well as identifying wholesale distribution networks and international and domestic suppliers. In October 2020, the Department announced a global resolution of its criminal and civil investigations into the opioid manufacturer Purdue Pharma LP (Purdue), and a civil resolution of its civil investigation into individual shareholders from the Sackler family. The government alleged that Purdue promoted its opioid drugs to health care providers it knew were prescribing opioids for uses that were unsafe, ineffective, and medically unnecessary, and that often led to abuse and diversion.



While the Department worked to end the opioid crisis, it also addressed the growing methamphetamine problem around the country. In February 2020, Attorney General Barr established a Counter Methamphetamine Working Group. In February 2020, Attorney General Barr, along with the DEA, launched Operation Crystal Shield, directing the DEA's enforcement resources to methamphetamine "transportation hubs" — areas where methamphetamine is often trafficked in bulk and then distributed across the country. In September 2020, the Attorney General and DEA announced that the Operation generated more than 750 investigations, resulting in nearly 1,840 arrests, and the seizures of more than 28,560 pounds of methamphetamine, \$43.3 million in drug proceeds, and 284 firearms.

Safeguarding the First Amendment

The Department has strengthened protections for religious liberty and people of faith in a variety of important ways. Since January 2017, the Department has obtained convictions of 17 individuals in cases involving attacks or threats against places of worship or religious property, and more than 65 convictions for anti-Semitic hate crimes and related conduct. In October 2017, fulfilling the President's directive in the May 2017 Executive Order on Promoting Free Speech and Religious Liberty, Attorney General Sessions issued a memorandum to all Executive Departments and Agencies that described 20 principles of religious liberty and provided guidance to agencies for implementing these principles in their administrative work and enforcement actions. The following year, the Attorney General announced the creation of the Religious Liberty Task Force to help the Department fully implement its own religious liberty guidance across all Department components. Attorney General Sessions also spearheaded the Place to Worship Initiative. Under this initiative, the Department held public events across America and worked to improve training for federal prosecutors about legal protections for houses of worship. Since 2018, 100 percent more religious land use cases and briefs were brought by the Department and 60 percent more full investigations, compared to any 2-year period of the prior decade. Over the last four years, the Department has also taken a stand on behalf of religious liberty in major constitutional cases. The Department filed several amicus briefs in the Supreme Court, including a brief in support of Colorado baker Jack Phillips's right to operate his bakery in accordance with his religious beliefs (*Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*), a brief on behalf of Montana students declared ineligible for a scholarship because they attended a religious school (*Espinoza v. Montana Dep't of Revenue*), a brief in support of upholding a World War I memorial cross in Bladensburg, Maryland (*American Legion v. American Humanist Ass'n*), and a brief in support of California religious schools' First Amendment rights in an employment lawsuit brought by former teachers (*Our Lady of Guadalupe School v. Morrissey-Berru*). In each of these cases the Supreme Court issued important decisions vindicating principles of religious liberty.

The Department also sought to prioritize protecting free speech around the country, especially regarding speech on college campuses. The Department held a Forum on Free Speech in High Education in September 2018, in which Department officials discussed campus speech codes that infringe on constitutionally protected speech and Department efforts to file statements of interest in litigation challenging such policies. One example of such efforts was a Statement of Interest the Department filed in the case of *Young America's Foundation v. Janet Napolitano*, in which the Berkeley College Republicans and Young America's Foundation, alleged that the University of California, Berkeley, enforced a double standard when applied to free speech. BCR alleged that UC



Berkeley applied a more rigorous and highly discretionary set of rules to their organization compared to other campus groups, especially with respect to “high-profile” campus speakers. The Department also added new grant standard assurance, which required institutions of higher learning to comply with any requirement imposed on it by the First Amendment, as well as with its own representations concerning academic freedom, freedom of inquiry and debate, research independence, and research integrity, in order to receive the grant. Department action in this space has not been limited to only college campuses – in February 2020, the Department filed a Statement of Interest in federal court in Kentucky, explaining that a Louisville/Jefferson County Metro Government law, which required a photographer to photograph same-sex weddings in violation of her religious objections, violates the Free Speech Clause of the First Amendment. Attorney General Barr took critical steps to safeguard first amendment rights during the COVID-19 pandemic. In an April 2020 memorandum, Balancing Public Safety with the Preservation of Civil Rights, the Attorney General directed the Civil Rights Division and the U.S. Attorney for the Eastern District of Michigan to review governmental policies to ensure that civil liberties remained protected. The Department issued several letters to state and local government officials and filed several amicus briefs and statements of interest addressing excessive restrictions on fundamental rights. In one instance, the Department filed an amicus brief in support of free speech challenge to California’s COVID-19 ban on in-person political protests.

Defending the Vulnerable

On September 18, 2017, Attorney General Sessions announced a series of actions the Department was to take to support law enforcement and maintain public safety in Indian Country. First, the Department deployed the Tribal Access Program for National Crime Information (TAP) to 10 tribal sites; TAP was designed to provide federally-recognized tribes access to national crime information databases for both civil and criminal purposes. Second, the Office of Tribal Justice began coordinating a series of listening sessions with tribal law enforcement officials and tribal leaders to ensure the unique perspective of law enforcement in Indian Country is taken into account. Lastly, Office of Tribal Justice created the Indian Country Federal Law Enforcement Coordination Group, an unprecedented partnership that brought together sworn federal agents and other key law enforcement stakeholders from 12 federal law enforcement components, in order to increase collaboration and coordination with the goal of enhancing the response to violent crime in Indian country. On November 26, 2019, President Trump signed Executive Order 13898, forming the Task Force on Missing and Murdered American Indians and Alaska Natives, with Attorney General Barr and the Secretary of the Interior named as co-chairs. The Task Force aims to enhance the operation of the criminal justice system and address the legitimate concerns of American Indian and Alaska Native communities regarding missing and murdered people – particularly missing and murdered women and girls. On December 23, 2020, the task force provided updates, stating they had conducted four virtual large-scale listening sessions in May and June of 2020 and 12 virtual tribal consultations in August and September of 2020. The task force also developed a tribal community response plan for missing person’s cases that is currently being piloted in six location through the cooperation of the U.S. Attorney’s Office and Tribes. Over the past few years, the Department has also dedicated a significant amount of grant money to Indian Country. In October of 2019, the Department awarded over \$273.4 million in grants and in September of 2020, increased that number to more than \$295.8 million. These grants aim to improve public safety, address violence against women, serve victims of crime, and support youth programs in American Indian and Alaska Native communities.



Combatting elder abuse and financial fraud targeted at seniors is a key priority of the Department of Justice, leading to the establishment of the Department's Elder Justice Initiative. Since at least 2018, the Department of Justice has been conducting Nationwide Elder Fraud Sweeps, aimed at prosecuting offenders who have engaged in financial schemes that targeted or largely affected seniors. In 2020, the department announced its largest sweep to date, in which prosecutors charged more than 400 defendants with conducting fraud schemes that allegedly caused over a billion dollars in losses. In 2018, the Department created the Money Mule Initiative, a concentrated effort across the country and around the world to halt money mule activity. Money mules assist fraud schemes by receiving money from victims, many of them elderly, and forwarding proceeds to foreign-based perpetrators. In 2020, actions were taken against more than 2,300 money mules, far surpassing the previous two years. On March 3, 2020, Attorney General Barr announced the launch of a National Elder Fraud Hotline, which provides services to seniors who may be victims of financial fraud. By June of 2020, the Department's Office for Victims of Crime, who manages the hotline, announced that the hotline had already received over 1,800 calls. Also on March 3, 2020, Attorney General Barr announced the launch of the Department's National Nursing Home Initiative, established in order to coordinate and enhance civil and criminal efforts to pursue nursing homes that provide grossly substandard care to their residents.

Under the Trump Administration, the Department of Justice made combatting human trafficking one of its top priorities. The Department held two summits on Combatting Human Trafficking, in February of 2018 and January of 2020, in order to highlight the Department's efforts and bring together members of the law enforcement, business, and advocacy communities, to provide local, national, and international perspectives on the issue. In April 2018 and June 2020, the Department seized two dominant online marketplaces for sex trafficking, Backpage.com and then CityXGuide.com, significantly disrupting the trade. In December of 2018, President Trump proclaimed January 2019 as National Slavery and Human Trafficking Prevention Month. During that month, the Department announced updates to its efforts in combatting human trafficking – the Justice Department initiated a total of 230 human trafficking prosecutions, charging 386 defendants and convicting a record 526 defendants in Fiscal Year 2018. The Department also highlighted successful prosecution against perpetrators of human trafficking, including one of the largest sex trafficking prosecutions in U.S. history, in which the Justice Department convicted 36 defendants operating a sex trafficking scheme that exploited hundreds of Thai women in multiple states. Additionally, five members of a notorious international criminal organization, known as the Rendon-Reyes Sex Trafficking Organization, were sentenced to prison terms of 15 to 25 years. Additionally, on August 4, 2020, Attorney General Barr, along with Advisor to the President Ivanka Trump, announced that the Department was making over \$35 million dollars in grant money available in order to provide safe, stable housing, and appropriate services to victims of human trafficking.

Finally, during the COVID-19 pandemic, the Department established a task force and directed personnel through the country to discover, deter, and prosecute fraudulent attempts to exploit vulnerable Americans by offering fake cures, treatments, immunizations, and similar scams. The Department brought dozens of civil enforcement actions and criminal prosecutions, holding accountable those who used this terrible crisis as an opportunity for profit and exploitation. Likewise, when Congress established the Paycheck Protection Program to help businesses keep their workers employees during the pandemic, the Department closely monitored attempted frauds and brought dozens of cases against those who took funds illegally and thereby diverted taxpayer dollars from those who needed them most.



Protecting Americans Online

Under the leadership of Attorney General Barr, the Justice Department launched a broad review of Big Tech and online marketing-leading platforms to ensure the Department's enforcement efforts keep up with the rapidly changing technological landscape and meet the Department's responsibility of keeping American's safe and preserving competition for the benefit of the American consumer. This work is still ongoing, but the Department was able to take extraordinary steps towards this important goal, including the following:

The Department worked to address issues with Section 230 of the 1996 Communications Decency Act. In February, the Department held a Section 230 Workshop, which posed the question of whether this law needed to be amended to realign its incentives to the statutory text – to encourage innovation balanced with appropriate incentives for platforms to remove harmful content. These efforts have framed the debate over this important law and led to the development of a Department legislative proposal for amending Section 230, which was just released on September 24, 2020. The Department has been working with Congress on this issue and expects to continue working with them into the next Congress to develop a legislative fix to the problem of Section 230.

In October of 2020, the Justice Department, along with 14 states, filed a civil antitrust lawsuit against Google for unlawfully maintaining monopolies through anticompetitive and exclusionary practices in the search and search advertising markets. The Antitrust Division built a strong case against Google, collecting convincing evidence that Google – the gateway of the internet -- no longer competes just on the merits but instead uses its monopoly power to box out its competitors. This monumental enforcement action, which received wide bipartisan support, is just one of the first steps in the Justice Department's review of market-leading platforms to secure and restore competition to further benefit the American consumer.

In February 2018, Attorney General Barr also directed the formation of a Cyber-Digital Task Force to undertake a comprehensive assessment of the Department's work in the cyber area, and to identify how federal law enforcement can even more effectively accomplish its mission in this vital and evolving area. The task force published a report of the Attorney General's Cyber Digital Task Force in 2019 (<https://www.justice.gov/ag/page/file/1076696/download>) and a report on Cryptocurrency Enforcement Framework in 2020 (<https://www.justice.gov/ag/page/file/1326061/download>)

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CRIMINAL DIVISION

The mission of the Criminal Division is to serve the public interest through the enforcement of criminal statutes in a vigorous, fair, and effective manner; and to exercise general supervision over the enforcement of all federal criminal laws, with the exception of those statutes specifically assigned to the Antitrust, Civil Rights, Environment and Natural Resources, or Tax Divisions.

I. Key Cases

• **El Chapo trial (EDNY/SDFL):** In February 2019, the Division and its USAO partners saw the successful prosecution of the most notorious international drug cartel leader ever – Joaquin Guzman Loera, aka “El Chapo” - principal leader of the Sinaloa Cartel. Capping off a decade-long effort by multiple Criminal Division components to bring him to justice, Guzman was sentenced to life imprisonment plus 30 years.

• **Equifax (NDGA):** In February 2020, the Division and USAO indicted four members of the Chinese People’s Liberation Army for the brazen data theft of millions of records and numerous related trade secrets from the computer systems of the Equifax credit reporting service. The attackers ran approximately 9,000 queries on Equifax’s systems, obtaining names, birth dates and social security numbers of nearly 150 million Americans.

• **Twitter Hack (NDCA):** In July 2020, the Division and local authorities charged three individuals with the widely-reported July 2020 intrusion into Twitter, resulting in the takeover of accounts belonging to Bill Gates, Elon Musk, President Obama, Uber, and other high-profile individuals and companies.

• **SamSam (DNJ):** In November 2018, the Division and USAO brought a first-of-its kind indictment against two overseas ransomware authors. Operating from Iran, the defendants used their ransomware to infect and extort over 200 victims across the United States and Canada, including hospitals, municipalities, and

public institutions, causing over \$30 million in losses to victims.

• **Prosecution of Backpage.com (D. Ariz.):** The Division, in conjunction with the USAOs for D. Az. and C.D. Cal., the FBI, the Postal Inspection Service, and the IRS, obtained a 100-count superseding indictment charging seven individuals with facilitating prostitution and money laundering. Several Backpage-related corporate entities, including Backpage.com, and Backpage’s Co-founder and CEO Carl Ferrer have pleaded guilty to federal charges and state charges in California and Texas for conspiring to facilitate prostitution and money laundering. DOJ also seized and shutdown Backpage.com itself in the U.S. and the 90+ other countries in which it operated and seized forfeitable assets in excess of \$150 million. Trial for the remaining defendants is scheduled for March 2021.

• **Goldman Sachs Corporate Criminal Resolution and 1MDB forfeitures (EDNY):** In October 2020, the Division and USAO entered into a \$2.9 billion corporate resolution with The Goldman Sachs Group (“Goldman”) and one of its subsidiaries, Goldman Sachs (Malaysia) Sdn. Bhd. (“Goldman Malaysia”), reflecting the largest ever realized amounts by the Department in an FCPA case, and by U.S. authorities in an FCPA case. As part of the resolution, Goldman entered into a parent-level DPA and Goldman Malaysia entered a guilty plea in which each admitted to conspiring to violate the Foreign Corrupt Practices

Act (“FCPA”) as part of a scheme to pay more than \$1.6 billion in bribes to high-ranking foreign officials in Malaysia and Abu Dhabi in order to obtain and retain business for Goldman from 1MDB, a Malaysian state-owned and state-controlled fund created to pursue investment and development projects for the economic benefit of Malaysia and its people. To date, one former employee has pleaded guilty, two additional individuals have been charged – including a former employee who is currently scheduled for trial in March 2021 – on FCPA and money laundering related charges. In addition, over the past two years, the Division has recovered or assisted Malaysia in recovering over \$1 billion in assets associated with the 1MDB international money laundering and bribery scheme.

• **JPMorgan Chase DPA (D. Conn.):** In September 2020, the Division and USAO entered into a landmark \$920 million DPA with JPMorgan Chase to resolve an investigation into spoofing, manipulation, and fraud on two of the bank’s securities and commodities trading desks. The case involved over \$300 million in loss to other market participants. To date, two former bank employees have pled guilty; another four former employees await trial on RICO and other charges.

• **NFL Health Care Fraud Case (EDKY):** In December 2019, the Division and USAO announced charges against 10 former NFL players for their alleged roles in a nationwide fraud that targeted a plan that provided tax-free reimbursement of out-of-pocket medical care expenses that were not covered by insurance. As alleged, over \$3.9 million in false and fraudulent claims were submitted to the Plan for expensive medical equipment that was never purchased or received. Since the initial announcement, the Division and USAO have charged five additional defendants for their alleged roles in the scheme. Thus far, twelve defendants have pleaded guilty, with trial a date for the remaining three defendants scheduled for April 5, 2021.

• **Ericsson DPA:** In December 2019, the Division entered into a deferred prosecution agreement with Telefonaktiebolaget LM Ericsson to resolve charges related to Ericsson’s FCPA violations in China, Djibouti, Indonesia, Kuwait, and Vietnam, and Ericsson’s Egypt-based subsidiary pleaded guilty for

the bribery conduct in Djibouti. Ericsson was required to pay a criminal penalty of over \$520 million pursuant to the DPA, and approximately \$540 million to the SEC in a related matter.

• **Indian Call Center Scams (SDTX):** In October 2016, the Division and USAO for the SDTX indicted a transnational criminal scheme involving a network of call centers based in Ahmedabad, India. India-based conspirators called potential victims while impersonating officials from the IRS or U.S. Citizenship and Immigration Services, threatened victims with arrest, imprisonment, fines or deportation if they did not pay taxes or penalties to the government, and then used a network of U.S.-based conspirators to liquidate and launder the extorted funds. Twenty-five defendants have since been convicted and sentenced.

• **Berger removal:** In 2020, the Division obtained, after a trial, the removal of Friedrich Karl Berger, a Tennessee resident who had willingly served as an armed guard of concentration camp prisoners in the Neuengamme Concentration Camp system in Nazi Germany in 1945. The presiding judge found that Berger had guarded prisoners to prevent them from escaping the atrocious conditions of the camp, where they were exploited for outdoor forced labor and worked to the point of exhaustion and death. In November 2020, the Board of Immigration Appeals upheld the removal order.

• **Gangster Disciples prosecution (NDGA):** Over the course of three years, the Division and the USAO for the NDGA secured federal convictions against 51 of the most violent leaders and members of the Gangster Disciples, a highly structured national gang that has terrorized communities in Georgia and elsewhere. Those convicted included two national “board members”; the “governors” of Georgia, Alabama, Florida, Colorado, North Carolina, and Kansas; the “Chief Enforcers” and “heads of security” for Georgia, Florida, and Alabama; and numerous “enforcers.” These convictions resulted in several life sentences and the seizure of 119 firearms.

• **Aryan Circle takedown (EDTX/EDKY/SDMS):** In October 2020, the Division and various USAOs conducted a nationwide coordinated takedown of the

Aryan Circle, a violent, race-based gang that operates inside federal prisons across the country and outside of prisons in states including Texas, Arkansas, Louisiana, and Missouri. The team brought indictments in three states charging various gang members and associates, including current and former high-ranking gang leaders, with criminal offenses, including racketeering conspiracy, violent crimes in aid of racketeering, drug conspiracy, and unlawful firearms trafficking.

