

U.S. Department of Justice
FY 2014 PERFORMANCE BUDGET
Congressional Submission

Civil Rights Division

Table of Contents

Page No.

I. Overview..... 2

II. Summary of Program Changes 6

III. Appropriations Language and Analysis of Appropriations Language 6

IV. Program Activity Justification 6

Civil Rights Decision Unit

1. Program Description 7

 a. Criminal Enforcement 7

 b. Civil Enforcement 9

2. Performance Tables..... 18

 a. Criminal and Civil Enforcement

3. Performance, Resources and Strategies 20

 a. Performance Plan and Report for Outcomes 20

 b. Strategies to Accomplish Outcomes 39

V. Program Increases by Item

A. Civil Rights Enforcement..... 43

A. Financial and Mortgage Fraud 46

A. Police Misconduct..... 48

VI. Program Offsets by Item

No Program Offsets by Item

VII. Exhibits

- A. Organizational Chart
- B. Summary of Requirements
- C. FY 2014 Program Increases/Offset by Decision Unit
- D. Resources by DOJ Strategic Goal and Strategic Objective
- E. Justification for Base Adjustments
- F. Crosswalk of 2012 Availability
- G. Crosswalk of 2013 Availability
- H. Summary of Reimbursable Resources
- I. Detail of Permanent Positions by Category
- J. Financial Analysis of Program Changes
- K. Summary of Requirements by Grade
- L. Summary of Requirements by Object Class

I. Overview

1. Introduction

In FY 2014, the Civil Rights Division (CRT) requests a total of \$155,233,000, 799 positions, 672 direct FTE, and 427 attorneys to enforce the Country's civil rights laws in a fair and uniform manner. This request includes three program increases as follows: \$5,072,000, 50 positions, 25 direct FTE, and 25 attorneys to strengthen and restore civil rights enforcement; \$1,500,000, 15 positions, 8 direct FTE and 10 attorneys to support enforcement efforts associated with financial and mortgage fraud; and \$1,928,000, 20 positions, 10 direct FTE and 9 attorneys to address crimes involving police misconduct. Electronic copies of the Department of Justice's Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <http://www.justice.gov/02organizations/bpp.htm>.

The Civil Rights Division does not have regional offices. All Division employees are stationed in Washington D.C. Because of this, nearly all Division attorneys and, occasionally, some non-attorney personnel are required to travel since litigation activities occur in all parts of the United States.

2. Background

The Civil Rights Division of the Department of Justice was established in 1957. The Division is the program institution within the Federal Government responsible for enforcing Federal statutes prohibiting discrimination on the basis of race, sex, gender preference, disability, religion, and national origin. Since its establishment, the Division's enforcement responsibilities have grown dramatically to include enforcing anti-discrimination protections in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs. In addition, the Division's role in prosecuting actions under criminal civil rights statutes designed to preserve personal liberties and safety has expanded substantially.

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

CRT has three significant goals: (1) to fulfill the promise of basic civil rights protections through effective and vigorous enforcement of the law; (2) to deter and remedy discriminatory and illegal conduct through the successful prosecution of these federal laws; and (3) to promote voluntary compliance and civil rights protection through a variety of educational, technical assistance, and outreach programs.

CRT is comprised of 11 program-related sections, the Professional Development Office, the Office of Employment Counsel, and the Administrative Management Section. A description of responsibilities and activities, as well as accomplishments for CRT's program-related sections is presented below. The Criminal Section falls under Criminal Enforcement. The other ten program-related sections fall under the Civil Enforcement program area.

In July 2010, the Administration released the *National HIV/AIDS (NHAS) Strategy for the United States*, the nation's first comprehensive plan for responding to the domestic HIV epidemic. The President designated the Department of Justice (DOJ) as one of six executive agencies responsible for

implementing the Strategy at the Federal level. DOJ has produced an operational plan and responsibility for taking steps to achieve the goals of the Strategy is dispersed across the department with lead responsibility for coordinating efforts delegated to the Assistant Attorney General for Civil Rights. The Strategy focuses on three overarching goals: reducing the number of new HIV infections, increasing access to care for people living with HIV, and reducing HIV-related health disparities. DOJ has an essential role to play in meeting these NHAS goals because it is one of the leading Federal partners on the efforts to reduce stigma and illegal discrimination experienced by those with HIV. Pursuant to the Strategy and DOJ's operational plan, DOJ has entered into eight settlement agreements to resolve complaints of discrimination on the basis of HIV under the Americans with Disabilities Act (ADA) and currently has more than 15 active investigations into allegations of HIV discrimination under the ADA. In June 2012, DOJ published an updated technical assistance piece related to HIV discrimination under the ADA. Finally, the Department has launched a new website, www.ada.gov/aids that provides information on DOJ's work related to HIV discrimination, technical assistance on the issue, and examples of enforcement actions DOJ has taken.

3. Challenges

Despite all the civil rights laws guaranteeing equal justice for all, the reality of today's society demonstrates that discrimination still exists. CRT's work is far from complete. The long journey toward equal justice is not over. CRT has reached some remarkable milestones along the way toward this most worthy goal. However, discrimination and bigotry persist. They persist in blatant forms—burned crosses, burned churches, hate-fueled assaults. They also persist in more subtle, yet equally devastating ways in many American communities and institutions. For example, in FY 2011, the FBI documented 6,222 hate crime incidents involving 7,713 victims and 7,254 offenses. Nearly 50 percent of these were motivated by racial bias.

Discrimination persists in the education system—many children still go to schools that are all too frequently substandard. It persists in the foreclosure crises, where communities of color were preyed upon by lenders who used the corrosive power of fine print, and bait and switch tactics—i.e. discrimination with a smile—to transform the American dream into a nightmare. It persists in America's workplaces, where glass ceilings still shatter opportunities for qualified women and minorities. It persists in the voting booth, where poll tests and taxes have been replaced by more subtle tactics that dilute voting strength.

Performance Challenges

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

External Challenges:

- Hate crimes are violent and intimidating acts motivated by animus based on race, ethnicity, national origin, religious beliefs, gender, gender identity, sexual orientation, or disability. Bias motivated violence remains prevalent across the United States. The Matthew Shepard-James Byrd, Jr. Hate Crimes Prevention Act significantly expanded Federal jurisdiction to investigate and prosecute crimes that have targeted whole communities. This law gives law enforcement authorities the tools they need to effectively investigate, prosecute and deter bias-motivated violence. Since its enactment, the Division has received over 200 new matters that must be investigated and analyzed. Many of these matters, such as hate crimes based on sexual orientation or gender identity, would not have been addressed by CRT before the passage of the Act.

- CRT's human trafficking caseload essentially tripled between FY 2001–FY 2012. These cases are extremely labor-intensive. Strategic partnerships with the United States Attorneys' offices (USAOs) and with 42 anti-trafficking task forces have substantially increased the program's workload. The task forces have begun to produce high volume and complex trafficking cases, often involving multiple districts and requiring significant coordination efforts by CRT's Criminal Section (CRM).
- With the passage of the Emmett Till Unsolved Civil Rights Crime Act, the Division is tasked with addressing complex and resource-intensive cases regarding racially motivated murders from the civil rights era. Thus far, DOJ has determined that 112 unsolved civil rights era homicides merited Federal review. Unfortunately, Federal jurisdiction over these historic cases is quite limited. Prosecution of these cases at the Federal level is quite limited as these statutes cannot be applied retroactively to conduct that was not a crime at the time of the offense. The 5-year statute of limitations on Federal civil rights charges presents another limitation on these prosecutions. Also, as investigations are conducted, in many cases all identified subjects are deceased. In others, a failed prosecution at the time precludes pursuing a prosecution now because of double jeopardy issues.
- The need for strong Federal effort to combat discrimination in lending and foreclosures has increased in recent years with the disproportionate targeting of minorities for sub-prime mortgages and other discriminatory practices. These types of practices are targeted by CRT's Fair Lending Unit in recent lawsuits against three of the nation's largest mortgage lenders alleging steering of qualified minority borrowers to subprime loans and pricing discrimination. The total of the settlements with these lenders exceeded \$531 million dollars in monetary relief. These types of lending fraud and discrimination substantially contributed to the recent financial crisis, in which persons throughout the country were deprived of their homes and their life savings.
- CRT along with the USAOs are at the forefront of enforcing the Freedom of Access to Clinic Entrances Act (FACE) and ensuring that violence aimed at interfering with reproductive health services is aggressively investigated and prosecuted. Although there had been a decline of violent acts against reproductive health care providers in the past several years, several more recent incidents indicate that such violence may be on the rise. In response, the Department is working closely with Federal and local law enforcement partners and provider organizations to share information to both anticipate and prevent this sort of violence and to investigate and prosecute it when it does.
- Employers' increasing use of the Department of Homeland Security's E-Verify program as well as DHS's increasing enforcement related to employers who hire undocumented workers has substantially increased the workload for CRT's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC). CRT anticipates that higher penalties and enhanced enforcement of employer sanctions by DHS will lead to an increase in discrimination charges filed with OSC against employers who are more hesitant about hiring workers who look or sound "foreign." Similarly, OSC anticipates that the volume of E-Verify related allegations of discrimination will increase as more employers enroll in E-Verify, thereby increasing its overall workload. Moreover, pursuant to CRT's Memorandum of Agreement with U.S. Citizenship and Immigration Services (USCIS), entered into in 2010, OSC has experienced a sharp increase in referrals of E-Verify-related discrimination from DHS, leading to a substantial increase in OSC's overall workload.
- Since DOJ received enforcement authority under the Servicemembers Civil Relief Act (SCRA), CRT has received a considerable number of SCRA referrals from DOD and from servicemembers directly. With many servicemembers returning from active duty, and in light of the publicity surrounding CRT's recent settlements designed to achieve SCRA compliance by national lenders, CRT expects to continue to receive substantial numbers of SCRA complaints. Assumption of this enforcement authority will continue to affect the workload of CRT for the foreseeable future.

- One of the greatest institutional challenges each decade, after the new Census data is released, is the influx of redistricting plans by covered states and local jurisdictions for administrative review by the Department under Section 5 of the Voting Rights Act (VRA). The Department also has been defending a record number of declaratory judgment actions brought by covered jurisdictions seeking judicial preclearance under Section 5 of the VRA for redistricting plans and other complex voting changes. The recent Supreme Court decision in *Northwest Austin* also greatly expanded the number of sub-jurisdictions that are now entitled to file an action seeking bail-out from coverage under the Section 5 preclearance provisions of VRA, and a record number of bailout cases have been filed in recent years by covered jurisdictions, which the Department must investigate and respond to. The Census Bureau published new determinations of coverage for the language minority requirements of the VRA, and the Department is undertaking outreach to the newly covered jurisdictions. In addition, since the 2006 reauthorization of the special provisions of the VRA, there have been more challenges to the constitutionality of Section 5 of the VRA filed than in all the years since 1965, and the Department is responsible for defending these cases.
- CRT faces a continued challenge in meeting the demand for nationwide technical assistance on the Americans with Disabilities Act (ADA) and maintaining its ability to respond quickly to emerging issues, new technology, and an ever changing ADA landscape. The 2010 revised Title II and III regulations and the 2010 Standards for Accessible Design pose a significant challenge for the Technical Assistance and Regulatory Units, not only in terms of developing needed compliance guides and revising the extensive collection of existing technical assistance materials, but also in providing timely, accurate technical assistance to the public as new issues emerge. This continues to be an exceptional undertaking.

Internal Challenges:

- DOJ needs to continue its efforts to attract the “best and brightest” of all talents and should continue its efforts to build and maintain a positive working environment that encourages retention.
- Many of CRT’s responsibilities are not performed by any other Government agency. The loss of numerous senior staff has impacted CRT on many levels particularly in the loss of institutional memory, expertise, and skill, all of which have been integral to our enforcement, training and outreach efforts.
- Training has increasingly become a challenge. While many of our incoming attorneys come to CRT with strong educational backgrounds, they have little or no litigation or substantive experience. The demands of our workload, which include investigations, negotiations, and litigation, require that attorneys broaden their skill sets.

II. Summary of Program Changes

Item Name	Description				Page
		Pos.	FTE	Dollars (\$000)	
Civil Rights Enforcement	Restore and strengthen civil rights enforcement.	50	25	\$5,072	43
Financial and Mortgage Fraud	Hold accountable individuals who perpetrate financial and mortgage fraud, deter future perpetrators of fraud, and recover monies stolen from the U.S. taxpayer.	15	8	\$1,500	46
Police Misconduct Enforcement	To combat abuse, discriminatory policing, and other unconstitutional actions by law enforcement officials.	20	10	\$1,928	48

III. Appropriations Language and Analysis of Appropriations Language

Please refer to the General Legal Activities Consolidated Justifications.

IV. Program Activity Justification

<i>Civil Rights Division</i>	Direct Pos.	Estimate FTE	Amount
2012 Enacted	715	648	\$144,500
2013 Continuing Resolution with 0.612% Increase	715	630	145,384
Base and Technical Adjustments	-1	-1	1,349
2014 Current Services	714	629	146,733
2014 Program Increases	85	43	8,500
2014 Request	799	672	\$155,233
Total Change 2012-2014	84	42	\$ 10,733

<i>Civil Rights Division</i>	Direct Pos.	Estimate FTE	Amount
Information Technology Breakout			
2012 Enacted	7	7	\$3,124
2013 Continuing Resolution with 0.612% Increase	6	6	2,724
Base and Technical Adjustments			0
2014 Current Services	6	6	2,673
2014 Program Increases	0	0	256
2014 Request	6	6	\$2,929
Total Change 2012-2014	-1	-1	-\$ 195

1. Program Description

CRT is a single decision unit within the General Legal Activities appropriation. Within that decision unit, CRT's responsibilities and activities fall into two programmatic areas—criminal enforcement and civil enforcement.

- Criminal cases are investigated and prosecuted differently from civil cases. Stronger and more definitive evidence is needed to obtain a criminal conviction than to win a civil suit. Should the defendant be acquitted, the Government has no right of appeal. A Federal criminal conviction also requires a unanimous decision by 12 jurors (or by a judge only if the defendant chooses not to have a jury).
- Civil cases are usually heard by a judge, but occasionally a jury will decide the case. Both criminal and civil cases can be resolved without a trial where both sides agree and with the concurrence of the judge. In criminal cases, judges must use the Federal Sentencing Guidelines in determining the defendant's punishment; judges in civil suits may or may not adopt remedies as recommended by the Government when it wins.

Criminal Enforcement (113 positions, \$21,323,000)

The Criminal Section (CRM) of the Civil Rights Division prosecutes cases involving the violent interference with liberties and rights defined in the constitution or Federal law. The rights of both citizens and non-citizens are protected. In general, it is the use of force, threats, or intimidation by a law enforcement officer, or by a person motivated by racial bias that characterizes a Federal criminal violation of an individual's civil rights. Cases often involve incidents that are invariably of intense public interest. While some violations may most appropriately be pursued by the Federal Government, others can be addressed by either the Federal Government or by state or local prosecutors. CRM ensures that acts constituting Federal criminal civil rights violations are sufficiently remedied, whether prosecuted federally or by local authorities.

The types of acts that may involve violations of Federal criminal civil rights laws are:

Hate Crimes—violent and intimidating acts motivated by animus based on race, ethnicity, national origin, religious beliefs, gender, gender identity, sexual orientation, or disability.

The Criminal Section prosecutes incidents of bias-motivated violence generally, including those which interfere with federally protected rights and activities, such as the rights to enjoy housing, employment, and public facilities and accommodations free from discrimination based on race or religion.

The September 11, 2001, terrorist attacks brought an increase of incidents of violence, threats and other forms of discrimination against Arabs, Muslims, and south Asians, many of whom are American citizens. The Criminal Section spearheaded the Department's law enforcement response to the nationwide increase in "backlash" threats and attacks against individuals who are or are perceived to be Muslim, Sikh, or of Arab or South Asian origin.

The Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009 created a new Federal criminal prohibition against willfully causing bodily injury (or attempting to do so using fire, a firearm, or another dangerous weapon), when (1) the crime was committed because of the actual or perceived race, color, religion, national origin of any person, or (2) the crime was committed because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity, or disability of any person and the crime affected interstate or foreign commerce or occurred within Federal special maritime and territorial jurisdiction. The law also provides for the Office of Justice Programs to administer Federal

funding and technical assistance to state, local, and tribal jurisdictions to help them to more effectively investigate and prosecute hate crimes.

Official Misconduct—intentional acts by law enforcement officials who misuse their positions to unlawfully deprive individuals of constitutional rights, such as the right to be free from excessive force, sexual assaults, illegal arrests and searches, and theft of property. Allegations of official misconduct constitute the majority of all complaints reviewed by the Criminal Section. The officials who have been defendants include state and local police officers, prison superintendents and correctional officer, Federal law enforcement officers, and state and county judges.

Under the Deprivation of Rights under Color of Law provision of Title 18, Section 242, it is a crime for a person acting under color of any law to willfully deprive a person of a right or privilege protected by the Constitution or laws of the United States. Acts under "color of law" include acts not only done by Federal, State, or local officials within their lawful authority, but also acts done beyond the bounds of that official's lawful authority, if the acts are done while the official is purporting to or pretending to act in the performance of his/her official duties. Persons acting under color of law within the meaning of this statute include police officers, prison guards and other law enforcement officials, as well as judges, care providers in public health facilities, and others who are acting as public officials. It is not necessary that the crime be motivated by animus toward the race, color, religion, sex, handicap, familial status or national origin of the victim. The offense is punishable by a range of imprisonment up to a life term, or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

Human Trafficking—use of force or threats of force or other forms of coercion to compel labor, services, commercial sex acts, from victims. Modern day slavery can involve migrant farm laborers, sweat shop workers, domestic servants, and persons forced into prostitution. Victims may be U.S. citizens or aliens, or adults or children.

The Trafficking Victims Protection Act of 2000 (TVPA), a comprehensive approach to trafficking strengthens existing Federal civil rights laws against involuntary servitude, created new Federal offenses for forced labor and sex trafficking, and increased the penalties for these offenses. The TVPA of 2008 further strengthened these states and added new statutes for human trafficking conspiracies, obstruction of trafficking investigations, and benefitting financially from trafficking. The TVPA of 2008 also clarified that psychological and economic harms, not just uses of force, amount to actionable coercion under the statutes.

The Criminal Section has spearheaded a number of other initiatives to obtain information from the public concerning potential trafficking situations, to train Federal, state and local law enforcement officers regarding human trafficking, and to address the needs of victims. The Section also works with the FBI, the Department of Homeland Security, and other Departments to identify and prosecute complex, international, and organized crime human trafficking cases. The Section has created a specialized Human Trafficking Prosecution Unit that is a global leader in trafficking prosecutions, and its representatives train foreign investigators and prosecutors at the United Nations and across the globe. The Criminal Section oversees a national, toll-free telephone complaint line to enable victims and others to report possible trafficking and worker exploitation abuses. The Criminal Section and other Justice Department components also collaborate with the Departments of State, Health and Human Services, and Labor to develop brochures on trafficking in persons and one that is given to law enforcement to provide to trafficking victims. The Section is instrumental in developing a national human trafficking training curriculum for state and local law enforcement and in drafting model legislation for states to implement their own anti-trafficking laws. Criminal Section attorneys also participate in training and outreach programs both in the United States and overseas to provide expertise and assistance to law enforcement personnel, community groups, victim service providers, immigrants' rights organizations and others to combat human trafficking.

Interference with Access to Reproductive Health Care—violence directed at abortion clinics or health care providers, such as doctors or nurses. The Freedom of Access to Clinic Entrances Act (FACE) prohibits anyone from intentionally injuring, intimidating or interfering (or attempting to do so), by force, threat of force or physical obstruction, with a person who is or has been seeking or providing reproductive health services. The Act also prohibits damaging or destroying property of a facility (or attempting to do so) because the facility provides reproductive health services. Prosecutions brought under the Act have included clinic blockades; phone, mail, and email threat cases; assaults on clinic personnel, including murder; and arson and bombing incidents.

