

**U.S. Department of Justice**  
**FY 2013 PERFORMANCE BUDGET**  
**Congressional Submission**

Civil Rights Division

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## **I. Overview**

### **1. Introduction**

In FY 2013, the Civil Rights Division (CRT) requests a total of \$153,341,000, 779 positions and 749 direct FTE, to enforce the country's civil rights laws in a fair and uniform manner. 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 prohibiting discrimination 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 several criminal civil rights statutes which are designed to preserve personal liberties and safety have 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, 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's enforcement mission has three significant prongs: (1) to fulfill the promise of federal laws entitling all persons to basic civil rights protections as they engage in everyday conduct throughout the United States; (2) to deter illegal conduct through the successful judicial enforcement of these federal laws; and (3) promoting voluntary compliance and civil rights protection through a variety of educational, technical assistance, and outreach programs. Each time compliance is achieved, a significant result has occurred.

CRT is comprised of 11 program-related sections, the Professional Development Office, 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 nine program-related sections fall under the Civil Enforcement program area.

In July 2010, the Obama Administration released the *National HIV/AIDS 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.

### **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 2010, the FBI documented 6,628 hate crime incidents involving 8,208 victims and 7,699 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.
- CRT's human trafficking caseload essentially tripled between FY 2001–FY 2011. These cases are extremely labor-intensive. The workload associated with the 42 anti-trafficking task forces has a substantial impact on the program's workload. These task forces have begun to produce high volume and complex trafficking cases, often involving multiple districts and requiring significant coordination efforts by 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 111 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 lending fraud and discrimination have substantially contributed to the current financial crisis, and persons throughout the country have been deprived of their homes and their life savings.
- CRT along with US Attorneys is 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.
- Under immigration reform proposals, millions of workers may receive legal status protected under the Immigration and Nationality Act's (INA) anti-discrimination provision, thus, increasing substantially the number of new potential injured parties able to file charges with OSC.
- 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 service-members directly. As more members of the National Guard and Reserve return from duty, CRT expects SCRA complaints to increase. Assumption of this enforcement authority will continue to affect the workload of CRT for the foreseeable future.
- 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. Title II and III regulations and the Standards for Accessible Design pose a significant challenge, not only in terms of creating required compliance guides and revising the extensive collection of existing technical assistance materials, but also the Division's own ability to provide accurate technical assistance to the public. This is an exceptional undertaking. It is anticipated that requests from outside groups and organizations for workshops and training sessions will dramatically increase. CRT also continues to work toward providing rapid, adequate responses to complaints filed by thousands of citizens who turn to us for justice every year.
- Since Congress reauthorized Section 5 of the Voting Rights Act (VRA) in 2006, review of redistricting plans has consistently been the focus of intense scrutiny by advocates and members of Congress. If anything, it has increased with each redistricting cycle. Given the recent publicity over several Section 5 determinations, CRT expects that the scrutiny may be even greater for the upcoming

cycle. This area of activity is expected to increase as the release of the 2010 census data prompts many jurisdictions to file redistricting plans that must be submitted for Federal pre-clearance. The recent Supreme Court ruling in *Northwest Austin* will greatly expand the number of sub-jurisdictions that are now entitled to file an action seeking bail-out from coverage of the section 5 preclearance provisions of VRA.

### **Internal Challenges:**

- DOJ needs to continue its efforts to attract the “best and brightest” of all talents and should continue its efforts to attract and maintain a positive working environment that encourages retention. The current Department-wide partial hiring freeze has impeded CRT’s ability to fill position vacancies and caused delays for securing exceptions.
- 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)	
<b>Civil Rights Enforcement</b>	<b>Restore and Strengthen Civil Rights Enforcement</b>	<b>50</b>	<b>25</b>	<b>\$5,072</b>	<b>39</b>
<b>Financial Fraud</b>	<b>Combat discrimination in lending and foreclosure</b>	<b>15</b>	<b>8</b>	<b>\$1,500</b>	<b>42</b>
<b>IT Savings</b>	<b>Department-wide cost saving initiative</b>	<b>0</b>	<b>0</b>	<b>\$(181)</b>	<b>44</b>

## **III. Appropriations Language and Analysis of Appropriations Language**

Please refer to the General Legal Activities Consolidated Justifications

## **IV. Decision Unit Justification**

<b>Civil Rights Division TOTAL</b>	<b>Perm. Pos.</b>	<b>FTE</b>	<b>Amount</b>
2011 Enacted	815	817	\$144,495,000
2012 Enacted	715	717	144,500,000
Adjustments to Base	(1)	(1)	2,450,000
2013 Current Services	714	716	146,950,000
2013 Program Increase	65	33	6,572,000
2013 Program Offset - IT Savings	0	0	(181,000)
2013 Request	779	749	\$153,341,000
<b>Total Change 2012-2013</b>	<b>64</b>	<b>32</b>	<b>\$8,841,000</b>

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.

## **1. Program Description**

### **Criminal Enforcement (104 positions; \$16,603,000)**

The Criminal Section 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 spate of "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 the 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, prisons 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.

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.

The Section continues its commitment to ensuring the safety of patients and providers at family clinics by vigorously enforcing the Freedom of Access to Clinic Entrances. 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.

### **Civil Enforcement (675 positions; \$136,738,000)**

#### **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 199 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.

### **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 federal financial assistance (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 also 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 covered the full gamut of employers, from the nation's largest employers to small businesses with only a few employees. Investigations also included a broad range of industries, including food processing, restaurant and hospitality, retail, information technology, and job referral agencies. OSC's successful resolutions included 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*. 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.

Civil Rights of Institutionalized Persons Act (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 also is 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 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 work 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 also is 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 federal financial assistance. 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, 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 services members, 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.

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Civil Rights Division											
DOJ Goal/Objective: SG 2.5: Promote and protect American's civil rights.											
WORKLOAD/ RESOURCES		Final Target		Actual		Projected		Changes		Requested (Total)	
		FY 2011		FY 2011		FY 2012 Enacted		Current Services Adjustments and FY 2013 Program Changes		FY 2013 Request	
Workload: Investigations/Technical Assistance/											
Mediation/Prosecution											
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
		784	\$146,495 [\$9,223]	757	\$148,410 [\$8,668]	776	\$144,500 [\$10,318]	32	\$8,841 [-\$108]	808	\$153,341 [\$10,210]
TYPE/ STRATEGIC OBJECTIVE	PERFORMANCE	FY 2011		FY 2011		FY 2012 Enacted		Current Services Adjustments and FY 2013 Program Changes		FY 2013 Request	
Program Activity	Civil Rights	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		784	\$146,495 [\$9,223]	757	\$148,410 [\$8,668]	776	\$144,500 [\$10,318]	32	\$8,841 [-\$108]	808	\$153,341 [\$10,210]
Performance Measure	Number of successful mediations	225		265		225		40		265	
Performance Measure	Number of human trafficking cases resolved *	20		29		20		5		25	
Performance Measure	Number of complaints finalized by mediation	232		340		265		75		340	
Efficiency Measure	% of matters successfully resolved through mediation	75		78		75		0		75	
OUTCOME	% of criminal cases favorably resolved *	80		84		80		0		80	
OUTCOME	% of civil cases favorably resolved *	80		97		80		0		80	
* The measures are targets in the support of CRT's Performance Goals for the Department.											
*Data Definition, Validation, Verification, and Limitations. All workload and performance indicators: The data source of all indicators is the Civil Rights Division's Interactive Case Management System (ICM).											