• **Western Union Remission:** In 2017, Western Union entered into a deferred prosecution agreement (DPA) with the United States. Pursuant to the DPA, Western Union acknowledged responsibility for its criminal conduct, which included violations of the Bank Secrecy Act and aiding and abetting wire fraud, and agreed to forfeit \$586 million, which has been made available to compensate victims of the international consumer fraud scheme through the remission process. To date, over 142,000 victims have received over \$300 million, in full compensation for their losses. Additional distributions are expected.

• **United States Victims of State Sponsored Terrorism Fund:** The Justice for United States Victims of State Sponsored Terrorism Act, codified at 34 U.S.C. § 20144, later amended by the Clarification Act, established the U.S. Victims of State Sponsored Terrorism Fund (USVSSTF) to compensate U.S. victims who were harmed in acts of state-sponsored terrorism. These individuals, many of whom waited years for compensation, include the Iran hostages held from 1979 to 1981 and their spouses and children, and victims of the embassy bombings in Kenya and Tanzania, the attack on the U.S.S. Cole, and other international terrorism incidents. MLARS assists in the administration of the USVSSTF. The USVSSTF has reviewed over fourteen thousand claims since 2016, and has paid or allocated over \$3 billion to over thirteen thousand eligible victims, their family members, and survivors.

II. Initiatives

• **Appalachian Regional Prescription Opioid (ARPO) Strike Force:** In October 2018, the Division announced the formation of the ARPO Strike Force, a joint effort between DOJ, HHS, FBI, DEA, and state and local law enforcement. ARPO combines data analytics with traditional law enforcement tools to effectively and efficiently prosecute medical professionals and others involved in the illegal prescription and distribution of opioids in the Appalachian region. Since its inception, the ARPO Strike Force, which currently includes 10 federal judicial districts, has brought charges against 87 defendants involved in the illegal distribution of opioids, including 66 licensed medical professionals and 51 prescribers, involving the distribution of approximately 66 million controlled substance pills. To date, 40 defendants have pled guilty, and two defendants have been convicted at trial.

• **PPP Fraud:** The Division has been investigating individuals and businesses who make false statements to defraud the government – and in some instances, banks – to receive stimulus payments from CARES Act programs, with a particular focus on fraud relating to the Paycheck Protection Program (“PPP”). Thus far, the Division has charged PPP fraud in at least sixty-six cases against ninety-four defendants. To date, the government has also seized over \$58 million in fraud proceeds.

• **Corporate White-Collar Prosecutions and Resolutions:** From 2019 to present, the Criminal Division’s Fraud Section has criminally resolved 28 white-collar corporate cases (consisting of 9 corporate guilty pleas; 17 corporate deferred prosecution agreements, and 8 corporate non-prosecution agreements), resulting in over \$12 billion in global payments and amounts, over \$7 billion in U.S. payments and amounts, and over \$4.5 billion in U.S. criminal payments and amounts.

• **Individual White-Collar Prosecutions:** From 2019 to present, the Criminal Division's Fraud Section has publicly charged over 780 individual white-collar defendants in cases involving nearly \$14 billion in alleged losses; in addition, the Fraud Section has secured convictions and guilty pleas from over 450 individual white-collar defendants.

• **Commodities Market Integrity:** In 2018, the Division announced an initiative to investigate and prosecute manipulation of the commodities futures markets by traders injecting orders – that the trader intends to cancel – designed to trick market participants into trading at inflated or deflated prices. Our efforts have resulted in charges against 19 traders, programmers, and salespeople; ten convictions to date; and five corporate resolutions: a June 2019 NPA with Merrill Lynch Commodities, Inc. (\$25 million); a November 2019 DPA with Tower Research Capital, a NY-based financial services firm (\$67 million); a January 2020 DPA with Propex Derivatives, an Australia-based trading firm (\$1 million); an August 2020 DPA with the Bank of Nova Scotia (\$60 million); and a September 2020 DPA with JPMorgan Chase (\$920 million).



• **Genetic testing fraud:** In September 2019, the Division announced a coordinated law enforcement action involving fraudulent genetic cancer screening, or "CGx," testing that resulted in charges in 5 districts against 35 defendants associated with dozens of telemedicine companies and genetic testing laboratories for their alleged participation in one of the largest health care fraud schemes ever charged. The alleged scheme involved the payment of illegal kickbacks and bribes by CGx laboratories in exchange for the referral of Medicare beneficiaries by medical professionals working with fraudulent telemedicine companies for expensive cancer genetic tests that were medically unnecessary. According to the charges, these defendants fraudulently billed Medicare more than \$2.1 billion for these CGx tests. To date, 22 defendants have pled guilty.

• **Preventing Child Sexual Exploitation Online:** On February 6, 2020, Eric Eoin Marques pled guilty to one count of conspiracy to advertise child pornography. Marques was the administrator of the Tor based hosting service, "Freedom Hosting," which

hosted over 200 websites dedicated to child sexual exploitation. This prosecution was a part of Operation Downfall, a path-marking global investigation. The Division, FBI, and EUROPOL executed a globally coordinated criminal investigation of unparalleled scope, which pooled resources of 13 countries who deployed over 70 LEAs to EUROPOL. Through this investigation, more than 200 child sexual exploitation websites were taken offline (along with hundreds of other sites sponsoring or facilitating criminal activity); the activities of tens of thousands of online child pornographers were disrupted; over four million images and videos of child sexual abuse were seized; and dozens of offenders were identified and prosecuted throughout the world.

• **Opioid Trafficking on the Darknet:** On September 22, 2020, the Department announced the results of Operation DisrupTor, which was a coordinated international effort to disrupt opioid trafficking on the Darknet. With significant support and coordination by SOD, and in conjunction with the FBI's Joint Criminal Opioid Darknet Enforcement (J-CODE) team, and EUROPOL, Operation DisrupTor was conducted across the United States and Europe. This operation resulted in the seizure of over \$6.5 million in both cash and virtual currencies; approximately 500 kilograms of drugs worldwide; 274 kilograms of drugs, including fentanyl, oxycodone, hydrocodone, methamphetamine, heroin, cocaine, ecstasy, MDMA, and medicine containing addictive substances in the United States; and 63 firearms. Operation DisrupTor led to 121 arrests in the United States (including two in Canada at the request of the United States), 42 in Germany, eight in the Netherlands, four in the United Kingdom, three in Austria, and one in Sweden.

• **Gang dismantlement:** The Division has seen milestone successes in its efforts to dismantle notorious gangs, including the Nine Trey Gangster Bloods, one of the most influential hoods in the United Bloods Nation. OCGS and the USAO for the WDNC charged 83 members of the Nine Trey Gangsters and, with the exception of one remaining fugitive, have now convicted all the defendants through guilty pleas and three separate trials. OCGS and the USAO for EDVA separately charged and convicted



six Nine Trey Gangsters, including Antonio Simmons, a high-ranking leader of a group of Portsmouth and Norfolk-based gang members, who was sentenced to life imprisonment in May 2019.

- **Fentanyl Importation from China:** Operation Deadly Merchant resulted in the first major Chinese fentanyl traffickers to be indicted in the United States, multiple OFAC designations, more than 32 defendants indicted in the United States, evidence of at least fifteen 15 overdoses (several with resulting deaths tied to this conspiracy), and hundreds of thousands of dollars in cash and property has been forfeited from the opioid trafficking organization.

- **Maritime Counter Narcotic Operations:** On April 1, 2020, the President, along with the DOJ and other partners, announced the beginning of a maritime interdiction surge to target such traffickers by increasing the USG resources devoted to this mission in the seas south of our border. In the midst of a global pandemic, and in conjunction with NDDS and other DOJ components, the Coast Guard surged to support the enhanced counter narcotics operations, resulting in greater than a 35 percent increase in cocaine and other drugs interdicted from April through September, compared to the first half of fiscal year 2020.

NATIONAL SECURITY DIVISION

The mission of the National Security Division (NSD) is to carry out the Department's highest priority: to combat threats to the United States from both terrorist organizations and nation-states. NSD consolidates the Department's primary national security elements within a single Division. It currently consists of the Office of Intelligence; the Counterterrorism Section; the Office of Justice for Victims of Overseas Terrorism; the Counterintelligence and Export Control Section; the Foreign Investment Review Section; and the Office of Law and Policy. This organizational structure ensures coordination and unity of purpose between prosecutors and law enforcement agencies, on the one hand, and intelligence attorneys and the Intelligence Community, on the other, thus strengthening the effectiveness of the Department's national security efforts.

I. Key Cases

- Nearly doubled the number of charged cyber cases involving foreign nation-state actors (compared to the prior four-year period) including related to Russia (Yahoo, WADA/OPCW, NotPetya), North Korea (WannaCry, Sony Pictures), China (Equifax, APT 41), and Iran (Mabna Institute).
- Espionage cases: Obtained convictions of four former military or IC officials who committed espionage for China (U.S. v. Mallory (EDVA), U.S. v. Hansen (D. Utah), U.S. v. Lee (EDVA)) and Russia (U.S. v. Debbins (EDVA)).
- Led the Department's efforts to identify and prosecute those who have leaked classified information and, in turn, harmed our Nation's security: Since 2017, NSD has charged six defendants with leaks offenses and obtained the highest sentence to date – 63 months – in a leak prosecution (U.S. v. Reality Winner (S.D.Ga.)).
- Charged the ISIS members known as “the Beatles” in federal court: prosecuting two ISIS members and former UK citizens Alexandra Kotey and El Shafee Elsheikh with eight felony counts related to the kidnapping and murder of Americans Jim Foley, Peter Kassig, Kayla Mueller, and Steven Sotloff, as well as the deaths of British and Japanese nationals, in Syria.
- On December 21, 2020, the Department of Justice announced that the United States had filed criminal charges former Libyan intelligence operative, Abu Agela Mas'ud Kheir Al-Marimi, aka, “Hasan Abu Ojalya Ibrahim” (Masud), for his alleged role in building the bomb that killed 270 individuals in the destruction of Pan Am Flight 103 over Lockerbie, Scotland on Dec. 21, 1988.
- Other Notable Counterterrorism prosecutions: obtaining a conviction and life sentence against the terrorist who placed and detonated bombs in New York and New Jersey (U.S. v. Rahimi (SDNY)); a conviction and life sentence against a terrorist who carried out a knife attack against an airport officer in an airport in Michigan (U.S. v. Ftouhi (E.D. Mich.)); obtaining a life sentence for a terrorist who supplied

improvised explosive devices to Iraqi insurgents who used the devices against U.S. military personnel from 2005 to 2010 (U.S. v. Alahmedalabdalklah (D. AZ).

- Hate Crime/Terrorism charges: Convicted three individuals in Kansas who plotted to blow up an apartment building and mosque to kill Somali immigrants. (U.S. v. Stein et al.) (D.Kansas).
- Export Control and Sanctions enforcement: Notable examples include convicting ZTE for IEEPA violations and obstruction of justice and obtaining the largest penalty ever for violating sanctions (\$900M) (U.S. v. ZTE (N.D.TX)); and indicting Turkish state-owned bank, Halkbank, for a conspiracy to help Iran access more than a billion dollars' worth of funds (U.S. v. Halbank (SDNY)).
- Charged Huawei (and arrested and charged its CFO) for racketeering activity, trade secret theft, sanctions violations, and obstruction of justice (U.S. v. Huawei (EDNY)).

II. Foreign Intelligence Surveillance Act

- Increased enforcement of the Foreign Agents Registration Act (FARA)—Examples:
 - o Civil settlement with Skadden for failing to register, under which the firm disgorged earnings from the engagement it failed to disclose.
 - o Obtained first injunction in 30 years, requiring registration of the agent that produces Sputnik Radio, and obtained voluntary registrations by Russian, Chinese, and Turkish media entities.
 - o As of 2020 the Department registered more than 500 foreign agents under FARA, the highest since 1997 and a 40% increase from 2016. New registrations doubled.
- Obtained congressional reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA) authorities (expires in Dec. 2023).

- Issued Attorney General Memos on FBI FISA Procedures Reforms: NSD/OI expanded its existing oversight of FBI FISA applications to include completeness reviews in addition to the existing accuracy reviews.



- Successfully defended FISA Section 702 constitutionality: NSD led the effort to defend the constitutionality of FISA Section 702 in criminal cases across the country, resulting in favorable decisions from two courts of appeals and five district courts.

III. The Committee on Foreign Investment in the United States

- CFIUS Case Leadership – DOJ increased its co-leadership of CFIUS cases to co-lead approximately twenty times more than it had done five or more years ago.
- CFIUS Prohibitions – Co-led all three cases that resulted in presidential prohibitions or divestments in the past four years (more than half of the seven total prohibitions and divestments in CFIUS history).
- CFIUS Penalties – Led the Committee's efforts to impose the first two financial penalties in CFIUS history, based on parties' violations of national security risk mitigation requirements.

IV. Other Achievements

- Revised its export control and sanctions voluntary self-disclosure (VSD) policy to enhance the benefits for early disclosure of willful wrongdoing and cooperation, resulting in an increase of VSDs.
- Led DOJ's China Initiative: Established in November 2018, the Initiative has been a key tool in disrupting China's "rob replicate and replace" strategy of blatant and systemic theft of U.S. intellectual property and research and development in critical infrastructure and technology sectors identified in China's Made in 2025 plan. For key cases, see Department's China Initiative Two Year Anniversary Overview.



- Led Enhanced Telecommunications Security: As Chair of Team Telecom, NSD led the Executive Branch in persuading the FCC to deny China Mobile's application for a telecommunications license; recommending that it terminate China Telecom's existing license of China Telecom (Americas) Corp.; and stopping efforts by the Pacific Light Cable Network to connect a subsea cable from Hong Kong directly to the United States.

- Developed NSD international programmatic capabilities to enhance information sharing and training on national security issues with international partners and established first NSD attorney position overseas in Jordan.

- CLOUD Act Passage: NSD supported the Department's efforts to pass the CLOUD Act, which clarified the government's authority to obtain data pursuant to a lawful warrant where a communications service provider stores the data abroad.

- Developed Election Interference Policies: NSD drafted the section of DOJ's Cyber Digital Task Force Report on election interference and helped develop other measures to respond to election interference, including President Trump's executive order on election interference.

- The Office of Justice for Victims of Overseas Terrorism (OVT), through its Criminal Justice Participation Assistance Fund (CIPAF), assisted thirty-six (36) victims to participate in five (5) foreign criminal justice systems through travel, the submission of victim impact statements, and translation in eight separate cases.

CIVIL DIVISION

The Civil Division represents the United States in any civil or criminal matter within its scope of responsibility – protecting the United States Treasury, ensuring that the federal government speaks with one voice in its view of the law, preserving the intent of Congress, and advancing the credibility of the government before the courts.

I. Successfully Defended

- The President's Two-for-One Executive Order, a key element of his deregulatory agenda.
- The President's Executive Orders to reform the Civil Service by ensuring accountability in collective bargaining, the use of official time, and performance assessments.
- The President's tariffs on steel, aluminum, and solar modules.
- The President's proclamations suspending the entry of aliens determined to have a negative effect on the domestic labor market in light of the COVID-19 pandemic.
- The President's Executive Order temporarily halting certain evictions during the COVID-19 pandemic, while preserving landlords' right to all late payments and fees.
- The President's Executive Order on Preventing Online Censorship.
- The position that reduction of the Affordable Care Act's individual mandate to zero rendered the individual mandate unconstitutional.
- The all-male selective service system.
- Federal statutes requiring producers of pornography to verify the age and identity of each person portrayed and keep records of such verification.
- The Bureau of Prisons' new federal execution protocol.
- The Bureau of Prisons' authority to continue to detain federal prisoners during the COVID-19 pandemic.
- The Department of Education's rule requiring schools to respond to allegations of sexual assault and to use a fair grievance procedure.
- The Department of Health and Human Services' Title X family planning program rule.
- The Department of Health and Human Services' rule reducing Medicare payments for drugs that certain hospitals acquire at a discount under the 340B program.
- The Department of Health and Human Services' rule to prevent unnecessary increases in the volume of certain Medicare-covered services.
- The Department of Housing and Urban Development's Smoke Free public housing rule.
- The Executive Office for Immigration Review's authority to continue operating during the COVID-19 pandemic.
- The Federal Aviation Authority's drone rule.

- The Immigration and Customs Enforcement's ability to use database checks to generate immigration detainers.
- The Immigration and Customs Enforcement's authority to make arrests in courthouses.
- The Immigration and Customs Enforcement's authority to detain aliens during the COVID-19 pandemic.
- The Department of Justice's Guidance on guidance, reining in the use of informal guidance documents to regulate the American public.
- The Department of Labor's rule expanding availability of Short Term Limited Duration Insurance.
- The Department of State's revocation of a passport erroneously issued to an ISIS bride who had never lawfully acquired citizenship.
- The Small Business Association's administration of the Paycheck Protection Program, including the exclusion on companies in bankruptcy.
- The ongoing detention of enemy combatants at Guantanamo Bay.
- The inclusion of the words "so help me God" in the naturalization oath.
- A House of Representatives suit alleging the President received prohibited emoluments.
- The adequacy of the President's financial disclosures.

- Preliminary injunction of provisions of California's sanctuary state laws that impermissibly infringed on the sovereignty of the United States.
- Denaturalization of individuals who obtained naturalization by fraud, including several who concealed that they had provided material support to terrorists. A new enforcement section within the Office of Immigration Litigation is now dedicated to these efforts.
- The largest recovery in history in a case involving an opioid manufacturer, as just example of the Division's work to combat the opioid crisis.
- Writ of mandamus to rein in discovery orders in transgender military case that did not give appropriate consideration to executive branch privileges.
- Refusals to institute administrative review in four cases seeking invalidation of HHS patents for the prophylactic treatment of people at risk of HIV infection.
- \$11.4 billion in recoveries under the False Claims Act.
- \$5 billion and robust new protections of user information in settlement of data-privacy case with Facebook.

II. Successfully Obtained

- A constructive trust of Edward Snowden's current and future earnings from his memoir and 56 speeches that breached his security agreements with the United States.

III. Other Achievements

- Clarified the factors for the government to seek dismissal of a qui tam action.
- Used every enforcement tool available to prevent wrongdoers from exploiting the COVID-19 crisis, including use of the False Claims Act to address fraud and illegal activity relating to COVID-19 stimulus programs and the Food, Drug, and Cosmetic Act against fraudulent COVID-19 tests, treatments, and purported cures.
- Increased enforcement against those providing substandard care to the elderly in nursing homes and using fraudulent robocalls to prey on American seniors.

