

FY 2022 President’s Budget Submission - General Legal Activities

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* Please refer to individual GLA component exhibits

I. Overview

The FY 2022 General Legal Activities (GLA) appropriation is requesting a total of 3,969 permanent positions, 4,051 FTE (including 300 reimbursable FTE) and \$1,064,173,000. This resource level includes program increases of 226 positions, 140 FTE, and \$60,090,000, outlined below. Specific details about individual programs are discussed in the budget justifications of the respective General Legal Activities components.

II. Summary of Program Increases

Criminal Division

COVID-Related Fraud: 20 positions, 10 FTE, and \$10.1 million

Civil Division

COVID-19 Litigation: 35 positions, 18 FTE, and \$4.8 million

Vaccine Injury Compensation: Mandatory Program requesting a total of \$21.7 million

Civil Rights Division

Investments in Civil Rights Priorities: 85 positions, 64 FTE, and \$20.7 million

Environment and Natural Resources Division

Environmental Justice and Combating the Climate Crisis: 18 positions, 10 FTE, and \$5.0 million

INTERPOL Washington

IT Modernization: 0 positions and \$2.6 million

Office of Pardon Attorney

Enhancing the Executive Clemency Function: 60 positions, 30 FTE, and \$10.9 million

Office for Access to Justice

Access to Justice Programs: 8 positions, 8 FTE, and \$6.0 million

III. Appropriations Language and Analysis of Appropriations Language

A. Appropriations Language

Salaries and Expenses, General Legal Activities

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed \$20,000 for expenses of collecting evidence, to be expended under the direction of, and to be accounted for solely under the certificate of, the Attorney General; and rent of private or Government-owned space in the District of Columbia, [\$960,000,000] \$1,064,173,000, of which not to exceed [\$20,000,000]\$50,000,000 for litigation support contracts, *and information technology projects to include cybersecurity and hardening of critical networks*, shall remain available until expended: *Provided*, That of the amount provided for INTERPOL Washington dues payments, not to exceed \$685,000 shall remain available until expended: *Provided further*, That of the total amount appropriated, not to exceed \$9,000 shall be available to INTERPOL Washington for official reception and representation expenses: *Provided further*, That of the total amount appropriated, not to exceed \$9,000 shall be available to the Criminal Division for official reception and representation expenses: *Provided further*, That notwithstanding section 205 of this Act, upon a determination by the Attorney General that emergent circumstances require additional funding for litigation activities of the Civil Division, the Attorney General may transfer such amounts to "Salaries and Expenses, General Legal Activities" from available appropriations for the current fiscal year for the Department of Justice, as may be necessary to respond to such circumstances: *Provided further*, That any transfer pursuant to the preceding proviso shall be treated as a reprogramming under section [505] 504 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section: *Provided further*, That of the amount appropriated, such sums as may be necessary shall be available to the Civil Rights Division for salaries and expenses associated with the election monitoring program under [section 8 of] the Voting Rights Act of 1965 (52 U.S.C. [10305] 10301 *et seq.*) and *other federal statutes enforced by the Civil Rights Division that protect the right to vote, including the Help America Vote Act of 2002 (Public Law 107–252), the National Voter Registration Act of 1993 (Public Law 103–31), the Uniformed and Overseas Citizens Absentee Voting Act (Public Law 99–410), the Civil Rights Act of 1870 (Act of May 31, 1870, ch. 114), Civil Rights Act of 1957 (Public Law 85–315), Civil Rights Act of 1960 (Public Law 86–449), Civil Rights Act of 1964 (Public Law 88–352), and the Americans with Disabilities Act of 1990 (Public Law 101–336), and to reimburse the Office of Personnel Management for such salaries and expenses: Provided further: That any funds provided under this heading in prior year appropriations acts that remain available to the Civil Rights Division for the election monitoring program may be used for the purposes in the preceding proviso: Provided further*, That of the

amounts provided under this heading for the election monitoring program, \$3,390,000 shall remain available until expended.[: Provided further, That of the amount appropriated, not less than \$195,754,000 shall be available for the Criminal Division, including related expenses for the Mutual Legal Assistance Treaty Program.]

In addition, for *reimbursement of* expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, [not to exceed \$17,000,000] \$21,738,000, to be appropriated from the Vaccine Injury Compensation Trust Fund and to remain available until expended.

B. Analysis of Appropriations Language

The General Legal Activities Divisions have a number of IT systems which require updating or replacement in the coming years. Increasing the amount of funding available until expended will allow components to fund such IT needs.