PERFORMANCE MEASURE TABLE												
Decision Unit: Civil Rights Division												
Performance Report and Performance Plan Targets		FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011		FY 2012	FY 2013
		Actual	Actual	Actual	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
Performance Measure	Number of criminal cases filed *	96	84	90	93	111	112	125				
Performance Measure	Number of criminal defendants charged*	170	157	202	189	206	219	216				
Performance Measure	Number of civil matters successfully resolved *	332	405	408	353	353	435	482				
Performance Measure	Number of complaints finalized by mediation	233	235	223	226	223	211	302	232	340	265	340
Performance Measure	Number of human trafficking case resolved **								20	29	20	25
Performance Measure	Number of matters received *	3,623	3,634	3,128	2,839	3,153	2,787	2,804				
Performance Measure	Number of cases received *	258	399	404	284	272	313	309				
Performance Measure	Number of matters opened/pending *	5,746	2,563	5,080	5,289	5,981	6,128	6,665				
Performance Measure	Number of cases opened/pending *	1,153	1,206	1,269	1,218	1,198	1,184	1,287				
Performance Measure	Number of matters closed/resolved *	3,675	4,076	3,259	2,576	2,420	2,556	2,261				
Performance Measure	Number of cases closed/resolved *	260	348	341	336	292	328	208				
Efficiency Measure	% of matters successfully resolved through mediation	74	78	82	75	80	79	81	75	78	75	75
OUTCOME Measure	% of criminal cases favorably resolved **	86	95	93	95	97	88	89	80	84	80	80
OUTCOME Measure	% of civil cases favorably resolved **	98	98	98	99	99	100	95	80	97	80	80
OUTCOME Measure	% of civil matters successfully resolved *	89	93	87	95	93	95	94				
* These measures will not be tracked after FY 2010.												
** Department's Performance Goal measure.												

### **3. Performance, Resources, and Strategies**

#### **Criminal Enforcement**

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. In Fiscal Year 2010, CRM, in conjunction with the United States Attorneys' Offices, filed the largest number of Federal criminal civil rights cases ever in a single year in the history of the Division (126) and charged the second most number of defendants (218). Building on those accomplishments, in Fiscal Year 2011, the Criminal Section had some notable accomplishments in the midst of lean staffing times. Below are some highlights:

- Convicted the most defendants on hate crimes charges in over a decade;
- Filed more hate crime cases and charged more defendants on hate crimes charges than last fiscal year;
- Convicted the third highest number of defendants for criminal civil rights offenses in the history of the Section;
- Charged the most defendants on human trafficking offenses in the history of the Section;
- Compiled a significant record on criminal civil rights prosecutions in the last three fiscal years (FY 2009 - 2011), as compared to the previous three years (FY 2006 - FY 2008), as the Section filed 13% more criminal civil rights cases; and
- Attorneys in the Section tried 44 jury trials this fiscal year - nearly double the average number of trials per year (24) - amounting to over three trials per month.

The statistics alone do not tell the full story of the Criminal Section's performance in Fiscal Year 2011. The quality of the prosecutions this year was extraordinary. The Section's hard working and dedicated staff successfully prosecuted a number of complex and high profile civil rights cases during this rating period. Some of the more noteworthy cases and initiatives are recounted below.

#### **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. Through September 30, 2011, 45 law enforcement officers, including police officers, deputy sheriffs, and State prison correctional officials, have been 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 fourteen NOPD officers on civil rights and related violations.

- U.S. v. Bowen et. al (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.

## **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 has opened over 161 matters under the Act and has already indicted four cases under the new statute. In May, the first two defendants were convicted under the statute for their role in ramming their truck into a car occupied by five Hispanic men, which forced the car off the road, causing it to crash and burn. The lead defendant was sentenced to over 11 years in prison and the second defendant received a four year sentence.

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 40 cases against 53 defendants, yielding the convictions of 47 defendants.

## **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. As of September 30, 2011, 117 defendants were charged involving 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 is launching 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.

## **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 prosecutability of 101 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 also drafted the Third Annual Report to Congress Pursuant to the Emmett Till Unsolved Civil Rights Crimes Act of 2007 was submitted to Congress on September 23, 2011.

## **Outreach and Training**

- Conducted and participated in more training and outreach programs than last year and participated in the most hate crime trainings in the last three years.
- 70 Outreach and Training Programs
  - 24 Hate Crimes
  - 29 Human Trafficking
  - 17 Police Practices

## **Civil Enforcement**

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

In FY 2011, the Appellate Section filed 81 briefs and substantive papers in the Supreme Court, the courts of appeals, and the district courts. The Supreme Court rendered four merits decision, which two were in full or partial accord with CRT's contentions. The courts of appeals rendered 39 merits decisions, 33 of which were in full or partial accord with CRT's contentions. The district court rendered two merits decision, which was in full or partial accord with CRT's contentions. The Appellate Sections recent successes include the following cases:

Thus, in FY 2011, the Appellate Section achieved a success rate of 92% in the courts of appeals, and a combined rate of 88% in all cases handled by the Section. These are among the highest success rates in the Division's history. During FY 2011, the Section also significantly increased its productivity. The Section filed more briefs and substantive papers than it had in any of the previous six fiscal years.

The quality and effectiveness of the Section's civil rights enforcement efforts is perhaps best judged by the record of success it has achieved in the cases it litigates. The summaries below of some of our decisions in FY 2011 demonstrate the widespread effect our cases have on the civil rights of all Americans.

### **Supreme Court**

On March 1, 2011, the Supreme Court unanimously held in favor of petitioner in *Staub v. Proctor Hospital*, No. 09-400. (Justice Kagan did not participate.) The case involved the anti-military animus of a supervisor who did not take the adverse employment action herself, but whose anti-military animus was a motivating factor in the ultimate decision by the employer. We filed a brief as *amicus curiae* in support of petitioner arguing that the Seventh Circuit disregarded the text of USERRA when holding for the employer. We argued that USERRA provides for liability where a person's military status is a "motivating factor" in the employer's action, and it was here when a subordinate employee's discriminatory animus influenced the ultimate decisionmaker, making the discrimination a proximate cause of the ultimate employment action.

### **Courts of Appeals**

On May 19, 2011, the Eighth Circuit issued its decision in *In re Grand Jury*, Nos. 10-3502 & 10-3503, and affirmed a district court order refusing to modify a grand jury subpoena seeking intervenors'/police officers' compelled statements made during an internal police investigation of possible Federal civil rights violations. The Eighth Circuit agreed with the United States that: (1) disclosure of intervenors' statements to a government *Garrity* taint team did not violate intervenors' Fifth Amendment rights; (2) it did not have jurisdiction over the City's appeal; and (3) intervenors lacked standing to raise the City's concern that disclosure of their statements would compromise their confidentiality.

### **District Courts**

On September 21, 2011, the District Court for the District of Columbia issued its decision in *Shelby County v. Holder*, Civil Action No. 1:10-cv-00651-JDB, upholding the constitutionality of Sections 4(b) and 5 of the Voting Rights Act. The Division argued that Congress acted within its authority under the Fourteenth and Fifteenth Amendments when it reauthorized Section 5 and left the coverage formula in Section 4(b) unchanged in 2006. The district court agreed, holding that the reauthorization is a congruent and proportional remedy for unconstitutional voting discrimination in the covered jurisdictions.

## Disability Rights Section (DRS)

In the past 10 years, CRT has achieved results for people with disabilities in over 4,500 ADA actions including lawsuits, settlement agreements, and successful mediations. Examples of some of the most meritorious accomplishments are described below.

DOJ has signed 196 settlement agreements with 181 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 the first quarter of FY 2012, the Section reached new Project Civic Action settlement agreements with Upshur County, TX. Through this initiative, both access and opportunity for community participation has been increased for more than 4.4 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. Lois Curtis*, 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. Between October 1, 2011 and December 31, 2011, the Department filed three Statements of Interest related to *Olmstead* enforcement (California (2) and the District of Columbia) and opened a new *Olmstead* investigation in Florida regarding medically fragile children. The Ninth Circuit Court of Appeals issued a decision in a significant *Olmstead* case and adopted the legal standards put forth by the Department in a Statement of Interest. The Department also participated in settlement discussions for an *Olmstead* case in California and helped the parties reach an agreement that will prevent the institutionalization of thousands of individuals.

In November and December, 2011, the Section entered into seven Settlement Agreements with bus companies in California, Illinois, and Texas 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. Under title III of the ADA, small over-the-road bus fixed-route operators must ensure that accessible buses are made available to individuals with disabilities. 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 its public transportation services, draft written policies and procedures to ensure that persons with disabilities receive accessible transportation, enter into a written agreement with an alternative carrier specifying the arrangement for accessible service, post applicable notices regarding the company's obligation to provide accessible transportation, provide training to all employees and contractors about the requirements of the ADA, and report on its progress to the United States. These agreements reflect the successful ongoing coordination between DOT and the Department under which each agency was able to exercise its unique authority – DOJ's authority to assess a civil penalty, and DOT's authority to revoke operating status.