IV. Significant Immigration Litigation Wins

- The Civil Division persuaded seven different circuit courts to uphold the Attorney General's decision in *Matter of A-B-*, 27 I. & N. Dec. 316 (A.G. 2018), which confirmed that a particular social group for asylum purposes must exist independently of the harm asserted, as applied in the context of gang violence. See *Del Carmen Amaya-De Sicaran v. Barr*, 979 F.3d 210 (4th Cir. 2020); *Diaz-Reynoso v. Barr*, 968 F.3d 1070 (9th Cir. 2020); *Grace v. Barr*, 965 F.3d 883 (D.C. Cir. 2020); *Scarlett v. Barr*, 957 F.3d 316, 333 (2d Cir. 2020); *Amezcu-Preciado v. U.S. Attorney General*, 943 F.3d 1337 (11th Cir. 2019); *Gonzales-Veliz v. Barr*, 938 F.3d 219 (5th Cir. 2019); *Rosales Justo v. Sessions*, 895 F.3d 154 (1st Cir. 2018).
- The Civil Division secured a stay pending appeal of a nationwide preliminary injunction in *Innovation Lab v. McAleenan*, 924 F.3d 503 (9th Cir. 2019), allowing the important Migrant Protection Protocols to take effect. In *Wolf v. Innovation Law Lab*, No. 19A960 (S. Ct.), the Department of Justice persuaded the Supreme Court to stay the preliminary injunction again after the Ninth Circuit affirmed the injunction and dissolved its prior stay.
- In *Barr v. East Bay Sanctuary Covenant*, No. 19A230, the Department of Justice persuaded the Supreme Court to stay a nationwide injunction of the third-country-transit rule, a critical regulation designed to address the migration crisis at the United States' southern border.
- In *Make the Road New York v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020), the Civil Division persuaded the D.C. Circuit to reverse a nationwide preliminary injunction enjoining the Acting Secretary of Homeland Security's expansion of expedited removal, a critical immigration tool for removing aliens who have no right to remain in the United States.
- In *Trump v. Sierra Club*, No. 19A60, the Supreme Court persuaded the Supreme Court to stay a nationwide injunction halting the transfer of funds and blocking construction of the border wall. Separately, in *El Paso v. Trump*, No. 19-5114 (5th Cir.), the Civil Division secured a stay of a nationwide injunction and then secured a reversal on the merits of another injunction blocking wall construction.
- In *Ramos v. Wolf*, No. 18-16981 (9th Cir.), the Civil Division persuaded the Ninth Circuit to reverse a district court injunction preventing DHS from terminating winding down the TPS (Temporary Protected Status) protections for certain nationals of El Salvador, Nicaragua, Haiti, and Sudan.

ANTITRUST DIVISION

The mission of the Antitrust Division is to promote economic competition through enforcing and providing guidance on antitrust laws and principles.

I. Important Initiatives

- Created government-wide Procurement Collusion Strike Force, an interagency partnership designed to detect, investigate and prosecute antitrust crimes and related criminal schemes that affect government procurement, grant and program funding.
- Launched comprehensive review of the business practices of market-leading online platforms.
- Terminated nearly 800 legacy antitrust judgments as part of Antitrust Division's initiative to review legacy antitrust judgments and terminate those that no longer serve their original purpose of preserving competition.
- Issued joint statement with Federal Trade Commission outlining expedited procedures for business review letters concerning healthcare initiatives to accommodate procompetitive collaborations among competitors during pandemic.
- Created Civil Conduct Task Force designed to energize and prioritize investigations and prosecutions of antitrust civil conduct violations.
- Created the Office of Decree Enforcement and Compliance to ensure the effective implementation of and compliance with antitrust judgments and consent decrees in civil matters.
- Published Model Voluntary Request Letter providing public with roadmap of information typically requested prior to a Second Request, leading to increased transparency of Division practices.
- Published Model Timing Agreement provides for transparency into common Division practices and reflects changes designed to speed merger review.
- Updated the Antitrust Division's Civil Investigative Demand forms and deposition process to promote greater transparency and uniformity in Division investigations.
- Realigned commodity responsibilities among the six civil litigation section to increase efficiency and effectiveness of enforcement mission and modernize approach to analyzing competition in financial services and technology industries.

II. Competition Advocacy

- Expanded amicus program resulting in submission by Antitrust Division of more than 40 Statements of Interest in private actions in district courts, the court of appeals, and the Supreme Court, advocating for sound interpretation of the antitrust law.
- Advocated through speeches, panels, and amicus briefs the "New Madison" approach to antitrust and intellectual property cautioning against the misapplication of antitrust theories to IP disputes.
- Issued revised Vertical Merger Guidelines with FTC, reflecting updated economic thinking and Division experience since last guidelines were issued in 1984.

- Published guidance document focusing on evaluating corporate compliance programs in criminal antitrust investigations.
- Issued revised Merger Remedies Manual emphasizing the Division's commitment to effective structural relief and enforcement of consent decree commitments.
- Issued updated and supplemental guidance on the use of arbitration, including case selection criteria, to help identify Antitrust Division cases that would benefit from the application of arbitration.
- Issued under expedited procedures, business review letters to healthcare companies to enable their efficient and effective response to COVID-19 pandemic.
- Issued joint policy statement with USPTO and NIST regarding remedies in patent disputes involving standard-essential patents.
- Launched a new web resource to provide targeted antitrust information and guidance to small business owners, including tips on avoiding and reporting criminal antitrust violations.
- Delivered a range of speeches addressing antitrust enforcement in digital markets.
- Signed interagency Memorandum of Understanding with SEC to foster cooperation and communication between the agencies to enhance competition in the securities industry.
- Hosted joint agency workshop on Competition in Labor Markets with Federal Trade Commission.
- Hosted workshop with the Stanford Graduate School of Business and the Rock Center for Corporate Governance on trends in venture capital and intersection of entrepreneurship, investment, and competition policy.
- Hosted joint agency workshop with USPTO on promoting innovation in the life science sector.
- Hosted workshop on competition in television and digital advertising.
- Hosted workshop on competition in licensing music public performance rights.
- Hosted public roundtable discussion series on competition and deregulation.
- Established Jackson-Nash Address series to recognize and promote importance of economics in the mission of the Antitrust Division.

III. International Cooperation

- Spearheaded Framework on Competition Agency Procedures, an initiative aimed at establishing fundamental due process norms for international antitrust enforcement and to achieve commitment by participating agencies to abide by these norms.
- Founding member of Multilateral Mutual Assistance & Cooperation Agreement, which sets out non-binding commitment among five signing jurisdictions intended to provide a mechanism for exchanging confidential information and conducting formal evidence gathering for both criminal and civil non-merger cases.
- Co-hosted (with Federal Trade Commission) the International Competition Network's annual conference advancing the Antitrust Division's goals for greater globalization, convergence and cooperation among international enforcers.

- Signed an antitrust Memorandum of Understanding with the Korean Prosecution Service designed to promote increased cooperation and communication on criminal antitrust enforcement and policy in both countries.
- Cooperated with international counterparts on 12 cross-border investigations and global cartel enforcements and 24 civil merger and non-merger matters.
- Participated in over 100 meetings at home and abroad with international competition agencies and jurisdictions.

IV. Merger Enforcement

A. Secured structural relief through divestitures in:

- Merger between major wireless telecommunications companies preserving competition and facilitating entry of fourth facilities-based wireless carrier. (T-Mobile/Sprint)
- Largest bank merger in over a decade, preserving competition in retail and small business banking in the southwestern United States. (BB&T/SunTrust)
- Merger involving two of the largest global agricultural companies thereby preserving competition in the agriculture industry. (Bayer/Monsanto)
- Historic first ever government enforced merger challenged resolved through arbitration and in favor of the United States resulting in divestitures to preserve competition in market for aluminum autobody sheet. (United States v. Novelis and Aleris)
- Merger of two of the primary suppliers of certain military systems and components to the Department of Defense. (UTC/Raytheon)
- Merger of leading competitors of General Purpose Hardware Security Module preserving competition in the market for secure encryption processing solutions. (Thales/Gemalto)
- Litigated consummated merger preserving competition in market for aviation fuel filtration products. (United States v. Parker Hannifin Corp.)
- Merger of two leading providers of refinery process chemicals in the United States, preserving competition in this market. (GE/Baker Hughes)
- Merger involving two of the leading companies in crop protection chemicals and treated seeds, thereby preserving competition in both markets. (Dow Chemical/E.I. DuPont)
- Merger involving major broadcast radio stations preserving competition in broadcast markets in Massachusetts and California. (Entercom/CBS Radio)
- Merger of leading broadcast television services providers preserving competition in nine local markets throughout the United States. (Gray/Raycom)
- Merger of leading health insurers in New Hampshire. (Harvard Pilgrim/Tufts)
- Merger of tax preparation software companies preserving competition in market for digital do-it-yourself tax preparation products. (Intuit/Credit Karma)
- Merger of satellite communication companies preserving competition in market of large geostationary satellite antennas in the United States. (Comm'nics and Power/General Dynamics)
- Merger of two of the largest milk processors in the United States to preserve competition in market for fluid milk. (DFA/Dean Foods)
- Merger of leading waste management service providers preserving competition in 50 local markets in 10 states. (Waste Management/ADS)
- Merger of major liquid box suppliers in the United States preserving competition in market for safe transport of liquids to stores and restaurants. (Liqui-Box/DS Smith)
- Merger of leading suppliers of steering gears used on large commercial vehicles in North America, preserving competition in this market. (ZF/WABCO)
- Merger of major producers of chicken-based food

ingredients, preserving competition in the sale of chicken-based food ingredients. (Symrise/IDF/ADF)

- Merger of two leading suppliers of components for night vision goggles sold to the U.S. military, preserving competition for this critical component. (L3/Harris)

- Merger of major suppliers of aggregate and asphalt, preserving competition in market for aggregate and asphalt in Southern West Virginia. (CRH/Pounding Mill)

- Consummated merger resulting in restoration of competition in market for commercial air restraint systems. (Transdigm/Takata)

- Merger of telecommunications network suppliers, preserving competition in market for local telecommunications services and dark fiber. (CenturyLink/Level 3)

- Merger of leading suppliers of graphite electrodes, preserving competition in the manufacture and sale of ultra-high-power graphite electrodes in the United States. (SDK/SGL)

- Merger of leading participants and top brands in the market for raw and fluid organic milk, preserving competition in these markets. (Danone/WhiteWave)

- Merger of principal manufacturers of explosive trace detection equipment preserving competition in market for explosive trace detection systems. (Smiths/Morpho)

- o Other significant merger enforcement achievements

- Following suit to enjoin merger of two of the most significant providers of magazine, catalog and book printing services, parties abandoned merger. (Quad/Graphics and LSC Communications.)

- Defended, in a prolonged Tunney Act proceeding, a settlement and divestiture that preserved competition for individual prescription drug plans throughout the United States. (CVS/Aetna).

- Investigation of merger between two of the largest

textbook publishers in the United States resulting in abandonment of the transaction following Antitrust Division expressing its concerns. (Cengage/McGraw-Hill)

- Investigation of merger between two leading competitors in the market for inmate telecommunications services resulting in abandonment of the transaction following Antitrust Division expressing its concerns. (Securus/ICS)

- Investigation of merger involving only two qualified suppliers of sonobuoys to the U.S. Navy resulting in parties abandoning merger after Antitrust Division expressed its concerns with the transaction. (Ultra Electronics/Sparton)

V. Non-Merger Civil Conduct

- First monopolization case brought by the Antitrust Division in over two decades against dominant provider of online search and search advertising services. (United States v. Google)
- First enforcement action in more than two decades against third party to ensure compliance with Civil Investigative Demand. (United States v. Bain & Co.)
- Settlement of no-poach agreements in the locomotive industry preserving competition in those labor markets. (Knorr-Bremse/Wabtec)
- Settlement of civil lawsuit with dominant hospital system prohibiting and preventing enforcement of anticompetitive steering restrictions resulting in increased consumer access to health plans and greater price transparency. (United States v. Carolinas Healthcare System)
- Settlement of civil lawsuit with neighboring hospital systems prohibiting certain anticompetitive conduct and marketing restrictions. (United States v. W.A. Foote Memorial Hospital, D/B/A/ Allegiance Health)
- Settlement with the National Association of REALTORS® prohibiting certain anticompetitive rules, policies and practices designed to promote greater competition among buyer brokers and increased transparency to American home buyers. (United States v. Nat'l Ass'n of REALTORS®)
- Settlement with the National Association for College Admission Counseling removing illegal restraints on college recruiting processes. (U.S. v. Nat'l Ass'n for College Admission Counseling.)
- Settlement of civil lawsuit against seven broadcast television companies prohibiting the sharing of competitively sensitive information and requiring extensive antitrust compliance and reporting measures. (Sinclair, Raycom, Tribute Media, Griffin)
- Settlement with the college multimedia rights provider to refrain from unlawful agreements not to compete for multimedia rights contracts for universities' athletic programs. (Learfield IMG)
- Settlement of civil lawsuits against two individuals for violations of Hart-Scott-Rodino Act requirements resulting in combined civil penalties of more than \$1.3 million. (Dolan; Rales)
- Settlement of civil lawsuit against major medical systems providers for violations of the Hart-Scott-Rodino Act resulting in civil fines of \$5 million. (Canon/Toshiba)
- Investigation into the standard-setting activities of the GSM Association following request for business review letter, resulting in alteration of standard-setting process likely to result in a more consumer-friendly embedded SIMs (eSIMS) technology standard. (GSMA Business Review Letter)

VI. Criminal Program

- Continued investigation and prosecutions of Antitrust Division's investigations into real estate-foreclosure and tax-liens conspiracies resulting in more than 100 guilty pleas and seven convictions since opening of investigation in 2011.
- Continued investigations into conspiracy among auto parts companies to allocate markets, fix prices, and rig bids resulting in additional guilty pleas by co-conspirators bringing corporate fines, since 2011, to more than \$2.2 billion.
- Continued investigations and prosecution of shipping companies and executives involved in conspiracy to fix prices, allocate customers and refraining from bidding against each other on international ocean-shipping services resulting in criminal fines of more than \$230 million and imprisonment of four executives.

• First criminal prosecution against therapist staffing company for conspiring to fix wages.
(United States v. Jindal)

• Charged one of the largest independent oncology groups in the United States with criminal antitrust violations for allocating medical and radiation oncology treatments for cancer patients resulting in statutory maximum criminal penalty of \$100 million.

• Resolved, on a global basis, criminal charges and civil claims against five South Korea-based companies arising out of decade-long bid-rigging conspiracy that targeted fuel supply contracts to U.S. military bases in South Korea resulting in criminal penalties and civil fines of over \$350 million.

• Obtained guilty plea by leading canned tuna supplier for price fixing resulting in \$100 million criminal fine.
(United States v. StarKist Co.)

• Prosecuted and obtained guilty verdict against CEO of major canned tuna supplier resulting in 40-month prison sentence and \$100,000 criminal fine for fixing prices of canned tuna. (United States v. Lischewski)

• Investigated and prosecuted collusion in and manipulation of benchmark interest rates and foreign exchange rates resulting in conviction and sentencing of former foreign exchange currency trader.
(United States v. Aiyer)

• Indicted two former sales executives for participation in conspiracy to fix prices for suspension assemblies used in hard disk drives.
(United States v. Hashimoto/Tamura)

• Investigated and prosecuted three individuals involved in bid rigging at General Services Administration online auctions.
(United States v. Gaines)

• Obtained guilty pleas by corporation and two of its executives for conspiring to fix prices for customized promotional products, which has resulted in charges being brought against five other companies and six other individuals.
(United States v. Netbrands Media Corp.)

• Obtained guilty pleas by eight companies and two executives for conspiring to fix prices and rig bids for electrolytic capacitors resulting in fines of over \$150 million and one-year prison terms.
(United States v. Nipon-Chemi-Con)

• Obtained guilty pleas from company and four executives for conspiring to allocate the market, rig bids, and fix prices for international shipping services resulting in total criminal fines exceeding \$255 million and prison sentences.
(United States v. Hoegh Autoliners)

• Working together with the Criminal Division, obtained guilty plea by major international bank for conspiring to fix prices in the foreign exchange prices resulting in criminal fine of \$90 million.
(United States v. BNP Paribas USA, Inc.)

• Obtained guilty pleas by heir location services company and co-owner for conspiracy with competitor to allocate customers and not to compete.
(United States v. Kemp & Assocs./Mannix)



• Filed ten criminal cases in Antitrust Division's investigation of price fixing in the generic pharmaceutical markets resulting in five guilty pleas by companies and their executive for their roles in the price fixing conspiracy.

• Charged 10 senior executives and employees at major broiler chicken producers for their participation in a conspiracy to fix prices and rig bids for broiler chicken products.

• Working together with the Criminal Division, secured convictions of former bank traders for their role in a scheme to manipulate the London Interbank Offered Rate.

• Obtained guilty pleas from executives of commercial flooring company for their participation in a conspiracy to rig bids and fix prices for commercial flooring services and products.

• Obtained guilty plea by former e-commerce executive for conspiring to fix the prices of posters sold online. (United States v. Aston)

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- Working together with the Federal Bureau of Investigations, secured convictions of school bus company owners for bid rigging and fraud involving Puerto Rico public school bus services.
 - Obtained guilty plea by former executive for his role in conspiracy to eliminate competition by rigging bids, allocating customers, and fixing the price of water treatment chemicals.

CIVIL RIGHTS DIVISION

The Division enforces the Civil Rights Acts; the Voting Rights Act; the Equal Credit Opportunity Act; the Americans with Disabilities Act; the National Voter Registration Act; the Uniformed and Overseas Citizens Absentee Voting Act; the Voting Accessibility for the Elderly and Handicapped Act; and additional civil rights provisions contained in other laws and regulations. These laws prohibit discrimination in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs.

I. Protecting Religious Liberties

- **Place to Worship Initiative:** Under CRT's Place to Worship Initiative, launched in June 2018 to increase enforcement and public awareness of the land-use sections of the Religious Land Use and Institutionalized Persons Act (RLUIPA), the Division brought double the number of RLUIPA land use cases and briefs, and 60% more full investigations, compared to the Department's RLUIPA filings in an average two-year period across a span of the prior 10 years. These included cases involving Jews, Muslims, Christians, Buddhists, Native Americans, and Hindus.