The Section continues its commitment to ensuring the safety of patients and providers at family clinics by vigorously enforcing the FACE. In addition, it continues to lead the Task Force on Violence against Reproductive Health Care Providers, working closely with the FBI, ATF, USMS, U.S. Postal Inspection Service, and attorneys from the Criminal Division to ensure unified, consistent, and responsive Federal involvement when FACE Act violations occur.

Interference with the Exercise of Religious Beliefs and Destruction of Religious Property—violent conduct targeting religious houses of worship, usually involving the arson of churches or synagogues. Section 247 of Title 18 prohibits anyone from intentionally defacing, damaging or destroying religious real property because of the religious nature of the property, so long as the crime is committed in or affects interstate commerce. The statute also prohibits anyone from intentionally obstructing or attempting to obstruct, by force or threat of force, a person in the enjoyment of that person's religious beliefs, where the crime is committed in or affects interstate commerce. Finally, the statute prohibits anyone from intentionally defacing, damaging or destroying any religious real property because of the race, color, or ethnic characteristics of any individual associated with the property, regardless of any connection to interstate or foreign commerce. Section 247 also prohibits attempts to do any of the above. The offense is punishable by a range of imprisonment up to a life term or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

Civil Rights Era Unsolved Crimes—unsolved racially motivated crimes that occurred during the Civil Rights, commonly referred to under the umbrella of the Cold Case Initiative. In October 2008, the Emmett Till Unsolved Civil Rights Crime Act of 2007 was signed into law directing CRT to coordinate the investigation and prosecution of civil rights era homicides, and a Supervisory Special Agent in the FBI's Civil Rights Unit to investigate those cases. CRT and the FBI were also given the authority to coordinate their activities with State and local law enforcement officials.

The Department has always been willing to reassess and review cold cases when new evidence came to light, and, as set forth below, played a major role in: successfully prosecuting three such cold cases prior to the Cold Case Initiative. In order to further the Department's mission, in 2006, the FBI began its Cold Case Initiative to identify and investigate the murders committed during our nation's civil rights era.

In addition to prosecuting cases, the Criminal Section actively participates in providing technical assistance and information to the public, law enforcement and other Government agencies regarding the Federal criminal civil rights laws by attending conferences, providing training, and making recommendations for legislation to further the protection of individual rights and liberties.

Civil Enforcement (686 positions, \$133,910,000)

Appellate Section (APP)

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

judgments in cases originally handled by trial sections within CRT. APP handles appeals from both favorable and adverse judgments in cases in which CRT participates.

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

Disability Rights Section (DRS)

The ADA in titles I, II, III is intended to achieve equal opportunity for people with disabilities in the United States. The Section's enforcement, certification, regulatory, coordination, and technical assistance activities, required by the ADA, combined with an innovative mediation program and a technical assistance grant program, provide a cost-effective and dynamic approach for carrying out the ADA's mandates.

The Section's responsibilities are somewhat different under each title of the ADA. Under title I (employment), the Section is the only government entity with authority to initiate litigation against state and local government employers. Under titles II (state and local government) and III (private businesses and non-profit social service providers), the Section investigates complaints and conducts compliance reviews. The Section may initiate litigation in title II matters arising from its own investigations or upon referral from other Federal agencies. The Section may also intervene in ongoing title II suits brought by private parties. Under title III, the Section initiates litigation in cases involving private entities (public accommodations, commercial facilities, and certain professional certification and licensing entities) where there is a pattern or practice of discrimination or discrimination involving an issue of general public importance.

The ADA specifically encourages the use of Alternative Dispute Resolution (ADR) methods, including mediation, to resolve disputes arising under the ADA. Since 1994, the Section has promoted the use of ADR by supporting a project to provide mediation services to resolve ADA complaints filed with the Section.

The ADA Technical Assistance Program, which is mandated under section 506 of the ADA, promotes voluntary compliance with the ADA by providing free information and assistance to businesses, state and local governments, people with disabilities, and the general public. Through its technical assistance program, the Section also develops and disseminates ADA publications; provides ADA training at meetings nationwide; and conducts outreach to broad and targeted audiences that have included mayors, local chambers of commerce, and millions of businesses.

The Section also carries out responsibilities under Sections 504 and 508 of the Rehabilitation Act, the Small Business Regulatory Enforcement Fairness Act, and Executive Order 12250.

Educational Opportunities Section (EOS)

In its 1954 landmark decision in *Brown v. Board of Education*, the Supreme Court held that the intentional segregation of students on the basis of race in public schools violates the Fourteenth Amendment to the U. S. Constitution. Subsequent Federal legislation and court decisions also mandate that school officials not discriminate against students on the basis of sex, national origin, language barrier, religion, or disabilities. The EOS enforces these statutes and court decisions in a diverse array of cases involving elementary and secondary schools and institutions of higher education.

Specifically, the Section enforces Title IV of the Civil Rights Act of 1964, Equal Education Opportunities Act of 1964 (EEOA), and Title III of the ADA, as well as other statutes such as Title VI and Title IX of the Civil Rights Act, Section 504 of the Rehabilitation Act, the Individuals with Disabilities Education Act, and Title II of the Americans with Disabilities Act upon referral from other governmental agencies. The Section may intervene in private suits alleging violations of education-related anti-discrimination statutes and the Fourteenth Amendment to the Constitution. The Section also represents the Department of Education in lawsuits.

EOS monitors approximately 195 active school desegregation cases to which it is a party; conducts systematic review of its desegregation case docket to ensure that districts have complied or are working toward complying with court orders and Federal law is active in ensuring that school districts do not discriminate on the basis of religion; and continues to work on behalf of English Language Learner (ELL) students.

Employment Litigation Section (ELS)

ELS enforces the provisions of Title VII of the Civil Rights Act of 1964, and other Federal laws prohibiting employment practices that discriminate on the grounds of race, sex, religion, and national origin. The Section also enforces the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) which guarantees service members a right to reemployment with their civilian employers and prohibits employers from discriminating or retaliating against an employee or applicant for employment because of such person's past, current or future military obligation.

The Section initiates Title VII litigation in two ways. Under Title VII, the Attorney General has authority to bring suit against a state or local government employer where there is reason to believe that a "pattern or practice" of discrimination exists. Generally, these are factually and legally complex cases that seek to alter an employment practice, such as recruitment, hiring, assignment and promotions, which have the purpose or effect of denying employment or promotional opportunities to a class of individuals. Under its "pattern or practice" authority, the Section obtains relief in the form of offers of employment, back pay and other equitable relief for individuals who have been victims of the unlawful employment practices challenged. These cases often are resolved by consent decree prior to trial.

The Section also shares enforcement authority with DOL under Executive Order 11246, which prohibits discrimination by Federal Government contractors and subcontractors based on race, color, national origin, sex and religion. DOL's Office of Federal Contract Compliance Programs (OFCCP) has authority to bring administrative enforcement actions. DOL also may refer such matters to the Division for judicial enforcement in Federal court. The Section works collaboratively with representatives from OFCCP and DOL to obtain referrals under the Executive Order for judicial enforcement.

The Section represents other Federal agencies in suits challenging the application or enforcement of Federal laws that prohibit discrimination or require affirmative action by government contractors or recipients of Federal Financial Assistance (FFA).

Federal Coordination and Compliance Section (FCS)

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

Under Executive Order 12250, the Section has a leadership role in the coordination and review of civil rights enforcement by the 30 Federal agencies that provide FFA to state and local governments, and to community, nonprofit, and other organizations nationwide. In particular, FCS's core mission is to engage these agencies in regulatory, enforcement, policy, outreach, and technical assistance efforts to ensure that programs operated with their funds and other assistance comply with the provisions of Title VI of the Civil Rights Act of 1964; which prohibits discrimination on the basis of sex in federally assisted education and training programs; and similar program statutes which prohibit discrimination on the basis of race, color, national origin, sex, and religion.

FCS's responsibilities also include oversight and coordination of Executive Order 13166, which requires that Federal agencies ensure meaningful access to persons who are limited English proficient (LEP) in federally assisted and federally conducted programs. In addition, FCS has implementation and interagency coordination responsibility with respect to 13160, which prohibits discrimination in the federally conducted education and training programs of 85+ Federal agencies on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent.

Housing and Civil Enforcement Section (HCE)

The Fair Housing Act (FHA) prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, familial status, or disability by housing providers, such as landlords and real estate companies, as well as other entities, such as municipalities, banks or other lending institutions, and homeowners' insurance companies.

Under FHA the Department of Justice may start a lawsuit where it has reason to believe that a person or entity is engaged in a "pattern or practice" of discrimination or where a denial of rights to a group of persons raises an issue of general public importance. Through these lawsuits, the Department can obtain both actual and punitive damages, for persons harmed by a defendant's discriminatory actions as well as injunctions to correct past discriminatory conduct or prevent further discriminatory conduct. The defendant may also be required to pay civil penalties to the United States.

In 1991, CRT established a fair housing testing program within HCE and commenced testing in 1992. Testing refers to the use of individuals who, without any bona fide intent to rent or purchase a home, apartment, or other dwelling, pose as prospective buyers or renters of real estate for the purpose of gathering information, which may indicate whether a housing provider is complying with fair housing laws. The primary focus of the Section's fair housing testing program has been to identify unlawful housing discrimination based on race, national origin, disability, or familial status.

The Section employs various means to accomplish testing in local communities, including contracts with private fair housing organizations, contracts with individuals, and by using non-attorney Department employees throughout the country. The Department employees are volunteers who have been trained to participate as testers. The Section conducts numerous investigations simultaneously at any given time.

The vast majority of testing cases filed are based on testing evidence that involved allegations of agents misrepresenting the availability of rental units or offering different terms and conditions based on race, and/or national origin, and/or familial status and/or disability. The Department has demonstrated that testing can be a valuable tool to investigate housing market practices and to document illegal housing discrimination. The testing program has greatly enhanced the ability of the Department to identify and to challenge the discriminatory housing practices that persist in the rental and sale of housing. The Department also uses the testing program to test for discrimination in lending and public accommodations.

The Multi-Family Housing Access Forum is a nationwide program that brings together developers and building professionals, government officials, and advocates for individuals with disabilities. Its purpose

is to raise awareness about the Federal Fair Housing Act's accessibility requirements and to celebrate partnerships that have successfully produced accessible multi-family housing in which everyone profits—developers and consumers alike.

The Equal Credit Opportunity Act (ECOA) prohibits creditors from discriminating against applicants on the basis of race, color, religion, national origin, sex, marital status, age, or because an applicant receives income from a public assistance program or exercises rights protected under the Consumer Credit Protection Act. The Board of Governors of the Federal Reserve System has issued regulations under ECOA. These regulations, known as Regulation B, provide the substantive and procedural framework for fair lending enforcement under ECOA.

Other Federal agencies have general regulatory authority over certain types of lenders and they monitor creditors for their compliance with ECOA. ECOA requires these agencies to refer matters to the Justice Department when there is reason to believe that a creditor is engaged in a pattern or practice of discrimination which violates ECOA. Each year, the Department files a report with Congress on its activities under the statute.

To enhance fair lending enforcement, CRT has recently created both a Fair Lending Unit within HCE and a Special Counsel for Fair Lending in the Office of the Assistant Attorney General for Civil Rights. The Division is also an active participant in the Attorney General's Financial Fraud Enforcement Task Force.

The land use provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA) protect individuals, houses of worship, and other religious institutions from discrimination in zoning and landmarking laws. Religious assemblies, especially new, small, or unfamiliar ones, may be illegally discriminated against on the face of zoning codes and also in the highly individualized and discretionary processes of land use regulation. Zoning codes and landmarking laws may illegally exclude religious assemblies in places where they permit theaters, meeting halls, and other places where large groups of people assemble for secular purposes, or they may permit religious assemblies only with individualized permission from the zoning board or landmarking commission, and zoning boards or landmarking commission may use that authority in illegally discriminatory ways.

Title II of the Civil Rights Act of 1964 law prohibits discrimination on the basis of race, color, religion and national origin in places of public accommodation including restaurants, certain clubs and hotels. The Department of Justice can investigate alleged systemic violations of Title II and can bring lawsuits to enforce the statute. The Department can obtain injunctive, but not monetary, relief. Individuals can also bring lawsuits in Federal court to enforce Title II.

The Servicemembers Civil Relief Act (SCRA) provides for the temporary suspension of judicial and administrative proceedings and civil protections in areas such as housing and credit for military personnel while they are on active duty. The Department of Justice can file suit under the SCRA to obtain relief for service members.

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

OSC is responsible for enforcing the anti-discrimination provisions of the Immigration and Nationality Act (INA), which protect U.S. citizens and certain work-authorized individuals from employment discrimination based upon citizenship or immigration status. The INA also protects all individuals, authorized to work, from national origin discrimination, unfair documentary practices relating to the employment eligibility verification process, and from retaliation. OSC also initiates independent investigations based on information developed during individual charge investigations, or leads provided by other government agencies and the general public. Independent investigations normally involve alleged discriminatory policies that potentially affect many employees or applicants. These investigations may result in complaints alleging a pattern or practice of discriminatory activity.

OSC conducts an extensive, nationwide public education campaign to teach workers, employers, and concerned organizations about the anti-discrimination provision of the INA. Additionally, OSC's staff directly participates in many public education and outreach activities. This includes making presentations at conferences, seminars, and meetings held by interested groups regarding employee and employer rights and obligations under INA.

In partnership with the EEOC, OSC has participated in workshops for employers throughout the United States to increase understanding of employer sanctions and protections against discrimination. In an effort to increase accessibility to its services and resources, OSC has signed and/or reinvigorated memoranda of understanding with numerous state and local human rights agencies, where individuals can now obtain information about OSC and file charges of immigration related employment discrimination.

OSC's investigations cover the full gamut of employers, from the nation's largest employers to small businesses with only a few employees. Investigations also included a broad range of industries, including food processing, restaurant and hospitality, retail, information technology, and job referral agencies. OSC's successful resolutions include charges filed by U.S. citizens and work-authorized immigrants who alleged adverse treatment in favor of temporary visa holders or undocumented workers who allege that they were denied hire, or were fired, because of their citizenship or immigration status, or discrimination in the employment eligibility verification process.

Policy and Strategy Section (POL)

POL is responsible for developing and analyzing policy matters relating to CRT's enforcement authority, pursuit of legislative and regulatory priorities, coordination of the Division's responses to requests for comments and technical assistance on legislative matters from the Administration and members of Congress, and development of sustained relationships with other Federal agencies, such as Education, HUD, EEOC, Transportation, and Defense, in furtherance of civil rights issues.

Special Litigation Section (SPL)

SPL enforces the provision of the Religious Exercise of Institutionalized Persons Act (RLUIPA) that protects the religious exercise of persons confined to institutions covered by the Civil Rights of Institutionalized Persons Act (CRIPA). This provision prohibits a state or local government from substantially burdening the religious exercise of such an institutionalized person, unless the government demonstrates that imposition of the burden furthers a compelling governmental interest and is the least restrictive means available to further that interest. The Department of Justice is authorized to investigate alleged violations of RLUIPA and to file civil lawsuits seeking injunctive or declaratory relief. In addition, RLUIPA enables private individuals to seek judicial remedies for violations of the statute.

CRIPA authorizes the Attorney General to conduct investigations and litigation relating to conditions of confinement in state or locally operated institutions (the statute does not cover private facilities). Under the statute, SPL investigates covered facilities to determine whether there is a pattern or practice of violations of residents' Federal rights (the Section is not authorized to represent individuals or to address specific individual cases).

SPL protects the constitutional and Federal statutory rights of persons confined in certain institutions owned or operated by, or on behalf of, state or local governments. These institutions include facilities for individuals who are mentally ill and developmentally disabled, nursing homes, juvenile correctional facilities, and adult jails and prisons. The Section derives its primary authority in this area from the CRIPA, which was enacted in 1980. CRIPA gives the Attorney General the authority to investigate institutional conditions and file lawsuits to remedy a pattern or practice of unlawful conditions. In addition, the Section enforces a provision of the Violent Crime Control and Law Enforcement Act of

1994, which authorizes the Attorney General to file lawsuits to seek judicial remedies when administrators of juvenile justice systems engage in a pattern or practice of violating incarcerated juveniles' Federal rights. The Section is also responsible for enforcing Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities on the basis of race, religion, or national origin. As a result of the Department's CRIPA efforts, tens of thousands of institutionalized persons who were living in dire, often life-threatening, conditions now receive adequate care and services.

The Section's institutional work has focused recently on significant problems, such as abuse and neglect in nursing homes and juvenile facilities, sexual victimization of women prisoners, inadequate education in facilities serving children and adolescents, and the unmet mental health needs of inmates and pre-trial detainees. In addition, the Section has been active in enforcing the rights of institutionalized persons with disabilities to receive adequate habilitation and active treatment and to be served in the most integrated setting appropriate to their needs.

Section staff members are involved in a broad array of activities to vindicate the Federal rights of institutionalized persons. These activities range from reviewing complaints and conducting investigations to monitoring and enforcing court orders, litigating large, complex institutional reform cases, and writing amicus briefs on issues of national import. The Section works closely with nationally renowned experts to evaluate institutional conditions by touring the facilities, observing relevant practices and procedures at the facilities, evaluating records, and interviewing residents, staff, and other individuals knowledgeable about the conditions at the institutions. To date, the Section has been successful in resolving the vast majority of CRIPA investigations that have uncovered unlawful conditions by obtaining voluntary correction or a judicially enforceable settlement designed to improve conditions to ensure the provision of appropriate services. If state or local officials fail to correct the deficiencies or to agree to an appropriate settlement, CRIPA authorizes the Attorney General to file suit. The Section has concentrated on obtaining widespread relief, where possible.

The Section is actively involved both with other components of the Justice Department as well as other Federal agencies that regulate, fund, and provide technical assistance to institutions; e.g. Section staff works with the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Justice, the Bureau of Prisons, the United States Department of Education, and the United States Department of Health and Human Services. In addition, Special Litigation Section attorneys serve on the Department's Health Care Fraud Working Group, the Inter-Agency Nursing Home Consortium, and the Inter-Agency Abuse Prevention Working Group.

SPL enforces the police misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994, which authorizes the Attorney General to seek equitable and declaratory relief to redress a pattern or practice of conduct by law enforcement agencies that violates Federal law. The Section is also responsible for enforcing the Omnibus Crime Control and Safe Streets Act of 1968, which authorizes the Attorney General to initiate civil litigation to remedy a pattern or practice of discrimination based on race, color, national origin, gender, or religion involving services by law enforcement agencies receiving FFA. Section staff investigates police departments by interviewing police officials and witnesses of alleged wrongdoing, reviewing numerous records, and evaluating departmental practices. As with the Section's CRIPA work, the staff works with nationally renowned experts who assist with evaluating investigative material and developing and monitoring remedies to address deficiencies. SPL is an integral part of the Division's Police Misconduct Initiative, along with representatives from various sections in the Division, the Office of Justice Programs, and the FBI. This initiative was created at the Attorney General's request to coordinate Department-wide enforcement efforts to combat police misconduct. The Chief of the Special Litigation Section serves as the Co-Chair for Civil Enforcement of the Initiative.

SPL enforces the civil provisions of the Freedom of Access to Reproductive Health Clinics (Access Act) and Places of Religious Worship. This Act prohibits the use or threat of force and physical obstruction that injures, intimidates, or interferes with a person seeking to obtain or provide reproductive health

services or to exercise the First Amendment right of religious freedom at a place of religious worship. It also prohibits intentional property damage of a facility providing reproductive health services or a place of religious worship. The Access Act authorizes the Attorney General to seek injunctive relief, statutory or compensatory damages, and civil penalties against individuals who engage in conduct that violates the Act. Section attorneys work closely with the offices of the United States Attorneys and State Attorneys General by providing technical assistance and conducting joint Access Act prosecutions. In addition, the Section serves on the Attorney General's National Task Force on Violence against Health Care Providers.