On October 3, 2011, the Section filed a Statement of Interest opposing defendant's motion to dismiss 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).

DRS has built an impressive mediation program to assist with the disposition of the thousands of complaints received each year. In the first quarter of FY 2012, the ADA Mediation Program referred 95 matters, completed 83 matters, and successfully resolved 70% 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. Highlights through December 31, 2011 include:

- Answering more than 12,500 calls to the ADA Information Line by ADA Specialists who assisted callers in applying the ADA to their own unique situations. In FY 2011, Accessibility Specialists answered more than 59,000 calls. This is by far the highest volume of calls since the inception of the ADA Information Line in 1993, eclipsing the previous high by more than 6,000 calls. It is anticipated that the demand for complex technical assistance will continue to increase in response to the revised title II and title III regulations and the 2010 Standards for Accessible Design.
- The ADA Website, [www.ada.gov](http://www.ada.gov), was visited more than 1.9 million times and more than 2.2 million pages were viewed. The ADA Home Page was the Department's third most visited web destination, with more than 353,000 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.
- Creating new technical assistance materials explaining the revised title II and III regulations and 2010 Standards for Accessible Design (2010 Standards), including:
  - Continuing to draft additional technical assistance publications on the revised regulations; and
  - Initiating the review and revision of more than 40 existing technical assistance documents to ensure consistency with the revised regulations.
- Providing outreach by participating in speaking and outreach events. To date in FY 2012, DRS has presented 11 speeches, workshops, and training sessions to an audience of approximately 2,000. DRS also staffed its ADA exhibit booth at two national conferences, answering questions and disseminating information about the ADA to thousands of individuals across the United States and reaching an estimated audience of 6,000 individuals across the country.

Following the publication of four ANPRMs 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, DRS's regulatory and coordination work continued. Highlights of some of this work in the first quarter of FY 2012 include:

- Reviewed information provided by Federal agencies in response to requests from the AAG for Civil Rights outlining the agencies' implementation during fiscal years 2009 and 2010 of the requirements, among other things, of Section 504 and title II of the ADA regarding review of discrimination complaints, compliance reviews, training, technical assistance, regulatory and policy developments, and the award of Federal financial assistance to grantees;
- Developed a draft of the report to the President on the Department's implementation of Executive Order 12,250 as it applies to Section 504 of the Rehabilitation Act of 1973, as amended, for fiscal year 2011. The draft report covered DRS's Section 504 coordination responsibilities and its broad ADA oversight within four major areas: Regulation Development and Policy/Standards Review; Coordination and Agency Liaison; Technical Assistance; and Enforcement;
- Continued the review of the data collected from the survey of Federal agencies' and departments' compliance with Section 508 of the Rehabilitation Act regarding accessible electronic



information and technology, and provided individual reports to each agency that reflect the composite of their components' survey responses;

- Continued review within the Department of the proposed NPRM on Movie Captioning and Audio Description, along with the regulatory assessment for this rulemaking, in anticipation of submission to OMB in the near future;
- Continued work on the development of revised regulations addressing issues raised by the Department's July 2010 ANPRMs (next generation 9-1-1 emergency call services, accessible web information and services and accessible equipment and furniture);
- Coordinated with the U.S. Access Board in the development of its Medical Diagnostic Equipment NPRM prior to its submission to OMB;
- Coordinated with other Federal agencies in the development of regulations and/or guidelines to implement nondiscrimination requirements of the ADA, Section 504 of the Rehabilitation Act, or the Air Carrier Access Act;
- Responded to approximately 500 complaints or inquiries from the public regarding disability discrimination issues by referring the complaints to appropriate Federal agencies or by providing technical assistance to the writers; and
- Processed 54 pieces of "controlled correspondence" from Congressional offices and the White House, including several letters requesting interpretation and guidance on the revised ADA regulation requirements pertaining to swimming pools, hotels, and golf carts.

In FY 2012, 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;
- Developing training protocols for a variety of audiences on the substantive requirements of the newly adopted title II and III regulations and the 2010 Standards;
- 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 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; and
- Training mediators on the requirements of the revised regulations and 2010 Standards; and
- Offering more complainants and respondents the opportunity to resolve complaints by participating in mediation.

People with disabilities represent a vital and integral part of our society. As a nation, our goals include independence, equal opportunity, and productivity for Americans with disabilities, many of whom require a range of services and supports in order to learn, work productively and live in the community.

Numerous pieces of Federal legislation establish policies to meet these requirements. We recognize that

once these supports and services are provided, people with disabilities contribute to the fabric of our country just like everyone else.

The Department of Justice Civil Rights Division will participate in a government-wide review of ways to improve the effectiveness of disability programs through better coordination and alignment of priorities and strategies. This will build on previous efforts that have sought to better coordinate policies and programs across Federal, state and local governments, the service provider community and employers to improve the effectiveness and efficiency of programs serving individuals with disabilities. While some significant coordination efforts have proven successful, the Administration expects collaboration and innovation to improve efficiency and effectiveness as well as reduce costs even further. The focus of the upcoming review will be to work with agencies authorized to run disability-specific programs and those programs that impact and affect people with disabilities to explore how they can achieve better results for this population by sharing data; defining shared objectives; coordinating goal-setting, integration, implementation and measurement to track progress; and improving management response time when adjustments are needed.

### **Education Opportunities Section (EOS)**

EOS addresses discrimination and harassment in public schools and universities. Between October 1, 2010 and November 30, 2011, EOS negotiated a total of six consent decrees and nine out-of-court settlement agreements, obtained litigated relief in one desegregation case and seven modifications to our school desegregation plans, wrote two amicus briefs, and opened forty two investigations regarding alleged discrimination on the basis of race, national origin, sex, disability, and religion.

In the race and national origin context, EOS monitors approximately 199 active school desegregation cases to which it is a party, and has negotiated six court-ordered consent decrees thus far since October 1, 2010. In one case, EOS entered into a comprehensive consent decree addressing the racial harassment of students, which among other things, provided for the review of district-wide harassment policies, training of faculty, staff and students, and the development and implementation of a plan to address harassment at the school. EOS also negotiated two out-of-court settlements, and seven plan modifications. As a result of these efforts, desegregated opportunities were provided to students, including the elimination of one-race schools; redrawing of attendance lines, the reassignment of teachers to facilitate desegregation, and the reevaluation of magnet school admissions processes to promote diversity. EOS continues to work with school districts to achieve unitary status and dismissed one long-standing desegregation lawsuit. In addition, EOS has opened 17 race and national origin discrimination investigations thus far.

During this fourteen-month period, to ensure equal educational opportunities for English Language Learners (ELL) and as part of a nationwide effort, EOS initiated six new investigations and is actively pursuing 16 ongoing investigations in 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 2011, EOS negotiated six out-of-court settlement agreements addressing, among other things, the registering and identification of 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. In FY 2011, EOS also has been monitoring compliance with three consent decrees and ten out-of-court agreements that impact ELL students and their parents.

In FY 2011, to protect and address sex discrimination of students in schools, EOS has opened six investigations, negotiated one out-of-court settlement, filed an amicus brief, and obtained litigated relief

in one case. The amicus brief was filed to clarify the proper legal standards governing harassment on the basis of sex under the Equal Protection Clause and Title IX.

As of March 15, 2011, EOS has also obtained jurisdiction to enforce directly Title II of the Americans with Disabilities Act. Since October 1, 2010, EOS has opened 12 investigations into discrimination against students with disabilities. EOS also wrote an amicus brief defending the validity of the long-standing IDEA regulation that grants parents a right to an independent education evaluation at public expense under certain circumstances. The court upheld the regulation on August 17, 2011.

With respect to legislation and policy, EOS has spent considerable time commenting on provisions of the Elementary and Secondary Education Act, as well as other education-related statutes (e.g., the Student Non-Discrimination Act).

EOS, along with the Office for Civil Rights at the Department of Education (OCR) drafted education-related guidance regarding *Plyler v. Doe* on May 6, 2011, and a Dear Colleague Letter and Guidance Documents on the Voluntary use of Race on December 2, 2011. EOS also reviewed and/or commented on a number of other guidance proposals (e.g., the Equal Access Act, OCR's Sexual Violence Letter, and OCR's Dear Colleague Letter on Harassment and Bullying).