- **Attacks on Places of Worship:** Since January 2017, the Department of Justice has obtained convictions of 17 individuals in cases involving attacks or threats against places of worship or religious property. The Department also has obtained convictions of 15 individuals in cases involving federal crimes committed against individuals and motivated wholly or in part by the individuals' religious beliefs.

- **Combatting Anti-Semitism:** Since January 2017, the Department has charged more than 80 defendants with anti-Semitic hate crimes and related conduct, and has obtained convictions of more than 65 defendants for the same. Combatting anti-Semitism

has been a focus of RLUIPA cases as well, including, recently, with CRT's Sept. 15, 2020 resolution of claims that the Woodcliff Lake, New Jersey illegally denied zoning approval to an Orthodox Jewish congregation to construct a worship center.

- **Supreme Court Victories on Religious Liberty Involving the Civil Rights Division:** CRT participated in amicus briefs in the U.S. Supreme Court in three important religious liberty cases: *Espinoza v. Montana Department of Revenue* (2020), holding that excluding religious school students from a private school scholarship program violates the Free Exercise Clause; *Our Lady of Guadalupe School v. Morrissey-Berru* (2020) (holding that principles of religious autonomy give Catholic schools an absolute right to determine who will represent the Church as elementary school teachers); and *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018) (holding that state violated free exercise rights of baker who refused to bake wedding cake for same-sex couple in bringing enforcement action against him). CRT also recommended involvement in and signed the amicus brief in the U.S. Supreme Court in *Fulton v. City of Philadelphia*, which involves religious foster care agencies' Free Exercise rights.

II. Upholding Free Speech Rights

- In partnership with the Department’s Free Speech Taskforce, CRT has actively filed statements of interest and amicus briefs upholding Free Speech rights across the country, including in *Chelsey Nelson Photography, LLC v. Louisville/Jefferson County Metro Government* (W.D. Ky), in which the court granted a preliminary injunction for the plaintiff against a Louisville law that required a photographer to photograph same-sex wedding against her religious convictions; in *Brown v. Jones County Junior College* (S.D. Miss.) in which, following our statement of interest, a favorable settlement was reached reforming the policy at this Mississippi college requiring campus administrators to preapprove all “meetings and gatherings” and providing for a \$40,000 award; and in *Givens v. Newsom* (9th Cir.) where the Department filed an amicus brief and participated in a Nov. 17, 2020 oral argument urging the Ninth Circuit to invalidate a total ban in response to COVID-19 on all in-person protest across California as an impermissible restriction on Free Speech.

III. Protecting the Rights of Persons in Institutions

- Among other actions, the Department initiated CRIPA investigations concerning nursing homes in states with extremely high COVID-19 death rates possibly caused by state orders requiring admission of patients without testing for COVID. The Department issued findings concerning Constitutional violations at prison systems in Alabama, Virginia, and New Jersey, and has resolved or is continuing to pursue such matters.

IV. Protecting Servicemembers

- Since January 2017, the Housing and Civil Enforcement Section has filed 23 Servicemembers Civil Relief Act (SCRA) complaints and entered into 21 resolutions providing \$11 million in compensation to over 2,000 servicemembers, in addition to civil penalties. The Section has also obtained one judgment and achieved favorable outcomes for servicemembers in 30 SCRA investigations. The Division filed more SCRA lawsuits in fiscal year 2020 (8) than in any prior fiscal year.

V. Protecting U.S. Workers

- In March 2017, CRT launched its Protecting U.S. Workers’ Initiative, which combats employers who abuse temporary foreign visa programs (e.g., H-1 or H-2 visas) by discriminating against U.S. Workers. Since that time, the Department of Justice has secured or distributed a combined total of more than \$1.2 million in back pay to affected U.S. workers and secured civil penalties for the United States. Many U.S. Workers’ Initiative investigations are ongoing. CRT expects to announce a settlement with Facebook or litigation in OCAHO against Facebook in the coming weeks within the initiative.]

VI. Vigorously Enforcing Civil Race Discrimination Prohibitions and Disability Protections

- CRT sued Yale University and provided amicus support to plaintiffs suing Harvard University for race-based discrimination, including against Asian-Americans, in undergraduate admissions.
- Vigorously enforced housing, lending, employment, education, and voting protections against racial discrimination including lawsuits involving illegally steering African-American housing applicants to racially-segregated housing in Georgia, discrimination in employment and voting against Native Americans in South Dakota, and national origin and religious discrimination in public schools in Washington State.

- Defended rights of unborn from disability discrimination by filing CRT amicus brief and participating in en banc oral argument in Sixth Circuit to defend the constitutionality of Ohio's Anti-Discrimination Law that prohibits doctors from "knowingly" performing abortions on the basis of Down Syndrome.

- Since January 2017, CRT resolved more than 255 disability matters, largely through negotiated pre-litigation settlement agreements.

VII. Protecting Constitutional Rights During COVID-19 Pandemic

- On April 27, 2020, AG William P. Barr directed AAG Eric Dreiband for the Civil Rights Division, and the U.S. Attorney for the Eastern District of Michigan, Matthew Schneider, to review state and local policies to ensure that civil liberties are protected during the COVID-19 pandemic. CRT led the Department's efforts to file briefs in key cases around the country as part of the AG's initiative, Balancing Public Safety with the Preservation of Civil Rights. Over the course of the COVID-19 pandemic, the Division filed 11 amicus briefs and statements of interest addressing excessive restrictions on fundamental rights, including religious exercise, free speech, and the right to travel, as well as had numerous other interventions including letters to offending jurisdictions. This included filing a statement of interests in *Capitol Hill Baptist Church v. Bowser* (D.D.C. October 9, 2020), in which the court granted a preliminary injunction allowing a church to hold outdoor worship services, and—early in the pandemic—prompted the Mayor of Greenville, MS to allow drive-in and parking lot services to take place in the city and caused numerous other States and cities to follow suit. The initiative also included a number of instances where municipal or state officials agreed to loosen restrictions on worship after the Department intervened.



VIII. Sexual Harassment in Housing Initiative

- In October 2017, the Department of Justice launched an initiative to combat sexual harassment of tenants by landlords, property managers, and others who have control over housing. During this Administration, the Department has filed 21 lawsuits alleging sexual harassment in housing and has recovered over \$3.3 million for victims of that harassment. The Department of Justice filed more sexual harassment in housing lawsuits in fiscal year 2020 (8) than in any prior fiscal year. The AG recently reaffirmed his commitment to this effort by directing the Department to deploy all available enforcement tools against those who try to capitalize on the COVID-19 crisis by sexually exploiting people in need of housing.

IX. Criminal Civil Rights Enforcement

- **Human Trafficking:** In FY17-20, HTPU and U.S. Attorney's Offices charged 694 defendants in 352 trafficking cases involving forced labor, sex trafficking of adult victims, and/or transnational trafficking of foreign victims into the U.S. In September 2018, HTPU concluded Phase II of the ACTeam Initiative. During Phase II of this HTPU-led Initiative, ACTeam Districts produced a 75% increase in defendants charged and a 106% increase in convictions. In FY19, HTPU and interagency ACTeam partners began initial preparations for a proposed Phase III of the ACTeam Initiative.

- **Color of Law:** From FY17-FY20, more than 175 color of law related cases were brought, charging more than 240 defendants, related to the misuse of government authority. In fact, in FY2019 alone, 59 cases were brought, which is the most in the history of CRT. Almost always, these prosecutions are made possible with the cooperation of law enforcement officer witnesses. The Department investigated the police-involved deaths of George Floyd, Breonna Taylor, and other high-profile matters, and met with city officials and community leaders in Minneapolis to address their concerns.



- **Hate Crimes:** In FY 2020, the Department charged more hate crimes cases than in any fiscal year since Fiscal year 2001. From January 2017 to the present, the Department of Justice has charged more than 90 defendants for committing crimes motivated by hate, including mass shootings at a Walmart in El Paso Texas, and the Tree of Life Synagogue in Pittsburgh, Pennsylvania, and defending on appeal the death sentence and conviction of Dylann Roof for the Mother Emanuel AME Church mass shooting in Charleston, South Carolina. With support from the Department, the hate-crime statute 18 U.S.C. § 247 was amended in September 2018 to be even more effective to protect against religiously motivated hate crimes.

ENVIRONMENT AND NATURAL RESOURCES DIVISION

The mission of the Environment and Natural Resources Division is, through litigation in the federal and state courts, to safeguard and enhance the American environment; acquire and manage public lands and natural resources; and protect and manage Indian rights and property.

I. Rulemaking

• **Affordable Clean Energy Rule and Litigation:** The Division counseled with the U.S. Environmental Protection Agency (“EPA”) to develop a rule repealing the Clean Power Plan and establishing new guidelines for states to develop plans to address greenhouse gas emissions from certain existing coal-fired power plants under section 111(d) of the Clean Air Act, the “Affordable Clean Energy Rule.” The Division is now defending that rule; the case was argued in the D.C. Circuit in October 2020.

• **SAFE II Rule and Litigation:** The Division counseled with EPA and NHTSA on development of a final rule promulgated by EPA and NHTSA to amend and establish greenhouse gas emission standards under the Clean Air Act and corporate average fuel economy standards under the Energy Policy and Conservation Act for MY 2021-2026 passenger cars and light trucks. ENRD is defending the rule.

• **Navigable Water Protection Rule and Litigation:** The Division counseled with EPA and the U.S. Army Corps of Engineers to develop rules that (1) repealed a 2015 regulation by the prior administration defining the scope of waters federally regulated under the Clean Water Act (“waters of the United States”); and (2) publish a new rule defining clear, more administrable limits, commonly known as the “Navigable Waters Protection Rule.” ENRD successfully defeated a motion for nationwide injunction and is defending the rule in courts around the country.

• **National Environmental Policy Act Rule and Litigation:** The Division counseled with the Council on Environmental Quality (CEQ) and other agencies to develop the first major update to the regulations implementing the National Environmental Policy Act in decades. ENRD defeated a motion to enjoin the new regulations in September. It is defending numerous other cases around country.

• **Work with Client Agencies on Deregulatory Rulemakings and Defense of Rulemakings:** In addition to the foregoing major rulemakings, the Division counseled various federal agencies in their regulatory reform efforts, as well as in defending those rulemakings from ongoing legal challenges. These efforts support the Administration’s goal of lessening the red tape that constrains the regulated community and hinders many necessary and important projects to modernize our nation’s infrastructure.

• **Withdrawal of California Waiver to Administer Own Greenhouse Gas Emission Programs:** The Division counseled with EPA and the National Highway Traffic Safety Administration of the Department of Transportation (“NHTSA”) to develop a final rule (1) withdrawing the waiver EPA granted in January 2013 allowing California to administer its own greenhouse gas emission and zero-emission vehicles programs under section 209 of the Clean Air Act; and (2) finalizing NHTSA regulations establishing that those programs would also be preempted under the Energy

Policy and Conservation Act. The Division is now defending a challenge in the D.C. Circuit; briefing in the case concluded earlier this year.

II. Key Cases

- **Border Security Litigation:** The Division worked with Customs and Border Patrol and the Army Corps of Engineers to acquire real estate for border-wall construction over federal, state, and private land. In the coming year, we will work closely with the U.S. Attorney's Offices handling hundreds of cases to determine just compensation; the title to the land has passed to the United States. In related litigation, the U.S. Supreme Court has granted a stay to allow transfer of funds for border wall construction activities, and the Ninth Circuit has upheld waiver of certain environmental requirements for construction.

- **Pipeline Litigation:** The Division has defended numerous challenges to oil and gas pipelines, most notably the Keystone XL and the Dakota Access Pipelines ("DAPL"). A court injunction halting the DAPL was stayed. In a case involving the Atlantic Coast Pipeline, the U.S. Supreme Court found that federal law allows the U.S. Forest Service to grant developers a right-of-way across the Appalachian Trail.

- **Prosecution of Fraudulent Renewable Identification Numbers (RINs) Sales:** The Division continued successful efforts to protect the integrity of the renewable fuels program by prosecutions of companies that cheat the federal treasury and the American public through the sale of fraudulent Renewable Identification Numbers, credits that reflect a volume of renewable fuel manufactured. During this Administration, the Division convicted 21 defendants who were sentenced to 976 months' incarceration, and ordered to pay \$112,500 in fines, \$71 million in restitution, and to forfeit \$30 million for various multistate schemes to defraud RIN buyers and U.S. taxpayers.

- **Vehicle Emissions Cheating Enforcement:** The Division negotiated a settlement with Fiat Chrysler for alleged violations of the Clean Air Act stemming from



more than 100,000 diesel vehicles that were equipped with undisclosed defeat devices that caused them to emit more emissions during real-world use than during testing. The total value of the settlement, which included a \$305 million civil penalty, is an estimated \$500 million. The Division later negotiated a larger consent decree with Daimler to resolve alleged violations of the Clean Air Act stemming from 250,000 diesel vehicles that were equipped with undisclosed defeat devices that caused them to emit more emissions during real-world use than during testing. The total value of the settlement, which included an \$875 million civil penalty, is an estimated \$1.5 billion.

- **Vessel Pollution Prosecution:** The Division diligently prosecuted owners and operators of seagoing vessels for pollution from those ships. Since January 2017, the Division has collected \$100.25 million in criminal penalties in vessel cases and received convictions of 21 companies, as well as of individual defendants.

- **Policing Illegal Discharges from Municipal Sewer Systems:** The Division has pursued Clean Water Act cases in many states to reduce the illegal discharges of untreated human waste from municipal sewer collection systems. In one settlement, the City of Houston, Texas agreed to implement system-wide injunctive relief measures at an estimated cost of \$2 billion, and to pay a \$4.4 million civil penalty, the highest civil penalty ever paid in these types of cases.

- **Affirmative Wildlife Trafficking and Animal Cruelty Enforcement:** The Division continues to prosecute animal-fighting ventures, which often occur in concert with other serious crimes, including drug trafficking, gambling, and money laundering. During this Administration, the Division convicted 54 defendants, obtained 573 months of incarceration, and rescued 454 dogs. The Division has also had significant success prosecuting illegal wildlife trafficking, which is likewise associated with a range of serious criminal activity. Among other crimes, the Division obtained guilty pleas or verdicts for unlawful trafficking of shark fins, rhinoceros horns, reptiles, amphibians, birds, protected coral reef creatures, and taxidermy mounts.

- **Cleanup of Hazardous Waste Sites and Brownfields:**



The Division has actively pursued the cleanup of contaminated sites across the nation, including cases in Michigan, Wisconsin, California, and elsewhere. At one Superfund site in Missouri, the Division secured the cleanup of more than 4,100 residential yards that had been contaminated by lead and other hazardous substances.

TAX DIVISION

The Tax Division's mission is to enforce the nation's tax laws fully, fairly, and consistently, through both criminal and civil litigation, in order to promote voluntary compliance with the tax laws, maintain public confidence in the integrity of the tax system, and promote the sound development of the law.

I. Prosecuting Tax Violations

- From 2017 to 2020, the Tax Division indicted and obtained convictions in over 350 cases with a conviction rate of over 94%. Through its convictions and other resolutions, the Tax Division has collected approximately \$2 billion in taxes, interest, and penalties.

II. Collecting Unpaid Taxes

- From 2017 to 2020, Tax Division attorneys, through civil litigation, collected over \$1.6 billion in taxes, interest, and penalties. During that same period, the Civil Appellate unit litigated over 1,400 tax appeals and prevailed in approximately 95% of taxpayer appeals and approximately 66% of Government appeals.

III. Offshore Tax Abuse

- The Tax Division has spearheaded a historic effort to lift the veil on foreign bank secrecy by vigorously investigating and bringing criminal and civil actions against U.S. taxpayers who illegally hide assets and income offshore, as well as the foreign banks, bankers, and others who facilitate them.

- Targeting Abusive Offshore Accounts & Trusts:

- o In October 2020, a federal grand jury returned an indictment, charging billionaire entrepreneur Robert Brockman with tax evasion, wire fraud, and other offenses, relating to an alleged decades-long scheme

to conceal approximately \$2 billion in income through the use of an offshore trust structure. *United States v. Brockman* (N.D.Ca.).

- o In October 2020, a Non-Prosecution Agreement with private equity executive Robert Smith for his use of an offshore trust structure from 2000 through 2015 to evade millions in taxes. Under the terms of the agreement, Smith has agreed to cooperate with the Department, pay \$138 million in taxes and penalties, and abandon a protective refund claim worth \$182 million.

- o Following a 2014 bankruptcy court verdict that the Wyly brothers had avoided nearly \$1.9 billion in tax liabilities by diverting income to offshore trusts, the Division's attorneys have collected more than \$500 million, primarily by repatriating offshore assets held in foreign trusts. *In re Wyly* (Bankr. N.D. Tex.).

- Foreign Bank Account Reporting: The Tax Division continues to deter the fraudulent use of offshore accounts by litigating and prevailing in FBAR penalty cases with claims involving hundreds of millions of dollars. See, e.g., *United States v. Toth* (D. Mass.); *United States v. Isaac Schwarzbaum* (S.D. Fla.).

- Foreign Bank Resolutions: The Tax Division has obtained significant resolutions with foreign banks, who facilitated tax evasion by U.S. taxpayers.

- o In April 2020, Bank Hapoalim pleaded guilty and Bank Hapoalim B.M. entered into a deferred prosecution agreement for conspiring with U.S. taxpayers and others to hide more than \$7.6 billion in more than 5,500 secret Swiss and Israeli bank

accounts. The Banks further agreed to pay approximately \$874 million as part of the resolutions.

- o In December 2019, HSBC Private Bank entered into a deferred prosecution agreement, admitted to holding \$1.26 billion in undeclared assets for U.S. taxpayer clients and conspiring with the same clients to evade taxes, and paid \$192 million in penalties.

- o In March 2019, Mizrahi-Tefahot Bank Ltd. and two of its subsidiaries, which operated in Switzerland and the Cayman Islands, entered into a deferred prosecution agreement and to pay \$195 million. Mizrahi-Tefahot's employees assisted U.S. customers in concealing their ownership and control of foreign assets thereby enabling tax evasion.

IV. Biofuel Prosecutions

- The IRS administers refundable federal tax credits designed to increase the amount of renewable fuel used and produced in the United States. The Tax Division has vigorously pursued criminal prosecutions of those who abuse such credits, resulting in two trial convictions and one plea in 2019 and 2020, including:

- o *United States v. Kingston* (D. Ut. 2020): In March 2020, following a seven-week trial, a jury in Utah convicted Lev Aslan Dermen of criminal charges relating to a \$1 billion renewable fuel-tax, credit-fraud scheme. As part of their scheme, Dermen and Jacob Kingston fraudulently created the appearance that qualifying renewable fuel was being produced and sold, thereby causing the IRS to pay more than \$511 million in false claims.