Voting Section (VOT)

The Voting Rights Act of 1965 (VRA) codifies and effectuates the 15th Amendment's permanent guarantee that, throughout the nation, no person shall be denied the right to vote on account of race or color. In addition, the Act contains several special provisions that impose even more stringent requirements in certain jurisdictions throughout the country. Pursuant to the Act, the Voting Section undertakes investigations and litigation throughout the United States and its territories, conducts administrative review of changes in voting practices and procedures in certain jurisdictions, and monitors elections in various parts of the country.

Section 2 of the Act is a nationwide prohibition against voting practices and procedures, including redistricting plans and at-large election systems, poll worker hiring, and voter registration procedures that discriminate on the basis of race, color or membership in a language minority group. It prohibits not only election-related practices and procedures that are intended to be racially discriminatory, but also those that are shown to have a racially discriminatory result. The Attorney General, as well as affected private citizens, may bring lawsuits under Section 2 to obtain court-ordered remedies for violations of Section 2.

Section 4 sets forth the criteria for determining whether a jurisdiction is covered under the special provisions of the Act, including the requirement for review of changes affecting voting under Section 5, whether it may be designated by the Attorney General for Federal observers, and the procedures for terminating such coverage. This section also contains some of the language minority provisions.

Section 5 freezes changes in election practices or procedures in certain states and jurisdictions until the new procedures have been determined, either after administrative review by the United States Attorney General, or after a lawsuit before the United States District Court for the District of Columbia, to have neither discriminatory purpose or effect. If the proposed change has not been shown to be free of the purpose and the effect the Attorney General may block implementation of the change by interposing an objection. The Attorney General has published detailed procedures which explain how to make Section 5 submissions. Notices of Section 5 submissions are regularly posted to the Internet.

Section 3 and Section 8 give the Federal courts and the Attorney General, respectively, authority to certify counties for the assignment of Federal observers. Federal observers are assigned to polling places so they can monitor election-day practices in response to concerns about discrimination in the voting process and to provide information about compliance with bilingual election procedures. Department staff may also be sent to monitor elections.

Sections 203, 4(f)(4) and 4(e) are the language minority provisions of the Act. These provisions require certain jurisdictions to provide bilingual written materials and other assistance to voters with limited English proficiency.

Section 208 of the Act provides for voters requiring assistance to vote by reason of blindness, disability, or inability to read or write to be given assistance by a person of the voter's choice, other than the voter's employer or agent of the employer or officer or agent of the voter's union.

The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) was enacted by Congress in 1986. It requires that the states and territories allow certain groups of citizens, including uniformed servicemembers, their families, and overseas citizens, to register and vote absentee in elections for Federal offices. In addition, most states and territories have their own laws allowing citizens covered by the UOCAVA to register and vote absentee in state and local elections as well. In FY 2010, the Military and Overseas Voter Empowerment Act (MOVE Act) amended UOCAVA to establish new voter registration and absentee ballot procedures which states must follow in Federal elections.

The National Voter Registration Act (NVRA) was enacted in 1993. NVRA facilitates voter registration for Federal elections by allowing voters to register by mail, when they obtain driver's licenses, or when they obtain services from various offices that provide public assistance or serve persons with disabilities. It also helps ensure that eligible voters are added to the voting rolls in a timely manner and are not removed from the voting rolls and that people who move in the same registrar's district retain their eligibility to vote even if they have not re-registered at their new location.

The Help America Vote Act (HAVA) was enacted in 2002. It is designed to improve the administration of elections in the United States by establishing minimum standards for states to follow in several key areas of election administration, including statewide registration databases, provisional balloting, voting system standards, voter information postings and voter identification for first time registrations by mail.

1. Performance and Resource Tables

PERFORMANCE AND RESOURCES TABLE											
CIVIL RIGHTS DIVISION: Strategic Plan, Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; Objective 2.5: Promote and Protect American’s Civil Rights.											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2012		FY 2012		FY 2013 CR		Current Services Adjustments and FY 2014 Program Changes		FY 2014 Request	
Total Costs and FTE (reimbursable FTE are included, but reimbursable costs are bracketed and not included in the total)		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		744	\$144,500 [\$8,838]	677	\$144,487 [\$8,838]	659	\$145,384 [\$10,189]	42	\$9,849 [\$2,532]	701	\$155,233 [\$7,657]
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2012		FY 2012		FY 2013		Current Services Adjustments and FY 2014 Program Changes		FY 2014 Request	
Program Activity	Civil Rights	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		744	\$144,500 [\$8,838]	677	\$144,487 [\$8,838]	659	\$145,384 [\$10,189]	42	\$9,849 [\$2,532]	701	\$155,233 [\$7,657]
Performance Measure	Number of matters/investigations resolved concerning human trafficking*	73		96		75		0		79	
Performance Measure	Number of complaints offered mediation	500		600		500		0		525	
Performance Measure	Number of mediation complaints completed	265		328		207		0		225	
Efficiency Measure	% of matters successfully resolved through mediation	75		75		75		0		75	
Performance Measure	% of criminal cases favorably resolved *	80		94		80		0		80	
Performance Measure	% of civil cases favorably resolved *	80		98		80		0		80	
* The measures are targets in the support of CRT’s Performance Goals for the Department.											
Data Definition, Validation, Verification, and Limitations: The data source for all measures is the Civil Rights Division’s (CRT) Interactive Case Management System (ICM). The ICM is the official workload system of record for CRT and is used to generate key data for both internal and external inquiries. The ICM captures and reports on the level of effort that attorneys and professionals dedicate to matters and case-related tasks. Senior managers of CRT are responsible for ensuring the accuracy of the data contained in the ICM.											

PERFORMANCE MEASURE TABLE

CIVIL RIGHTS DIVISION

Performance Report and Performance Plan Targets		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012		FY 2013	FY 2014
		Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure	Number of matters/investigations resolved concerning human trafficking *					71	73	96	75	79
Performance Measure	Number of complaints offered mediation	516	568	593	618	660	500	600	500	525
Performance Measure	Number of mediation complaints completed	226	223	211	302	340	265	328	207	225
Efficiency Measure	% of matters successfully resolved through mediation	75	80	79	81	78	75	75	75	75
Performance Measure	% of criminal cases favorably resolved*	95	97	88	89	84	80	94	80	80
Performance Measure	% of civil cases favorably resolved*	99	99	100	95	97	80	98	80	80
*Denotes inclusion in the DOJ Annual Performance Plan										

3. Performance, Resources, and Strategies

a. Performance Plan and Report for Outcomes

Criminal Enforcement (CRM)

Career prosecutors in the Criminal Section of the Civil Rights Division (CRM) continue to achieve remarkable prosecution results, keeping pace with the record-setting levels of productivity and effectiveness demonstrated in recent years. Each year, CRM receives more than 10,000 complaints alleging criminal interference with civil rights. The Criminal Section filed 19% more criminal civil rights prosecutions in the last four fiscal years (FY 2009 - FY 2012), as compared to the previous four years (FY 2005 - FY 2008), without an increase in staff. In FY 2012, the Section exceeded its performance goals to include:

- The Section in conjunction with the United States Attorneys' Offices charged more defendants with criminal civil rights violation than in any prior year since counting began in 1993 (224).
- In FY 2012, the Section charged the second highest number of criminal civil rights cases than in any prior year since counting began in 1993 (122), with the highest year being FY 2010 (129).
- In FY 2012, the Section charged more human trafficking cases than in any prior year (55); charged the highest number of hate crimes defendants since the year 2000 (48), which is equivalent to those charged in 2009; and convicted the most defendants on hate crimes charges in over a decade.

The Section has also dedicated significant resources to combat hate crimes. For example, the Section is actively and effectively implementing the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act of 2009. Since the statute was enacted, the Section has prosecuted 40 defendants under the Act and convicted 36 defendants, with one defendant pending trial. The Section also has led and participated in dozens of law enforcement and community trainings across the country aimed at educating local law enforcement officials and identifying hate crimes cases.

The Section is aggressively combating human trafficking and protecting the most vulnerable in our society. The Section spearheaded the creation of the Department's Human Trafficking Enhanced Enforcement Initiative to streamline coordination both within the Department, and among Federal law enforcement agencies. The Department, in collaboration with the Departments of Homeland Security and Labor launched Anti-Trafficking Coordination Teams (ACTeams) in select pilot districts nationwide during FY 2012 to respond to identified human trafficking threats with a coordinated, pro-active, interagency Federal law enforcement strategy aimed at developing high-impact human trafficking investigations and prosecutions.

Finally, the statistics alone do not tell the full story of the Criminal Section's performance in FY 2012. The quality of the prosecutions continues to be extraordinary. The Section's hard working and dedicated staff has successfully prosecuted a number of complex and high profile civil rights cases during this fiscal year.

Color of Law

The Criminal Section maintained a robust docket of color of law cases. Allegations of police abuse and other official misconduct, which comprise the majority of complaints reviewed by CRM, continue to be a high priority. In FY 2012, 59 law enforcement officers, including police officers, deputy sheriffs, and State prison correctional officials, were charged with using their positions to deprive individuals of their constitutional rights, such as the right to be free from unwarranted assaults and illegal arrests and searches.

Of particular note, the Section spearheaded a number of successful high profile prosecutions involving New Orleans Police Department Officers for their role in pre- and post-Katrina misconduct. As a result of these prosecutions, the Section so far has convicted 20 NOPD officers on civil rights and related violations.

- *U.S. v. Bowen et. al (E.D. La).* (The Danziger Bridge Case)
On August 5, 2011, a jury in New Orleans convicted five current and former New Orleans Police Department (NOPD) officers on various charges stemming from a police-involved shooting that left two civilians dead and four others seriously wounded. On April 4, 2012 defendant Kenneth Bowen was sentenced to 40 years in prison; defendant Robert Gisevius was sentenced to 40 years in prison; defendant Robert Faulcon was sentenced to 65 years in prison; defendant Arthur Kaufman was sentenced to six years in prison; and defendant Anthony Villavaso was sentenced to 38 years in prison.
- *U.S. v. Warren, et al. (E.D. La).*
On March 31, 2012, defendant David Warren was sentenced to 25-years and nine months incarceration for shooting and killing a man in the post-Katrina aftermath. Several co-defendants were also convicted and sentenced for related crimes, burning the victim's body in an effort to obstruct the investigation of the shooting.
- *United States v. Thompson* (E.D. Wash.) (Indicted June 19, 2009) The indictment charged that on March 18, 2006, defendant Thompson struck victim Otto Zehm repeatedly with his baton and tased him, resulting in bodily injury. In addition, defendant Thompson made false entries in a record investigated by a federal agency. The defendant was convicted on all counts.
- *United States v. Cates* (E.D. WI). Evidence at trial on January 11, 2011, established that on July 16, 2010, the defendant violated the victim's constitutional rights when he sexually assaulted her in her home during a police investigation. The victim had called 911 to report a crime, and the defendant was the responding officer. The sexual assault was achieved through coercion, intimidation, and force. Defendant Ladmarald Cates was found guilty at trial and sentenced to 24-years incarceration.

Hate Crimes

The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 strengthened the Department's ability to prosecute hate crimes at the Federal level. The Department continues to make the prevention and prosecution of hate crimes a top civil rights priority. Since passage of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (HCPA or Act), 18 U.S.C. § 249, the Civil Rights Division has brought 16 cases and charged 40 defendants. Of those 40 defendants, 36 have been convicted on hate crimes or serious hate crimes related charges, 1 is awaiting trial, and 1 was dismissed in the interest of justice. The Division has prosecuted cases under the Act in Arkansas, Kentucky, Michigan, Minnesota, Mississippi, New Mexico, New York, Ohio, South Carolina, Texas, and Washington

Moreover, as part of CRM's hate crime enforcement responsibility, it has spearheaded DOJ's law enforcement response to address post-September 11th "backlash" violence and threats against Arabs, Muslims and South Asians. Federal charges have been brought in 41 cases against 54 defendants, yielding the convictions of 47 defendants.

- *United States v. Dedmon, et al.*, (S.D. Miss.) March 23, 2012, three defendants pleaded guilty in the Southern District of Mississippi to the fatal assault of James Craig Anderson, an African-American man. In December 2012, a fourth defendant pled guilty for his role in the fatal assault and a fifth defendant pled guilty for participating in a number of racially motivated attacks that

preceded the murder of Anderson. The defendants admitted that on numerous occasions leading up to the fatal assault, they, along with other co-conspirators still under investigation, assaulted African Americans with beer bottles, sling shots, and other weapons. In the early morning of June 26, 2011, after having spent the preceding evening talking about committing another assault, several of the co-conspirators drove around West Jackson throwing beer bottles at African-American pedestrians from the windows of moving vehicles. At approximately 5:00 a.m., some of these conspirators spotted the victim in a motel parking lot and decided he would be a good target for an assault. One of the defendants punched the victim in the face, knocking him to the ground. Another defendant punched him multiple times while he was on the ground. After the assault, various conspirators yelled, "White Power!" as they got back into their vehicles. One of the defendants admitted that he deliberately used his truck to run over the victim, causing his death.

- *United States v. Mullet*, (N.D. OH) (Indicted Dec. 20, 2011) On September 20, 2012, following a three-week trial, a jury convicted all 16 defendants of conspiracy and convicted each defendant of one or more substantive violations of 18 U.S.C. § 249. In March 2012, a grand jury in Cleveland returned a 10-count Superseding Indictment in *United States v. Mullet, et al.*, charging 16 members of an Amish settlement in Bergholz, Ohio, with conspiracy and multiple religiously-motivated assaults in violation of 18 U.S.C. § 249. The Superseding Indictment arose from a series of incidents that took place in the Fall of 2012 in which members of the Bergholz settlement forcibly restrained and physically assaulted members of other Ohio Amish communities who had expressed religious disagreements with Samuel Mullet, Sr., the Bishop of the Bergholz Settlement. The defendants aided and abetted each other in forcibly removing the head and beard hair of their Amish victims, an act the defendants themselves referred to as a "religious degrading." In doing so, the defendants willfully caused bodily injury to the victims including cuts, abrasions, bruises, and disfigurement. Evidence developed during the investigation and presented at trial demonstrated that defendant Samuel Mullet, Sr. was at odds with the majority of the Ohio Amish community over practices he encouraged and allowed in his settlement, including acts of self-deprivation, corporal punishment, and sexual abuse, and that the beard-cutting assaults were carried out to avenge the Ohio Amish community's rejection of Samuel Mullet, Sr.'s religious rulings and practices.
- *United States v. Jenkins*, In October 2012, after six days of testimony, the jury convicted two men on kidnapping and conspiracy charges but found them not guilty of the hate crime charge. The men face up to life in prison on the kidnapping and conspiracy charges when they are sentenced in February 2013. In separate pre-indictment pleas, two women in Harlan County, Kentucky pled guilty to aiding and abetting two other defendants in the kidnapping and hate crime assault against Kevin Pennington, a gay man, because of his sexual orientation. One week later, two men were indicted together for their roles in kidnapping and assaulting Mr. Pennington because of his sexual orientation. According to the indictment, the defendants enlisted the two women to trick Pennington into getting into a truck with the defendants, so that the defendants could drive Pennington to a state park and assault him. The defendants then drove Pennington to a secluded area of the Kingdom Come State Park in Kentucky and assaulted him. The indictment marks the first case charged under the HCPA involving sexual orientation.

Human Trafficking

CRM continues to prosecute record numbers of human trafficking cases. Over the last three years, the section has noted an increase in the number of human trafficking cases. In FY 2012, 115 defendants were charged with forced labor or sex trafficking. The Section also spearheaded the creation of the Department's Human Trafficking Enhanced Enforcement Initiative to streamline coordination both within the Department, and among Federal law enforcement agencies. The Department, in collaboration with the Departments of Homeland Security and Labor launched Anti-Trafficking Coordination Teams

(ACTeams) in select pilot districts nationwide during 2011 to respond to identified human trafficking threats with a coordinated, pro-active, interagency Federal law enforcement strategy aimed at developing high-impact human trafficking investigations and prosecutions.

Also in FY 2012 and continuing to the present, the Section has led the U.S./Mexico Human Trafficking Bilateral Enforcement Initiative, which has contributed significantly to restoring the rights and dignity of human trafficking victims through outreach, inter-agency coordination, international collaboration, and capacity-building in both countries. Through this initiative, U.S. and Mexican law enforcement have worked together to identify and prosecute several sex trafficking cases with operations in both countries. This initiative has established enduring partnerships, bringing together law enforcement agencies and non-governmental organizations across international lines. These efforts have already resulted in three cross-border collaborative prosecutions, involving defendants who have been sentenced in Mexico and United States to terms of imprisonment ranging up to 37.5 years, and resulting in the vindication of the rights of dozens of sex trafficking victims.

- *United States v. Campbell, et al.* (N.D. Ill.). (Indicted April 15, 2010). The indictment charged that in or around July 2008, and continuing until on or about January 13, 2010, the defendants did knowingly provide and obtain the labor and services of five people by means of force, threats of force, and a scheme, plan, and pattern to cause serious harm. The women were recruited from Eastern European nations on false promises of legitimate jobs, than were forced to work in various massage parlors in the Chicago, Illinois area through physical beatings, isolation from family and friends, threats of deportation, fraud, extortion, rape, and branding women with multiple tattoos. The primary defendant Alex Campbell was sentenced to life in prison and was ordered to pay approximately \$124,000 restitution.

Cold Case Initiative

CRM continues to expend significant time and resources to meet the Department's mandate under the Emmett Till Unsolved Civil Rights Crime Act of 2007 to assess the viability of prosecuting 112 cold case matters. We have concluded our review of more than half of these matters, and our efforts to identify cases for prosecution continue. We are partnering with the FBI, United States Attorney's Offices, and District Attorney's offices in actively and aggressively investigating those cases in the hopes that justice can be served. CRM prepared the Third Annual Report to Congress Pursuant to the Emmett Till Unsolved Civil Rights Crimes Act of 2007, which was submitted to Congress on November 9, 2012.

Outreach and Training

In FY 2012, CRM conducted 33 outreach and training programs: eight on hate crimes, 11 on human trafficking, and 14 on police practices.

Appellate Section (APP)

During the first two months of FY 2013, the Appellate Section filed 11 briefs and substantive papers in the Courts of Appeals, and the District Courts. The Court of Appeals rendered three merits decisions, all of which were in full or substantial accord with the Section's contentions. The District Courts rendered two merits decisions, both of which were in full or substantial accord with the Section's contentions. Thus, so far in FY 2013, all of the decisions the Section has received have been in accordance with the positions the Section has advocated.

The importance of the Section's civil rights enforcement efforts is demonstrated by the positions taken in the briefs filed. The summaries below of briefs filed so far in FY 2013 demonstrate the widespread effect the Section's cases have on the civil rights of all Americans.

Courts of Appeals

On November 30, the Division filed its brief as appellee in *United States v. Ronald Mitchell*, No. 12-30423 (5th Cir.). Defendant was convicted of violating 18 U.S.C. 1621 and 1512(c)(2) and was sentenced to 20 months' imprisonment. The defendant, a former New Orleans Police officer, was charged with two counts each of perjury and obstruction of justice relating to his deposition testimony in a wrongful death lawsuit arising from his shooting of a civilian in the aftermath of Hurricane Katrina. Mitchell was acquitted of two charges relating to one set of false statements. The Division argued that there is sufficient evidence to prove the falsity and materiality of Mitchell's deposition testimony. The Division also argued that the district court properly concluded that the defendant was not prejudiced by the delayed production of two witnesses' statements and that a trial continuance was not warranted. Finally, the Division argued that the district court did not abuse its discretion in advising jurors to continue deliberating to try to reach a verdict on all counts.