In FY 2012 and FY 2013, EOS will continue to vigorously enforce Title IV, through both continued enforcement of its desegregation matters and through new investigations. EOS plans to initiate, through outreach, additional Title IV investigations 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; and the harassment of students. 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. Lastly, EOS plans to catalyze efforts to address discrimination against students with disabilities under Title II and Title III of the ADA.

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

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

In FY 2011, ELS filed six suits alleging discrimination against an individual pursuant to Section 706 of Title VII. In addition, ELS filed 12 USERRA suits; obtained seven consent decrees, one settlement agreement; 13 out-of-court settlements; and initiated 50 investigations (29 under § 706; 21 under § 707). In addition, in FY 2011, ELS received a total of 130 USERRA referrals from the Department of Labor for litigation consideration, 42 of which included a finding of "merit." ELS also monitors consent decree compliance in numerous Title VII, § 707 suits. In addition, we filed three motions to participate as *amicus curiae*; we are litigating two defensive cases, and are actively monitoring two challenges to state disadvantaged business enterprise programs.

On January 7, 2010, ELS filed *United States v. State of New Jersey* alleging that the State is engaged in a pattern or practice of discrimination against African Americans and Hispanics in violation of Title VII through its use of a written examination to screen and select candidates for promotion to police sergeant in local jurisdictions that participate in the State's civil service system. On August 1, 2011, following over a year of contested litigation and significant discovery, the parties filed a proposed consent decree with the Court for preliminary entry. The Court preliminarily entered the consent decree on September 15, 2011, and the parties are engaging in an extensive settlement process that includes two fairness hearings, the distribution of individual relief, and working with the State on the development of a new selection procedure for police sergeants.

On January 21, 2010, in *United States v. City of New York, New York* (a combined §§ 706/707 suit challenging the City's use of two written examinations for entry-level firefighters as having an unlawful disparate impact upon African Americans and Hispanics), the Court held that it will enter an order requiring the City to make 293 priority hires of African-American and Hispanic victims and will award retroactive benefits and competitive seniority to priority hires, as well as to African-American and Hispanic firefighters whose hiring was delayed because of the practices that resulted in an unlawful disparate impact. On September 17, 2010, the United States moved for summary judgment regarding the amount of monetary relief due to the victims of the City's discriminatory practices, seeking an award of over \$63 million in back pay. The remedial phase of this case will be lengthy and complex. Once the Court determines the appropriate amount of monetary relief, CRT will administer a claims process through which the Court ultimately will distribute monetary and priority hiring relief to more than 2,000 victims of the City's discriminatory employment practices. On December 8, 2011, the Court issued a Remedial Order and Partial Judgment, Permanent Injunction, and Order Appointing Court Monitor regarding the claims for class-wide injunctive relief. The order contemplates that the United States will play a substantial role in the implementation of class-wide injunctive relief. Finally, since August 2010, the United States has been participating in the joint development of a new, lawful selection procedure for entry-level firefighters. The United States' participation in the joint development was ordered by the Court. The current project plan involves administration of a new selection procedure to candidates beginning in January 2012, and review and approval by the Court of the procedure thereafter. The United States' compliance with the Court's order that we jointly develop the new examination will require substantial expenditure of expert resources, as our experts participate in joint development work on at least a weekly basis, and frequently, several times per week.

On September 28, 2009, ELS filed *United States v. Commonwealth of Massachusetts and Massachusetts Department of Correction*, alleging that defendants are engaged in a pattern or practice of employment discrimination against women, in violation of Title VII. Specifically, our complaint alleges that Defendants are using an unlawful physical abilities test (PAT) that disproportionately screens out female applicants for entry-level correctional officer jobs, without evidence that their use of the PAT is job-related and consistent with business necessity. On April 1, 2011, the Court found that Defendants' use of the PAT causes a disparate impact against women, and thus, the United States had satisfied its prong disparate impact burden. On April 5, 2011, the Court set a three-week bench trial to address prong 2. On May 16, 2011, the parties notified the Court that they had reached a settlement in principle regarding injunctive relief, back pay and priority job offers with retroactive seniority. The parties currently are negotiating the specific provisions of the settlement agreement.

In addition to our affirmative Title VII and USERRA docket, ELS is responsible for defending the constitutionality of disadvantaged business contracting programs (DBE programs) administered by federal agencies. As of May 2011, ELS is litigating two of these cases, *Midwest Fence v. Department of Transportation* and *Geyer v. Minnesota Department of Transportation*. *Midwest Fence* challenges the constitutionality of the United States Department of Transportation's DBE program for highway and transportation construction projects and Illinois Department of Transportation's implementation of this program; *Geyer* challenges the same DOT program and Minnesota's implementation of it. Both cases are in active litigation. Because this is defensive litigation, we cannot anticipate with certainty how many of these cases we will have in the coming fiscal year. However, during FY 2009 and FY2010, ELS litigated a total of four defensive cases which required a substantial amount of additional resources.

During FYs 2012 and 2013, 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.

## **Federal Coordination and Compliance Section (FCS)**

FCS continued its robust coordination and oversight responsibilities under Executive Order 12250. In addition to its on-going training and technical assistance to Federal agency civil rights offices, FCS identified several agencies in significant need of technical assistance for their Title VI programs. The agencies were selected based on coordinator observations over the years, requests for targeted assistance from the agencies directly, and consistent requests from advocates for the Division to work with certain agencies to improve their Title VI programs. In FY 2011, FCS assisted the Environmental Protection Agency as it works to address its backlog of Title VI complaints. FCS also began providing assistance to the Department of Agriculture, Department of Homeland Security, and Department of Transportation, work that will continue through FY 2013. FCS distributed a revised Implementation Plans form to Federal agencies that provide Federal financial assistance to be completed and returned to FCS by July 1, 2011. Upon receipt of Plans from the agencies, FCS reviewed the plans and began preparation of the annual EO 12250 report to the President to be issued in FY 2012 including significant accomplishments.

In FY 2012, FCS planned and launched an Interagency Working Group on Title VI. Through FY 2012 and into FY 2013, the Working Group will examine issues pertaining to Title VI enforcement and bring agencies together to strengthen Title VI programs across the government by developing the guidance and tools needed to improve compliance. FCS also is engaged in an interagency review of issues attendant to benefits verification procedures, seeking to ensure that they are conducted in compliance with Title VI. FCS's work with other Division sections as well as components of the Departments of Health and Human Services, Agriculture, and Homeland Security will continue through FY 2012 and 2013.

FCS continues to provide significant training and technical assistance on Title VI, Title IX, and the requirements of Executive Order 13166, which requires Federal agencies to ensure that their recipients provide limited English proficient individuals with meaningful access to their services, programs, and activities. In FY 2011, FCS presented its intensive two-day training program to staff from 12 Federal agencies and one state agency. The Section expects to continue to provide similar guidance, training, and oversight through FY 2013 and 2014. On a regular basis, FCS responds to agency inquiries on Title VI, Title IX, and LEP obligations. This is a core function of the Section and will continue through FY 2013.

DOJ is a major provider of Federal Financial Assistance (FFA). Under agreements reached with certain DOJ funding components, FCS conducts administrative investigations of selected complaints of discrimination by, 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. FCS continues its major investigation of two sheriff's departments, is in negotiations with two large State Departments of Corrections, and has conducted numerous telephonic interventions or targeted technical assistance efforts that have resulted in recipients coming into compliance without the need for an investigation.

The courts initiative through which FCS works to ensure that LEP individuals receive meaningful access to court services, which began in FY 2011, continues and FCS has prepared training and guidance materials for use during FY 2012 and 2013. Under the initiative, FCS has undertaken major investigations of the courts in four state court systems, continues to monitor an agreement reached with a fifth state, and is conducting a preliminary review of court language access policies in the courts of several additional states. This work will continue through FY 2013 and 2014.

