



Civil Rights Division
PROTECTING WOMEN'S RIGHTS

Reinvigorating Fair Housing Enforcement

In 1974, Congress amended the Fair Housing Act to ban discrimination in housing based on sex, and the Supreme Court has held that sexual harassment is a form of prohibited sex discrimination. Since the beginning of the Obama Administration, the United States has filed eight cases alleging that a landlord or a landlord's agent has engaged in a pattern or practice of sexually harassing female tenants; three cases were filed in FY 2011 and one in FY2012 to date.

The similarities in these cases are striking. The victims are typically low-income women with few housing options who are subjected to what the Division has found are repeated sexual advances and, in some cases, sexual assault by landlords, property managers, and maintenance workers. Case examples include:

- ***United States v. Peterson*** (E.D. Mich.) -- This case was filed on January 29, 2009, and on August 6, 2010, a jury in Detroit returned a \$115,000 verdict. The United States presented evidence that Glenn Johnson, a maintenance worker, subjected six women to severe and pervasive sexual harassment, ranging from unwelcome sexual comments and sexual advances to requiring sexual favors in exchange for their tenancy. One woman testified that Johnson refused to give her keys to her apartment until she agreed to have sex with him. In addition, evidence showed that a Washtenaw County Commissioner who owned the properties knew that Johnson was harassing tenants but did nothing to stop it. The jury awarded damages to the six female tenants. On March 3, 2011, the court granted the United States' motion for civil penalties and injunctive relief.
- ***United States v. Bailey*** (S.D. Ohio) -- This case was filed on January 31, 2011, alleging that Henry Bailey, the owner and manager of several residential rental properties in the Cincinnati area, engaged in a pattern or practice of subjecting female tenants and prospective tenants to unwanted verbal sexual advances and unwanted sexual touching; entering the apartments of female tenants without permission and notice; granting and denying tangible housing benefits based on sex; and taking adverse actions against female tenants when they refused his advances. Trial is scheduled for 2012.
- ***United States v. Sorensen*** (E.D. Ca.) -- On March 25, 2011, the Civil Rights Division filed this suit, alleging that Rawland Sorensen, the owner and manager of more than 50 properties in Bakersfield, CA, had engaged in a pattern or practice of subjecting actual and prospective women tenants to discrimination on the basis of sex, including severe and pervasive sexual harassment. The suit alleges that Sorensen sexually harassed female tenants by making unwelcome sexual comments and advances; exposing his genitals to female tenants; touching tenants without their consent; granting and denying housing benefits based on sex; and taking adverse action against women who refused his sexual advances.



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Police Misconduct and Gender-Biased Policing

The Division has the authority to investigate and file a civil suit if a law enforcement agency has engaged in a pattern or practice of misconduct that deprives individuals of their rights. The Division's pattern or practice investigation of the New Orleans Police Department (NOPD) marked the *first time ever* that the Justice Department found reasonable cause to believe that a police department had engaged in a pattern or practice of gender-biased policing.

- The investigation found a systemic failure to investigate violence against women, in violation of federal law. Specifically, the Division found that NOPD systematically misclassified large numbers of possible sexual assaults, resulting in a sweeping failure to properly investigate many potential cases of rape, attempted rape, and other sex crimes.
- Additionally, in situations where NOPD pursued sexual assault complaints, the investigations were seriously deficient, marked by poor victim interviewing skills, missing or inadequate documentation, and minimal efforts to contact witnesses or interrogate suspects.
- Investigative reports were replete with stereotypical assumptions and judgments about sex crimes and victims of sex crimes, including misguided commentary about the victims' perceived credibility, sexual history, or delay in contacting the police.
- With respect to domestic violence, while the New Orleans Family Justice Center -- a federally funded center designed to provide comprehensive services to victims of domestic violence by integrating law enforcement, prosecution, civil legal services, and advocacy in one location -- has had a salutary effect on NOPD's handling of domestic violence complaints, the investigation found significant weaknesses in Department policies and practices in responding to these cases.