2. On November 16, the Division filed its consolidated reply brief as appellee-cross-appellant in *United States v. McQueen, et al.*, Nos. 12-10840 & 12-10841 (11th Cir.). Defendants McQueen and Dawkins, two former correctional officers, were charged with conspiracy and obstruction of justice after they physically abused inmates at a correctional facility and submitted false reports to cover up their abuse. McQueen was convicted on both counts, and Dawkins was acquitted on the conspiracy count but convicted on the obstruction count. They were sentenced to twelve months' and one month's imprisonment, respectively. Their sentences reflect considerable downward variances granted by the district court to avoid a disparity with the sentence of a co-defendant who pleaded guilty to a misdemeanor after his jury failed to reach a unanimous verdict on a felony charge. Defendants raised numerous issues on appeal, including sufficiency of the evidence, improper jury instructions, improper bolstering of a government witness, and evidentiary errors. The Division responded that none of these issues has merit. In cross-appeal, the Division argued that defendants' sentences are substantively unreasonable because McQueen and Dawkins were not similarly situated with their co-defendant, and therefore there was no requirement to avoid a disparity with his sentence.

District Courts

1. On November 19, the Northern District of Alabama District Court held argument on a motion to dismiss in *Weaver v. Madison City Board of Education, et al.*, No. 5:11-cv-03558. The case is a private suit against a local board of education filed under the Uniformed Services Employment and Reemployment Rights Act (USERRA), 38 U.S.C. 4301 *et seq.* The plaintiff contends that the board violated USERRA by reducing his authority, his level of responsibility, and his pay, and by depriving him of certain benefits after he returned from having been deployed as a member of the Army Reserve. The board moved to dismiss the case, arguing that it is an "arm of the State" for Eleventh Amendment purposes and accordingly is immune from a private USERRA suit seeking damages. The Division filed a brief as intervenor, arguing that: (1) the board is not an arm of the State under the relevant constitutional standard; (2) in the alternative, USERRA provides only for state court jurisdiction over private USERRA suits against States and accordingly, if the board is an arm of the State, the case should be dismissed on statutory grounds; and (3) if the court reaches the issue, it should hold that Congress has the authority under its War Powers to authorize private USERRA suits against state employers.

2. On November 13, the Division filed its reply brief on cross-motions for summary judgment in *Texas v. Holder*, No. 12-128 (D.D.C.). In seeking judicial preclearance of SB 14, Texas's recently enacted law requiring in-person voters to present certain photo ID, Texas also claimed that Section 5 of the Voting Rights Act (VRA), as reauthorized and amended in 2006, is unconstitutional. On August 30, 2012, the district court denied Texas's request for judicial preclearance after concluding that Texas had failed to establish that the photo ID law would not "lead to a retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise." Because it denied

preclearance of SB 14, the district court will now reach Texas's constitutional challenge, which includes claims that Section 5 of the VRA – and, in particular, its requirement that covered jurisdictions show a proposed voting change will not have a retrogressive effect – exceeds Congress's power to enforce the Fifteenth Amendment, violates equal protection principles, and is unconstitutionally vague. Texas also claims that Congress's continued imposition of Section 5's preclearance requirement and its retention of Section 4(b)'s coverage criteria are unsupported by the 2006 legislative record. The Division continued to defend the constitutionality of Sections 4(b) and 5 of the VRA, including Section 5's non-retrogression requirement.

3. On November 13, the Division filed a brief as amicus curiae and as statutory intervenor in *Gaylor v. Georgia Department of Natural Resources*, No. 2:11-cv-288 (N.D. Ga.). Plaintiff, who uses a wheelchair, alleges that two state parks are inaccessible to him in a variety of ways, violating Section 504 of the Rehabilitation Act and Title II of the ADA. Defendants, who are state agencies and officials, moved to dismiss, arguing that (1) Title II is not constitutional legislation under Section 5 of the Fourteenth Amendment and therefore does not validly abrogate Eleventh Amendment immunity; (2) plaintiff failed to adequately plead a Section 504 violation because he was not specific about which program received federal funding; (3) regulations implementing Title II and Section 504 are invalid and not enforceable in a private suit; and (4) plaintiff may not seek injunctive relief under Title II and Section 504 pursuant to the *Ex Parte Young* doctrine. The Division intervened to defend the statute as to the first point, and filed as amicus curiae in support of the plaintiff with respect to the other arguments.

Disability Rights Section (DRS)

In the past 10 years, CRT has achieved results for people with disabilities in over 4,800 Americans with Disabilities Act (ADA) actions including lawsuits, settlement agreements, and successful mediations. Examples of some of the most meritorious accomplishments are described below.

DOJ has signed 201 settlement agreements with 186 communities under its Project Civic Access (PCA) initiative, a wide-ranging effort to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA. In FY 2012, the Section reached new Project Civic Action settlement agreements with Upshur County, TX, Humboldt, KS, Wills Point, TX, Randolph County, GA, Kansas City, MO and Schuylkill County, PA. Through this initiative, both access and opportunity for community participation has been increased for more than 5 million individuals with disabilities in communities large and small throughout the country.

The Department continued its aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling that requires states to eliminate unnecessary segregation of persons with disabilities and to move persons who can live in the community out of segregated facilities. The *Olmstead* decision has often been called the *Brown v. Board of Education* of the disability rights movement. In FY 2012, the Section filed eight Statements of Interest or amicus briefs related to *Olmstead* enforcement (California (3), Oregon (2), Florida, and in the District of Columbia and North Carolina) and comments in support of final approval of a settlement agreement in California. Following an investigation of the State of Florida, the Section issued a Letter of Findings notifying the State that it violates the ADA by unnecessarily segregating children with disabilities in private nursing facilities, when those children could be served in more integrated, community-based settings. Following another investigation, the Section issued a Letter of Findings concluding that the State of Oregon is violating title II of the ADA by unnecessarily segregating individuals with intellectual and developmental disabilities in sheltered workshops when those individuals can and want to work in a more integrated supported employment setting. Finally, in August 2012, the Section entered into a comprehensive, eight-year settlement agreement with the State of North Carolina that will provide community-based supported housing to 3,000 individuals unnecessarily segregated, or at risk of entry into, large institutional settings known as adult care homes and also will provide thousands of people with mental illness access to critical community-based mental health services

including Assertive Community Treatment (ACT) teams, crisis services and supported employment services.

In FY 2012, the Section entered into 21 Settlement Agreements and Letters of Resolution with bus companies in California, Illinois, Texas and Florida regarding compliance with Title III of the ADA, based on compliance reviews and referrals from the Federal Motor Carrier Safety Administration (FMCSA) of the U.S. Department of Transportation (DOT). The agreements require that each of these companies comply with all applicable requirements of accessible service and operations and not exclude persons with disabilities from their public transportation services. These agreements reflect the successful ongoing coordination between DOT and the Department.

In October 2011 and May, 2012, the Section filed Statements of Interest in *National Association for the Deaf v. Netflix, Inc.* (D. Mass.), a private Title III action challenging Netflix's failure to provide captioning for many of its "Watch Instantly" Internet-based streamed videos, as well to ensure equal access to other Netflix member services (such as Netflix "recommendations" and genre-sorted movie listings). The Court relied on our briefs when it issued an unprecedented ruling that the ADA applies to services provided exclusively over the internet.

On March 19, 2012, the Department entered into a settlement agreement with the Mountain Valley (PA) Midget Football League, resolving a complaint filed by the mother of a seven-year-old boy with ocular albinism, a condition that results in little or no pigment in the eyes and often causes extreme sensitivity to sunlight. The complaint alleged that the league refused to allow the child to play football with a helmet fitted with a tinted visor to help block the sunlight. The Department determined that the league violated the ADA by failing to modify its policies, practices and procedures to allow the boy to use a tinted visor while playing football. The agreement requires the league to develop and implement a disability rights policy, to train league officials on the ADA and to grant requests for reasonable modifications, including the one at issue in this complaint. The league agreed to pay \$1,000 to the complainant's family.

On March 30, 2012, the Department filed a motion to intervene and complaint in intervention in *Fox v. Trinity Regional Medical Center* (N.D. Iowa), a private title III action alleging that Trinity Regional Medical Center failed to provide auxiliary aids and services to deaf patients and companions. The parties entered into a settlement that requires Trinity Regional Medical Center to train its employees on the requirements of title III, change its policies and procedures to improve the provision of auxiliary aids and services, and pay \$198,000 to aggrieved individuals and a \$20,000 civil penalty.

On August 7, 2012, the Division simultaneously filed a complaint and consent decree in the U.S. District Court for the District of Maryland against Baltimore County. The complaint alleged that the County had engaged in discriminatory employment practices in violation of the ADA by (1) requiring employees to submit to medical examinations and disability-related inquiries that are not job-related and consistent with business necessity, (2) automatically disqualifying applicants with Type 1 diabetes for Emergency Medical Technician (EMT) jobs without showing that this policy and practice is job-related and consistent with business necessity, and (3) engaging in retaliatory actions against at least one employee. As a result of the County's discriminatory policies and practices, employees, including veteran police officers, firefighters, and EMTs who were qualified and able to work, were denied employment and were forced into career-ending, involuntary retirement. The decree required the County to pay \$475,000 to the complainants and provide additional work-related benefits (including retirement benefits and back pay, plus interest); adopt new policies and procedures regarding the administration of medical examinations and inquiries; refrain from using the services of the medical examiner who conducted the overbroad medical examinations in question; cease the automatic exclusion of job applicants who have insulin-dependent diabetes mellitus; and provide training on the ADA to all current supervisory employees and all employees who participate in making personnel decisions.

On August 29, 2012, the Section and the National Federation of the Blind entered into a settlement agreement with the Sacramento Public Library to resolve a complaint that the Library's use of Barnes & Noble NOOK e-readers in its e-reader lending program discriminated against patrons who are blind or have other vision disabilities. Under the terms of the settlement, the Library will not acquire any additional e-readers that exclude persons who are blind or others with disabilities that need accessible features such as text-to-speech functions or the ability to access menus through audio or tactile options.

On September 5, 2012, the Department filed a motion to intervene and proposed complaint in intervention in *Department of Fair Employment and Housing v. LSAC, Inc.*, a class action lawsuit against the Law School Admission Council. (Shortly after the end of FY 12, the district court granted The Section's intervention motion.) The Section's complaint alleges that LSAC violates the Americans with Disabilities Act in its handling of requests by people with disabilities for testing accommodations on the LSAT, and that LSAC unnecessarily "flags" test scores obtained with certain testing accommodations in a manner that identifies the test taker as a person with a disability. The Section had previously filed a Statement of Interest in opposition to LSAC's motion to dismiss, and that statement was cited favorably throughout the Court's opinion denying the motion to dismiss.

The Section continues aggressively enforce the ADA to combat discrimination against people with HIV. On September 12, 2012, the Section reached a settlement with the Milton Hershey School resolving a complaint and private lawsuit filed by a 13-year-old boy with HIV who alleged that he was denied enrollment in the private school based on his HIV. The settlement requires the School to change its policies to admit applicants with HIV, provide ADA training to its employees, and pay \$700,000 in compensatory damages and a \$15,000 civil penalty. In addition, the Section in May 2012 reached two settlements resolving claims that health care providers refused to serve people with HIV in violation of the ADA. Both settlement agreements require the entities involved to develop and implement a non-discrimination policy; to train staff on the requirements of the ADA; and to pay a combined total of \$60,000 to the complainants and \$35,000 as a civil penalty.

The Section has built an impressive mediation program to assist with the disposition of the thousands of complaints received each year. In FY 2012, the ADA Mediation Program referred 414 matters, completed 340 matters, and successfully resolved 74% of these cases. The overall success rate since the inception of the program is 78%.

In addition, DOJ's ADA Technical Assistance Program carries out a wide variety of activities to promote voluntary compliance with the ADA, providing free information and technical assistance directly to businesses, State and local governments, people with disabilities, and the general public. The demand for complex technical assistance continues to increase in response to the implementation of the revised Title II and Title III regulations and the 2010 Standards for Accessible Design. FY 2012 highlights include:

- Answering 60,000 calls to the ADA Information Line were answered by ADA Specialists who assisted callers in applying the ADA to their own unique situations. This is the highest number of calls answered since the inception of the ADA Information Line in 1993.
- The ADA Website, www.ada.gov, was visited more than 8.5 million times and more than 10 million pages were viewed. The ADA Home Page was the Department's third most visited web destination, with more than 1.95 million visits.
- DRS is actively working on an update and redesign of the entire ADA Website, which includes over 5,000 pages, to increase ease of use and access to the wide variety of technical assistance materials and legal documents available to the public and anticipates an early FY 2013 rollout.
- Creating new technical assistance materials explaining the revised title II and III regulations and 2010 Standards for Accessible Design (2010 Standards). In FY 2012, we published three

technical assistance documents: *Questions and Answers: Accessibility Requirements for Existing Swimming Pools at Hotels and Other Public Accommodation*; *Updated Document – ADA Requirements: Accessible Pools*; and *Questions and Answers: The Americans with Disabilities Act and Persons with HIV/AIDS*.

- Providing outreach by participating in speaking and outreach events. In FY 2012, the Section presented 52 speeches, workshops, and training sessions to an audience of more than 7,500. This includes two webinars conducted by the Section (May 2 and May 9, 2012) on the revised regulations for title II and title III entities as applied to existing swimming pools. DRS also staffed its ADA exhibit booth at six national conferences, answering questions and disseminating information about the ADA to thousands of individuals across the United States and reaching an estimated audience of more than 24,000 individuals across the country.

Following the publication of four Advanced Notice of Proposed Rulemaking (ANPRM's) in July 2010 (movie captioning and video description, next generation 9-1-1, accessible web information and services, and accessible equipment and furniture), and the September 2010 publication of the revised regulations for Titles II and III of the ADA, the Section's regulatory and coordination work continued. FY 2012 highlights include:

- Issued two final rules in March and May 2012 extending the compliance dates for title II and title III entities regarding the provision of accessible means of entry to existing swimming pools and spas, to provide sufficient time for pool owners and operators to better understand their obligations and comply with the revised ADA requirements. (The May final rule extended the compliance date to January 31, 2013.) The Department also announced that, as a matter of prosecutorial discretion, it would not pursue enforcement against covered entities that purchased non-fixed, but otherwise ADA-compliant pool lifts prior to March 15, 2012, so long as the lift was in position for use at the pool and operational during all times that the pool was open to guests.
- Analyzed the results of the 2011 survey of the Federal Government's implementation of section 508 and prepared the draft of the Department's report to the President and Congress issued in September 2012 on the accessibility of the Federal Government's electronic and information technology. The Department issued recommendations to increase federal agency compliance and is now considering approaches to achieve the report recommendations.
- Continued its work on additional proposed ADA rules related to movie captioning and video description; the accessibility of web information and services of State and local governments; the accessibility of medical equipment and furniture; the accessibility of hotel beds in places of lodging; and the accessibility of next generation 9-1-1 emergency services.
- Worked to incorporate changes required by the ADA Amendments Act of 2008 (ADAAA) into the ADA implementing regulations for titles II and III, as well as section 504 implementing regulations for the Department's federally conducted and federally assisted programs.
- The Section continued to play a vital role on an interagency team headed by U.S. Department of State staff tasked with preparing the ratification package for the United Nations Convention on the Rights of Persons with Disabilities (treaty) that the President sent to the Senate in May 2012. The Section also assisted with witness preparation and testimony coordination between DOJ and the Department of State in advance of a Senate Foreign Relations Committee hearing on the treaty.

- Processed 366 pieces of “controlled correspondence” from Congressional offices, the White House, and the Attorney General’s office; more than twice the volume received in FY 2011.

In FY 2013 and FY 2014, CRT will continue its innovative and multi-faceted approach toward achieving compliance with the ADA. Activities will include:

- Continuing to draft new technical assistance materials explaining the Department’s revised regulations and 2010 Standards and revising more than 40 existing technical assistance documents to ensure consistency with the new regulation;
- Continuing to conduct outreach and training to groups affected by the revised regulations, including small businesses, State and local governments, individuals with disabilities, and professional and trade associations;
- Drafting a proposed NPRM to revise the ADA Title II and Title III regulations to incorporate changes required by the ADA Amendments Act of 2008 and two NPRMs regarding (1) accessible hotel beds and (2) Next Generation 9-1-1 Services. This includes evaluating the cost impact of the revisions for each NPRM;
- Drafting a proposed ANPRM on medical equipment and furniture;
- Continuing its successful PCA initiative, including training local communities to conduct their own accessibility surveys, to ensure that cities, counties, towns, and villages throughout the United States comply with the ADA;
- Ensuring that new facilities are constructed in compliance with the 2010 Standards and that covered entities meet all applicable accessibility obligations;
- Providing free information and technical assistance directly to businesses, State and local governments, people with disabilities, and the general public;
- Training mediators on the requirements of the revised regulations and 2010 Standards; and
- Offering more complainants and respondents the opportunity to resolve complaints through participation in mediation.

Employment Litigation Section (ELS)

In FY 2012, ELS filed 11 suits alleging discrimination against an individual pursuant to Section 706 of Title VII, three suits alleging a pattern or practice of discrimination against a group of individuals pursuant to Section 707 of Title VII, and one, 706/707 suit where ELS intervened as a plaintiff. In addition, ELS is litigating three defensive cases regarding challenges to DOT’s Disadvantaged Business Enterprises (DBE) program. In FY 2012, ELS obtained 18 consent decrees, 4 settlement agreements; 11 out-of-court settlements; and initiated 40 investigations (36 under § 706; 4 under § 707). ELS received a total of 112 USERRA referrals from the Department of Labor for litigation consideration, 41 of which included a finding of “merit,” and ELS has filed nine Uniformed Services Employment & Reemployment Rights (USERRA) lawsuits. ELS also monitors consent decree compliance in numerous Title VII, § 707 suits.

On April 23, 2012, ELS filed *United States v. City of Jacksonville*, alleging that the examinations used by the City to promote firefighters to four supervisory positions have an adverse impact against African Americans and are not lawful under Title VII. While ELS is in settlement negotiations, discovery in the

litigation is moving forward. ELS is finalizing the Section's expert report on adverse impact and will be working with the Section's statistical expert and validity expert for the next stage of discovery.

On June 26, 2012, ELS intervened as a plaintiff in *Hawkins, et al. v. Summit County, Ohio*, alleging that the County has engaged in a pattern or practice of discrimination against women through its implementation of a sex segregated assignment system in violation of Title VII. The case is in active discovery.

On July 3, 2012, ELS filed suit against the City of Corpus Christi, Texas, alleging that the physical examination used by the City to select entry-level police officers has a disparate impact on women and is not lawful under Title VII. ELS has filed the proposed consent decree; the front-end fairness hearing is scheduled for early January. If the Court approves the consent decree, ELS will move forward onto relief determinations.

As noted above, ELS is defending three cases that challenge federal disadvantaged business enterprise programs. All three cases have summary judgment deadlines in 2013, and in all three cases the Section will be filing expert reports.

Finally, ELS continues to engage in substantial "Stage 2" activities in *United States v. New Jersey Civil Service Commission, et al.*, *United v. Commonwealth of Massachusetts, et al.*, and *United States v. City of New York (FDNY)*. In all three pattern or practice cases involving allegations of testing discrimination, the United States will be administering claims procedures involving screening thousands of candidates to determine eligibility for remedial relief and priority hiring or promotions. In *FDNY*, the Court's current orders require individual discovery and/or hearings for approximately 1,400 candidates who are eligible for relief. In addition, ELS is obligated by the Court orders in these cases to work with the defendants on the process of developing and implementing new, lawful selection procedures, which requires the engagement of experts in the fields of disparate impact and validity.

During FY 2013 and FY 2014, ELS will increase the overall level of its Title VII and USERRA enforcement activity. ELS will increase, in particular, the number of its § 707 investigations and suits and enhance its *amicus curiae* practice. Further, ELS will continue to maintain a productive working relationship with the EEOC to increase the quality of the EEOC's investigation of the charges the EEOC refers to us pursuant to § 706. Lastly, ELS will increase its outreach efforts to Title VII stakeholder organizations.

Education Opportunities Section (EOS)

EOS addresses discrimination and harassment in public schools and universities. Between October 1, 2011 and November 30, 2012, EOS negotiated a total of ten consent decrees and nine out-of-court settlement agreements, obtained litigated relief in five desegregation cases, secured one modification to a school desegregation plan, and opened 24 investigations regarding alleged discrimination on the basis of race, national origin, sex, disability, and language services.