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 on LEP, which functions under FCS leadership, has active members from more than 35 Federal agencies and issued a Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs. It was created to assist both Federal agencies and

entities that receive Federal financial assistance to comply with the language access requirements of Title VI and EO 13166. 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 2011, the growth in FCS's workload included increases in incoming correspondence; requests for legal opinions; requests for intensive technical assistance and training from Federal agencies; and requests/assignments to address numerous legally challenging issues. The Division expects this trend to continue through FY 2012 and 2013, especially as other Federal agencies work to improve their own civil rights programs under FCS's guidance. FCS's work during FY 2012 and 2013 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)**

Under the Obama Administration, HCE has reinvigorated enforcement in key areas of fair housing such as exclusionary zoning, in fair lending and in the rights of servicemembers. The Housing Section has brought numerous lawsuits in these critical areas and obtained the most pattern or practice consent decrees by the Section in more than a decade. During FY 2010 and FY 2011, HCE obtained 10 settlements with relief exceeding \$1 million. As of December 15, 2011, the Section also had 14 pattern or practice cases in pre-suit negotiations that likely will be filed in the first half of FY 2012.

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

- Filing a successful amicus brief where the court held that the Fair Housing Act covers all assistance animals for persons with disabilities, not just specially trained service animals;
- Resolving three Fair Housing Act rental discrimination cases identified by the Section's Fair Housing Testing Program;
- Filing *United States v. City of New Berlin*, alleging that the City violated the Fair Housing Act by preventing the construction of an affordable housing development in response to the racially motivated opposition of local residents; and
- Filing *United States v. City of Joliet*, alleging that the City's actions to condemn and take by eminent domain a HUD-funded affordable housing complex violated the Fair Housing Act and the Housing and Community Development Act.

Significant fair housing settlements in FY 2011 and the beginning of FY 2012 include:

- A design and construct consent order providing for \$2.2 million in monetary relief and retrofits to 361 covered units, *United States v. CVPI, LLC* (October 2010);
- A disability discrimination consent order providing for \$1.2 million in total monetary relief, *United States v. Warren Properties* (December 2010);
- A consent order resolving allegations of sexual harassment, and race and sex discrimination, for \$295,000 in monetary relief, *United States v. Harris* (November 2011); and
- A design and construct consent order providing for \$275,000 in compensation for victims and retrofits to cover 276 units, *United States v. Cogan* (December 2011).

The Section's new Fair Lending Unit expanded collaborative enforcement efforts and produced record results in FY 2011 -- filing and favorably resolving five cases referred by Federal bank regulators and filing a successful amicus brief. As of December 15, 2011, the Section had six fair lending cases in pre-suit negotiations, including three involving major national lenders.

- In *United States v. PrimeLending*, the complaint alleged that the national mortgage lender defendant charged African-American borrowers more than non-African American borrowers to obtain home loans between 2006 and 2009. The January 2011 consent decree requires PrimeLending to pay \$2 million to victims of discrimination and to implement loan pricing policies to ensure that discrimination does not occur in the future.
- In *United States v. Citizens Republic Bancorp* and *United States v. Midwest BankCentre*, the complaints alleged that the defendants failed to provide their home mortgage lending services on an equal basis to residents of majority African-American neighborhoods in the Detroit and St. Louis metropolitan areas. Under the June 2011 settlements, the banks will invest more than \$3.5 million and \$1.4 million, respectively, in those areas by opening one new office or branch there; providing discounted residential loans to qualified applicants; and conducting outreach and education.
- In *United States v. Nixon State Bank*, the complaint alleged that the bank charged Hispanic borrowers higher prices on unsecured consumer loans. The June 2011 consent order requires the bank to implement uniform pricing policies and pay nearly \$100,000 to victims of the alleged pricing discrimination. This is the first case brought by the Division in ten years alleging pricing discrimination in consumer lending.
- In *United States v. C & F Mortgage Corp.*, the complaint alleged that C&F charged African-American and Hispanic borrowers more than non-Hispanic white borrowers for home mortgage loans. The September 2011 consent order requires C&F to implement uniform pricing policies and pay \$140,000 to victims of discrimination.
- In *USAA FederalSavings Bank v. Pennsylvania Human Relations Commission (PHRC)*, the Section filed an amicus brief in support of the Pennsylvania Human Relations Commission (PHRC), arguing that Federal banking law does not preempt substantially equivalent state agencies like the PHRC from investigating of lending discrimination complaints because the Fair Housing Act specifically provides for such investigations. The court ruled in favor of the PHRC.

The Section filed two systemic lawsuits and obtained three settlements in significant matters under the Servicemembers Civil Relief Act (SCRA). A variety of SCRA matters are ongoing, including two authorized pattern or practice cases.

- In *United States v. BAC Home Loans Servicing, LP (f/k/a Countrywide)* and *United States v. Saxon Mortgage Services, Inc.*, the complaints alleged that the mortgage loan servicers foreclosed without court orders on service members' pre-service mortgages. The consent orders require Countrywide to establish a \$20 million victim fund and Saxon to establish a \$2.35 million victim fund to compensate identified service member victims and to compensate additional victims foreclosed on through December 2010. The May 2011 consent orders also require the servicers to implement procedures and training to secure the SCRA rights of service members.
- A May 2011 Memorandum of Agreement with Bank of America Corporation resolved claims that the bank failed to lower (or maintain through the period of service) interest rates on service members' credit card loans to 6%, after appropriate requests for such reductions. The Bank will implement procedures to prevent such violations in the future and will compensate nine service member victims.

With the rise in anti-Muslim activities in FY 2011, the Section focused much of its RLUIPA enforcement activities in this area. In August and September 2011, the Section filed and resolved *United States v. City of Lilburn, GA* and *United States v. Henrico County, VA*, two RLUIPA lawsuits alleging that local governments discriminated against Islamic congregations by rejecting applications to build mosques. As part of the settlements, the local governments have changed their zoning to allow the construction of the mosques.

- The Section is conducting eight RLUIPA investigations. These matters involve a wide range of religious denominations and factual situations, including the building and expansion of Jewish, Muslim, Buddhist and Christian places of worship and schools.

The Section also filed and resolved two cases under Title II of the Civil Rights Act of 1964 (public accommodations) during FY 2011.

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

Since the beginning of FY 2012, OSC received 42 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 the period, OSC opened 12 investigations, and recovered approximately \$7,500 in back pay for victims. Employers also agreed to change discriminatory practices so that all U.S. workers, both U.S. citizens and legal immigrants, would not face unnecessary hurdles in seeking or retaining employment.

OSC 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). Until recently, an essential component of OSC's outreach included its annual public education grant program. In FY 2011, OSC awarded grants to 13 organizations to educate workers and employers in areas with sizable and/or emerging immigrant populations about their rights and responsibilities under the INA. In FY 2012 thus far, OSC participated in 36 public outreach sessions, directly and through its grantees; handled approximately 987 calls through its employer and worker hotlines during FY 2012; and distributed 13,134 pieces of printed educational materials to the public to date during FY 2012.

In FY 2012, OSC's workload may increase significantly based upon a number of factors that portend increased discrimination against U.S. citizens and legal immigrants who to employers look or sound "foreign." DHS is expected to continue to significantly expand its efforts to address the large number of undocumented workers in the United States, including heightened enforcement of employer sanctions. 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 computerized employment eligibility verification systems, such as DHS' E-Verify, 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, on average, 1,200 employers sign up for E-Verify each week, totaling more than 306,000 employers representing more than half a million locations nationwide. DHS-commissioned studies have concluded that use of E-Verify results in increased discrimination against workers who look or sound foreign. It also found that employers took prohibited adverse actions against employees receiving tentative non-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 two years has exacerbated this problem.

Currently, OSC responds to many E-Verify-related requests for assistance from workers and employers calling OSC's toll-free hotlines. In FY 2011, E-Verify related hotline calls averaged almost 8 percent of OSC's total hotline calls. Thus far in FY 2012, the percentage of E-Verify related hotline calls has risen to more than 12 percent of OSC's total calls. OSC expects this demand to continue, particularly in light of the April 2011 launch of the E-Verify Self Check program, which allows workers to verify their own work authorization but has the potential for employer misuse. Increased hotline demand is also likely to be compounded by 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 in FY 2011 and early FY 2012 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 – to ensure that people with disabilities are supported in the most integrated community setting consistent with their needs – has become an increasingly large part of the Section's practice. Frequently, ADA claims have supplanted CRIPA as a reform model for institutions for people with psychiatric and intellectual disabilities. *Olmstead* enforcement both promotes ADA compliance and fixes poor conditions by reducing institutional populations.