The Division is now working with the NOPD, city leaders, and community stakeholders to draft a blueprint for sustainable reform that will address these and other findings.



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Prosecuting Criminal Civil Rights Violations

The Division protects the rights of women through its enforcement of the federal criminal laws prohibiting: violent and threatening conduct aimed at the providers of reproductive health services; human trafficking; and misconduct by those acting under color of law.

Case Examples:

- On July 28, 2010, Donald Hertz of Spokane, Washington, pleaded guilty to violating the Freedom of Access to Clinic Entrances (FACE) Act. Hertz admitted that on June 23, 2009, approximately three weeks after the murder of Dr. George Tiller, a Kansas physician who provided reproductive health services, Hertz anonymously contacted the Boulder Abortion Clinic and stated that two of his associates were driving to Boulder to kill members of a clinic employee's family in order to make that employee suffer.
- On June 21, 2011, former Hickman County Deputy Sheriff Kenneth H. Smith, pleaded guilty today to violating the rights of two women. While investigating two domestic violence complaints, Smith told the victims he needed to photograph their exposed bodies to document injuries, including intimate areas of their bodies where no injury had occurred. Smith lied to the victims and claimed the photographs were necessary for the police investigation and prosecution. Sentencing is scheduled for Oct. 7, 2011.
- On March 24, 2011, Amador Cortes-Meza was sentenced to 40 years in prison on sex trafficking charges. Cortes-Meza was the ring leader of an organization that brought 10 victims, including four juveniles, to the United States and forced them into prostitution.

Civil FACE Act Enforcement

The Department of Justice's National Task Force on Violence Against Reproductive Health Care Workers continues its work to protect reproductive health care providers, coordinating with various federal and local agencies and representatives from the national provider groups to best ensure the safety of providers and their patients.

In addition to enforcement of the FACE Act's criminal provisions, the Division enforces the Act's civil provisions to protect patients and reproductive health care providers against violence, threats of force, and physical obstruction at reproductive health care facilities.

- Since 2009, the Section has opened 20 FACE investigations and has filed eight civil FACE complaints, which have already resulted in three consent decrees. Comparatively, in 2007, one civil FACE case was filed. In the preceding eight years, the Department did not file any civil FACE cases.



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Protecting the Civil Rights of Institutionalized Persons

Using its authority under the Civil Rights of Institutionalized Persons Act (CRIPA), the Division is actively involved in protecting the constitutional rights of institutionalized women and girls. This work includes investigating conditions of confinement, including allegations of sexual abuse or misconduct, at institutions housing women and girls, as well as ensuring that when we obtain legal remedies requiring the provision of adequate medical and mental health care at institutions housing both male and female individuals, these remedies include health care specifically needed by women and girls.

Indianapolis Juvenile Correctional Facility – In January 2010, the Division issued a findings letter as a result of an investigation of the Indianapolis Juvenile Correctional Facility (IJCF) in Indiana. At the time of the investigation, the facility housed all girls in the State's juvenile justice system who had been committed to the Indiana Department of Correction. Our investigation included review by a consultant who specializes in girls' juvenile justice issues. We found that the State failed to keep girls at IJCF safe by:

- Failing to protect girls from staff sexual abuse and misconduct;
- Failing to conduct adequate abuse and misconduct investigations;
- Failing to provide adequate staffing;
- Using inappropriate and excessive force;
- Using isolation excessively and without adequate due process;
- Failing to provide an adequate grievance system;
- Failing to provide adequate programming, including training staff on issues specific to trauma that girls have suffered; and
- Failing to provide adequate access to toilets.

Among the most disturbing findings was the rampant sexual environment at the facility, including staff members making sexual advances toward girls.