V. Substantive Tax Matters

- The Division prevailed in a \$1.35 billion refund suit filed by Exxon claiming \$337 million in relation to alternative fuel excise taxes and \$1.1 billion in relation to asserted excess foreign tax credits. *Exxon Mobil Corp. v. United States* (N.D. Tex.).

VI. Shutting Down Abusive Schemes and Fraudulent Tax Return Preparation

- The Tax Division, through its criminal enforcement and civil trial sections, has prosecuted and/or obtained injunctions against hundreds of unscrupulous tax preparers and tax scheme promoters shutting down their operations and stopping their actions to steal money from the Treasury.

- o On December 2019, in one of the broadest civil enforcement actions against one of the largest, most-recognized U.S. tax preparation firms, the district court entered a judgment requiring the national franchisor of Liberty Tax Services to implement enhanced internal compliance controls that will prevent franchisees from preparing and filing fraudulent tax returns. See, e.g., *United States v. Franchise Group Intermed. L 1, LLC* (E.D. Va.).

- o In 2020, the Tenth Circuit upheld a judgment barring RaPower-3 LLC from promoting an abusive tax shelter scheme, involving false solar energy credits, and ordering them to disgorge over \$50 million in gross receipts. *United States v. RAPower-3, LLC* (D. Ut.).

VII. Abusive Tax Claims

- The Division has successfully combatted the use of the STARS tax shelter, called "blindingly complex" by one court, saving the Treasury billions of dollars. See e.g., *Wells Fargo v. U.S.* (8th Cir.); *Bank of New York Mellon Corp. v. Commisn'r* (2nd Cir.).

VIII. Challenges to IRS Practices

- The First Amendment prohibits the federal government from treating groups differently based solely on their viewpoint or ideology. The IRS's use of certain criteria as a basis for heightened scrutiny of 501(c) applications was incorrect and affected hundreds of organizations, leading to several lawsuits. In 2017 and 2018, the Tax Division settled these cases, demonstrating that any entitlement to tax exemption should be based on the activities of the organization and whether they fulfill requirements of the law. See, e.g., *Linchpins of Liberty et al. v. United States et al.* (D.C. Cir.); *NorCal Tea Party Patriots v. IRS et al.* (6th Cir.); *True the Vote, Inc. v. IRS et al.* (D.C. Cir.).

IX. Defending the Tax Cuts and Jobs Act

- The Tax Division defended a challenge to the constitutionality of the TJCA's one-time, mandatory repatriation tax. The provision at issue is expected to generate \$338 million in revenue over the next decade. *Moore v. U.S.* (W.D. Wa).

OFFICE ON VIOLENCE AGAINST WOMEN

The Office on Violence Against Women is responsible for coordination with other departments, agencies, and offices regarding all activities authorized or undertaken under the Violence Against Women Act of 1994 and the Violence Against Women Act of 2000.

I. Initiatives

- **FAST Initiative to Address Sexual Assault in Tribal Communities** – In April 2020, the Office on Violence Against Women awarded \$7 million (with funding provided by the Office for Victims of Crime (OVC)), under a new Sexual Assault Forensic-Medical and Advocacy Services for Tribes (FAST) Initiative, designed to increase the availability of medical forensic exams and victim advocacy in tribal communities. OVW awarded grants to the Confederated Tribes of Siletz Indians, the San Carlos Apache Healthcare Corporation, the Sitka Tribe of Alaska, the Norton Sound Health Corporation, the South Dakota Network Against Family Violence and Sexual Assault, and the University of Wisconsin-Milwaukee.

- **Violence Against Women Tribal SAUSA Initiative** – In FY 2020, OVW partnered with the Bureau of Justice Assistance (BJA) to expand its Tribal Special Assistant United States Attorney (SAUSA) Initiative to support tribes and United States Attorneys' Offices (USAOs) in their investigation and prosecution of Indian country criminal cases, with an emphasis on cases involving domestic violence, sexual assault, dating violence, and stalking. The tribes worked with their USAO partner to hire or retain a mutually agreed upon tribal prosecutor to be cross-deputized as a SAUSA. The cross-designated prosecutors maintain an active caseload in tribal or federal court, or both, while also helping to promote higher quality investigations and better inter-governmental communication. The five tribes that received SAUSA awards totaling \$2.25 million in FY 2020 will use their

grants to prosecute domestic violence, dating violence, sexual assault, and stalking cases, as well as other serious offenses including homicides, robberies, and cybercrimes. The recipient tribes are: Chickasaw Nation (District of Western Oklahoma), Mississippi Band of Choctaw Indians (District of Southern Mississippi), Oglala Sioux Tribe (District of South Dakota), Pueblo of Laguna (District of New Mexico), and Southern Ute Tribe (District of Colorado). In FY 2018, OVW also partnered with USAOs, the Executive Office of United States Attorneys (EOUSA), and five tribes to support the investigation and prosecution of Indian country cases involving sexual assault, domestic violence, dating violence, stalking, and certain sex trafficking cases. The tribes received nearly \$2.2 million to work with their USAO partner to hire or retain a mutually agreed upon tribal prosecutor to be cross-deputized as a SAUSA. The five tribes funded in FY 2018 were: Confederated Tribes of the Colville Reservation (Eastern District of Washington), Confederated Tribes of the Umatilla Indian Reservation (District of Oregon), Fort Peck Assiniboine & Sioux Tribes (District of Montana), Rosebud Sioux Tribe (District of South Dakota), and Salt River Pima-Maricopa Indian Community (District of Arizona).

- **BJA/OVW Rural Alaska Prosecution Initiative** – In 2019, as part of the Attorney General's Alaska public safety initiative, OVW, in partnership with BJA, funded the Alaska Department of Law to support two new prosecutors in rural Alaska, to be cross-designated as Special Assistant United States Attorneys (SAUSAs)

and focus on prosecuting violent crime in Alaska Native villages. These two SAUSAs are state prosecutors who can pursue these cases in state or federal court. One position is dedicated solely to prosecuting cases of domestic violence, dating violence, sexual assault, and stalking.

II. Funding

- Tribal COVID Awards – In the summer of 2020 during the COVID-19 pandemic, and after consulting with tribes on their needs in responding to violence against women during the pandemic, OVW issued a special solicitation for tribal applications to meet Tribal needs. The FY 2020 COVID-19/Violence Against Women Assistance to Tribes Solicitation opened on July 31, 2020, closed on September 16, 2020, and addressed OVW's Tribal Governments and Tribal Sexual Assault Services Programs. OVW received over 75 applications under this solicitation and is providing about \$3.6 million to support tribes.

- Alaska Full Faith and Credit Technical Assistance Project – In 2020, OVW launched a new two-part project focused on full faith and credit enforcement of tribal protection orders in Alaska. Part 1 is an award to the Alaska Department of Public Safety to train state law enforcement, prosecutors, courts, and government attorneys to enforce tribal protection orders. Part 2, in partnership with the BJA, funds a community-based tribal organization in Alaska (Rural CAP) to provide training for tribes on issuing orders of protection that are entitled to full faith and credit enforcement by the state. This project is still in the planning stages, but OVW and BJA expect this project will not only make a difference for protection order enforcement in Alaska, but it will also become a model for addressing the issue of state enforcement of tribal protection orders in other parts of the country.

III. Other Accomplishments

- Report to Congress on Survivors' Bill of Rights Act – In consultation with the Department of Health and Human Services, OVW convened a working group in 2018 to identify practices regarding the care and

treatment of sexual assault survivors and the preservation of forensic evidence in sexual assault cases. OVW authored the working group's report to Congress, submitted in October 2018 in fulfillment of the requirement found in the 2016 Survivors' Bill of Rights Act, Pub. L. No. 114-236. The report includes an annotated list of best practices, protocols, and other resources, and it describes themes that emerged in listening sessions with survivors and experts in medical forensic care, policing, prosecution, forensic science, and victim services. The report can be found here: <https://www.justice.gov/ovw/page/file/1100476/download>.

- Enhanced Training for Sexual Assault Forensic Examiners (SAFEs) – With funding from the National Institute of Justice (NIJ), OVW funded two projects in FYs 2018 and 2019 designed to enhance the quality, and broaden the reach, of training opportunities for SAFEs and allied professionals:

- o Project 1: End Violence Against Women International was awarded \$1.5 million to update the 2008 Sexual Assault: Forensic and Clinical Management Virtual Practicum, an interactive training led by expert practitioners and covering all aspects of the sexual assault medical forensic examination. Slated for release in 2021, the updated Practicum aligns with current best practices and evidence-based recommendations for caring for sexual assault patients. It targets primarily healthcare professionals, but also provides training content pertinent to the roles victim advocates, law enforcement officers, and prosecutors have in a coordinated community response to sexual assault.

- o Project 2: The International Association of Forensic Nurses (IAFN) received \$300,000 to develop an online training for healthcare providers that aligns with national training standards for SAFEs. The training provides emergency room doctors and nurses and other healthcare professionals with the basic knowledge and skills they need to provide sound medical forensic care to sexual assault patients. The training was released in the fall of 2020.

OFFICE OF JUSTICE PROGRAMS

The mission of the Office of Justice Programs is to increase public safety and improve the fair administration of justice across America through innovative leadership and programs.

I. Protecting Communities and Supporting Law Enforcement

- Provided almost \$850 million to more than 1,800 jurisdictions under the Coronavirus Emergency Supplemental Funding Program authorized by the CARES Act. Ninety-nine percent of the emergency funding was distributed within two-and-a-half months.
- Provided funding and support for major DOJ violence reduction initiatives, particularly Operation Legend, Project Guardian, and the National Public Safety Partnership.
- Prioritized funding to applicants that addressed challenges that rural communities face, focusing on high-poverty areas, counties with persistent poverty, and federally-designated Qualified Opportunity Zones.
- Supported Project Safe Neighborhoods in all 94 U.S. Attorney districts.
- Funded 11 crime gun intelligence centers.
- Along with DOJ's COPS Office, OJP awarded more than \$170 million under the STOP School Violence Act and launched a National School Safety Resource Center.
- Awarded tens of millions of dollars in law enforcement safety and wellness grants each year to support programs like the Preventing Violence Against Law Enforcement and Ensuring Officer Resilience and Survivability (VALOR) initiative, which has trained thousands of law enforcement officers on resilience and safety strategies and tactics.

- Supported the purchase of bullet resistant vests by law enforcement agencies in thousands of state, local, and tribal jurisdictions.

- Instituted the National Suicide Awareness for Law Enforcement Officers, or SAFLEO, Program to address law enforcement suicide.

II. Fighting the Addiction Crisis

- As part of the Trump Administration's National Drug Control Strategy, OJP awarded more than \$1 billion over the last four years to address America's addiction crisis.
- Instituted the Comprehensive Opioid, Stimulant, and Substance Abuse Program, which supports partnerships between law enforcement agencies and treatment providers in hundreds of communities across the country to address the long-running opioid epidemic as well the recent rise in psychostimulant abuse. Funding has helped increase access to evidence-based substance use treatment and recovery support services.
- Supported juvenile, family, and adult drug courts, and veteran treatment courts designed to facilitate treatment and reduce recidivism and substance abuse among low-level offenders.
- Initiated grant programs to help young victims of the addiction crisis and mentor youth affected by opioids and substance abuse, awarding \$23 million this year.

- Awarded more than \$85 million to support partnerships between justice system agencies and treatment providers that address mental illness and co-occurring substance use disorders in the criminal and juvenile justice systems. Also launched a Police-Mental Health Collaboration Toolkit.

- Produced a toolkit and video on fentanyl safety for first responders.

III. Serving Crime Victims

- Awarded historic amounts – more than \$7.6 billion in the last three years – from the Crime Victims Fund to support victim compensation programs and thousands of local victim assistance programs in every state, territory, and the District of Columbia. Grantees served more than 7 million victims and paid out almost \$400 million in compensation claims in fiscal year 2019 alone.

- Supported programs to assist victims of elder fraud and abuse with over \$21 million in funding to improve identification and response to elder fraud victims; enhance services to older victims of abuse and financial exploitation; and mobilize attorneys for victims of elder abuse and financial exploitation.

- Provided funding for and managed the National Elder Fraud Hotline launched by the Attorney General in March 2020. As of June 2020, the hotline received 2,320 calls.

- Awarded funding under the Antiterrorism and Emergency Assistance Program to provide direct assistance to victims in Las Vegas, Nevada; Sutherland Springs, Texas; Parkland, Florida; Pittsburgh, Pennsylvania (Tree of Life Synagogue); Highland Springs, Colorado; and other communities affected by mass violence.

- Awarded more than \$67 million over the last four years to help states and local and tribal communities manage sex offender registration and notification

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- Awarded more than \$67 million over the last four years to help states and local and tribal communities manage sex offender registration and notification systems and to administer the Dru Sjodin National Sex Offender Public Website.

IV. Combating Human Trafficking

- Awarded about \$315 million to support anti-human trafficking task forces and services for victims of human trafficking. More than two dozen OJP-funded task forces initiated over 2,500 human trafficking investigations in a single year, and victim services grantees have served thousands of human trafficking victims each year, including more than 8,300 in one recent 12-month period.
- Initiated a program to support housing for human trafficking victims, awarding more than \$35 million to support 73 organizations in 34 states.
- Consolidated all the law enforcement, juvenile justice, and victim services human trafficking initiatives at the Bureau of Justice Assistance (BJA), the Office of Juvenile Justice and Delinquency Prevention (OJJDP), and OVC into one division within OVC, allowing funding, training, assistance, and other resources to be aligned in support of Attorney General Barr's efforts to use every means at the Justice Department's disposal to bring traffickers to justice and serve trafficking victims.
- Launched the Human Trafficking Capacity Building Center (HTCBC) to help organizations and tribes start, sustain, or grow their anti-trafficking work. The Center's free services are intended to provide immediate and sustainable benefits to organizations and tribal nations with minimal demands on their time. In 2020, the HTCBC reached 41 advocate organizations, 109 tribes and tribal victim service providers, 485 victim service providers, and 32 nationwide tribal contacts.

V. Supporting Offender Reentry

- Awarded more than \$222 million in the last three years to help prisoners, jail inmates, and youth in detention facilities make the transition back to their communities.
- Provided support to leadership of the Federal Interagency Council on Crime Prevention and Improving Reentry.
- Launched the Reentry Resource Center, www.reentry.ojp.gov, which serves as a one-stop-shop for information and resources from across the federal government on crime prevention and reentry policies, programs, services, and other related efforts for professionals and members of the public.
- Developed and released the Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN), a risk assessment tool for offenders in Federal Bureau of Prisons (BOP) prisons that assesses the likelihood of general and violent recidivism for the BOP inmate population when they are released from custody and return to the community.
- Published landmark recidivism study from OJP's Bureau of Justice Statistics (BJS) showing that five out of six state prisoners were rearrested within nine years.
- Released juvenile reentry guide, published by OJJDP.

VI. Assisting Tribal Communities

- Awarded more than \$780 million over the last four years to support a wide range of tribal public safety and victim assistance programs.
- Supported hundreds of tribes through the Coordinated Tribal Assistance Solicitation, managed by OJP, OVW, and the COPS Office.
- Initiated a Tribal Victim Service Set-Aside Program, which has provided more than \$250 million to victim assistance programs in Indian country (included in the \$780 million mentioned above). Created a Tribal Division within OVC to streamline the distribution and management of tribal grant awards and launched the Tribal Financial Management Center.
- Provided comprehensive training and technical assistance to tribal recipients of grant funding and held nine consultations with tribal leaders and officials on serving victims and meeting the needs of youth.
- Supported the DOJ's Tribal Access Program, which has been deployed to 98 tribes.
- Provided leadership of and support to the President's Task Force on Missing and Murdered Indigenous Persons, designated Operation Lady Justice.

VII. Protecting Children and Strengthening Juvenile Justice

- Provided almost \$1 billion to enhance state and local juvenile justice systems, provide gang prevention and intervention services, support mentoring and reentry services for youth and families, and help states comply with the Juvenile Justice and Delinquency Prevention Act.
- Awarded more than half-a-billion dollars to find missing children, rescue and serve victims of child exploitation, and help child abuse victims.
- The Internet Crimes Against Children task forces supported by OJJDP arrested 5,000 suspected child sexual predators as part of the annual sweep known as Operation Broken Heart in 2017, 2018, and 2019.
- Awarded more than \$80 million each year to support national, local, and tribal mentoring programs, including programs designed to support young people affected by addiction and juveniles returning from detention facilities.
- Awarded \$6.8 million to support training and auditing of the U.S. Olympic & Paralympic Committee, each national governing body, and each Paralympic sports organization to safeguard amateur athletes from sexual, physical, and emotional abuse in sports.
- Published annual estimates of delinquency cases in juvenile courts and bi-annual data on juveniles in custody and the operations of juvenile facilities.
- Held yearly training conferences on meeting core requirements of Juvenile Justice and Delinquency Prevention Act.

VIII. Applying Forensic Science to Public Safety

- Made over 400 unique awards under the DNA Capacity Enhancement Backlog Reduction Program, which helped labs analyze over 350,000 unknown casework samples, resulting in over 50,000 hits in the Combined DNA Index System (CODIS), and provided labs with resources to test over 420,000 known samples from convicted offenders and arrestees, generating over 5,000 matches in CODIS.
- Awarded more than \$160 million to support the National Sexual Assault Kit Initiative (SAKI). Grantees have tested almost 50,000 sexual assault kits since 2015, and SAKI resources helped confirm Samuel Little as the most prolific serial killer in American history.
- OJP's National Institute of Justice (NIJ) established a federal interagency Working Group on Medicolegal Death Investigation and a Forensic Laboratory Needs Technology Working Group.
- Made 188 awards totaling nearly \$87 million to address the operational needs of forensic scientists working in forensic biology, anthropology, pathology, medicolegal death investigation, impression and pattern evidence, trace evidence, forensic toxicology, and controlled substances.
- Conducted an assessment of the workload, backlog, personnel, and equipment needs of public crime laboratories and medical examiner and coroner offices across the U.S.
- Released a best practices guide for solving cold cases.