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, including crisis services, case management, and housing supports, to buttress individuals' full integration into daily life. In Georgia, the Independent Reviewer's first Compliance Report was issued, finding the State in compliance with the majority of required outcomes for the first year of the agreement and highlighting areas of needed improvement.

The Section engaged in lengthy negotiations to remedy ADA violations noted in FY 2011 findings letters regarding the New Hampshire mental health and Virginia intellectual disabilities systems. Finally, the Section launched a broad investigation of Mississippi's mental health and intellectual disabilities systems that will examine services provided to both adults and children.

**Police:** Addressing unconstitutional and unlawful patterns and practices of police departments remains one of the Section's largest areas of practice. Among our most significant actions were releasing findings letters documenting the results of our investigations of the New Orleans Police Department, the Puerto Rico Police Department, the Maricopa, AZ Sheriff's Office and the Seattle Police Department. These letters provide a comprehensive assessment of patterns or practices of unconstitutional policing and serve as the basis for sustainable reform, including increased community trust. We also filed complaints against the Maricopa Sheriff's Office and the Alamance County NC Sheriff's Office to obtain documents and other information necessary to investigate allegations of unconstitutional conduct.

Investigations opened by the Section, including in Newark, NJ, Portland, OR, and Los Angeles, CA, are evaluating alleged patterns of unconstitutional policing, including possible bias in policing and excessive force, and are being conducted jointly with United States Attorneys' Offices. We also have ongoing police investigations in Suffolk County, NY, Miami, FL, East Haven, CT, and other jurisdictions. The Section settled its investigation of the Beacon, NY Police Department, and continued to monitor consent decrees in seven jurisdictions.

The Section participated heavily in the multi-Division response to immigration bills passed in South Carolina, Alabama, and Utah. We have increased our coordination with DOJ's Community Oriented Policing Services; the Office of Justice Programs, and the Federal Bureau of Investigation.

**CRIPA:** The Section litigated a CRIPA, ADA, and Individuals with Disabilities Education Act case involving the Conway Human Development Center in Conway, Arkansas. The Section also obtained a court-enforceable settlement of its litigation involving the Erie County Detention Center in Buffalo, NY. The Section filed the Division's first CRIPA motion for receivership, to address 25 years of non-

compliance with court orders regarding conditions at the Golden Grove Adult Correctional and Detention Facility in St. Croix, U.S. Virgin Islands. The Section also intervened in a Section 1983 action alleging excessive force through the inappropriate use of Tasers by the Franklin County Sheriff's Office in Columbus, OH, which resulted in a court-enforceable agreement.

As part of its enforcement of a FY 2010 settlement regarding Chicago's Cook County Jail, the Section helped persuade a judicial panel to grant the County's request for a prisoner release order, pursuant to the Prison Litigation Reform Act. This order will aid the County in keeping the jail population at a manageable level, and help to avoid crowded conditions that, as our investigation showed, contribute to unconstitutional conditions. Other ongoing compliance work involves seven psychiatric hospitals in Georgia, nursing homes in Alabama and St. Elizabeths Hospital in the District of Columbia. In FY 2012, the Section filed a motion to enforce its consent decree regarding the mental health system in California.

In addition, the Section issued findings letters regarding a juvenile facility, a nursing home and four jails. The Section initiated six new CRIPA investigations, examining alleged sexual abuse of women at the Topeka Correctional Facility in Kansas, the use of cages for suicidal prisoners and mental health services in St. Tammany Parish, LA and conditions of confinement in the Walnut Grove Youth Correctional Facility in Mississippi, the Piedmont Regional Jail in Virginia, and the Cresson and Pittsburgh Prisons in Pennsylvania.

**Juvenile:** Under 42 U.S.C. Section 14141, the Section has the authority to investigate and bring actions regarding juvenile justice and detention systems. In FY 2011 the Section issued findings letters regarding juvenile facilities in Terrebonne Parish, LA and LeFlore County, MS; in FY 2012, the Section settled the Terrebonne matter, and issued a findings letter regarding Florida's Dozier and Jackson juvenile justice facilities. The Section continued to enforce decrees in Oklahoma and Puerto Rico. In addition, consistent with its authority to investigate constitutional violations in the juvenile courts and the detention process, the Section is completing its first investigation of a juvenile justice system and opened a second one in FY 2012.

**Freedom of Access to Clinic Entrances Act (FACE):** In the Section's growing FACE practice, we filed five cases regarding clinic obstructions, or the use of or threat of force at reproductive healthcare facilities, and in these cases, we have reached settlement with two defendants. Several other matters are under investigation.

**Religious Land Use and Institutionalized Persons Act (RLUIPA):** The Section's RLUIPA practice expanded, including through filing the Department's first two RLUIPA cases and three statements of interest related to prisoner religious practices, and initiating three investigations. Issues in these cases include hair and beard length for Sikhs and Native Americans, access to religious texts, and religious diets. We also engaged in outreach to the religious community and are working with the Bureau of Prisons and others in the Department.

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

Leading up to and throughout FY 2013, 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. In FY 2011, the number of investigations opened, new cases participated in, and litigation matters resolved by VOT has exceeded any other year in the last decade.

In FY 2011, VOT began 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. This huge spike in workload after each Census, eventually amounting to thousands of redistricting plans, is one of the greatest institutional challenges for VOT each decade. In preparation, VOT published

two major documents in the Federal Register, a guidance document concerning Section 5 and redistricting, and the final revisions to the Procedures for the Administration of Section 5, the first significant revisions since 1987.

There has been a significant increase in the number of cases filed by jurisdictions seeking judicial review of voting changes under Section 5 of the VRA in D.C. District Court. In FY 2011 and FY 2012 so far, a record 15 new declaratory judgment actions have been filed under Section 5 by covered states and counties, seeking judicial review of redistricting plans and other complex voting changes. VOT is responsible for defending these cases.

VOT continued its defense of the constitutionality of Section 5 of the VRA in two pending cases filed in FY 2010, by private citizens in Kinston, North Carolina and by Shelby County, Alabama. The district court in those cases found in our favor and they are now on appeal. New cases have been filed challenging Section 5 by the States of Arizona, Florida and Georgia.

The Supreme Court's decision in the *Northwest Austin* case in 2009 greatly expanded the number of covered jurisdictions eligible under Section 4 of the VRA to seek bailout from the special provisions of the Act. In FY 2011 and FY 2012 so far, a record 11 new bailout cases have been filed in the D.C. District Court. After investigation, VOT has advised all of these jurisdictions that it will consent to bailout. Since the *Northwest Austin* decision, VOT has consented to the first-ever bailouts by covered jurisdictions from Texas, California and Georgia, the first bailout from a North Carolina jurisdiction since 1967, as well as additional bailouts from Virginia.

VOT has successfully enforced Congress's major new amendments to the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), made by the 2009 Military and Overseas Voter Empowerment Act (MOVE). Leading up to the 2010 Federal general election, VOT's enforcement actions under UOCAVA, consisting of court orders, court-approved consent decrees, or out-of-court letter or memorandum agreements in 14 states and territories, ensured that Americans serving in our armed forces, their families, and citizens living overseas could receive their absentee ballots in time to have the opportunity to vote and to have their votes counted. VOT has begun outreach and monitoring with election officials concerning the need for compliance with UOCAVA during the 2012 elections for Federal office. Enforcement of UOCAVA will continue to be a major priority for VOT going forward.

In FY 2011, under the National Voter Registration Act of 1993 (NVRA), VOT filed lawsuits against the States of Louisiana and Rhode Island. VOT is continuing a comprehensive nationwide review of 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, through the mail, and require 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. VOT has resolved cases against Cuyahoga County and Lorain County in Ohio, requiring additional steps to ensure voting access for limited English proficient Spanish-speaking Puerto Rican voters. VOT also has resolved cases against Alameda County and Riverside County in California, requiring additional steps to ensure voting access by limited English proficient voters who speak Spanish and Chinese. VOT likewise has reached agreements to protect limited English proficient Native American voters in Sandoval County and Cibola County in New Mexico, and in Shannon County, South Dakota. VOT has published the first amendments since 1992 in the Federal Register to its guidelines for implementation of the language minority requirements of the VRA. After the release of the new Census determinations of jurisdictions covered by the language minority requirements, VOT has begun outreach to these covered jurisdictions.