The Division's findings were confirmed by a 2010 Bureau of Justice Statistics Special Report, *Sexual Victimization in Juvenile Facilities Reported by Youth, 2008-2009*, released on January 7, 2010, which found that 22.8 % of girls at IJCF – who ranged in age from 13 to 19 at the time of the Division's investigation – reported having experienced at least one incident of sexual victimization by another youth or staff member at the facility in the prior year. We also found deficiencies in the facility's mental health care services, and that the facility failed to provide educational services to girls as required by the Individuals with Disabilities Education Act.

Currently, the Section has 15 open CRIPA matters (including matters in the preliminary investigation stage) involving allegations of coercive sexual misconduct, of which 7 involve juvenile facilities.



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Expanding Equal Employment Opportunity

Under Title VII of the Civil Rights Act of 1964, the Division can sue state and local government employers that discriminate on the basis of sex. Since January 20, 2009, the Division has filed seven sex discrimination complaints. The lawsuits fall into several categories, including challenges to discriminatory physical standards or hiring practices and allegations of sexual harassment or pregnancy discrimination.

Case Examples:

- ***U.S. v. Massachusetts Department of Corrections*** – In February 2012, the Department filed a settlement to resolve the Department's allegations that the Commonwealth of Massachusetts and the Massachusetts Department of Correction violated Title VII of the Civil Rights Act of 1964 by discriminating against female applicants for entry-level correction officer (CO) and correction program officer (CPO) positions at the Massachusetts Department of Correction (MDOC). The complaint had alleged that Massachusetts's use of a physical abilities test to pre-screen and select applicants for CO and CPO positions with the MDOC disproportionately excluded female applicants since 2007 and was not job related and consistent with business necessity. The settlement agreement requires that Massachusetts no longer use the physical abilities test challenged by the United States and requires that Massachusetts develop a new lawful selection procedure that complies with Title VII. The settlement agreement, if approved by the court, also requires that Massachusetts pay \$736,000 towards back pay to female CO and CPO applicants who were harmed by the hiring practice challenged by the United States and who are determined to be eligible for relief.
- ***U.S. v. Hertford County, NC, Public Health Authority*** – In March 2011, the Court entered a consent decree to resolve a claim that the Hertford County Public Health Authority rescinded an offer of employment and refused to hire a woman for a Health Educator Specialist position because of her pregnancy. The consent decree requires the Health Authority to implement policies prohibiting sex discrimination and clear procedures by which employees may submit complaints of sex discrimination. The Health Authority will provide mandatory training to all employees with supervisory and hiring responsibilities, and will pay the victim compensatory damages and back pay.
- ***U.S. v. Harrison County, ID*** – In June 2009, the Division reached a consent decree to resolve a suit against Harrison County Sheriff George Michael Deatrick alleging sexual harassment of two female employees, namely that Deatrick touched the women in a sexual and offensive manner and directed sexually-charged comments to them, among other allegations. The complaint further alleged that Deatrick retaliated against the women when, after they had filed discrimination charges against him with the EEOC, he presented himself in front of them with a drawn gun to intimidate and frighten them.

The Division is also a member of the President's National Equal Pay Taskforce, which enables the Division to enhance its collaboration with its sister agencies to better enforce the critical laws barring pay discrimination. Through the Task Force, the Division and its partner agencies have shared information, training and enforcement strategies, and have increased their focus on ensuring that women receive equal pay for equal work.



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Ensuring Equal Educational Opportunities: Title IX

In the decades since its passage, Title IX of the Education Amendments of 1972 has vastly expanded opportunities for girls to participate in sports and other educational activities, as well as protecting their right to be safe at school. The Division can enforce Title IX if the Department of Education refers a complaint to DOJ for litigation. The Division also can intervene in a private suit or file an amicus brief. In the past two years, the Division has filed amicus briefs in two Title IX athletics cases:

- ***Florida High School Athletics Association (FHSAA)*** – In July 2009, the Division filed an amicus brief in a case against the FHSAA, which had reduced the maximum number of competitions that a school could schedule while exempting 36,000 boys who played football and only 4,300 girls and 201 boys who participated in competitive cheerleading. After the court accepted the Division's brief, FHSAA voted unanimously to rescind its policy.
- ***Quinnipiac University (QU)*** – In June 2010, the Division filed an amicus brief to provide guidance on what constitutes a genuine opportunity to participate in athletics under Title IX. Private plaintiffs alleged that QU failed to provide female students an equal opportunity to participate in varsity athletics and that QU had misrepresented its athletic participation numbers. In ruling for the plaintiffs, the court applied much of the guidance set forth in our brief.