IX. Supporting Data and Research

- Administered the annual National Crime Victimization Survey, one of two national estimates of crime in the U.S. (along with the FBI's Uniform Crime Reporting Program).
- Opened the first nationwide data collection of victim service providers – the National Census of Victim Service Providers.
- Released a report that found that nearly half of state and local law enforcement agencies in the U.S. had acquired body-worn cameras by 2016.
- Released victimization estimates from 2019 showing that fewer than half (41%) of violent victimizations were reported to police.
- Released a report that found more than half (57%) of violent offenders who were released from state prison in 2016 served less than three years before their release.
- Issued publications addressing critical public safety issues, including National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach, First Step Act: Best Practices for Academic and Vocational Education for Offenders, CSSI: Creating and Sustaining a Positive and Communal School Climate: Contemporary Research, Present Obstacles, and Future Publication, and Conducting Randomized Controlled Trials in State Prisons, and developed strategic plans for policing and corrections research.
- Supported the development of the next generation of researchers by awarding 92 NIJ Graduate Research Fellows from 55 unique institutions. Fields of study ranged from forensic DNA to computer science to sociology and more.
- Held a series of "Research in the Real World" seminars with leading criminal justice researchers to discuss topics ranging from evidence-based policing and what works in reentry to protecting against stress and trauma and the intersection of child maltreatment and delinquency.

COMMUNITY ORIENTED POLICING SERVICES (COPS)

The COPS Office is the federal component of the Department of Justice responsible for advancing community policing nationwide and the priorities of the Attorney General. The COPS Office was established in 1994 to provide funding for hiring law enforcement officers, acquisition of cutting edge technology and advancing community policing, and has served as the cornerstone of the nation's crime fighting strategy. Through innovation, grants, technical assistance, law enforcement publications and other resources, best and promising practices to promote public safety and community engagement have been utilized by nearly 14,000 of the eighteen thousand law enforcement agencies in America. The COPS Office has invested more than \$14 billion to advance community policing, including grants awarded to nearly 14,000 state, local and tribal law enforcement agencies to fund the hiring and redeployment of more than 134,000 officers.

Presidential Commission on Law Enforcement and the Administration of Justice

The COPS Office led the President's Commission on Law Enforcement and the Administration of Justice in 2020. President Trump's Executive Order 13896, which created the commission, said that its goal was "to study issues related to law enforcement and the administration of justice and to make recommendations to the President, on actions that can be taken to prevent, reduce, and control crime, increase respect for the law, and assist victims."

The commission was led by Chair Phil Keith, Director of the COPS Office. The commission included 16 commissioners representing local, state, and federal law enforcement as well as public service agencies, and 156 working group members, who were state and local officials (or their designees) representing various aspects of the criminal justice system.

The extensive work of the commission spanned 280 days. During that time, working group members heard from 173 subject matter experts. There were 15

public hearings (one in person and 14 virtual, because of the COVID-19 pandemic), where commission members held 51 panels and heard from 181 witnesses. The commission's work was also informed by public comments and an extensive review of literature and expertise across the field.

The ultimate goal of the commission's work resulted in the Final Report to develop a series of recommendations to serve as a blueprint for national action to improve the criminal justice system and provide greater service, better outcomes, and improved public safety for the American people. The Commission delivered its report to the Attorney General in early December and the final report was published on December 22, 2020. This tremendous endeavor will continue to have a significant impact on the criminal justice system, as jurisdictions across the country work to implement the recommendations and put these practices into action.

Executive Order on Safe Policing for Safe Communities

The COPS Office is leading the charge to implement President Trump's Executive Order on Safe Policing for Safe Communities—reinforcing once again the significant impact of the COPS Office and its work on the law enforcement profession. The President signed the Executive Order in June 2020, and it could have far-reaching implications, including the establishment of national standards. Its goal is to ensure that law enforcement agencies continue striving to provide transparent, safe, and accountable delivery of services to communities. This delivery will enhance community confidence in law enforcement and facilitate the identification and correction of internal issues before they result in injury to the public or to law enforcement officers. This work will have lasting impacts on policing, which will ensure the COPS Office remains a critical resource for the law enforcement profession.

Rural Listening Sessions

Rural law enforcement agencies represent a significant majority of the nation's law enforcement, both in terms of number and geographical coverage. These agencies face many of the same public safety and crime challenges as their colleagues in larger, urban and suburban jurisdictions. At the same time, they face a number of challenges that are unique to rural areas. With job opportunities decreasing and poverty increasing, rural jurisdictions—individually and nationwide—have experienced increases in violent crime rates, as well as illicit human, gun, and drug trafficking. Despite these challenges, in the past rural law enforcement leaders have often been left out of conversations regarding their challenges and how the federal government can help address their needs. President Donald J. Trump and his administration have placed an unprecedented focus on listening to—and partnering with—rural law enforcement leaders across the nation and providing resources to reduce violent crime and enhance public safety. In September 2018, in an effort to be more responsive to the needs of rural law enforcement, the COPS Office developed a strategy to facilitate discussions and

solicit feedback from rural law enforcement executives throughout the United States. Working with the nation's US Attorneys, the COPS Office has held 12 listening sessions across the country over two years.

School Safety Working Group

In 2018, the COPS Office established a School Safety Working Group to identify the most essential actions that schools, school districts, and law enforcement agencies can take to prevent mass casualty attacks in our nation's schools and, when prevention is not enough, to respond rapidly and effectively to end the threat as quickly as possible to save lives. The resulting report, *Ten Essential Actions to Improve School Safety*, was presented to the Attorney General in August 2020 as a multidisciplinary and balanced approach representing measures that can be taken to ensure school communities' mental and emotional security as well as their physical safety.

Combating Methamphetamines, Heroin and other Opioids

The COPS Anti-Heroin Task Force program and the COPS Anti-Methamphetamine Program provide grants directly to state-level law enforcement agencies with multijurisdictional reach and interdisciplinary team / task force structures to combat the manufacture and illicit drugs. Under the leadership of COPS Office Director Phil Keith, the programs have led to tremendous successes for state law enforcement.

UAS Working Group

Unmanned Aerial Systems (UAS) have rapidly changed the state of play in the public safety theater. Inappropriate use and deployment of UASs and their operators present a serious threat to public safety and order. The same technology also offers tremendous opportunities to improve safety outcomes for our communities and for our sworn law enforcement practitioners and other public safety first responders. COPS Office Director Phil Keith recognized both the emerging threats and opportunities and hosted a forum in 2019 that convened practitioners, law enforcement stakeholder groups, federal partners, and international peers. The findings from that forum were compiled into *Drones: A Report on the Use of Drones by Public Safety Agencies—and a Wake-Up Call about the Threat of Malicious Drone Attacks*. That report served as the foundational text for our work since.

In January 2020, the Office of Community Oriented Policing Services (COPS Office) convened a working group with representatives from innovative State, Local, Tribal, and Territorial SLTT UAS programs, law enforcement stakeholder groups, and federal partners. The primary purpose of this working group is to identify the most pressing needs pertaining to SLTT UAS deployment and produce guidance for our peers in the field. This roadmap contains resources identified by working group members as essential to starting a drones program. It will help departments scope their mission, navigate permissions and paperwork, engage with their communities, and protect their data. This and all following deliverables from the SLTT UAS Working Group are grounded in the COPS Office's philosophy of deliverables "by the field, for the field."

In December of 2020, the COPS Office released a guide, "Roadmap to Implementing An Effective Unmanned Aircraft System (UAS) Program," which is the first of a series of deliverables identified as essential to expanding the safe and appropriate use of UAS technology. The deliverables will form a body of best practices for SLTT agencies using or managing the public's use of drones.

Officer Safety and Wellness

The occupational fatality rate for law enforcement is three to five times greater than the national average for the working population. Officers must be protected against incapacitating physical, mental, and emotional health problems, as well as against the hazards of their job. The COPS Office has built a library of resources to help agencies better serve the physical safety and mental wellness of their officers, and it is a library we continue to expand based on best practices, pilot projects, and field-tested approaches.

Most critically, we formed the National Officer Safety and Wellness Group (OSWG) in 2011 in partnership with the Bureau of Justice Assistance to bring attention to the safety and wellness needs of law enforcement officers following a number of high-profile ambushes on police. Since then, the OSWG has raised awareness, increased knowledge, and encouraged law enforcement agencies to adopt practices that recognize that the most valuable resource a law enforcement agency has is the men and women who put their lives on the line each and every day in the name of protecting and serving their communities.

Funding for the Attorney General's Public Safety Crisis in Alaska

In June of 2019, then Attorney General Barr announced emergency funding to the state of Alaska. In response to this emergency declaration, the COPS Office expedited \$4.5 million in funding for 20 officer positions, along with equipment and training, to Alaska Native grantees. In this unprecedented effort, the COPS Office awarded the funding within one month of the Attorney General's announcement.

Field Engagement Initiative to Improve the Grants Development and Management Process

Through this work, the COPS Office seeks to improve and simplify the grant application and management process, tailor beneficial training and technical assistance, and improve results. This initiative will continue to advance quality control in the several aspects of the grant award and management process. As a leader in the management of federal funding, this is part of the COPS Office's on-going effort to maintain open and active communications, in order to continually meet the needs of state, local and tribal law enforcement. The COPS Office seeks to minimize the burden placed on stakeholders when seeking and accessing federal resources to advance community policing.

Portal Training

In late 2018, the COPS Office launched the COPS Training Portal. In addition to hosting a catalog of all of our in-person training opportunities through nationally recognized provider organizations such as the Simon Wiesenthal Center Museum of Tolerance, ALERRT at Texas State University, and NASRO, the portal hosts a catalog of asynchronous online courses. It exists to directly support agency training efforts by providing a no-cost means for entire law enforcement organizations, training academies, and individual officers to access high-quality and engaging materials and information to enhance the training already being conducted at the local level.

In the short time it has been operational, the portal's catalog has grown to 18 courses with more coming online each month. Courses are available in topics ranging from drug endangered children and ethical decision-making to homicide reduction and asset forfeiture.

Publications and Knowledge Resources

In the back of every COPS Office publication released today is the statement, "To date, the COPS Office has distributed more than eight million [copies of] topic-specific publications, training curricula, white papers, and resource CDs and flash drives."

The COPS Office is not only a grant-making organization; it is also a publishing and production house. When the COPS Office first opened, a few reports were published to highlight program accomplishments. Today, COPS Office publications have grown into an online library of more than 500 publications that are available at no charge to all those with a stake in advancing public safety. From issue briefs to implementation guides, case studies, and research reports, everything in the COPS Office Resource Center is aimed at the busy law enforcement professional who wants to be "in the know" on the critical and emerging issues in the field and familiar with what is working in communities like their own across the country.

CRI-TAC

Through the years and in response to feedback from the law enforcement field to create a more responsive service, in 2017 the COPS Office retooled its signature technical assistance program to become the Collaborative Reform Initiative Technical Assistance Center (CRI-TAC). It offers a “by the field, for the field” approach with the goal of listening to the needs of the field and offering the training and technical assistance specifically requested by the individual agency. This customized technical assistance uses leading experts in a range of public safety, crime reduction, and community policing topics and is provided at no cost to the requesting agency.

The program continues to be a tremendous success. Ninety-three percent of the agencies surveyed reported that the technical assistance they received helped the agency to achieve the goals it set out to accomplish when requesting technical assistance. Through CRI-TAC, law enforcement agencies across the country are better able to serve both their officers and their communities.

CRI-TAC continues to be a tremendous resource to the field, and more than 400 requests for technical assistance had been filled as of fall 2020. One of the hallmarks of this assistance is the responsiveness of CRI-TAC, and we ensure that agencies that contact us get a quick response back; if it is determined that CRI-TAC can help with the specific request, that technical assistance is delivered promptly and completed quickly. Topics offered by CRI-TAC range from active shooter response to de-escalation, and from mass demonstration response to officer safety and wellness. A complete list of topics, as well as guidance to request assistance, can be found at the CRI-TAC website.

Implementing the Law Enforcement Mental Health and Wellness Act

The Law Enforcement Mental Health and Wellness Act of 2017 (LEMHWA, Pub. L. 115–113) was signed into law in January 2018, recognizing that law enforcement agencies need and deserve support in their ongoing efforts to protect the mental health and well-being of their employees. In Fiscal Year 2019, Congress provided funding to the COPS Office to develop knowledge, increase awareness of effective mental health and wellness strategies, increase the skills and abilities of law enforcement, and increase the number of law enforcement agencies and relevant stakeholders using peer mentoring programs. This funding included awards to 15 law enforcement agencies focusing on enhancing or expanding their peer support programs. The National Fraternal Order of Police (FOP) also received funding to develop a national peer support training program to aid in standardization in knowledge, skills, and abilities across the country.

In FY 2020, Congress expanded funding to the LEMHWA grant program and the COPS Office awarded approximately \$4.3 million in grants directly to 40 state and local law enforcement agencies. The funding will increase their ability to provide peer support, access to behavioral health professionals, and suicide prevention training and programs to their officers. The program also encourages larger agencies to offer their services and experience to surrounding smaller jurisdictions that may lack the infrastructure to support a confidential peer support or crisis intervention program on their own. In December 2020, the COPS Office launched a new community of practice that will leverage the experiences of these LEMHWA grantees to improve the understanding of how best to serve the mental health needs of law enforcement. The goal of this initiative is to create a space for awardees to share experiences and gain insight into best practices on the design, development, and implementation of an officer safety and wellness program, including how to overcome challenges. As a community of practice, this working group will offer awardees dynamic access to an ongoing communications network of peers who can provide support in the implementation and sustainment of successful officer

wellness programs. The COPS Office will also elevate and amplify the best practices and lessons learned within the community of practice to the broader law enforcement field.

Forum on Officer Recruitment and Retention

In December of 2019, the COPS Office hosted a forum that built on previous discussions around the challenges in the recruitment and retention of officers, particularly for smaller or more rural agencies. Attendees discussed topics such as improving understanding of staffing needs and allocation, broadening the applicant pool of potential officers, and mitigating the impact of salary/benefit package limitations.

Facial Recognition Technology

The COPS Office emerging issues forum series provides an opportunity to bring together law enforcement leaders and subject-matter experts to examine critical issues and identify recommendations. In August and September 2020, the COPS Office held five virtual sessions on the use of facial recognition technology in law enforcement. The topics examined including understanding the risks and opportunities around facial recognition technology, how agencies are using that technology to solve crimes, issues around community engagement and transparency, and policies to mitigate those concerns. The discussions included law enforcement leaders whose agencies are employing facial recognition technology, privacy advocates, and other subject-matter experts as they discussed issues like examples of successful implementation and use; the impacts of bans and regulations; bias, accuracy, privacy, and civil rights concerns; and necessary and recommended training, policies and procedures. These sessions will culminate a report that brings together the lessons learned thus far, highlight the areas of common ground that exist, and provide considerations and recommendations for further adoption of this technology. This report will be made available to the law enforcement field.

COPS Office Funding Since January 2017

The COPS Office is the flagship funding component of the Department of Justice. Best known for the COPS Hiring Program, the COPS Office has funded a variety of projects since its establishment and the last four years are a continuation of that commitment to law enforcement.

Since President Trump was inaugurated in January of 2017, the COPS Office has awarded \$868.5 million through its various grant programs to hire over 3,500 law enforcement officers and deputies.

Program Name	Funding	Officers
Anti-Heroin Task Force Program	\$92,546,528	46
COPS Methamphetamine Task Force Program	\$31,274,616	23
COPS Hiring Program	\$477,322,963	3406
Community Policing Development	\$22,340,484	
Micro-grants	\$2,193,728	
Collaborative Reform Initiative for Technical Assistance	\$8,390,000	
Law Enforcement Mental Health and Wellness Act	\$6,104,301	
Preventing Active Shooter Situations	\$31,556,319	
School Violence Prevention Program	\$105,983,662	
Tribal Resources Grant Program – Training and Equipment	\$64,027,825	
Tribal Resources Grant Program – Hiring	\$25,529,856	108
Tribal Resources Grant Program – Technical Assistance	\$1,248,224	

OFFICE OF LEGAL POLICY

The mission of the Office of Legal Policy is to develop and implement the Department's significant policy initiatives, handle special projects that implicate the interests of multiple Department components, coordinate with other interested Department components and other Executive Branch agencies, and serve as the primary policy advisor to the Attorney General and the Deputy Attorney General. It also reviews and coordinates all regulations promulgated by the Department and all of its components, assists the Attorney General with responsibilities in recommending candidates for federal judgeships, and coordinates the judicial nomination and confirmation process with the White House and the Senate.

I. Judicial Nominations and Confirmations

- The Department has assisted President Donald J. Trump in nominating and winning the confirmation of over 220 principled jurists committed to the rule of law.
- In President Trump's administration, DOJ has assisted the President and the Senate in nominating and confirming three Supreme Court justices: Justices Neil Gorsuch, Brett Kavanaugh, and Amy Coney Barrett. The Department has also assisted in the nomination and confirmation of 53 Circuit Court judges, 168 District Court judges, 6 Court of Federal Claims judges, 3 Court of International Trade judges, and 1 Article IV judge for the District of the Virgin Islands.
- Lapsed Judicial Nominations: The Department oversaw the confirmation process for another 38 pending judicial nominees (2 Circuit Court judges, 27 District Court judges, 1 Court of International Trade judge, 7 Court of Federal Claims judges, and 1 Article IV judge for the District of Guam) who were in committee or on the Senate floor.

II. Unmanned Aircraft Systems/ Counter-Unmanned Aircraft Systems

- The Department has been proactive in its drone and counter-drone practice areas.
 - In November 2019, the Attorney General updated the Department's drone policy.[1] Drones are used by the Department for crime-scene response and investigation, SWAT and bomb technician operations, search and rescue, site security, and fugitive man-hunts. This updated policy renews the Department's strong commitment to protect privacy and civil liberties. It requires annual privacy reviews; assessments of new technology; limits on data retention; and that drones only be used for authorized investigations and activities. These controls are important, especially when drones are used in response to civil unrest or considered for novel uses in response to COVID-19.
 - In April 2020, the Attorney General issued the Department's counter-drone guidance, which implements the 2018 Preventing Emerging Threats Act. This law permits the Department to protect specific sites and facilities from the threat of drone

attacks notwithstanding certain federal criminal laws in Titles 18 and 49 that might otherwise prevent such protections. This guidance also incorporates robust privacy and civil liberties protections.

o The Department will be pushing capability and decision-making authority down to the people in the best position to judge and mitigate risks. For example, the FBI has delegated drone launch approval authority from a headquarters task force down to FBI Field Offices. By year's end, the FAA hopes to enable expanded drone operations by finalizing its drone rules. In that process, we will continue to work with the FAA to ensure that safety, security, and common sense are built into drone regulations to ensure maximum benefit from this technology.