In the race and national origin context, EOS monitors approximately 195 active school desegregation cases to which it is a party, and has negotiated eight court-ordered consent decrees to date. In one case, the court approved an order that modifies and extends a 2008 consent decree, which required the district to desegregate the faculty and staff at a number of its schools. In a second case, the court approved a modified consent decree governing student transfers. In a third, the court approved a consent decree governing student assignment to schools and classes, and in fourth, the court approved a consent decree requiring zone line changes, controlled choice, and a magnet school to desegregate the schools. EOS also obtained litigated relief in five desegregation cases and a plan modification in another desegregation case. In one case, the court granted the United States' motion for further relief and ordered the district to devise a new student assignment plan. In another case, EOS opposed the district's motion for unitary status in

the area of faculty and staff assignment, and the court ruled in EOS's favor, finding the district had not properly implemented or monitored the agreed upon plan for hiring, recruitment, and placement and that additional court supervision was needed in this area. EOS also negotiated four out-of-court settlements to combat race and national origin discrimination: One to address student harassment on the basis of race at a public university, another to address race-based student harassment in a high school; a letter agreement to address racial disparities in discipline, special education, and gifted programs, and a fourth to stop practices that deny immigrant students access to public schools. As a result of these efforts, desegregated opportunities were provided to students, including the elimination of racially identifiable schools; redrawing attendance lines; prohibiting segregative transfers; furthering faculty and staff desegregation; and expanding magnet opportunities. EOS continues to work with school districts to achieve unitary status and has opened 17 race and national origin discrimination investigations thus far, one of which eliminated a district's race-based homecoming activities.

During the past 14-month period, to ensure equal educational opportunities for English Language Learners (ELL) and as part of a nationwide effort, EOS initiated four new investigations and is actively pursuing 13 ongoing investigations with states and school districts. These districts have significant or new ELL populations, and both district-and state-level investigations have involved substantial Native American populations. The purpose of the investigations is to ensure that ELL students are receiving appropriate language acquisition services to enable them to overcome language barriers that impede equal participation in the school districts educational programs. In FY 2012, EOS negotiated four out-of-court settlement agreements addressing, among other things, the registering and identification of ELLs; exiting ELLs; ensuring timely services for ELLs; ensuring adequate and appropriate ELL services; providing translation services for parents and guardians; providing training for ELL teachers; providing appropriate materials for ELL classes; ensuring that special education students were not denied appropriate ELL services; and monitoring current and exited ELLs. EOS also has continued to work with a state education agency and board of education to ensure that the state's changes to teacher and administrator licensing regulations provide qualified educators for ELL students under the Equal Educational Opportunities Act (EEOA). In response to EOS's work, the state board passed regulations on June 26, 2012, requiring core academic teachers and administrators of ELLs to obtain a Sheltered English Immersion endorsement. In July 2012, EOS negotiated an amended out-of-court agreement with a school district which strengthens certain requirements and requires relief for another school year. EOS continues to monitor compliance with three consent decrees and is actively monitoring thirteen out-of-court agreements that impact ELL students and their parents.

Between October 1, 2011 and November 30, 2012, to protect and address sex discrimination of students in schools, EOS opened five investigations and negotiated two consent decrees. One of the investigations involves examining how a public university has responded to allegations of sexual assault and harassment. Both consent decrees require the public school districts to modify their policies, engage in systemic training, and provide other relief to address allegations of sex-based student harassment.

With respect to legislation and policy, EOS has spent considerable time commenting on proposed changes to the Elementary and Secondary Education Act, as well as other education-related statutes (e.g., the Student Non-Discrimination Act) and rules (e.g., the Family Educational Rights and Privacy Act (FERPA) final rule). EOS also consulted with the Office for Civil Rights (OCR) at the Department of Education regarding its new guidance regarding the use of restraints and seclusion. EOS also is collaborating with OCR regarding the drafting of other education-related guidance anticipated for release in this fiscal year. In June 2012, EOS helped prepare a Title IX 40th Anniversary Report, webpage, and fact sheet – all highlighting the Division's work under Title IX and other Federal civil rights laws that prohibit sex discrimination in education and the workplace.

In FY 2013 and FY 2014, EOS will continue to vigorously enforce Title IV, through both continued enforcement of its 195 desegregation matters and through new investigations. EOS plans to initiate, through outreach, additional Title IV investigations and compliance reviews under Title IV and IX in the

areas of race, national origin, religion, and sex. Particularly, EOS plans to further examine: School discipline as it affects students of color and students with disabilities; discrimination and the denial of access to educational services for Native American students; the harassment of students on the basis of race, national origin, sex, religion, and disability; allegations involving more than one of these factors; and conduct that denies national origin minority students access to school in contravention of Title IV and *Plyler v. Doe*. EOS plans to initiate new EEOA investigations at both the district and state level and to secure broad-impact relief at the state level where possible. EOS will catalyze efforts to address discrimination against students with disabilities under Title II of the ADA.

Additionally, EOS plans to continue through *amicus* and intervention to ensure that the appropriate legal standards are applied under Title IV, the EEOA and Title II of the ADA, as well as laws enforced by the Section through referrals, including Title VI, Title IX, and Section 504 of the Rehabilitation Act.

Federal Coordination and Compliance Section (FCS)

FCS continues its robust coordination and oversight responsibilities under Executive Order (EO) 12250, providing on-going training and technical assistance to Federal agency civil rights offices. FCS provides in-depth Title VI technical assistance on various issues to the Departments of Agriculture, Homeland Security, and Transportation, and the Environment Protection Agency, work that will continue and expand to other agencies throughout FY 2014.

In FY 2012, FCS planned and launched an Interagency Working Group (IWG) on Title VI, bringing together Federal departments and agencies that provide Federal Financial Assistance (FFA). Through FY 2014, the Working Group will continue to examine Title VI enforcement. FCS is engaged in an interagency review of issues attendant to benefits verification procedures, assessing compliance with Title VI. FCS also leads the Environmental Justice (EJ) Interagency Working Group's Title VI Committee, which is establishing an EJ/Title VI page on the IWG's website to facilitate improved coordination between agencies' environmental justice and civil rights offices.

FCS provides significant training and technical assistance on Title VI and Executive Order 13166, which requires Federal agencies to ensure that their recipients provide limited English proficient (LEP) individuals with meaningful access to their services, programs, and activities. In this regard, the Section provides guidance, training, and oversight to agencies and stakeholder communities. On a regular basis, FCS responds to agency inquiries on Titles VI & IX and LEP obligations. These are core functions of the Section and will continue through FY 2014. In addition, FCS is revising the Title VI Legal Manual, which has not been updated since 2001. The Manual provides an overview of legal issues attendant to the scope and enforcement of Title VI.

DOJ is a major provider of FFA. Under agreements reached with certain DOJ funding components, FCS conducts administrative investigations of selected discrimination complaints against and compliance reviews of their recipients. DOJ recipients include state and local law enforcement agencies, courts, corrections systems, juvenile justice systems, and a variety of non-governmental entities. One of FCS's major investigations of a sheriff's department has led to a Title VI civil action seeking a judicial determination of noncompliance against the sheriff's office. A second major investigation of a sheriff's office remains ongoing. FCS is also investigating how a state prosecutor's office provides its services to various LEP communities. Although that investigation is ongoing, the state office has already implemented significant improvements.

The FCS Courts Initiative continues, working to ensure that LEP individuals receive meaningful access to court services. FCS conducts systemic investigations of state courts for failure to provide interpretation and translation assistance in domestic violence, child custody, criminal, and other matters. FCS issued the first Title VI violation letter of finding in such a matter, has reached formal agreement in two states, and is moving toward resolution in two other investigations. Meanwhile, FCS has investigations ongoing

in several other states and continues to receive interpretation and translation complaints. FCS provides guidance, training (in-person and webinar), and technical assistance to promote the provision of language access in courts consistent with Title VI and regulations, participated in the development of the American Bar Association (ABA) Standards on language access to courts, and harnesses partnerships including United States Attorney's Office (USAO), Access to Justice Initiative (ATJ), Office of Violence Against Women (OVW), and Office of Justice Programs (OJP), to leverage Departmental expertise and resources to improve access to justice for LEP individuals. FCS also engages frequently with the Conference of Chief Justices, the Conference of State Court Administrators, the National Center for State Courts, and the National Council of Family and Juvenile Court Judges, and is pursuing potential additional policy options. This work will continue through FY 2014.

FCS continues to staff language access initiatives. The Attorney General signed the Department's language access plan during FY 2012 and the CRT Assistant Attorney General (AAG) issued the Division's plan shortly thereafter. Continuing through FY 2014, FCS will provide training and train-the-trainer programs for both Division and component staff and will work with the components on review and monitoring mechanisms to ensure that LEP individuals have meaningful access to Departmental programs and services.

FCS also has an active LEP outreach program through which it maintains regular contact with affected communities concerning LEP issues. As part of this important effort, FCS staff provides LEP training for community groups, as well as to various recipient organizations and other Federal agencies. The Federal Interagency Working Group (IWG) on LEP, which functions under FCS leadership, has active members from more than 35 Federal agencies. FCS maintains the LEP.gov website, which contains extensive information about LEP issues and assists Federal agencies, recipients, and the community in the quest for meaningful language access.

During FY 2013, FCS's workload included increases in incoming correspondence, requests for legal opinions, requests for intensive technical assistance and training from Federal agencies, and requests to address numerous legally challenging issues. The Division expects this trend to continue through FY 2014. FCS's work will be tailored to increase its effectiveness by: (1) targeting substantive areas and agencies where FCS can be most effective through providing technical assistance, training, policy guidance, and oversight; and (2) engaging in activities that will benefit multiple agencies and their beneficiaries at the same time, such as coordination of more complex investigations involving multiple agencies and cross-cutting barriers. FCS's language access initiative will focus on: (1) improving DOJ's compliance with the language access requirements of EO 13166; (2) bringing the nation's court systems into compliance with Title VI language access requirements; and (3) improving language access in other Federal agencies and recipients of FFA.

Housing and Civil Enforcement Section (HCE)

HCE has reinvigorated enforcement in key areas such as fair lending, the rights of service members and exclusionary zoning. The Section has brought numerous lawsuits in these critical areas and obtained many significant, path-breaking settlements. As of November 30, 2012, the Section had 15 pattern or practice cases in pre-suit negotiations, and obtained settlements totaling well over \$500 million in monetary relief, nearly double the total of all prior years since 1989.

Recent highlights of the Section's fair housing litigation efforts include:

- Filing and resolving *United States v. Sussex Co., Delaware*, alleging that the County blocked an affordable housing development based on race and national origin stereotypes of prospective residents;

- Conducting the trial of *City v. HUD, et. al.*, where our defense of HUD includes a challenge to the City's actions to condemn and take by eminent domain a HUD-funded affordable housing complex as violating the Fair Housing Act (FHA);
- Filing and litigating *United States v. St. Bernard Parish*, alleging that the Parish engaged in a multi-year campaign to limit rental housing opportunities for African-Americans through exclusionary zoning practices in the aftermath of Hurricane Katrina; and
- Filing *United States v. New Orleans* and *United States v. San Jacinto*, two lawsuits alleging discrimination by municipalities based on disability.

Significant fair housing settlements to date include:

- Two sexual harassment consent decrees for more than \$2 million in total monetary relief, the largest recoveries ever in FHA sexual harassment suits brought by the United States, *United States v. Sorenson* (Sept. 2012) and *United States v. Barnason* (May 2012);
- A design and construct decree providing for a \$10.25 million accessibility fund and a \$250,000 civil penalty, the largest ever recovery by the United States in a disability-based housing discrimination case, *United States v. JPI* (July 2012);
- A sexual harassment consent decree providing for \$2.058 million in total monetary relief, the largest recovery ever in a sexual harassment suit brought by the United States under the Fair Housing Act, *United States v. Barnason* (May 2012); and
- A consent decree providing for \$585,000 in monetary relief going to 70 victims in the United States' first case involving discrimination by a mortgage insurer against women on maternity leave, *United States v. Mortgage Guaranty Insurance Corp.* (April 2012).

The Section's new Fair Lending Unit continues to expand collaborative enforcement efforts, including the Department's three largest fair lending cases ever:

- *United States v. Wells Fargo Bank, N.A.*, alleging that between 2004 and 2009, Wells Fargo engaged in a nationwide pattern or practice of discrimination in its residential lending activities, in violation of both the FHA and the ECOA. The consent order includes the establishment of a \$125 million settlement fund to compensate wholesale victims of Wells Fargo's discrimination, review of retail loans and compensation for retail borrowers steered to subprime loans, and a \$50 million investment by the bank in a homebuyer assistance program in selected metropolitan areas. (July 2012).
- In *United States v. Countrywide Financial Corporation*, the complaint alleges that between 2004 and 2008 Countrywide and its subsidiaries engaged in a widespread pattern or practice of discrimination against more than 200,000 qualified African-American and Hispanic borrowers in their mortgage lending from 2004 through 2008. The consent order requires Countrywide to create a \$335 million settlement fund to compensate victims of discrimination. This is the largest residential fair lending settlement in history. (December 2011).
- In *United States v. SunTrust Mortgage, Inc.*, the complaint alleged that SunTrust engaged in a pattern or practice of mortgage pricing discrimination against at least 20,000 African-American and Hispanic borrowers. The consent decree creates a \$21 million settlement fund and requires the company to maintain its revised mortgage loan pricing policies. (Sept. 2012).
- *United States v. Luther Burbank Savings*, providing for \$2 million in total relief to remedy discrimination caused by \$400,000 minimum mortgage loan amount policy. (October 2012)
- *United States v. Bank of America*, a case alleging discrimination based on disability and source of income in mortgage lending, with settlement requiring the bank to revise policies and compensate victims, (Sept. 2012).
- *United States v. GFI Mortgage Bankers, Inc.*, alleging that GFI discriminated against African-American and Hispanic borrowers in the pricing of home mortgage loans. The consent decree provides for \$3.5 million in monetary compensation. (Aug. 2012).

The Section obtained eight settlements in significant matters under the Service Members Civil Relief Act (SCRA) in FY 2012. A variety of other SCRA matters are ongoing:

- The consent order in *United States v. Capital One*, requires the financial institution to pay an estimated \$12 million to compensate service members for violations of several SCRA provisions. (July 2012).
- Consent orders in *United States v. Bank of America Corp., Citibank, NA, JPMorgan Chase & Co., Ally Financial, Inc, Wells Fargo & Co., et al.* require independent reviews to determine if service members were foreclosed on either judicially or non-judicially in violation of the SCRA since 2006, and if service members were unlawfully charged mortgage interest in excess of 6% since 2008. Service members whose foreclosures violate the SCRA will receive a minimum of \$116,875 in compensation. (April 2012).
- The consent order in *United States v. B.C. Enterprises*, requires a towing company to pay \$75,000 in damages and repair the credit of over 20 service members whose vehicles were towed and sold at auction without court orders. (May 2012).
- The consent order in *United States v. Empirian Property Management, Inc.* (D. Neb.) requires the company to pay \$12,500 to four service members and up to \$20,000 to later-identified service members who were not permitted to terminate their leases after receiving military orders for permanent changes of station.

Under the Religious Land Use and Institutionalized Persons Act, the Section filed a complaint and obtained a temporary restraining order in *United States v. Rutherford County, TN*, a RLIUPA case alleging that the county had violated the act by denying a certificate of occupancy for a recently constructed mosque. (July 2012)

Office of the Special Counsel for Immigration-Related Unfair Employment Practices (OSC)

Since the beginning of FY 2012, OSC received 74 charges filed by U.S. citizens and legal immigrants (or their representatives) alleging unlawful employment discrimination based upon citizenship status or national origin, unfair documentary practices during the employment eligibility process, or retaliation. During this period, OSC opened 24 investigations, issued letters of resolution or entered into settlement agreements in 9 charges, and recovered approximately \$14,833 in back pay for victims and \$95,575 in civil penalties. Employers also agreed to change discriminatory practices so that all U.S. workers, both U.S. citizens and legal immigrants, would not face unnecessary hurdles in seeking or retaining employment.

OSC also conducts an extensive, nationwide public education campaign to teach workers, employers and concerned organizations about the anti-discrimination provision of the Immigration and Nationality Act (INA). In the past year, OSC participated in 33 public outreach sessions and webinars, and handled 789 calls through its employer and worker hotlines.

In FY 2014, OSC's workload may increase significantly based upon a number of factors that portend increased discrimination against U.S. citizens and legal immigrants. DHS is expected to continue its expanded efforts to address the large number of undocumented workers in the United States, including heightened enforcement of employer sanctions. In previous studies, GAO has linked employer sanctions with increased employment discrimination, primarily against Hispanics and Asians. Thus, heightened enforcement of employer sanctions is likely to lead to an increase in discrimination charges and hotline calls received by OSC.

This phenomenon is expected to be magnified by greater (and sometimes mandatory) use by employers of DHS' E-Verify program, an electronic employment eligibility verification system used to determine whether new hires are authorized to work in the United States. E-Verify allows an employer to confirm the employment eligibility of new hires online by comparing information from an employee's

employment eligibility verification Form I-9 against Social Security Administration and DHS databases. Already, more than 400,000 employers have enrolled in E-Verify, representing more than 1.2 million locations nationwide. DHS-commissioned studies have concluded that use of E-Verify results in increased discrimination against workers who look or sound foreign. They have also found that employers took prohibited adverse actions against employees receiving tentative no confirmations, including restricting work assignments, delaying training, reducing pay, requiring longer hours in poorer conditions, and otherwise assuming that these workers were unauthorized. The rapid expansion of E-Verify use over the past several years has exacerbated this problem. Since OSC has jurisdiction over discrimination in the employment eligibility verification process, the rapid expansion of E-Verify has resulted in an expansion of the breadth and scope of cases within OSC's jurisdiction.

Currently, OSC has a Memorandum of Agreement in place with U.S. Citizenship and Immigration Services providing for sharing of information and cross-referrals. In the past year, OSC has received approximately 29 referrals of potential E-Verify related discrimination or document abuse pursuant to the MOA, and is expecting a sharp increase in these referrals in the near future based on the continued refinement of automated reports that detect potential discrimination and the development of new reports to capture additional forms of discriminatory behavior. Furthermore, currently OSC responds to many E-Verify-related requests for assistance from workers and employers calling OSC's toll-free hotlines. In FY 2012, the percentage of E-Verify related hotline calls has constituted 19 percent of OSC's total calls, an increase since FY 2011. OSC expects this demand to continue, particularly in light of the rise in the number of states now requiring—either explicitly or implicitly—that certain employers within those states participate in E-Verify. OSC's experience has been that following passage of state legislation mandating that employers use E-Verify, OSC's E-Verify-related hotline calls noticeably increase.

Special Litigation Section (SPL)

The Special Litigation Section's very busy practice achieved important successes, enforcing existing matters and initiating new investigations and cases.

Americans with Disabilities Act (ADA): Implementing the promise of the Supreme Court's *Olmstead* decision, where the Court held that unjustified institutionalization is impermissible segregation and that individuals with disabilities should be served in the most integrated community setting consistent with their needs, continues to be a large part of the Section's practice. The Section's work includes efforts to enforce landmark settlements in Georgia and Delaware that remedy the unnecessary institutionalization of people with mental illness, and, in Georgia for people with intellectual disabilities as well. Both agreements create meaningful community services systems that have relied too heavily on segregated institutional services. In Oregon, the Section agreed to a process, which, if implemented, should resolve SPL's investigation into whether adults with serious mental illness are being served in the most integrated settings. The Section has entered into a comprehensive agreement with the State of Virginia that will, over a 10-year period, provide high quality integrated services for Virginia residents with developmental disabilities and ensure that the State comes into compliance with the ADA. The Section continues litigation regarding the unnecessary institutionalization of people with mental illness in New Hampshire. Our claims have been joined with those of private litigants; trial is scheduled for mid-2014. The Section intervened in Texas litigation regarding nursing home residents with intellectual disabilities who are not being served in the most integrated settings, and is negotiating with Mississippi regarding findings that adults and children with intellectual and mental health disabilities are not being served in the most integrated settings. The Section has also initiated an *Olmstead* investigation of Utah's mental health service system for children.