In 2010, the Division filed an amicus brief in a case challenging a discriminatory single-sex education program, *Doe v. Vermilion Parish School Board*. In June 2011, following a decision by the United States Court of Appeals for the Fifth Circuit, the school board decided not to continue its challenged single sex program for the 2011-2012 school year.

In addition, for the *first time in nearly a decade*, the Division has participated in Title IX cases involving sex-stereotyping discrimination:

- ***J.L. v. Mohawk Central School District*** – In this case, a 14-year-old male student was subjected to derogatory name-calling, physical threats and violence over two years because he exhibited feminine mannerisms. His case alleged violations of the Constitution's Equal Protection Clause and Title IX. The Division moved to intervene, alleging that the District knew about the harassment but was deliberately indifferent in its failure to take corrective action. The settlement that the Division reached with the District requires, among other things, the retention of an expert consultant to review policies related to harassment and annual training of faculty and staff.
- ***Tehachapi Unified School District*** On July 1, 2011, the Departments of Justice and Education reached a settlement with the Tehachapi Unified School District in California to resolve an investigation into the harassment of student Seth Walsh. In September 2010, Walsh committed suicide at the age of 13. The investigation found that Walsh was targeted for harassment for more than two years because of his nonconformity with gender stereotypes. The harassment included escalating verbal, physical and sexual harassment by other students. Despite having notice of the harassment, the district did not adequately investigate or otherwise respond. The district agreed to take steps to prevent sexual and gender-based harassment at all of its schools, to respond appropriately to harassment, and to eliminate the hostile environment resulting from harassment.



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Enforcing the Rights of Women with Disabilities

Protecting the rights of individuals with disabilities is a priority for the Department of Justice. The Division's efforts to enforce the Americans with Disabilities Act (ADA) protect women with disabilities in a number of ways.

For example:

- ***Project Civic Access*** – The Division conducts compliance reviews of programs for victims of domestic violence and domestic violence shelters under the ADA. The reviews, which are conducted under the Project Civic Access initiative, focus on important access issues such as the physical accessibility of domestic violence shelters to individuals with disabilities, including persons who use wheelchairs; the removal of communication barriers for individuals who are deaf, hard of hearing, blind, or have low vision (e.g., the availability of sign language interpreters, documents in alternate formats such as Braille and large print, and wayfinding assistance); and the elimination of eligibility criteria that may screen out individuals with disabilities, including individuals with intellectual or psychiatric disabilities. When investigations reveal that entities are not in full compliance with ADA, the Department negotiates agreements in which covered entities are required to achieve full compliance.

Domestic Violence: A total of 19 Project Civic Access agreements that include domestic violence provisions have been signed in the current Administration. Access to domestic violence programs and shelters has improved in diverse geographic areas throughout the United States, from California to Rhode Island and from North Dakota to Texas.

- ***Access to Health Services*** – Women with mobility disabilities, including women who use wheelchairs, often have been denied access to basic medical care because of inaccessible exam rooms, examination tables, and diagnostic equipment, as well as the lack of knowledge by medical providers and staff about how to administer certain types of examinations to patients with paralysis and other conditions that limit mobility.

In July 2010, the Civil Rights Division partnered with the Department of Health and Human Services to publish technical assistance that describes equipment and techniques designed to improve access to medical care for individuals with mobility disabilities. The publication includes technical assistance on improved access for women with mobility disabilities to gynecological exams and mammography.