Access to Justice

• As part of its access to justice efforts, the Department of Justice partnered with the Administrative Office of the U.S. Courts to improve transparency regarding fee exemptions for access to court records in the Public Access to Court Electronic Records (PACER) system. As part of that partnership, the Administrative Office of the U.S. Courts announced an enhanced PACER website that makes it easier for indigent individuals, as well as pro bono attorneys, academic researchers, and non-profit organizations, to understand how they may access court records for free. The Department also co-hosted several Legal Aid Interagency Roundtable meetings, focusing on topics such as elder justice, human trafficking, and prison reentry.

Forensic Science

• The Department crafted guidance for expert testimony and reports in 16 key disciplines. These documents, known as "Uniform Language for Testimony and Reports," or ULTR documents, are designed to provide guidance on the submission of scientific statements by the Department's forensic examiners when drafting reports or testifying. The Department also established a testimony monitoring program model, a quality assurance mechanism to ensure testimony is consistent with mandatory laboratory policies and procedures, properly qualified and appropriately commu-

nicated, and in conformity with any applicable ULTR. The Department also issued a policy on Forensic Genetic Genealogical DNA Analysis and Searching to promote the reasoned exercise of investigative, scientific, and prosecutorial discretion in cases that involve forensic genetic-genealogical DNA analysis and searching.

Regulatory Reform - Improper Use of Guidance Documents

• To combat the growing problem of unlawful regulation by guidance document, DOJ took several important steps. The 2017 "Sessions Memo" prohibited the Department from using guidance documents to circumvent proper rulemaking. This memo was followed by the Department's "Brand Memo," which prohibited affirmative civil enforcement actions on the basis of noncompliance with guidance documents. These memos served as the template for government-wide change. Following these reforms, the President issued two executive orders aimed at guidance document abuse. Executive Order 13891 implemented the principles of the Sessions Memo government-wide. And Executive Order 13892 directed federal agencies to limit the use of guidance documents for enforcement.

o The Department recently issued two new regulations codifying these reforms and establishing a process for the responsible review, clearance, and issuance of guidance documents. The rules officially prohibit the use of guidance documents as an end-run to lawful regulation. They implement robust procedures governing the review, clearance, and issuance of guidance documents. The rules also create a process for petitioning the Department to withdraw or modify existing guidance documents and require the posting of every guidance document on the Department's public Guidance Portal. If a guidance document is not posted on the portal, the Department will not be able to claim judicial deference to interpretations contained in that document.

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

The primary mission of the Executive Office for Immigration Review (EOIR) is to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation’s immigration laws. Under delegated authority from the Attorney General, EOIR conducts immigration court proceedings, appellate reviews, and administrative hearings.

I. Immigration Judge Hiring

- EOIR currently has 530 IJs on board, the highest number in its history and more than double the number on board at the end of FY 2015.
- EOIR has hired 333 new IJs since January 20, 2017. Between FY 2010 and FY 2016, EOIR hired only 144 new IJs.
- Every quarter EOIR advertises for new IJs and also hires a new class of IJs. EOIR is no longer playing “catch up” to fill longstanding vacancies. Each advertisement covers all new backfills since the last advertisement plus any new positions expected to come online in the next six months.
- EOIR has hired 13 appellate IJs (AIJs) for the Board of Immigration Appeals (BIA) since August 2019. In August 2020 it filled all remaining permanent AIJ vacancies resulting in the first complete AIJ corps since at least 2016.

II. Addressing Productivity

- EOIR has added 137 immigration courtrooms since the end of CY 2016, an increase of over 40%. Between CY 2007 and CY 2016 EOIR added only 46 courtrooms.

- EOIR has minimized the existence of “dark”—i.e. unused—courtrooms by adopting policies to ensure that all blocks of available courtroom time are utilized to the maximum extent practicable.
- EOIR completed over 276,000 immigration court cases in FY 2019, the highest single-year total in the history of the agency. Prior to the outbreak of COVID-19, EOIR was on pace to complete over 400,000 cases in FY 2020.
- The BIA completed over 40,000 cases in FY 2020, its highest total since FY 2008 and a 54% increase from its completion total in FY 2019.
- Between January 20, 2017, and December 11, 2020, EOIR completed over 826,000 immigration court cases. That total is more than the combined total of completed cases from FY 2012 through FY 2016—i.e. 770,887 completions over 5 years. It also represents a 50% increase in the number of completions over the same time period immediately prior to January 20, 2017—i.e. between February 28, 2013, and January 19, 2017, EOIR completed just under 550,000 cases.
- The Department has published 104 substantive precedent decisions (14 by the Attorney General, 89 by the BIA, and 1 by the U.S. Citizenship and Immigration Services Administrative Appeals Office) since January 20, 2017, bringing additional clarity to the law which allows adjudicators to resolve cases more expeditiously.

III. Addressing the EOIR Courts & Appeals System (ECAS)

- After years of inaction, EOIR piloted a new electronic case file system, ECAS, in 2018 and began expanding it nationwide in 2019. ECAS allows electronic filing by the parties, creates an electronic record of proceedings, and provides quick access to electronic judicial resources for immigration judges. Despite delays due to the government shutdown in 2019 and the outbreak of COVID-19 in 2020, ECAS has been deployed to 35 out of 69 immigration courts as of the end of 2020 with the rest scheduled for deployment by the end of 2021.

- To fully realize the benefits of ECAS, its use by the parties must be made mandatory. To that end, on December 4, 2020, EOIR published a Notice of Proposed Rulemaking in the Federal Register which would make ECAS use mandatory in immigration proceedings.

IV. The Future

- Each of the initiatives above is important to continue into the future to ensure that the progress made over the past four years does not become illusory. EOIR faces a pending caseload at the immigration court level of over 1.2 million cases, and each of the initiatives above will help it address that caseload.

- o EOIR must continue to hire new IJs and acquire or build-out new immigration court space to ensure a sufficient number of adjudicators to handle the caseload.

- o EOIR must continue to maintain a policy of “no dark courtrooms” to ensure that existing courtroom space is fully utilized to maximize the number of cases adjudicated.

- o EOIR must complete the deployment of ECAS in 2021 and finalize regulatory changes to make its use mandatory in order to receive its full benefit.

V. Significant Regulations

I. Aliens Subject to a Bar on Entry Under Certain Presidential Proclamations; Procedures for Protection Claims, 83 Fed. Reg. 55934 (Nov. 9, 2018).

The Department of Justice and the Department of Homeland Security adopted an interim final rule governing asylum claims in the context of aliens who are subject to, but contravene, a suspension or limitation on entry into the United States through the southern border with Mexico that is imposed by a presidential proclamation or other presidential order under section 212(f) or 215(a)(1) of the Immigration and Nationality Act. Pursuant to statutory authority, the IFR amended their respective existing regulations to provide that aliens subject to such a proclamation concerning the southern border, but who contravene such a proclamation by entering the United States after the effective date of such a proclamation, are ineligible for asylum. The IFR, as applied to a proclamation suspending the entry of aliens who cross the southern border unlawfully, would bar such aliens from eligibility for asylum and thereby channel inadmissible aliens to ports of entry, where they would be processed in a controlled, orderly, and lawful manner.

II. Board of Immigration Appeals: Affirmance Without Opinion, Referral for Panel Review, and Publication of Decisions as Precedents, 84 Fed. Reg. 31463 (July 2, 2019)

The Department of Justice (Department) published a final rule to amend the regulations regarding the administrative review procedures of the Board of Immigration Appeals. This final rule set forth the Department’s longstanding position that the regulations providing for an affirmance without opinion, a single-member opinion, or a three-member panel opinion are not intended to create any substantive right to a particular manner of review or decision. The final rule also clarified that the BIA is presumed to have considered all of the parties’ relevant issues and claims of error on appeal regardless of the type of the BIA’s decision, and that the parties are obligated to raise issues and exhaust claims of error before the BIA. In addition, the final

rule codified standards for the BIA's consideration in evaluating whether to designate particular decisions as precedents. Finally, the final rule provided clarity surrounding precedent decisions in the context of decisions from the Executive Office for Immigration Review regarding the recognition of organizations and the designation of accredited representatives.

III. Implementing Bilateral and Multilateral Asylum Cooperative Agreements Under the Immigration and Nationality Act, 84 Fed. Reg. 63994 (Nov. 19, 2019).

The Department of Justice and the Department of Homeland Security adopted an interim final rule to modify existing regulations to provide for the implementation of Asylum Cooperative Agreements ("ACAs") that the United States enters into pursuant to section 208(a)(2)(A) of the Immigration and Nationality Act. Because the underlying purpose of section 208(a)(2)(A) is to provide asylum seekers with access to only one of the ACA signatory countries' protection systems, this rule adopted a modified approach to the expedited removal and section 240 processes in the form of a threshold screening as to which country will consider the alien's claim. This rule applies to all ACAs in force between the United States and countries other than Canada, including bilateral ACAs recently entered into with El Salvador, Guatemala, and Honduras in an effort to share the distribution of hundreds of thousands of asylum claims. The rule applies only prospectively to aliens who arrive at a U.S. port of entry, or enter or attempt to enter the United States between ports of entry, on or after the effective date of the rule.

IV. DNA-Sample Collection From Immigration Detainees, 85 Fed. Reg. 13483 (Mar. 9, 2020).

The Department of Justice is amending regulations that require DNA sample collection from individuals who are arrested, facing charges, or convicted, and from non-United States persons who are detained under the authority of the United States. The amendment removes a provision authorizing the Secretary of Homeland Security to exempt from the sample collection requirement certain aliens from whom collection of DNA samples is not feasible

because of operational exigencies or resource limitations. This restores the Attorney General's plenary legal authority to authorize and direct all relevant Federal agencies, including the Department of Homeland Security, to collect DNA samples from individuals who are arrested, facing charges, or convicted, and from non United States persons who are detained under the authority of the United States.

V. Expanding the Size of the Board of Immigration Appeals, 85 Fed. Reg. 18105 (April 1, 2020).

This rule amends the Department of Justice regulations relating to the organization of the Board of Immigration Appeals ("Board") by adding two Board member positions, thereby expanding the Board to 23 members.

VI. Procedures for Asylum and Bars to Asylum Eligibility, 85 Fed. Reg. 67202 (Oct. 21, 2020)

This Final Rule amended regulations of the Departments of Justice and Homeland Security governing the bars to asylum eligibility. The Departments clarified the effect of criminal convictions and removed their respective regulations governing the automatic reconsideration of discretionary denials of asylum applications.

VII. Organization of the Executive Office for Immigration Review, 85 Fed. Reg. 69465 (Nov. 3, 2020).

On August 26, 2019, the Department of Justice published an interim final rule amending the regulations related to the internal organization of the Executive Office for Immigration Review. The amendments reflected changes related to the establishment of EOIR's Office of Policy in 2017, made related clarifications or changes to the organizational role of EOIR's Office of the General Counsel and Office of Legal Access Programs, updated the Department's organizational regulations to align them with EOIR's regulations, made nomenclature changes to the titles of the members of the Board of Immigration Appeals, provided for a delegation of authority from the Attorney General to the EOIR Director related to the efficient disposition of appeals, and clarified the Director's authority to adjudicate cases following

changes to EOIR's Recognition and Accreditation Program in 2017. This final rule responds to comments received and adopts the provisions of the IFR with some additional amendments: Restricting the authority of the Director regarding the further delegation of certain regulatory authorities, clarifying that the Director interprets relevant regulatory provisions when adjudicating recognition and accreditation cases, and reiterating the independent judgment and discretion by which the Director will consider cases subject to his adjudication.

VIII. Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review, 85 Fed. Reg. 80,274 (Dec. 11, 2020).

The Final Rule, consistent with the Immigration and Nationality Act (INA), enables the Departments to more effectively separate baseless claims from meritorious ones. The Final Rule made the following changes to regulations of the Departments of Justice and Homeland Security:

- Amends the regulations governing credible fear determinations so that individuals found to have such a fear will have their claims for asylum, withholding of removal, or protection under the CAT adjudicated by an immigration judge in streamlined proceedings, rather than in immigration court proceedings conducted under section 240 of the INA;

- Permits immigration judges to pretermit asylum applications without a hearing if the application does not demonstrate prima facie eligibility for relief;
- Clarifies when an application is "frivolous";

- Clarifies standards for the adjudication of asylum and withholding claims including amendments to the definitions of the terms "particular social group," "political opinion," "persecution," and "firm resettlement";

- Outlines factors, including an exemption for children under 18 for the factor regarding unlawful entry or attempted unlawful entry, for adjudicators to consider when making discretionary determinations;

- Clarifies the standard for determining the acquiescence of a public official or other person

acting in an official capacity under the CAT regulations;

- Raises the burden of proof for the threshold screening of withholding and CAT protection claims from "significant possibility" to a "reasonable possibility" standard;

- Applies bars to asylum and withholding when making credible fear determinations; and

- Clarifies the requirement to protect certain information contained in asylum applications, applications for withholding of removal under the INA, applications for protection under the regulations implementing the CAT, and applications for refugee admissions.

IX. Procedures for Asylum and Withholding of Removal, 85 Fed. Reg. 81698 (Dec. 16, 2020).

This Final Rule amended the regulations governing the adjudication of applications for asylum and withholding of removal before the Executive Office for Immigration Review, including outlining requirements for filing a complete application for relief and the consequences of filing an incomplete application, and establishing a 15-day filing deadline for aliens applying for asylum in asylum-and-withholding-only-proceedings, and clarifying evidentiary standards in adjudicating such applications.

X. Appellate Procedures and Decisional Finality in Immigration Proceedings; Administrative Closure, 85 Fed. Reg. 81588 (Dec. 16, 2020).

This Final Rule amended the regulations of the Executive Office for Immigration Review regarding the handling of appeals to the Board of Immigration Appeals. The Department made multiple changes to the processing of appeals to ensure the consistency, efficiency, and quality of its adjudications. The Department also amended the regulations to make clear that there is no freestanding authority of line immigration judges or BIA members to administratively close cases. Finally, the Department deleted inapplicable or unnecessary provisions regarding the forwarding of the record of proceedings

on appeal.

XI. Asylum Eligibility and Procedural Modifications, 85 Fed. Reg. 82260 (Dec. 17, 2020).

On July 16, 2019, the Department of Justice and the Department of Homeland Security published an interim final rule governing asylum claims in the context of aliens who enter or attempt to enter the United States across the southern land border between the United States and Mexico after failing to apply for protection from persecution or torture while in a third country through which they transited en route to the United States. This Final Rule responded to comments received on the IFR and makes minor changes to regulations implemented or affected by the IFR for clarity and correction of typographical errors.

XII. Executive Office for Immigration Review; Fee Review, 85 Fed. Reg. 82750 (Dec. 18, 2020).

On February 28, 2020, the Department of Justice published a notice of proposed rulemaking that would increase the fees for those Executive Office for Immigration Review applications, appeals, and motions that are subject to an EOIR determined fee, based on a fee review conducted by EOIR. The proposed rule would not affect fees established by the Department of Homeland Security with respect to DHS forms for applications that are filed or submitted in EOIR proceedings. The proposal would not affect the ability of aliens to submit fee waiver requests, nor would it add new fees. The proposed rule would also update cross-references to DHS regulations regarding fees and make a technical change regarding requests under the Freedom of Information Act. This final rule responds to comments received in response to the NPRM and adopts the fee amounts proposed in the NPRM without change.

VI. Attorney General Decisions

I. Matter of E-F-H-L-, 27 I&N Dec. 226 (A.G. 2018)

The Attorney General referred the decision of the Board of Immigration Appeals in *Matter of E-F-H-L-*, 26 I&N Dec. 319 (BIA 2014), to himself for review and vacated that decision.

II. Matter of Castro-Tum, 27 I&N Dec. 271 (A.G. 2018)

(1) Immigration judges and the Board do not have the general authority to suspend indefinitely immigration proceedings by administrative closure. To the extent the Board's decisions in *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012), and *Matter of W-Y-U-*, 27 I&N Dec. 17 (BIA 2017), are inconsistent with this conclusion, those decisions are overruled.

(2) Immigration judges and the Board may only administratively close a case where a previous regulation or a previous judicially approved settlement expressly authorizes such an action.

(3) Neither 8 C.F.R. § 1003.10(b) nor 8 C.F.R. § 1003.1(d)(1)(ii) confers the authority to grant administrative closure. Grants of general authority to take measures "appropriate and necessary for the disposition of . . . cases" would not ordinarily include the authority to suspend cases indefinitely. Additionally, 8 C.F.R. § 1240.1(a)(1), which authorizes immigration judges to take actions that "may be appropriate" in removal proceedings, and 8 C.F.R. § 1240.1(c), which empowers immigration judges to "otherwise regulate the course of the hearing," do not entail an authority to grant indefinite suspensions. Finally, regulations empowering the Chief Immigration Judge and the Chairman of the Board to manage dockets—8 C.F.R. § 1003.9(b)(1) and 8 C.F.R. § 1003.1(a)(2)(i)(A)—grant no express authority to administratively close cases, and cannot reasonably be interpreted to implicitly delegate such authority.

(4) Under the Immigration and Nationality Act, the Department of Homeland Security has the exclusive authority to decide whether and when to initiate proceedings. Once the Department of Homeland Security initiates proceedings, immigration judges and the Board must proceed "expeditious[ly]" to resolve the case. 8 C.F.R. § 1003.12.

(5) For cases that truly warrant a brief pause, the regulations expressly provide for continuances. 8 C.F.R. § 1003.29.

(6) The Immigration and Nationality Act unambiguously states that, with respect to in absentia proceedings, so long as the Department of Homeland Security adequately alleges that it provided legally sufficient written notice to an alien, the alien “shall be ordered removed in absentia if [the Department of Homeland Security] establishes by clear, unequivocal, and convincing evidence that the written notice was so provided and that the alien is removable.” INA § 240(b)(5)(A), 8 U.S.C. § 1229a(b)(5)(A). The Immigration and Nationality Act thus imposes an obligation to proceed expeditiously to determine whether the requisite evidence supports the removal charge.

(7) Where a case has been administratively closed without the requisite authority, the immigration judge or the Board, as appropriate, shall recalendar the case on the motion of either party.