Enforcement of Section 2 of the VRA, which prohibits voting practices that are discriminatory in purpose or effect, remains a high priority. In VOT's Section 2 case against Port Chester, NY, the district court entered final judgment, and the court of appeals has dismissed an appeal by the city. VOT filed amicus briefs in a Texas statewide redistricting case and in an Irving, Texas case challenging the constitutionality of using total population as the apportionment base for drawing a single member district plan to resolve a Section 2 case. 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.

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.

In FY 2011, VOT continued to place major emphasis on the monitoring of elections by monitoring 55 elections in 51 political subdivisions in 20 States, using 686 Federal observers from the Office of Personnel Management (OPM) and 132 DOJ staff.

VOT expects to continue vigorous enforcement activity under the VRA, UOCAVA, NVRA, and HAVA in FY 2012 and FY 2013. VOT will continue to devote substantial resources to the review of the large volume of redistricting plans under Section 5 of the VRA and the investigation and defense of the substantial increase in non-discretionary cases, including bailout cases, constitutional challenges, and judicial preclearance cases. VOT anticipates continued significant priority in monitoring elections all around the country throughout each year, particularly in FY 2012 and FY 2013.

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

Despite all the civil rights laws guaranteeing equal justice for all, the reality of today's society demonstrates that discrimination still exists. The Division'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, but discrimination and bigotry persist. They persist in blatant forms—burned crosses, burned churches, and hate-fueled assaults. They also persist in more subtle, yet equally devastating ways in many American communities and institutions. In FY 2010—the most recent year for which data are available—the FBI documented 6,628 hate crime incidents involving 8,208 victims and 7,699 offenses. Nearly 50 percent of the reported incidents in FY 2009 were motivated by racial bias.

Discrimination persists in the education system; many children still go to schools that are frequently substandard. It persists in the foreclosure crises, where communities of color are preyed upon by lenders who use 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 restrict 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.

#### **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. Federal civil rights statutes reflect some of America's highest ideals and aspirations—equal treatment and equal justice under the law. These statutes not only aim to protect the civil rights of racial and ethnic minorities, but also those of members of religious minorities, women, persons with disabilities, service-members, individuals

housed in public institutions, and individuals who come from other nations and speak other languages. DOJ is committed to ensuring equal opportunity for all through litigation, prevention efforts, outreach initiatives, technical assistance, and partnerships.

The Civil Rights Division is working to ensure it is prepared to tackle both existing and emerging challenges for civil rights in the 21st Century. CRT intends to achieve its objective by fairly and evenhandedly, enforcing each of the laws within the scope of its responsibility. The Division strives to make individualized litigation decisions based on the application of the law as to the facts of each case. With the program increase CRT is seeking in FY 2013, it will continue to make great progress through the restoration and transformation of the Division.

CRT is working to enhance 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's Assistant Attorney General has reached out to leaders at many federal agencies in order to ensure increased coordination and partnership. This will ultimately result in relief to more people and 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 a modern-day slave trade. The victims endure an underground of brutality and fear. Each year, an estimated six to eight hundred thousand victims, including 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, 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 111 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. The review of redistricting plans under Section 5 of the Voting Rights Act (VRA) is in full stride. Between early 2011 and the end of 2013, approximately 3,000 redistricting plans will be submitted for review by the Department. To prepare for this flood of activity, CRT published new Section 5 guidelines. CRT is also upgrading the geographical information system used to analyze the demographic impact of new voting changes and increasing the number of attorney and non-attorney staff focusing on Section 5 reviews and enhancing their training.

Evidence suggests that compliance at public assistance and disability offices has been poor and that more work needs to be done. To address this shortfall, the Division will develop and implement an

enforcement strategy for increasing compliance with Sections 7 and 8 of the National Voter Registration Act (NVRA), including assessing available data regarding which jurisdictions are most out of compliance; create and distribute a range of public education materials that describes states' obligations under Sections 5, 6, 7, and 8 of the NVRA; and enhance direct outreach through meetings and speaking engagements to national, regional, and local groups or associations of officials with responsibility for implementing the NVRA's requirements.

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 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 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.

Combat discriminatory lending and ensure fair housing. The current financial crisis has disproportionately impacted minority communities. 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. CRT has established a Fair Lending Unit that substantially raises its capacity to pursue and prosecute fair lending cases combating mortgage fraud and discriminatory lending practices. On the other end of the lending spectrum, important Federal programs have evolved to help distressed homeowners avoid foreclosure and modify unsustainable loans. CRT works closely with relevant agencies, fair housing groups, and community partners to ensure that lenders and agents participating in Federal programs neither discriminate against nor defraud homeowners seeking help.

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. The Supreme Court's *Olmstead* decision 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.

Investigate and prosecute police 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, it is committed to holding law enforcement 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.

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 ensure that they develop their full potential, obtain jobs, support their families, and fully participate in the benefits of democracy. In order to supplement CRT's historic focus on entering into and enforcing desegregation decrees, the Division will enforce school obligations under the Equal Educational Opportunities Act to overcome language barriers faced by English Language Learners; address discrimination and harassment in schools, including addressing race, sex, and national origin discrimination, as well as sex stereotyping of LGBT students; and improve equity, through investigations, intervention, or amicus briefs, for students with disabilities who are often subject to multiple forms of discrimination where, for example, minority students are over- or under-referred for special education services.

### **c. Priority Goals**

CRT will support the FY 2013 priority goal 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, 2013, working with state and local law enforcement agencies, protect potential victims from abuse and exploitation by achieving a 5% increase for 3 sets of key indicators:

- Open investigations concerning non-compliant sex offenders, sexual exploitation of children, human trafficking
- Matters/investigations resolved concerning sexual exploitation of children and human trafficking
- (CRM, CRT, FBI, EOUSA, USMS) Number of children depicted in child pornography that are identified by the FBI

## IV. Program Increases by Item

**Item Name:** **Restore and Strengthen Civil Rights Enforcement**

**Budget Decision Unit(s):** Civil Rights Division

**Organizational Program:** Civil Rights Division

**Component Ranking of Item:** 1 of 2

**Program Increase:** Positions 50      Agt/Atty 25      FTE 25      Dollars \$5,072,335

### Description of Item

The Department is requesting additional resources of 50 positions (25 attorneys) and \$5.1 million to continue to strengthen Civil Rights enforcement efforts that the Attorney General has identified as part of his Vulnerable People Priority Goal, and for programs that have eroded over the past few years. The substantial restoration and reinvigoration progress achieved through the enactment of CRT's FY 2010 program increases has been reversed because full funding of these program areas was not provided. Absent this request, there will be only plus one new CRT position in the last three years. While the requested increase would impact all programmatic areas, it would allow CRT to increase its efforts against civil rights violations associated with human trafficking, hate crimes, voting rights enforcement, the Civil Rights for Institutionalized Persons Act (CRIPA), and protect our service member's right in securing civil protection in such areas as housing and credit, employment and voting rights. 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. The victims endure an underground of brutality and fear. Each year, an estimated six to eight hundred thousand victims, including children, who 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; they demand specialized skills, the ability to conduct these investigations across jurisdictions and international borders.

**Hate Crimes.** Hate crimes enforcement is one of the Administration's and Department's top civil rights priorities as it protects all Americans from the plague of bias-motivated violence. These heinous crimes must be prevented and punished to the full extent of the law. Hate crimes victimize not only individuals but entire communities through these acts of intolerance. Perpetrators of these crimes are consumed with bigotry and prejudice and seek to deny the humanity that we all share. 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. Also, CRT must extend its outreach efforts particularly to susceptible groups to educate them, their families, and their communities to prevent such appalling acts or to mitigate their impact.

**Voting Rights.** Federal voting rights enforcement encompasses a broad array of statutes that prohibit government entities, commercial, and private entities from denying or interfering with citizens' rights to fully participate in the democratic process.