Police: The Section continued its robust work addressing patterns or practices of law enforcement misconduct. The Section entered more court-enforceable agreements with law enforcement agencies in calendar year 2012 than in the previous ten years combined. The Section reached comprehensive settlement agreements with five law enforcement agencies. These agreements provide direction for

continued work to ensure constitutional policing in areas including the treatment of persons with mental illness, use of force, and bias-free policing. In addition to enforcing approximately eleven agreements, the Section continued to actively investigate police departments and open new investigations. Most recently, the Section opened an investigation of the Albuquerque, NM Police Department. The Section also continues to litigate against the Maricopa County Sheriff's Office to address unconstitutional practices, including discriminatory policing and violations of the First Amendment, and is involved in ongoing litigation against Colorado City, AZ and Hildale, UT for religious discrimination in law enforcement.

Investigations opened by the Section, in Newark, NJ; Portland, OR; Miami, FL; Los Angeles County, CA; Meridian, MS; and Missoula, MT are evaluating alleged patterns of unconstitutional policing, including possible bias in policing and/or excessive force. Each of these investigations is being conducted jointly with United States Attorneys' Offices. The Section continues to participate heavily in external outreach, as well as in intra-Departmental coordination to respond to issues of common interest. On issues ranging from immigration to juvenile justice, the Section continues its increased coordination with the Department's Community Oriented Policing Services, Office of Justice Programs, and the Federal Bureau of Investigation.

CRIPA: The Section intervened in class action litigation challenging the conditions of confinement at Orleans Parish Prison in New Orleans, LA, including claims regarding prisoner safety, medical and mental health care, environmental and fire safety, and Spanish language services for prisoners with limited English proficiency. Pursuant to CRIPA, the Section issued findings letters regarding a juvenile facility, two prisons, and two jails. The Section also initiated a new CRIPA investigation regarding the Cresson and Pittsburgh Prisons in Pennsylvania. The Section reached a court enforceable settlement regarding conditions at the Robertson County, TN, jail and continues negotiations of court enforceable settlements regarding conditions at several other facilities, including the Golden Grove Adult Correctional and Detention Facility in the U.S. Virgin Islands, the Miami-Dade County Jail, and Cook County Jail in Chicago, IL. Other ongoing CRIPA compliance work involves seven psychiatric hospitals in Georgia, nursing homes in Alabama, and St. Elizabeth's Hospital in the District of Columbia. The Section also filed a successful motion to enforce its consent decree regarding a state psychiatric hospital in California.

Juvenile: Under 42 U.S.C. Section 14141, the Section has the authority to investigate and bring actions regarding juvenile justice and detention systems. The Section continued to enforce consent decrees in Puerto Rico, Ohio, Mississippi, and Terrebonne Parish, LA. In addition, the Section issued a comprehensive findings letter regarding due process and equal protection violations in the Shelby County, Tennessee juvenile court, and conditions at the Shelby County Juvenile Detention Center. The Section also issued a findings letter regarding due process violations in the administration of juvenile justice in Meridian, MS, and subsequently, sued a police department, a county juvenile court, and a state youth probation agency in this matter

Freedom of Access to Clinic Entrances Act (FACE): In the Section's growing FACE practice, the Section filed five cases thus far regarding clinic obstructions or the use of or threat of force at reproductive healthcare facilities. In these cases, the Section reached settlement with one defendant, and dismissed its claims against another defendant.

Religious Land Use and Institutionalized Persons Act (RLUIPA): The Section's RLUIPA practice continues to expand. The Section settled two lawsuits, one with a consent injunction and the other with stipulated dismissal after the state repealed the regulation that resulted in a violation of RLUIPA. After an extensive investigation and attempts to find an amicable resolution, the Section filed suit against a state department of corrections which provides a kosher diet to only a handful of Jewish prisoners. The Section also initiated a new investigation and subsequently entered into an agreement with the jurisdiction to revise its policies, procedures, and training to prevent future violations of RLUIPA. Additionally, the Section filed two statements of interest related to prisoner religious practices. The Section continues to

engage in outreach to the religious community and is working with the Bureau of Prisons as well as others in the Department.

Voting Section (VOT)

In FY 2014, VOT will continue to place major emphasis on affirmative litigation, defending non-discretionary litigation, administrative reviews of voting changes, and monitoring of elections throughout the country. VOT's litigation activity has continued at record levels, with VOT beginning participation in a record 43 new cases in FY 2012.

VOT has continued its review of administrative submissions under Section 5 of the Voting Rights Act (VRA) of redistricting plans by covered jurisdictions resulting from the 2011 release of the 2010 Census data. The huge spike in workload after each Census is one of the greatest institutional challenges for VOT each decade. In the past 15 months, VOT has received 7,205 submissions for review under Section 5, including 2,050 redistricting plans. Over the same span, a record 13 new declaratory judgment actions have been filed in the D.C. District Court by covered jurisdictions seeking judicial preclearance for redistricting plans and other complex voting changes under Section 5. VOT received favorable decisions after trial in four of these Section 5 cases in FY 2012. Since the 2006 reauthorization of the special provisions of the VRA, there have been more constitutional challenges brought against the preclearance provisions of Section 5 than in all the years between 1965 and 2006. The Department is responsible for defending these challenges, and in FY 2012 the Department received favorable decisions from the D.C. Circuit in two of these cases, for which certiorari petitions were filed in the Supreme Court. One was granted, and one was denied. In FY 2012, VOT has also participated as amicus in 5 cases on Section 5 issues, while several other constitutional challenges remain pending in the district court.

In the *Northwest Austin* decision, the Supreme Court expanded tenfold the number of covered jurisdictions eligible to file a statutory action seeking to bail out from the preclearance requirements of the VRA. A record number of bailout cases have been filed since that decision, and the D.C. District Court has granted, with the Department's consent, the first-ever bailouts by covered jurisdictions from Alabama, Texas, California and Georgia; the first bailout from a North Carolina jurisdiction since 1967, as well as additional bailouts from Virginia. FY 2012, a record nine new bailout cases were filed, and one additional has been filed to date. Of these, in eight cases, bailout has been granted by the court with the Department's consent while two cases remain pending.

In the MOVE Act, Congress enacted major amendments to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA). In FY 2012, in already pending cases, VOT obtained a comprehensive remedy in its New York case, including an order advancing the date of New York's 2012 Federal primary election. The Section also filed supplemental consent agreements with Illinois and Guam. In FY 2012 and FY 2013, VOT filed seven new UOCAVA cases to ensure military and overseas voters the opportunity to vote (Virgin Islands, Alabama, Georgia, Vermont, Wisconsin, California and Michigan). Favorable resolutions were obtained in each of these cases. The Section also participated as amicus in two other cases. In the run-up to the 2012 Federal primary and general elections, VOT devoted considerable resources to outreach and monitoring with election officials concerning compliance. Enforcement of UOCAVA will continue to be a major priority going forward.

Under the National Voter Registration Act (NVRA), VOT continued its litigation against Louisiana, filed a new lawsuit against Florida, and filed amicus briefs in three additional cases. VOT continues to review state compliance with all of the requirements of the NVRA, which require that states provide voter registration opportunities at driver license, public assistance and disability service offices, or through the mail, and requires that states conduct list maintenance according to specific rules.

VOT is continuing its emphasis on the enforcement of the language minority requirements of the VRA, which require certain jurisdictions to provide assistance and information in minority languages to affected

communities. In the past 15 months, VOT has resolved cases against Lorain County, Ohio, and Orange County, New York, requiring additional steps to ensure voting access for limited English proficient, Spanish-speaking, Puerto Rican voters. VOT also has resolved a case against Alameda County, California, requiring additional steps to ensure voting access by limited English proficient voters who speak Spanish and Chinese, and a case against Colfax County, Nebraska to ensure access for Spanish-speaking voters.

Enforcement of Section 2 of the VRA, which prohibits voting practices that are discriminatory in purpose or effect, remains a priority. VOT has opened a number of new investigations under Section 2 as a result of its initiative to identify election systems that may dilute minority voting strength, in light of the new census data released in 2011. VOT has filed amicus briefs on Section 2 issues in a statewide redistricting case and in a local case.

Under the Help America Vote Act (HAVA), VOT continues to place emphasis on ensuring compliance with its extensive requirements, such as statewide voter registration lists, provisional ballot procedures, voter information and identification procedures, and new accessible voting devices in polling places.

VOT continues to place major emphasis on the monitoring of elections. In the past 15 months, VOT has monitored 109 elections, using 1,052 Federal observers from the Office of Personnel Management (OPM) and 321 DOJ staff.

VOT expects to continue vigorous enforcement activity under the VRA, UOCAVA, NVRA, and HAVA in FY 2014. VOT will continue to devote substantial resources to the review of the large volume of submissions under Section 5 of the VRA, and the investigation and defense of the large volume of non-discretionary cases; including bailout cases, constitutional challenges, and judicial preclearance cases. VOT will continue to prioritize the annual monitoring of elections throughout the country.

b. Strategies to Accomplish Outcomes

Strategic Objective 2.5: Promote and protect Americans' civil rights.

The Department is committed to upholding the civil and Constitutional rights of all Americans, including some of the most vulnerable members of society. In 2014, the Division will continue reach its performance goals by vigorously enforcing the civil rights laws to ensure equal treatment and equal justice under the law, reflecting the country's highest ideals and aspirations. These statutes not only aim to protect the civil rights of racial and ethnic minorities, but also those of religious minorities, women, persons with disabilities, servicemembers, individuals housed in public institutions, and individuals who come from other nations and speak other languages. CRT will be prepared to address both long-standing civil rights issues as well as to confront emerging civil rights challenges. CRT intends to achieve its objective by enforcing each of the laws within the scope of its responsibility fairly and evenhandedly, and is committed to ensuring equal opportunity for all through its litigation, prevention efforts, outreach initiatives, technical assistance, and partnerships.

The Civil Rights Division is working to ensure it is positioned to tackle both existing and emerging challenges for civil rights in the 21st Century. With the program increases CRT is seeking in FY 2014, the Division will have the necessary resources to strengthen and reinvigorate all facets of civil rights enforcement, address predatory and discriminatory financial and mortgage fraud crime, and combat police misconduct.

CRT's 2014 strategic focus areas include:

Strengthen and Restore Civil Rights Enforcement. The Civil Rights Division is committed to a broad and multi-focused approach to achieving civil rights protections and compliance. With the \$5,072,000

program increase to strengthen and restore civil rights enforcement, resources will allow for expanded efforts across all mission and program areas, ensuring protection and justice under the law for the broadest number of citizens, including the Nation's most vulnerable.

Financial and Mortgage Fraud. The recent financial crisis highlighted the disproportionate effect discriminatory lending practices have on minority communities, the disadvantaged, and the elderly. Risky and irresponsible predatory and discriminatory lending practices that targeted minority communities resulted in high numbers of subprime and exotic loans to minority borrowers and high rates of foreclosures in those communities. With the \$1,500,000 program increase, CRT will be well-positioned to aggressively investigate and prosecute these crimes. CRT has established a Fair Lending Unit that substantially expands its capacity to pursue and prosecute fair lending cases combating illegal and discriminatory lending practices. CRT also works closely with other Federal agencies, fair housing groups, and community partners to ensure that lenders and agents participating in Federal programs provide equitable treatment to homeowners seeking help.

Police Misconduct. Law enforcement officers who use their positions to deprive individuals of their civil rights undermine the integrity of the Nation's entire criminal justice system. The \$1,928,000 program increase requested for police misconduct will enhance the Division's efforts to investigate and prosecute these acts of official misconduct. While the Department recognizes that law enforcement officers put their lives on the line to protect public safety every day and take seriously their oaths to uphold the Constitution, the Department is committed to holding law enforcement officers accountable when violations occur. The Division actively investigates and evaluates the pattern or practice of discriminatory policing in violation of section 14141 of the Violent Crime Control and Law Enforcement Act of 1994, and brings criminal prosecutions where appropriate. Criminal prosecutions will focus on the conduct of individuals and address the most egregious incidents of police misconduct. Civil pattern or practice investigations will focus on systemic problems within police departments and unlawful conduct. The Division currently has more active police pattern or practice investigations of law enforcement agencies than any other time in the Division's history.

Additionally, CRT will initiate Title VII litigation against police departments where there is reason to believe that a "pattern or practice" of discrimination exists. Such actions can address employment practices, such as recruitment, hiring, assignments and promotions which have the purpose or effect of denying employment or promotional opportunities to a class of individuals. The Division will use every tool in its law enforcement arsenal to ensure police officers, and the police department as a whole, is carrying out its mission in a lawful manner. Effective policing and constitutional policing go hand in hand. The Department owes it to the communities, and all law abiding police officers who put their lives on the line every day, to address the serious challenges confronting police departments across our great country.

The Civil Rights Division's mission also includes enforcement and outreach under a number of civil rights programmatic areas, and CRT will continue to apply its efforts in areas such as:

Outreach and Education. CRT will continue to expand outreach to communities and stakeholders to ensure the Division's work is informed not only by statistics and complaints, but also by understanding how CRT can positively impact the lives of those individuals and communities that are affected by our work. Additionally, the Division is working to build and maintain positive relationships with its Federal agency partners in order to better protect the civil rights of all individuals. CRT will continue to work collaboratively with federal, state and local agencies, where appropriate, in order to ensure increased coordination and partnership. This will expand the reach of the Division in its critical protection of the rights of all Americans.

Defend Victims of Human Trafficking. Trafficking in humans stands among the most offensive moral scourges in America and is equivalent to modern-day slavery. The victims endure sexual assault,

brutality and fear. The crimes often last for months or years, involving complex facts and international organized criminal networks. There are unique challenges in prosecuting such investigations, as each is time- and labor-intensive, and demand specialized skills and the ability to conduct these investigations across jurisdictions and international borders.

Target Hate Crimes. Hate crimes are a significant investigative priority because they impact not only the victims, but an entire community. Conservative estimates indicate that the level of voluntarily reported hate crimes is less than half of the actual hate crimes that occur annually in the United States. The Department's authority to prosecute hate crime cases expanded considerably with enactment of the Matthew Shepard Hate Crime Prevention Act in 2009. The Act expands the statute to allow Federal prosecutions of hate crimes committed against victims because of their actual or perceived sexual orientation, gender, gender identity, or disability. CRT works with Federal judicial districts to coordinate the efforts of Federal and state, state and local district attorneys, and community-based organizations.

In 2008, the Emmett Till Unsolved Civil Rights Crime Act of 2007 was enacted to investigate and prosecute 112 previously unresolved civil rights era "cold cases," through a partnership among CRT, USAOs, and the FBI. To further advance this initiative, the Division intends to conduct extensive public outreach to encourage witnesses to come forward and develop other investigative leads to help solve the cold cases.

Ensure Voting Rights. State and local jurisdictions will continue to seek preclearance under Section 5 of the Voting Rights for redistricting plans as a result of the 2010 Census, as well as other complex voting changes. The Division will continue to devote significant resources to reviewing administrative submissions and defending judicial preclearance under Section 5. CRT will also continue its significant enforcement efforts in litigation under the non-discrimination and language minority requirements of the Voting Rights Acts, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act, and the Help America Vote Act, as well as its nationwide election monitoring program.

Special Litigation. Enhanced Civil Rights of Institutionalized Persons Act (CRIPA) enforcement efforts will combat abuse and neglect in institutions, protect the rights of nursing home residences and youth in juvenile detention and correctional facilities, and address the mental health needs of individuals in correctional and health care facilities. To this end, the Division will significantly enhance our law enforcement efforts by increasing the number of investigations, settlements, and cases and by strengthening our monitoring of settlements to ensure compliance.

Fight Employment Discrimination Through a Renewed Use of Pattern and Practice Litigation. Pattern or practice cases are particularly important civil rights enforcement tools because they lead to systemic reforms that remedy and prevent future discrimination, benefiting large numbers of minority and/or female applicants and employees. The Department is committed to the use of this tool on behalf of minorities and women. It will institute and apply principles for targeting employers most likely to be engaging in pattern or practice discrimination, leverage joint resources, collaborate on investigations, and policy development, as well as to bring lawsuits under Section 707.

Protect the Rights of Persons with Disabilities. CRT will continue its innovative and multi-faceted approach toward achieving compliance with the Americans with Disabilities Act (ADA) and increasing access for persons with disabilities. The Disabilities Rights Section will ensure new facilities are constructed in compliance with ADA Standards for Accessible Design; continue its successful Project Civic Access initiative in bringing entire cities, counties and towns in compliance with ADA; and assist states in fulfilling their obligations under the Supreme Court's *Olmstead* decision, which requires that people with disabilities receive state services and treatment in the most integrated setting appropriate. The Department is committed to fully aligning its enforcement activities with the scope and reach of the decision. In order to leverage the *Olmstead* decision's potential, CRT continues to participate, through intervention or amicus briefs, in ongoing *Olmstead* litigation on behalf of individuals with disabilities,

both in and out of institutions; initiate its own *Olmstead* cases; and work cooperatively with HHS and HUD to ensure that the resources of the Federal Government are used to promote the treatment of individuals with disabilities in adequate and appropriate community settings.

Protect Religious Liberty. The Department enforces a wide range of laws protecting religious liberty: barring discrimination based on religion in employment, public education, housing, credit, and access to public facilities and public accommodations; barring zoning authorities from discriminating against houses of worship and religious schools; protecting the religious rights of institutionalized persons; and criminal statutes such as the Church Arson Prevention Act, which makes it a Federal crime to attack persons or institutions based on their religion or otherwise interfere with religious exercise.

Expand Equality for Lesbian, Gay, Bisexual, and Transgender (LGBT) Americans. As the needs of the 21st century emerge, it is critical that the Department explore new ways to expand civil rights and protect all Americans from discrimination. LGBT individuals often find themselves the victims of discrimination and violence, but many jurisdictions and existing Federal, state, and local laws fail to offer basic civil rights protections. CRT plays a role in advancing the rights of all individuals using its existing authorities as well as the new authorities it seeks to combat hate crimes and employment discrimination targeting LGBT Americans.

Meet New Challenges to Educational Equity. Providing each of the Nation's children with equal access to a quality education is essential to ensuring that they can develop their full potential, obtain meaningful work, support themselves and their families, and fully participate in democracy. To supplement CRT's historic focus on entering into and enforcing desegregation decrees, the Division will enforce states' and schools' obligations under the Equal Educational Opportunities Act to overcome language barriers faced by English Language Learners; address discrimination in schools, based on race, sex, national origin, disability, and religion, including student harassment such as sex stereotyping of LGBT students; and improve educational equity for students with disabilities who are often subject to multiple forms of discrimination, (e.g., minority students are over- or under-referred for special education services) through investigations, intervention, in private lawsuits, amicus briefs, or statements of interest.

Priority Goals

CRT will support Priority Goal 4 as follows:

Goal 4 Vulnerable People: Protect those most in need of help, with special emphasis on child exploitation and civil rights.

By September 30, 2014, working with state and local law enforcement agencies, protect potential victims from abuse and exploitation by achieving a 5% increase for:

- Matters/investigations resolved concerning human trafficking.

V. Program Increases by Item

Item Name: Civil Rights Enforcement

Budget Decision Unit: Civil Rights Division

Strategic Goal/Objective:

Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law

Objective 2.5: Promote and protect Americans' civil rights

Organizational Program: Civil Rights Division

Component Ranking of Item: 1 of 3

Program Increase: Positions 50 Agt/Atty 25 FTE 25 Dollars \$5,072,000

Description of Item

The Department is requesting additional resources of 50 positions (25 attorneys) and \$5.1 million to strengthen the civil rights enforcement efforts that the Attorney General has identified as part of his Vulnerable People Priority Goal and for other programs that require renewed emphasis. While the requested increase would benefit all programmatic areas, it would specifically allow CRT to increase its efforts against civil rights violations associated with human trafficking, hate crimes, and enforcement of CRIPA. In addition, CRT would be able to expand opportunities for people with disabilities, and broaden overall protections for equal education, equal housing, and equal employment. These are areas that the Attorney General has determined warrant specific attention and has identified as part of his Vulnerable People Priority Goal.