III. Matter of A-B-, 27 I&N Dec. 316 (A.G. 2018)

(1) Matter of A-R-C-G-, 26 I&N Dec. 338 (BIA 2014) is overruled. That decision was wrongly decided and should not have been issued as a precedential decision.

(2) An applicant seeking to establish persecution on account of membership in a “particular social group” must demonstrate: (1) membership in a group, which is composed of members who share a common immutable characteristic, is defined with particularity, and is socially distinct within the society in question; and (2) that membership in the group is a central reason for her persecution. When the alleged persecutor is someone unaffiliated with the government, the applicant must also show that her home government is unwilling or unable to protect her.

(3) An asylum applicant has the burden of showing her eligibility for asylum. The applicant must present facts that establish each element of the standard, and the asylum officer, immigration judge, or the Board has the duty to determine whether those facts satisfy all of those elements.

(4) If an asylum application is fatally flawed in one respect, an immigration judge or the Board need not examine the remaining elements of the asylum claim.

(5) The mere fact that a country may have problems

effectively policing certain crimes or that certain populations are more likely to be victims of crime, cannot itself establish an asylum claim.

(6) To be cognizable, a particular social group must exist independently of the harm asserted in an application for asylum.

(7) An applicant seeking to establish persecution based on violent conduct of a private actor must show more than the government’s difficulty controlling private behavior. The applicant must show that the government condoned the private actions or demonstrated an inability to protect the victims.

(8) An applicant seeking asylum based on membership in a particular social group must clearly indicate on the record the exact delineation of any proposed particular social group.

(9) The Board, immigration judges, and all asylum officers must consider, consistent with the regulations, whether internal relocation in the alien’s home country presents a reasonable alternative before granting asylum.

IV. Matter of L-A-B-R- et al., 27 I&N Dec. 405 (A.G. 2018)

(1) An immigration judge may grant a motion for a continuance of removal proceedings only “for good cause shown.” 8 C.F.R. § 1003.29.

(2) The good-cause standard is a substantive requirement that limits the discretion of immigration judges and prohibits them from granting continuances for any reason or no reason at all.

(3) The good-cause standard requires consideration and balancing of multiple relevant factors when a respondent alien requests a continuance to pursue collateral relief from another authority—for example, a visa from the Department of Homeland Security. See Matter of Hashmi, 24 I&N Dec. 785, 790 (BIA 2009).

(4) When a respondent requests a continuance to pursue collateral relief, the immigration judge must consider primarily the likelihood that the collateral relief will be granted and will materially affect the outcome of the removal proceedings.

(5) The immigration judge should also consider relevant secondary factors, which may include the respondent’s diligence in seeking collateral relief, DHS’s position on the motion for continuance, concerns of administrative efficiency, the length of the continuance requested, the number of hearings held and continuances granted previously, and the timing

of the continuance motion.

V. Matter of S-O-G- and F-D-B-, 27 I&N Dec. 462 (A.G. 2018)

(1) Consistent with *Matter of Castro-Tum*, 27 I&N Dec. 271 (A.G. 2018), immigration judges have no inherent authority to terminate or dismiss removal proceedings.

(2) Immigration judges may dismiss or terminate removal proceedings only under the circumstances expressly identified in the regulations, see 8 C.F.R. § 1239.2(c), (f), or where the Department of Homeland Security fails to sustain the charges of removability against a respondent, see 8 C.F.R. § 1240.12(c).

(3) An immigration judge's general authority to "take any other action consistent with applicable law and regulations as may be appropriate," 8 C.F.R. § 1240.1(a)(1)(iv), does not provide any additional authority to terminate or dismiss removal proceedings beyond those authorities expressly set out in the relevant regulations.

(4) To avoid confusion, immigration judges and the Board should recognize and maintain the distinction between a dismissal under 8 C.F.R. § 1239.2(c) and a termination under 8 C.F.R. § 1239.2(f).

VI. Matter of M-S-, 27 I&N Dec. 509 (A.G. 2019)

(1) *Matter of X-K-*, 23 I&N Dec. 731 (BIA 2005), was wrongly decided and is overruled.

(2) An alien who is transferred from expedited removal proceedings to full removal proceedings after establishing a credible fear of persecution or torture is ineligible for release on bond. Such an alien must be detained until his removal proceedings conclude, unless he is granted parole.

VII. Matter of L-E-A-, 27 I&N Dec. 581 (A.G. 2019)

(1) In *Matter of L-E-A-*, 27 I&N Dec. 40 (BIA 2017), the Board of Immigration Appeals improperly recognized the respondent's father's immediate family as a "particular social group" for purposes of qualifying for asylum under the Immigration and Nationality Act.

(2) All asylum applicants seeking to establish membership in a "particular social group," including groups defined by family or kinship ties, must establish that the group is (1) composed of members who share a common immutable characteristic; (2) defined with particularity; and (3) socially distinct

within the society in question.

(3) While the Board has recognized certain clans and subclans as "particular social groups," most nuclear families are not inherently socially distinct and therefore do not qualify as "particular social groups."

(4) The portion of the Board's decision recognizing the respondent's proposed particular social group is overruled. See *Matter of L-E-A-*, 27 I&N Dec. at 42–43 (Part II.A). The rest of the Board's decision, including its analysis of the required nexus between alleged persecution and the alleged protected ground, is affirmed. See *id.* at 43–47 (Part II.B).

VIII. Matters of Thomas and Thompson, 27 I&N Dec. 674 (A.G. 2019)

(1) The tests set forth in *Matter of Cota-Vargas*, *Matter of Song*, and *Matter of Estrada* will no longer govern the effect of state-court orders that modify, clarify, or otherwise alter a criminal alien's sentence.

(2) Such state-court orders will be given effect for immigration purposes only if based on a procedural or substantive defect in the underlying criminal proceeding; these orders will have no effect for immigration purposes if based on reasons unrelated to the merits of the underlying criminal proceeding, such as rehabilitation or the avoidance of immigration consequences.

IX. Matter of Castillo-Perez, 27 I&N Dec. 664 (A.G. 2019)

(1) The Immigration and Nationality Act's "good moral character" standard requires adherence to the generally accepted moral conventions of the community, and criminal activity is probative of non-adherence to those conventions.

(2) Evidence of two or more convictions for driving under the influence during the relevant period establishes a presumption that an alien lacks good moral character under INA § 101(f), 8 U.S.C. § 1101(f).

(3) Because only aliens who possessed good moral character for a 10-year period are eligible for cancellation of removal under section 240A(b) of the INA, 8 U.S.C. § 1229b(b), such evidence also presumptively establishes that the alien's application for that discretionary relief should be denied.

X. Matter of R-A-F-, 27 I&N Dec. 778 (A.G. 2020)

(1) The Board of Immigration Appeals should

consider de novo the application of law to the facts of this case, including whether the deprivations that the respondent would be likely to encounter upon removal to Mexico would constitute “torture” within the meaning of the Department of Justice regulations implementing the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States Nov. 20, 1994).

(2) To constitute “torture” under these regulations, an act must, among other things, “be specifically intended to inflict severe physical or mental pain or suffering.” 8 C.F.R. § 1208.18(a)(5). “[T]orture’ does not cover ‘negligent acts’ or harm stemming from a lack of resources.” Matter of J-R-G-P-, 27 I&N Dec. 482, 484 (BIA 2018) (citing Matter of J-E-, 23 I&N Dec. 291, 299, 301 (BIA 2002)).

(3) To constitute “torture,” an act must also be motivated by “such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind.” 8 C.F.R. § 1208.18(a)(1).

XI. Matter of O-F-A-S-, 28 I&N Dec. 35 (A.G. 2018)

(1) Under Department of Justice regulations implementing the Convention Against Torture, an act constitutes “torture” only if it is inflicted or approved by a public official or other person “acting in an official capacity.” 8 C.F.R. § 1208.18(a)(1). This official capacity requirement limits the scope of the Convention to actions performed “under color of law.” Matter of Y-L-, 23 I&N Dec. 270 (A.G. 2002). Nothing in Matter of Y-L-, or any other Board precedent, should be construed to endorse a distinct, “rogue official” standard.

(2) The “under color of law” standard draws no categorical distinction between the acts of low- and high-level officials. A public official, regardless of rank, acts “under color of law” when he “exercise[s] power ‘possessed by virtue of . . . law and made possible only because [he was] clothed with the authority of . . . law.’” West v. Atkins, 487 U.S. 42, 47 (1988) (quoting United States v. Classic, 313 U.S. 299, 326 (1941)).

XII. Matter of Reyes, 28 I&N Dec. 52 (A.G. 2020)

(1) If all of the means of committing a crime, based on the elements of the statute of conviction, amount to one or more of the offenses listed in section 101(a)(43) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(43), then an alien who has been convicted of that crime has necessarily been convicted of an aggravated felony for purposes of the INA.

(2) The respondent’s conviction for grand larceny in the second degree under New York Penal Law § 155.40(1) qualifies as a conviction for an aggravated felony for purposes of the INA. DHS charged that the respondent had been convicted of either aggravated-felony theft or aggravated-felony fraud, as defined in section 101(a)(43)(G) and (M)(i) of the INA, 8 U.S.C. § 1101(a)(43)(G) and (M)(i). Larceny by acquiring lost property constitutes aggravated-felony theft, and the parties do not dispute that the other means of violating the New York statute correspond to either aggravated-felony theft or aggravated-felony fraud.

XIII. Matter of A-C-A-A-, 28 I&N Dec. 84 (A.G. 2020)

(1) In conducting its review of an alien’s asylum claim, the Board of Immigration Appeals (“Board”) must examine de novo whether the facts found by the immigration judge satisfy all of the statutory elements of asylum as a matter of law. See Matter of R-A-F-, 27 I&N Dec. 778 (A.G. 2020).

(2) When reviewing a grant of asylum, the Board should not accept the parties’ stipulations to, or failures to address, any of the particular elements of asylum—including, where necessary, the elements of a particular social group. Instead, unless it affirms without opinion under 8 C.F.R. § 1003.1(e)(4)(i), the Board should meaningfully review each element of an asylum claim before affirming such a grant, or before independently ordering a grant of asylum. See Matter of L-E-A-, 27 I&N Dec. 581, 589 (A.G. 2019).

(3) Even if an applicant is a member of a cognizable particular social group and has suffered persecution, an asylum claim should be denied if the harm inflicted or threatened by the persecutor is not “on account of” the alien’s membership in that group. That requirement is especially important to scrutinize where the asserted particular social group encompasses many millions of persons in a particular society.

(4) An alien’s membership in a particular social group cannot be “incidental, tangential, or subordinate to the

persecutor's motivation . . . [for] why the persecutor[] sought to inflict harm." Matter of A-B-, 27 I&N Dec. 316, 338 (A.G. 2018) (citations omitted).

Accordingly, persecution that results from personal animus or retribution generally does not support eligibility for asylum.

XIV. Matter of Negusie, 25 I&N Dec. 120 (A.G. 2020)

(1) The bar to eligibility for asylum and withholding of removal based on the persecution of others does not include an exception for coercion or duress.

(2) The Department of Homeland Security does not have an evidentiary burden to show that an applicant is ineligible for asylum and withholding of removal based on the persecution of others. If evidence in the record indicates the persecutor bar may apply, the applicant bears the burden of proving by a preponderance of the evidence that it does not.

OFFICE OF THE SOLICITOR GENERAL

I. Significant Accomplishments on Behalf of the Department in the Supreme Court

Protecting Religious Liberty

The Office has successfully defended the First Amendment's guarantee of religious liberty and protected religion's proper place in the public square.

- **American Legion v. American Humanist Ass'n:** Successfully defended the constitutionality of a World War I memorial cross in Maryland targeted for removal
- **Espinoza v. Montana Dep't of Revenue:** Supported parents' successful challenge to state Blaine Amendments prohibiting use of state scholarship funds at religious schools
- **Masterpiece Cakeshop v. Colorado Civil Rights Comm'n:** Helped secure a Supreme Court ruling that Colorado violated the Free Exercise Clause in enforcing its antidiscrimination law against a baker who declined, on religious grounds, to make a cake for a same-sex wedding
- **Our Lady of Guadalupe School v. Morrissey-Berru:** Supported religious schools' successful claim that teachers carry out important religious functions and fall within the First Amendment's "ministerial exception" recognized in *Hosanna-Tabor v. EEOC*
- **Trump v. Pennsylvania & Little Sisters of the Poor v. Pennsylvania:** Successfully defended exemptions for employers with religious and moral objections to the federal contraceptive coverage mandate
- **Kisor v. Wilkie:** Successfully advocated significant limitations on judicial deference to agency interpretations of their own regulations while retaining such deference in core applications
- **Seila Law v. CFPB:** Successfully argued that restrictions on the President's authority to remove the Director of the Consumer Financial Protection Bureau unconstitutionally restrain presidential control over the Executive Branch
- **Trump v. Mazars:** Opposed subpoenas issued by congressional committees to obtain the President's financial records, securing a Supreme Court ruling that lower courts must address significant separation-of-powers concerns associated with such subpoenas

Separation of Powers

The separation of legislative, executive, and judicial power enshrined in the Constitution safeguards individual liberty. The Office has advocated a principled approach that preserves the structural integrity of American governance.

Immigration Enforcement

The Office has defended the Executive Branch's prerogative to control immigration to the United States and its statutory authority to engage in vigorous enforcement of the nation's immigration laws.

- **Department of Homeland Security v. Thuraissigiam:** Successfully defended from constitutional challenges a federal immigration statute that limits the judicial review obtainable by aliens detained for expedited removal from the United States
- **Barton v. Barr:** Successfully argued that lawful permanent residents who commit serious crimes lose eligibility for cancellation of removal
- **Nielsen v. Preap:** Defended enforcement of a federal immigration statute mandating detention of criminal aliens

- **Trump v. Hawaii:** Secured a landmark Supreme Court ruling upholding the President’s restrictions on travel from countries that present national-security risks

Defending Administration Priorities & Combatting Nationwide Injunctions

In overseeing federal litigation, the Office made strategic use of emergency motions to defend important initiatives—notably immigration policies—against improper nationwide injunctions. As a result, some lower courts have begun to curb the use of nationwide injunctions, including for federal regulations involving the contraceptive mandate and restrictions on federal funding to clinics where abortion is a method of family planning.

- **Barr v. East Bay Sanctuary Covenant:** Successfully urged the Supreme Court to grant a stay pending appeal of a district court’s order blocking an important border-security rule

- **Department of Homeland Security v. New York:** Secured a stay from the Supreme Court allowing the government to enforce a DHS rule preventing aliens likely to become dependent on government assistance from receiving permanent-resident status

- **Trump v. Hawaii:** Successfully urged the Supreme Court to stay two district-court injunctions barring implementation of the travel proclamation

- **Trump v. Karnoski:** Obtained a stay pending appeal of district-court injunctions blocking the United States military’s policy on transgender service members

- **Trump v. Sierra Club:** Sought, obtained, and defended a stay of the district court’s order barring the allocation of federal funds for border-wall construction

- **Wolf v. Immigration Law Lab:** Secured a stay from the Supreme Court of a district-court order enjoining the Department of Homeland Security’s successful Migrant Protection Protocols—commonly referred to as the “remain in Mexico” policy

Successfully Urged the Supreme Court to Overturn Erroneous Precedents on the Rights to Speech and

Private Property

The Office helped to secure victories for public employees and landowners whose constitutional rights were impeded by earlier Supreme Court cases.

- **Janus v. AFSCME:** Supported the challenger’s winning claim that the First Amendment prohibits requiring public employees who decline to join a union to pay union dues (overruling a 1977 decision, *Abood v. Detroit Bd. of Education*)

- **Knick v. Township of Scott:** Successfully argued that property owners should be permitted to bring claims for government takings in federal court without first suing in state court (overruling a 1985 decision, *Williamson County Regional Planning Comm’n v. Hamilton Bank*)

Defended Vigorous Enforcement of Federal Law in Criminal, Civil, and Military Contexts

- **Gamble v. United States:** Successfully argued that the dual-sovereignty doctrine is valid and should be retained, preserving the federal government’s power to prosecute criminals following unsuccessful state efforts



- **Gundy v. United States:** Defended the Sex Offender Registration and Notification Act from constitutional challenge

- **Liu v. SEC:** Successfully defended the Security and Exchange Commission’s authority to seek disgorgement from wrongdoers in civil enforcement actions

- **Lorenzo v. SEC:** Successfully argued that federal securities law prohibits dissemination of false or misleading statements with the intent to defraud in certain statutory and regulatory contexts

- **United States v. Briggs:** Won a unanimous ruling that the prosecutions of three armed-forces service members for rape were timely under the Uniform Code of Military Justice

- **United States v. Tsarnaev:** Petitioned for Supreme Court review of a lower-court decision ordering a new sentencing-phase trial for the Boston Marathon bomber

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- **United States Agency for International Development v. Alliance for Open Society:** Secured Supreme Court ruling upholding a federal law conditioning anti-HIV/AIDS funding on foreign NGOs' explicit opposition to prostitution and sex trafficking

16-year-old Missouri girl in 1998

Federal Executions

The Office successfully defended the Attorney General's decision to proceed with the first federal executions in nearly two decades.

- **Barr v. Hall:** Sought and received Supreme Court relief from a district court's injunction barring the execution of Orlando Hall, who raped and murdered a 16-year-old Texas girl in 1994

- **Barr v. Lee:** Sought and received Supreme Court relief from a district court's injunction barring the execution of death-row inmates including Daniel Lewis Lee, who murdered a family of three in 1996

- **Bernard v. United States & Vialva v. United States:** Successfully opposed certiorari and a stay of execution, enabling the government to execute Brandon Bernard and Christopher Vialva, gang members who murdered two carjacking victims in 1999

- **Bourgeois v. Watson:** Successfully opposed certiorari and a stay of execution, enabling the government to execute Alfred Bourgeois, who abused and murdered his two-year-old daughter in 2002

- **LeCroy v. United States:** Successfully opposed certiorari and a stay of execution, enabling the government to execute William Emmett LeCroy, Jr., who carjacked, raped, and murdered a Georgia woman in 2001

- **Mitchell v. United States:** Successfully opposed certiorari and a stay of execution, enabling the government to execute Lezmond Mitchell, who murdered and dismembered a nine-year-old girl and her grandmother in 2001

- **Watson v. Purkey:** Successfully urged the Supreme Court to vacate a lower court's stay of execution, enabling the government to execute death-row inmates including Wesley Ira Purkey, who murdered a

Information on other agencies within the Department of Justice not included in this press release can be found on our website at www.justice.gov





THE DEPARTMENT OF JUSTICE