The Civil Rights Division (CRT) seeks to amend the appropriations language above to permit it to field additional individuals to monitor elections for potential violations of the Voting Rights Act and other federal statutes enforced by the Division that protect the right to vote.

CRT receives an annual appropriation to enable it to observe elections in certain State and political subdivisions pursuant to section 8 of the Voting Rights Act. Following the Supreme Court's decision in *Shelby County v. Holder*, CRT's ability to field observers tied to the Voting Rights Act preclearance coverage formula has been severely curtailed, and that formula was the primary source of the Attorney General's authority under Section 8. With this language change, CRT could use these appropriated funds to expand an existing election monitoring program that has never relied on the preclearance formula of the Voting Rights Act.

For 50 years, with the expertise and assistance of the Office of Personnel Management (OPM), the Department has monitored elections around the country for compliance with federal law. Individuals have been deployed to conduct this monitoring in three ways. First, the Department sent its own personnel to watch the voting process. Second, the Department sent specially trained federal observers, from OPM, to jurisdictions that were subject to a pertinent court order. Third, the Department sent specially trained federal OPM observers to jurisdictions with a need certified by the Attorney General, based in part on the Section 4(b) coverage formula. Much of the federal election monitoring before *Shelby County* was in this third category, which is cross-referenced in Section 8(a)(2).

In *Shelby County v. Holder*, the Supreme Court found the coverage formula in Section 4(b) of the Voting Rights Act to be an unconstitutional basis for preclearance. In light of that decision, the Department has not relied on Section 4(b) to field election observers for several years. The *Shelby County* decision did not have any impact on the other authorities that CRT relies on to field election monitors.

Presently, the appropriated funds permit the Division to pay for the CRT and OPM costs related to observers deployed pursuant to Section 8 of the Voting Rights Act, including individuals deployed pursuant to court order and individuals deployed based on the preclearance coverage formula. The Division seeks to delete the phrase “under Section 8” from the appropriations language to enable it to use the appropriated funding to cover the costs of additional election monitors deployed by CRT to jurisdictions around the country, without requiring that the jurisdiction previously have been covered under Section 4. Consistent with the current appropriations language, the funds would be used to pay additional CRT and OPM costs related to this program. CRT will use a common set of criteria to assess the need for election monitors in any state or political subdivision throughout the country. This assessment will be based on current conditions with respect to particular elections. Such conditions include, but are not limited to, significant complaints within the jurisdiction, evidence of tension that might lead to disruption or other impediments to the lawful exercise of the franchise, a need to evaluate current compliance with one or more federal voting rights laws, and recent concerns regarding possible violations of such federal laws.¹ The appropriation of funds in this manner will enable CRT to send monitors and staff who oversee monitoring teams to areas where they are most needed across the country, and to reimburse OPM for assistance including recruiting, training, deployment, and other logistics; to ensure public confidence in the electoral process; and to gather evidence of potential violations of the Voting Rights Act, National Voter Registration Act, Help America Vote Act, Uniformed and Overseas Citizens Absentee Voting Act, Civil Rights Acts, the accessibility provisions of the Americans with Disabilities Act, and other Federal voting rights statutes. In addition, CRT and OPM will continue to field observers pursuant to Section 8 in jurisdictions where a court has authorized their deployment.

Newly appropriated funds, not based on the Section 8 language, would be used to cover all costs to field and support a robust election monitoring program that could be used in any jurisdiction, including those where a court has authorized deployment, including salaries and expenses for staffing and supervising monitoring work undertaken by CRT and OPM and CRT's complaint system, which collects complaints from voters that can inform the need for monitoring.

For the reasons detailed above, CRT plans to use funds to deploy additional individuals to monitor elections, without relying on the preclearance coverage formula addressed in *Shelby County*.

Additionally, the President’s Budget request removes the last proviso regarding the carved out funding for the Criminal Division and the Mutual Legal Assistance Treaty Program. This language is a hard earmark in bill language which limits the funding flexibility of the entire GLA account.

The FY 2022 budget adds in “reimbursement” language that was previously removed in FY 2021’s enacted language. This language would clarify that the Vaccine funding is reimbursed by the U.S. Department of Health and Human Services (HHS) via direct collections. Additionally, the “not to exceed” language is requested to be deleted, as the appropriation language provides a

¹ The Attorney General has assigned the Assistant Attorney General for the Civil Rights Division to handle "[e]nforcement of all Federal statutes affecting civil rights, including those pertaining to elections and voting." 28 C.F.R. § 0.50(a).

defined amount for the Vaccine Injury Compensation Program.

IV. Program Activity Justification*

V. Program Increases by Item*

VI. Exhibits*

*Please refer to individual GLA component narratives and exhibits.