Justification

Human Trafficking. Trafficking in humans stands among the most offensive moral scourges in America and is equivalent to a modern-day slave trade. Each year, an estimated six to eight hundred thousand victims, many of them children, are brutalized, traumatized, and isolated, leaving them bereft of hope of escape or rescue. There are unique challenges in prosecuting such investigations, as each is time and labor intensive; demanding of both specialized skills and the ability to conduct the investigations across jurisdictions and international borders.

Hate Crimes. Hate crimes enforcement is one of the Administration's and the Department's top civil rights priorities. Perpetrators of these crimes victimize not only individuals but families and even entire communities. Prosecuting persons committing these crimes has remained at the core of the Civil Rights Division since its inception in 1957. The incidence of these hate crimes continues to rise and additional resources are desperately needed to investigate and prosecute those who engage in these atrocious acts. Additionally, CRT must extend its outreach efforts to mitigate these crimes and their impacts through education, awareness, and intervention.

Special Litigation. Enhanced CRIPA enforcement efforts will combat abuse and neglect in institutions, protect the rights of nursing home residents and youth in juvenile detention and correctional facilities, and address the mental health needs of individuals in correctional and health care facilities. To this end, the Division will enhance significantly our law enforcement efforts by increasing the number of investigations, settlements, and cases and by strengthening our monitoring of settlements to ensure compliance.

Impact on Performance (Relationship of Increase to Strategic Goals and Priority Goals)

The Attorney General's Strategic Goal 2 and Vulnerable People Priority Goal correlate directly with CRT's request to restore and strengthen civil rights enforcement. The Attorney General is strongly committed to providing civil rights protections for all people, especially those who are part of the Nation's most vulnerable populations. Increased efforts to eradicate discrimination play an integral role in DOJ's Strategic Plan.

Funding

Base Funding

FY 2012 Enacted				FY 2013 Continuing Resolution				FY 2014 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
715	384	648	\$144,500	715	384	630	\$145,384	714	383	629	\$146,733

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2014 Request (\$000)	FY 2015 Net Annualization (change from 2014) (\$000)
Attorney	\$125	25	\$3,121	\$3,057
Civil Rights Analyst	85	2	170	152
EO Specialist	85	9	766	677
Economist	85	1	85	76
Statistician	85	2	170	151
Investigator	71	4	286	260
Personnel Specialist	80	2	160	137
Budget Analyst	80	1	80	68
Paralegal	63	3	188	166
Clerical	46	1	46	41
Total Personnel	\$805	50	\$5,072	\$4,785

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2014 Request (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
	\$0	0	\$0	\$0

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
Current Services	714	383	629	\$146,733	\$0	\$146,733	\$0
Increases	50	25	25	\$ 5,072	\$0	\$ 5,072	\$4,785
Grand Total	764	408	654	\$151,805	\$0	\$151,805	\$4,785

Item Name: Financial and Mortgage Fraud

Budget Decision Unit(s): Civil Rights Division

Strategic Goal/Objective:

Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law

Objective 2.5: Promote and Protect Americans' Civil Rights

Organizational Program: Civil Rights Division

Component Ranking of Item: 2 of 3

Program Increase: Positions 15 Agt/Atty 10 FTE 8 Dollars \$1,500,000

Description of Item

Losses in financial fraud cases have ranged from the millions to the billions of dollars. Mortgage fraud and foreclosure rescue scams routinely involve millions of dollars in losses and multiple defendants, including mortgage brokers, real estate agents, appraisers, closing agents, and straw buyers and sellers who receive kickbacks. It is imperative that the Department enforce the laws that protect the integrity of our economic system.

The Financial and Mortgage Fraud request includes a program enhancement of 15 positions (including 10 attorneys) and \$1,500,000. These resources will enable the Department to hold accountable individuals who perpetrate financial and mortgage fraud, deter future perpetrators of fraud, and recover monies stolen from the U.S. taxpayer.

Justification

The Civil Rights Division will expand civil enforcement efforts, including investigations of predatory lending; pricing discrimination matters involving allegations of potentially fraudulent behavior; and redlining discrimination involving allegations that reputable lenders failed to provide loan opportunities on an equal basis in majority-minority neighborhoods leaving those markets open to fraudulent or predatory lenders.

Impact on Performance (Relationship of Increase to Strategic Goals and Priority Goals)

CRT's enhancement request for financial and mortgage fraud relates directly to The Attorney General's Strategic Goal 2 and the Financial and Healthcare Fraud Priority Goal due to the predatory and discriminatory nature of these crimes. Financial and Mortgage fraud affect minority, disadvantaged and elderly populations disproportionately, and increased resources are necessary to investigate, prosecute and seek redress on behalf of those devastated by these offenses.

Funding

Base Funding

FY 2012 Enacted				FY 2013 Continuing Resolution				FY 2014 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
12	9	10	\$1,381	12	9	10	\$1,381	12	9	10	\$1,381

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2014 Request (\$000)	FY 2015 Net Annualization (change from 2014) (\$000)
Attorney	\$111	10	\$1,108	\$1,023
EO Specialist	86	1	86	87
Economist	97	1	97	95
Statistician	98	1	98	95
Paralegal	63	1	63	63
Clerical	48	1	48	41
Total Personnel	\$502	15	\$1,500	\$1,404

Non-Personnel Increase Cost Summary

Non-Personnel Item	Unit Cost	Quantity	FY 2014 Request (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
	\$0	0	\$0	\$0

Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
Current Services	12	9	10	\$1,381	\$0	\$1,381	\$0
Increases	15	10	8	\$1,500	\$0	\$1,500	\$1,404
Grand Total	27	19	18	\$2,881	\$0	\$2,881	\$1,404

Item Name: Police Misconduct Enforcement

Budget Decision Unit(s): Civil Rights Division

Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law
Objective 2.5: Promote and Protect Americans' Civil Rights

Organizational Program: Civil Rights Division

Component Ranking of Item: 3 of 3

Program Increase: Positions 20 Agt/Atty 9 FTE 10 Dollars \$1,928,000

Description of Item

The aggressive protection of the public's trust in the integrity of law enforcement is critical to effective policing. The public, along with the law enforcement community, recognize the need to establish the highest levels of confidence in the integrity and full accountability of police work. In the past year, initiations of inquiries into systemic deficiencies in police departments reached the highest number in the history of the Division. The request for \$1,928,000 will provide for 20 new positions, including 9 attorneys, 5 paralegals, and 6 investigators to provide the capacity to effectively address this expansion in workload.

Justification

The Civil Rights Division enforces both the criminal and civil statutes that protect the civil rights of persons in their interactions with law enforcement officers. As a result of the complexity of these matters, the lack of private right of action under Section 14141, and the cost of investigation and litigation, the Civil Rights Division plays a unique and critical role in ensuring that police practices across the United States are constitutional. CRT's unique mission within the Department also alleviates conflict of interest in the prosecution of local police departments by the U.S. Attorneys' Offices, and protects their role as partners in local enforcement.

Over the last three years, the Division's overall workload has increased in both complexity and scope while staffing ratios have been dramatically reduced. The Criminal Section (CRM) maintained a robust docket of color of law cases. Allegations of police abuse and other official misconduct, which comprise the majority of complaints reviewed by CRM, continue to be a high priority. In FY 2012, 59 law enforcement officers, including police officers, deputy sheriffs, and State prison correctional officials, were charged with using their positions to deprive individuals of their constitutional rights, such as the right to be free from unwarranted assaults and illegal arrests and searches. The number of cases indicted by the CRM Section has grown from a low in 2003 of 63 cases (of which 27 were police cases) to 124 in 2012 (of which 44 were police cases). From 2003 to 2012, the Section essentially doubled its case load with the same staff.

The investigations conducted by CRT's Special Litigation Section (SPL) have similarly increased in both number and scope. The Section has more active police pattern or practice investigations of law enforcement agencies than any other time in the Division's history. The Section has 27 active law enforcement pattern or practice cases: 13 open investigations, three matters in litigation, and nine matters that have been resolved by an agreement that SPL is enforcing. In two of the open investigations, SPL has issued letters of finding and is in active negotiations to secure a settlement. SPL is preparing to file litigation in at least two additional matters.

With the combined growth in the overall docket, the increase in demand for action on police misconduct matters has outstripped the level of resources available to the Division. On average, each large, civil

police investigation or matter in enforcement requires 1,900 hours of attorney time in the first year of an investigation. From initiation to conclusion, these cases often take years to complete. While the workload requirements fluctuate over time, a significant commitment of resources is required throughout. On at least a weekly basis, the Division is contacted by community groups, public officials or, in some cases, police leaders asking SPL to open a pattern or practice investigation. Preliminary reviews of these matters have identified very serious concerns that would benefit from the Division's intervention.

Impact on Performance (Relationship of Increase to Strategic Goals and Priority Goals)

This enhancement links to the FY 2012-2016 Strategic Plan, Goal 2: Prevent Crime, Protect the Rights of the American People, and Enforce Federal Law; Objective 2.5: Promote and Protect American's Civil Rights.

The Federal government has a compelling interest in establishing and maintaining trust in the Country's public institutions, especially those vested with the mission to protect and defend its citizens. The Division's law enforcement work is designed to target unconstitutional conduct, while at the same time increasing community confidence in the police and improving public safety. Building on the experience of prior cases, the Division's investigations are more comprehensive, the findings are more thorough, and the remedies sought more detailed than ever before.

The additional positions funded through the program increase will allow the Division to enhance its multi-faceted approach to enforcement, specifically through improved performance capabilities in the Division's Criminal, Special Litigation, and Employment Sections as follows:

Criminal (CRM)

CRM enforces the Nation's criminal laws penalizing law enforcement misconduct, hate crimes, and human trafficking, among other crimes. Criminal indictments and criminal prosecutions address the most egregious incidents of individual police misconduct, and can be the impetus for widespread, positive change across entire departments. The Section's total attorney staffing ceiling is 60 attorneys who devote approximately 40% of their time to police misconduct enforcement. The program increase will add four attorneys, two investigators, and two paralegals in support of CRM's police misconduct enforcement efforts.

Section investigators prepare case files for attorney review by working with the FBI to ensure proper evidence has been collected and ensuring that case files are complete. The addition of two investigators will increase productivity by allowing the investigative staff to carry a more manageable docket of about 100 cases each. The reduction in docket size enables more efficiency in the preparation of files for prosecutor review and handling, resulting in a 4% increase in attorney productivity for each additional investigator added to the staff. Currently, a shortage of investigative staff has created backlogs as investigators struggle to develop the case files for prosecutor review.

Along with the increased productivity resulting from the additional investigative and paralegal staff, the three new attorney positions funded through the increase should help return the section to an overall 2.4 case/attorney ratio, reducing attorney burn-out and resulting in the Section bringing nine additional police prosecutions each fiscal year.

Special Litigation (SPL)

SPL's law enforcement work focuses on patterns or practices of police misconduct, and both broad investigations of departments with deeply-rooted and/or widespread structural breakdowns as well as targeted, issue-focused initiatives. Investigations always involve the use of police experts; often require the review of tens of thousands of pages of documents; and routinely involve repeated site-visits and hundreds of interviews with police officials, line officers, victims of civil rights violations, community leaders and elected officials. If violations are found, SPL seeks durable, sustainable remedies, often embodied in an injunction. Implementation of reforms is a long-term and time intensive process often lasting a decade. The Section currently has nine law enforcement related cases with injunctions or agreements that are being enforced. SPL's total attorney staffing level is 43 line attorneys, who devote approximately 33% of their time to police misconduct enforcement. The program increase will add four attorneys, three investigators, and two paralegals in support of SPL's police misconduct litigation efforts.

As with CRM, the addition of investigative staff increases efficiency through production of more timely and complete case files. The increased productivity gained through additional support staff will enhance the level of police misconduct cases the attorneys will be able to initiate. In SPL, statistics show that for each additional attorney, one additional large investigation is possible in the first year. Resource needs diminish as the emphasis shifts from investigations to enforcement; however, as the docket of cases with consent decrees grows, more resources must be committed to ensure compliance. Over time, equilibrium is reached resulting in a smaller ratio of attorneys to cases after the first year of an investigation.

Employment Litigation (ELS)

The Employment Litigation Section (ELS) enforces Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e, et seq., ("Title VII") against state and local government employers. As stated by a comprehensive report on police misconduct:

A police agency whose officers reflect the racial demographics of the community they serve fulfills several important purposes in reducing racial bias in policing. First, it conveys a sense of equity to the public, especially to minority communities. Second, it increases the probability that, as a whole, the agency will be able to understand the perspectives of its racial minorities and communicate effectively with them. Third, it increases the likelihood that officers will come to better understand and respect various racial and cultural perspectives through their daily interactions with one another.¹

ELS is a recognized leader in bringing challenges to public employer practices that unnecessarily screen out minorities and women. These large cases usually result in the employer changing its employment processes so that the new examinations or criteria actually evaluate candidates for what is necessary for the job and have less disparate impact on minorities and women. ELS's total attorney staffing ceiling is 45 attorneys and approximately 33% of ELS's cases and investigations involve police departments. The program increase will add one attorney, one investigator, and one paralegal in support of ELS's mission to reduce police misconduct through equity in hiring practices. Cases that challenge a department's hiring or promotion policies are significant undertakings that require a large commitment of resources. Because of the large volume of documents and data that must be analyzed, the Section usually assigns two attorneys and a paralegal to this type of investigation and may increase the team to three attorneys if the case is litigated. These investigations can take over a year to complete and during that year can take approximately half of an attorney's time. One additional attorney position will permit ELS to increase its caseload regarding police hiring and promotion practices and increase the ability to find, investigate, and

¹ Lorie Fridell, Robert Lunney, Drew Diamond and Bruce Kubu, Racially Biased Policing: A Principled Response, Police Executive Research Forum, 68-69 (2001), <http://www.policeforum.org/library/?folderPath=/library/racially-biased-policing/a-principled-response/#documents>

litigate potential violations. The added attorney position will allow the Section to investigate a minimum of two additional police departments a year and expect to resolve 2-3 cases annually.

ELS's additional investigator position would be filled by an individual who would assist in identifying and investigating police departments for enforcement actions by conducting statistical analyses of the departments' workforces and hiring practices and analyzing the hiring practices at issue to see if they actually evaluate candidates on job-related criteria. Additionally, ELS will use this investigator to conduct statistical analyses regarding disparate treatment claims of minorities in hiring and promotion. Currently, ELS is forced to rely on consultants for these types of analyses. Having the capacity to conduct this work in-house would significantly increase ELS's efficiency.

In summary, the additional resources will allow CRT to make changes in policies and practices related to the use of force; stops, searches and arrests; custodial interrogations; photographic line-ups; prevention of discriminatory policing; community engagement; recruitment; training; officer assistance and support; performance evaluations and promotions; supervision; and misconduct investigations. The work will encourage greater civilian oversight and will foster community interaction and partnerships.

Effective policing and constitutional protections go hand in hand. We owe it to the communities, and to the law-abiding officers who put their lives on the line every day, to address the serious challenges confronting too many police departments. The Division is committed to working alongside its law enforcement partners in a spirit of fairness and professionalism, to ensure that all necessary reforms are achieved, and the public is effectively and honorably served.

Impact on Performance (Relationship of Increase to Strategic Goals and Priority Goals)

CRT's enhancement request to address Police Misconduct relates directly to The Attorney General's Strategic Goal 2. The Department is dedicated to honoring the faith that Americans' have in the integrity of their police forces, and will work aggressively to ensure that civil rights protections are the cornerstone of law enforcement.

Funding

Base Funding

FY 2012 Enacted				FY 2013 Continuing Resolution				FY 2014 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
71	52	71	\$11,928	71	52	71	\$11,928	71	52	71	\$12,174

Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2014 Request (\$000)	FY 2015 Net Annualization (change from 2014) (\$000)
Attorney	\$121	9	\$1,089	\$1,208
Investigators	74	6	444	438
Paralegal	65	5	325	316
Total Personnel	\$260	20	\$1,858	\$1,962

Non-Personnel Increase Cost Summary

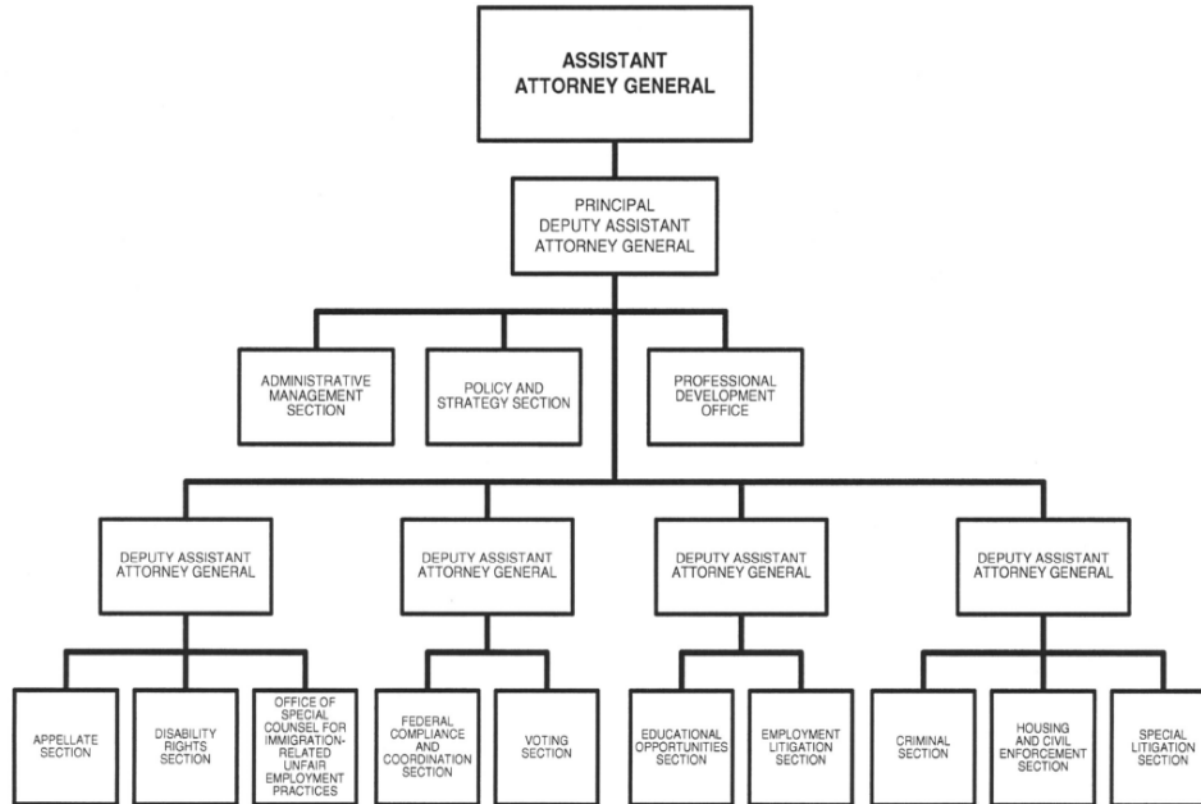
Non-Personnel Item	Unit Cost	Quantity	FY 2014 Request (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
Litigative Consultants	\$0	0	\$70	\$71

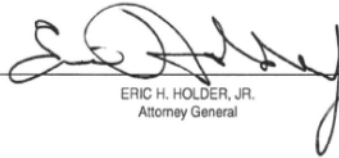
Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2015 Net Annualization (Change from 2014) (\$000)
Current Services	71	52	71	\$12,174	\$ 0	\$12,174	\$ 0
Increases	20	9	10	\$ 1,858	\$70	\$ 1,928	\$2,033
Grand Total	91	61	81	\$14,032	\$70	\$14,102	\$2,033

A: Organizational Chart

CIVIL RIGHTS DIVISION



Approved by:  Date: April 22, 2010
ERIC H. HOLDER, JR.
Attorney General

B. Summary of Requirements

Summary of Requirements
 Civil Rights Division
 Salaries and Expenses
 (Dollars in Thousands)

	FY 2014 Request		
	Direct Pos.	Estimate FTE	Amount
2012 Enacted	715	648	144,500
2013 Continuing Resolution			
2013 CR 0.612% Increase			884
Total 2013 Continuing Resolution	715	630	145,384
Technical Adjustments			
Adjustment - 2013 CR 0.612%	0	0	-884
Total Technical Adjustments	0	0	-884
Base Adjustments			
Transfers:			
JCON and JCON S/TS	0	0	377
Office of Information Policy (OIP)	0	0	-50
Office of Tribal Justice (OTJ)	-1	-1	-261
Professional Responsibility Advisory Office (PRAO)	0	0	-131
Pay and Benefits	0	0	1,028
Domestic Rent and Facilities	0	0	1,270
Total Base Adjustments	-1	-1	2,233
Total Technical and Base Adjustments	-1	-1	1,349
2014 Current Services	714	629	146,733
Program Changes			
Increases:			
Civil Rights Enforcement	50	25	5,072
Financial and Mortgage Fraud	15	8	1,500
Police Misconduct Enforcement	20	10	1,928
Subtotal, Increases	85	43	8,500
Total Program Changes	85	43	8,500
2014 Total Request	799	672	155,233
2012 - 2014 Total Change	84	24	10,733

Note: The FTE for FY 2012 is actual and FY 2013 and FY 2014 are estimates.

B. Summary of Requirements

Summary of Requirements

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Program Activity	2012 Appropriation Enacted			2013 Continuing Resolution*			2014 Technical and Base Adjustments			2014 Current Services		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Civil Rights Division	715	648	144,500	715	630	145,384	-1	-1	1,349	714	629	146,733
Total Direct	715	648	144,500	715	630	145,384	-1	-1	1,349	714	629	146,733
Balance Rescission			0			0			0			0
Total Direct with Rescission			144,500			145,384			1,349			146,733
Reimbursable FTE		29			29			0			29	
Total Direct and Reimb. FTE		677			659			-1			658	
Other FTE:												
LEAP		0						0			0	
Overtime		4			4			0			4	
Grand Total, FTE		681			663			-1			662	

Program Activity	2014 Increases			2014 Offsets			2014 Request		
	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount	Direct Pos.	Est. FTE	Amount
Civil Rights Division	85	43	8,500	0	0	0	799	672	155,233
Total Direct	85	43	8,500	0	0	0	799	672	155,233
Balance Rescission			0			0			0
Total Direct with Rescission			8,500			0			155,233
Reimbursable FTE		0			0			29	
Total Direct and Reimb. FTE		43			0			701	
Other FTE:									
LEAP		0			0			0	
Overtime		0			0			4	
Grand Total, FTE		43			0			705	

*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).

C. Program Changes by Decision Unit

Summary of Requirements

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Program Increases	Location of Description by Program Activity	Civil Rights Division				Total Increases			
		Direct Pos.	Agt./ Atty.	Est. FTE	Amount	Direct Pos.	Agt./ Atty.	Est. FTE	Amount
Civil Rights Enforcement	Restore and strengthen civil rights enforcement.	50	25	25	5,072	50	25	25	5,072
Financial and Mortgage Fraud	Hold accountable criminals who perpetrate financial and mortgage fraud, deter future perpetrators of fraud, and recover monies stolen from the U.S. taxpayer.	15	10	8	1,500	15	10	8	1,500
Police Misconduct Enforcement	Combatting abuse, discriminatory policing, and other unconstitutional actions by law enforcement officials.	20	9	10	1,928	20	9	10	1,928
Total Program Increases		85	44	43	8,500	85	44	43	8,500

D. Resources by DOJ Strategic Goal and Strategic Objective

Resources by Department of Justice Strategic Goal/Objective

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Strategic Goal and Strategic Objective	2012 Appropriation Enacted		2013 Continuing Resolution*		2014 Current Services		2014 Increases		2014 Offsets		2014 Total Request	
	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount	Direct/ Reimb FTE	Direct Amount
Goal 2 Prevent Crime, Protect the Rights of the American People, and enforce Federal Law												
2.5 Promote and protect Americans' civil rights.	677	144,500	659	145,384	658	146,733	43	8,500	0	0	701	155,233
Subtotal, Goal 2	677	144,500	659	145,384	658	146,733	43	8,500	0	0	701	155,233
TOTAL	677	144,500	659	145,384	658	146,733	43	8,500	0	0	701	155,233

Note: Excludes Balance Rescission and/or Supplemental Appropriations.

*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).

E. Justification for Technical and Base Adjustments

Justifications for Technical and Base Adjustments

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
Technical Adjustments			
1 <u>Adjustment - 2013 CR 0.612%:</u> PL 112-175 section 101 (c) provided 0.612% across the board increase above the current rate for the 2013 CR funding level. This adjustment reverses this increase.	0	0	-884
Subtotal, Technical Adjustments			-884
Transfers			
1 <u>JCON and JCON S/TS:</u> A transfer of \$377,000 is included in support of the Department's Justice Consolidated Office Network (JCON) and JCON S/TS programs which will be moved to the Working Capital Fund and provided as a billable service in FY 2014.	0	0	377
2 <u>Office of Information Policy (OIP):</u> A transfer of \$50,000 from the Civil Rights Division to OIP is included to centralize appropriated funding and eliminate the current reimbursable financing process. The centralization of the funding is administratively advantageous because it eliminates the paper-intensive reimbursement process.	0	0	-50
3 <u>Office of Tribal Justice (OTJ):</u> One position and \$261,000 will be transferred from the Civil Rights Division to the General Administration appropriation to provide permanent appropriated funding for the Office of Tribal Justice.	-1	-1	-261
4 <u>Professional Responsibility Advisory Office (PRAO):</u> A transfer of \$131,000 from the Civil Rights Division to PRAO is included to centralize appropriated funding and eliminate the current reimbursable financing process. The centralization of the funding is administratively advantageous because it eliminates the paper-intensive reimbursement process.			-131
Subtotal, Transfers	-1	-1	-65
Pay and Benefits			
1 <u>2014 Pay Raise:</u> This request provides for a proposed 1 percent pay raise to be effective in January of 2014. The increase only includes the general pay raise. The amount requested, \$667,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$466,900 for pay and \$200,100 for benefits).	0	0	667
2 <u>Annualization of 2013 Pay Raise:</u> This pay annualization represents first quarter amounts (October through December) of the 2013 pay increase of 0.5% included in the 2013 President's Budget. The amount requested, \$120,000, represents the pay amounts for 1/4 of the fiscal year plus appropriate benefits (\$84,000 for pay and \$36,000 for benefits).	0	0	120
3 <u>Employee Compensation Fund:</u> The -\$7,000 request reflects anticipated changes in payments to the Department of Labor for injury benefits under the Federal Employee Compensation Act.	0	0	-7
4 <u>Health Insurance:</u> Effective January 2014, the component's contribution to Federal employees' health insurance increases by 6.5 percent. Applied against the 2013 estimate of \$4,021,000, the additional amount required is \$166,000.	0	0	166

E. Justification for Technical and Base Adjustments

Justifications for Technical and Base Adjustments

Civil Rights Division
 Salaries and Expenses
 (Dollars in Thousands)

	Direct Pos.	Estimate FTE	Amount
<p><u>5 Retirement:</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on U.S. Department of Justice Agency estimates, we project that the DOJ workforce will convert from CSRS to FERS at a rate of 1.3 percent per year. The requested increase of \$82,000 is necessary to meet our increased retirement obligations as a result of this conversion.</p>			82
Subtotal, Pay and Benefits	0	0	1,028
Domestic Rent and Facilities			
<p><u>1 Guard Services:</u> This includes Department of Homeland Security (DHS) Federal Protective Service charges, Justice Protective Service charges and other security services across the country. The requested increase of \$353,000 is required to meet these commitments.</p>	0	0	353
<p><u>2 Moves (Lease Expirations):</u> GSA requires all agencies to pay relocation costs associated with lease expirations. This request provides for the costs associated with new office relocations caused by the expiration of leases in FY 2014.</p>	0	0	917
Subtotal, Domestic Rent and Facilities	0	0	1,270
TOTAL DIRECT TECHNICAL and BASE ADJUSTMENTS	-1	-1	1,349

F. Crosswalk of 2012 Availability

Crosswalk of 2012 Availability

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Program Activity	2012 Appropriation Enacted w/o Balance Rescission			Balance Rescission			Reprogramming/Transfers			Carryover	Recoveries/ Refunds	2012 Actual		
	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Direct Pos.	Actual FTE	Amount	Amount	Amount	Direct Pos.	Actual FTE	Amount
Civil Rights Division	715	648	144,500	0	0	0	0	0	0	0	0	715	648	144,500
Total Direct	715	648	144,500	0	0	0	0	0	0	0	0	715	648	144,500
Reimbursable FTE		29			0			0					29	
Total Direct and Reimb. FTE		677			0			0					677	
Other FTE:														
LEAP		0			0			0					0	
Overtime		4			0			0					4	
Grand Total, FTE		681			0			0					681	

G. Crosswalk of 2013 Availability

Crosswalk of 2013 Availability

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Program Activity	FY 2013 Continuing Resolution*			Supplemental Appropriation Amount	Reprogramming/Transfers			Carryover Amount	Recoveries/ Refunds Amount	2013 Availability		
	Direct Pos.	Estim. FTE	Amount		Direct Pos.	Estim. FTE	Amount			Direct Pos.	Estim. FTE	Amount
Civil Rights Division	715	630	145,384	0	0	0	0	0	715	630	145,384	
Total Direct	715	630	145,384	0	0	0	0	0	715	630	145,384	
Balance Rescission												
Total Direct with Rescission			145,384								145,384	
Reimbursable FTE		29				0		0			29	
Total Direct and Reimb. FTE		659				0		0			659	
Other FTE:												
LEAP		0				0		0			0	
Overtime		4				0		0			4	
Grand Total, FTE		663				0		0			663	

*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).

H. Summary of Reimbursable Resources

Summary of Reimbursable Resources

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Collections by Source	2012 Actual			2013 Planned			2014 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
BOP		10	1,105		10	1,200		10	1,260			60
FBI			715			730			767			37
DEA			197			175			184			9
EOUSA			572			354			372			18
USMS			175			80			84			4
CRS			31			20			20			0
OIG			15			10			11			1
OJP			320			311			327			16
JMD			55			45			45			0
EOIR			50			50			53			3
ATF			158			158			158			0
ATR			5			5			5			0
HHS		19	5,325		19	6,800		19	4,118			-2,682
OVC/NAVC			43			42			42			0
VW/WEPP			10			10			11			1
OARM			6			14			15			1
UPSC			21			0			0			0
NDIC			25			0			0			0
NSD			10			0			0			0
CFPB			0			82			82			0
OPM			0			93			93			0
DHS			0			10			10			0
Budgetary Resources	0	29	8,838	0	29	10,189	0	29	7,657	0	0	-2,532

Obligations by Program Activity	2012 Actual			2013 Planned			2014 Request			Increase/Decrease		
	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount	Reimb. Pos.	Reimb. FTE	Amount
HCFAC		19	5,325		19	6,800		19	4,118			-2,682
CAO		10	2,666		10	2,658		10	2,806			148
OJP		0	320		0	300		0	300			0
EOUSA		0	220		0	180		0	180			0
Other		0	307		0	251		0	253			2
Budgetary Resources	0	29	8,838	0	29	10,189	0	29	7,657	0	0	-2,532

I. Detail of Permanent Positions by Category

Detail of Permanent Positions by Category

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Category	2012 Appropriation Enacted		2013 Continuing Resolution		2014 Request				
	Direct Pos.	Reimb. Pos.	Direct Pos.	Reimb. Pos.	ATBs	Program Increases	Program Offsets	Total Direct Pos.	Total Reimb. Pos.
Miscellaneous Operations (010-099)	7	0	7	0	0	0	0	7	0
Economist (110)	0	0	0	0	0	2	0	2	0
Civil Rights Analyst (160)	16	0	16	0	0	2	0	18	0
Personnel Management (200-299)	11	0	11	0	0	2	0	13	0
Clerical and Office Services (300-399)	154	5	154	5	0	22	0	176	5
Accounting and Budget (500-599)	7	0	7	0	0	1	0	8	0
Architect (808)	10	0	10	0	0	0	0	10	0
Attorney (905)	384	24	384	24	-1	44	0	427	24
Paralegal / Other Law (900-998)	102	0	102	0	0	9	0	111	0
Information & Arts (1000-1099)	3	0	3	0	0	0	0	3	0
Mathematical Statistics (1529)	3	0	3	0	0	3	0	6	0
Information Technology Mgmt (2210)	18	0	18	0	0	0	0	18	0
Total	715	29	715	29	-1	85	0	799	29
Headquarters (Washington, D.C.)	715	29	715	29	-1	85	0	799	29
U.S. Field	0	0	0	0	0	0	0	0	0
Foreign Field	0	0	0	0	0	0	0	0	0
Total	715	29	715	29	-1	85	0	799	29

J. Financial Analysis of Program Changes

Financial Analysis of Program Changes

Civil Rights Division
Salaries and Expenses

Grades	Civil Rights Division						Total Program Changes	
	Civil Rights Enforcement		Financial Fraud		Police Misconduct			
	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
GS-14	25	2,931	12	1,403	9	1,078	46	5,412
GS-13	0	0	1	89	0	0	1	89
GS-12	17	1,491	0	0	0	0	17	1,491
GS-11	4	264	0	0	6	396	10	660
GS-9	3	162	1	52	5	272	9	486
GS-7	1	42	1	42	0	0	2	84
Total Positions and Annual Amount	50	4,890	15	1,586	20	1,746	85	8,222
Lapse (-)	-25	-2,445	-8	-793	-10	-873	-43	-4,111
11.5 Other Personnel Compensation		0		1		0		1
Total FTEs and Personnel Compensation	25	2,445	8	794	10	873	43	4,112
12.0 Personnel Benefits		664		215		272		1,151
21.0 Travel and Transportation of Persons		156		51		69		276
22.0 Transportation of Things		16		5		7		28
23.2 Rental Payments to Others		31		9		12		52
23.3 Communications, Utilities, and Miscellaneous Charges		12		3		4		19
24.0 Printing and Reproduction		22		8		9		39
25.1 Advisory and Assistance Services		243		0		174		417
25.2 Other Services from Non-Federal Sources		563		140		61		764
25.3 Other Goods and Services from Federal Sources		20		6		83		109
25.7 Operation and Maintenance of Equipment		12		4		5		21
26.0 Supplies and Materials		53		16		21		90
31.0 Equipment		462		137		186		785
32.0 Land and Structures		373		112		152		637
Total Program Change Requests	25	5,072	8	1,500	10	1,928	43	8,500

K. Summary of Requirements by Grade

Summary of Requirements by Grade

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Grades and Salary Ranges				2012 Enacted		2013 Continuing Resolution		2014 Request		Increase/Decrease	
				Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount	Direct Pos.	Amount
EX	\$	145,700	- 199,700	1	133	1	133	1	135	0	2
SES/SL	\$	119,554	- 179,700	21	3,142	21	3,157	21	3,189	0	32
GS-15	\$	123,758	- 155,500	328	45,789	328	46,018	327	46,334	-1	316
GS-14	\$	105,211	- 136,771	72	8,712	72	8,756	118	14,492	46	5,736
GS-13	\$	89,033	- 115,742	80	8,192	80	8,233	81	8,419	1	186
GS-12	\$	74,872	- 97,333	35	3,014	35	3,029	52	4,544	17	1,515
GS-11	\$	62,467	- 81,204	56	4,021	56	4,041	66	4,810	10	769
GS-10	\$	56,857	- 73,917	4	262	4	263	4	266	0	3
GS-9	\$	51,630	- 67,114	36	2,135	36	2,145	45	2,709	9	564
GS-8	\$	46,745	- 60,765	15	807	15	811	15	819	0	8
GS-7	\$	42,209	- 54,875	34	1,649	34	1,657	36	1,772	2	115
GS-6	\$	37,983	- 49,375	4	175	4	176	4	177	0	1
GS-5	\$	37,075	- 44,293	4	163	4	164	4	165	0	1
GS-4	\$	30,456	- 39,590	9	315	9	317	9	320	0	3
GS-3	\$	27,130	- 35,269	9	281	9	282	9	285	0	3
GS-2	\$	24,865	- 31,292	7	197	7	198	7	200	0	2
Total, Appropriated Positions				715	78,987	715	79,380	799	88,636	84	9,256
Average SES Salary					163,795		164,614		165,437		
Average GS Salary					109,268		109,268		108,191		
Average GS Grade					13		13		13		

L. Summary of Requirements by Object Class

Summary of Requirements by Object Class

Civil Rights Division
Salaries and Expenses
(Dollars in Thousands)

Object Class	2012 Actual		2013 Availability*		2014 Request		Increase/Decrease	
	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount	Direct FTE	Amount
11.1 Full-Time Permanent	587	65,683	569	66,426	608	71,011	39	4,585
11.3 Other than Full-Time Permanent	57	6,648	57	6,649	60	6,649	3	0
11.5 Other Personnel Compensation	4	730	4	730	4	783	0	53
<i>Overtime</i>	0	0	0	0	0	0	0	0
<i>Other Compensation</i>	0	0	0	0	0	0	0	0
11.8 Special Personal Services Payments	0	745	0	0	0	0	0	0
Total	648	73,806	630	73,805	672	78,443	42	4,638
Other Object Classes								
12.0 Personnel Benefits		19,960		19,961		21,353		1,392
13.0 Benefits for former personnel		0		0		0		0
21.0 Travel and Transportation of Persons		3,090		3,090		3,366		276
22.0 Transportation of Things		628		628		656		28
23.1 Rental Payments to GSA		16,253		17,842		17,842		0
23.2 Rental Payments to Others		383		374		426		52
23.3 Communications, Utilities, and Miscellaneous Charges		2,274		2,283		2,302		19
24.0 Printing and Reproduction		220		220		259		39
25.1 Advisory and Assistance Services		4,482		4,482		4,899		417
25.2 Other Services from Non-Federal Sources		13,735		14,343		14,600		257
25.3 Other Goods and Services from Federal Sources		7,550		7,542		7,823		281
25.4 Operation and Maintenance of Facilities		56		56		56		0
25.5 Research and Development Contracts		0		0		0		0
25.6 Medical Care		62		70		70		0
25.7 Operation and Maintenance of Equipment		91		91		112		21
25.8 Subsistence and Support of Persons		0		0		0		0
26.0 Supplies and Materials		392		392		482		90
31.0 Equipment		1,505		205		990		785
32.0 Land and Structures		0		0		1,554		1,554
41.0 Grants, Subsidies, and Contributions		0		0		0		0
42.0 Insurance Claims and Indemnities		0		0		0		0
Total Obligations		144,487		145,384		155,233		9,849
Subtract - Unobligated Balance, Start-of-Year		0		0		0		0
Subtract - Transfers/Reprogramming		0		0		0		0
Subtract - Recoveries/Refunds		0		0		0		0
Add - Unobligated End-of-Year, Available		0		0		0		0
Add - Unobligated End-of-Year, Expiring		13		0		0		0
Total Direct Requirements	0	144,500	0	145,384	0	155,233	0	9,849
Reimbursable FTE								
Full-Time Permanent	29		29		29		0	
23.1 Rental Payments to GSA (Reimbursable)		183		184		184		0
25.3 Other Goods and Services from Federal Sources - DHS Security (Reimbursable)		12		12		365		353

*The 2013 Continuing Resolution includes the 0.612% funding provided by the Continuing Appropriations Resolution, 2013 (P.L. 112-175, Section 101 (c)).