**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 Priority Goals)

The Attorney General's Vulnerable People Priority Goal correlates directly with CRT's request to restore and strengthen civil rights enforcement. The Attorney General has a strong commitment in protecting people from discrimination, especially those most vulnerable populations. Increased efforts to eradicate discrimination plays an integral role in DOJ's Strategic Plan.

## Funding

### Base Funding

FY 2011 Enacted				FY 2012 Enacted				FY 2013 Current Services			
Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)	Pos	Agt/ Atty	FTE	\$(000)
815	384	817	144,495	715	384	717	\$144,500	714	383	716	\$146,950

### Personnel Increase Cost Summary

Type of Position	Modular Cost per Position (\$000)	Number of Positions Requested	FY 2013 Request (\$000)	FY 2014 Net Annualization (change from 2013) (\$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 2013 Request (\$000)	FY 2014 Net Annualization (Change from 2013) (\$000)
Litigative Consultants			\$0	\$200
Litigative Support			\$0	\$125
Total Non-Personnel			\$0	\$325

### Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2014 Net Annualization (Change from 2013) (\$000)
Current Services	714	383	716	\$146,950	\$0	\$146,950	\$0
Increases	50	25	25	\$5,072	\$0	\$5,072	\$4,785
Grand Total	764	408	741	\$152,022	\$0	\$152,022	\$4,785

## IV. Program Increases by Item

**Item Name:** **Financial Fraud**

Budget Decision Unit(s): Civil Rights Division

Organizational Program: Civil Rights Division

Component Ranking of Item: 2 of 2

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

### Description of Item

Financial industry fraud has shaken the world's confidence in the U.S. financial system. Losses in financial fraud cases have ranged from millions of dollars to 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 false buyers and sellers who receive kickbacks. It is imperative that the Department enforce the laws that protect the integrity of our economic system.

The FY 2013 President's Budget includes a program enhancement of 15 positions (including 10 attorneys) and \$1,500,000. These resources will enable the Department to hold accountable criminals 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 Priority Goals)

The Attorney General's Vulnerable People Priority Goal correlates directly with CRT's request to restore and strengthen civil rights enforcement. The Attorney General has a strong commitment in protecting people from discrimination, especially those most vulnerable populations. Increased efforts to eradicate discrimination play an integral role in DOJ's Strategic Plan.

## Funding

### Base Funding

FY 2011 Enacted				FY 2012 Enacted				FY 2013 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 2013 Request (\$000)	FY 2014 Net Annualization (change from 2013) (\$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 2013 Request (\$000)	FY 2014 Net Annualization (Change from 2013) (\$000)
Total Non-Personnel	\$0	0	\$0	\$0

### Total Request for this Item

	Pos	Agt/ Atty	FTE	Personnel (\$000)	Non- Personnel (\$000)	Total (\$000)	FY 2014 Net Annualization (Change from 2013) (\$000)
Current Services	12	9	8	\$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

## V. Program Offsets by Item

**Item Name:** IT Savings

**Budget Decision Unit(s):** Civil Rights Division

**Organizational Program:** Civil Rights Division

**Component Ranking of Item:** 1 of 1

**Program Reduction:** Positions 0 Agt/Atty 0 FTE 0 Dollars \$(181)

### Description of Item

As part of its effort to increase IT management efficiency and comply with OMB's direction to reform IT management activities, the Department is implementing a cost saving initiative as well as IT transformation projects. To support cost savings, the Department is developing an infrastructure to enable DOJ components to better collaborate on IT contracting; which should result in lower IT expenditures. In FY 2013 the Department anticipates realizing savings on all direct non-personnel IT spending through IT contracting collaboration. These savings will not only support greater management efficiency within components but will also support OMB's IT Reform plan by providing resources to support major initiatives in Cybersecurity, data center consolidation, and enterprise e-mail systems. The savings will also support other Department priorities in the FY 2013 request. The offset to support these initiatives for CRT is \$181,000.

### Impact on Performance (Relationship of Decrease to Priority Goals)

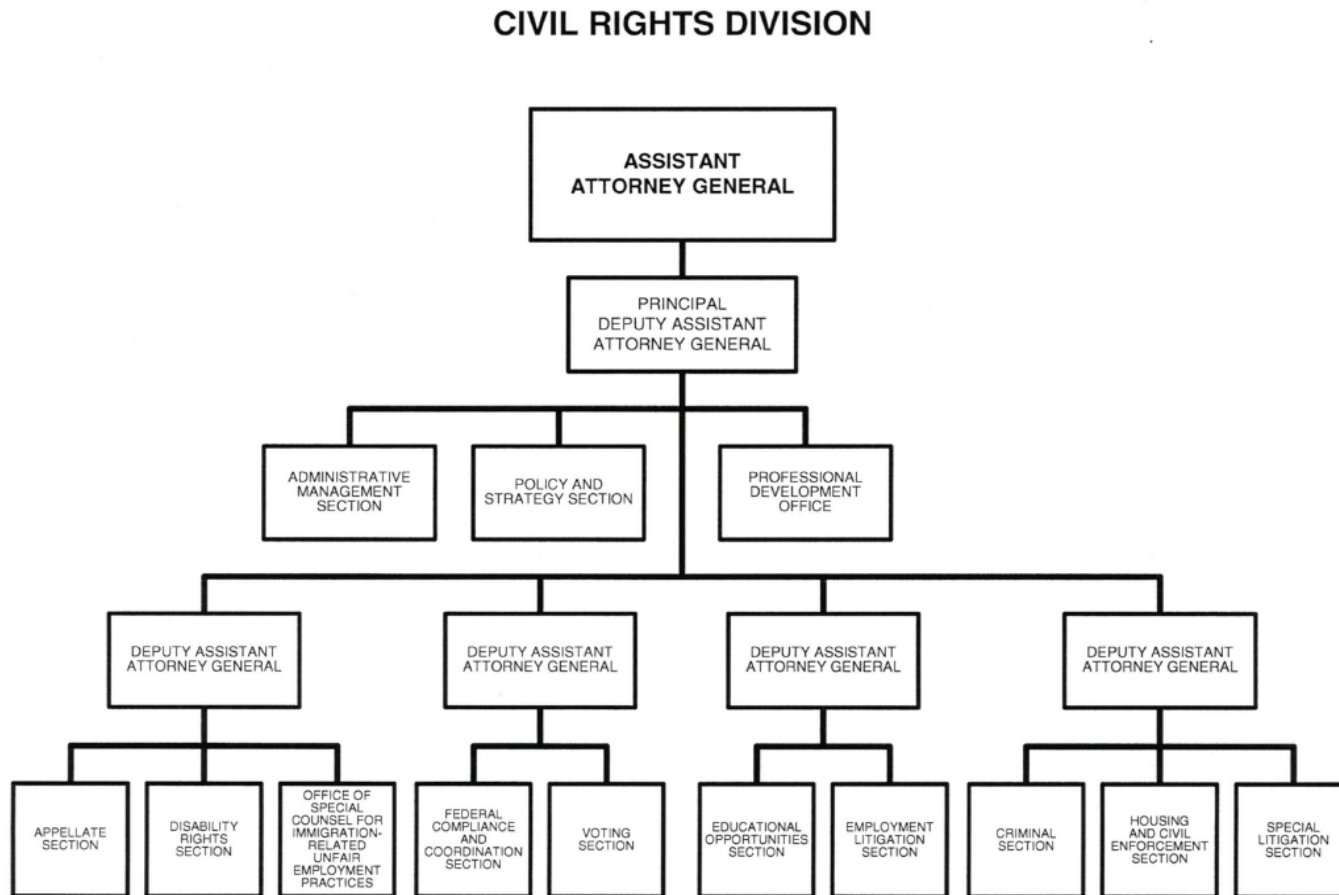
Not Applicable

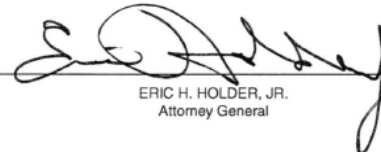
## Funding

### Non-Personnel Reduction Cost Summary

Non-Personnel Item	Unit	Quantity	FY 2013 Request (\$000)	FY 2014 Net Annualization (change from 2012) (\$000)
IT Savings	N/A	N/A	(181)	\$0
Total Non-Personnel	N/A	N/A	\$(181)	\$0

**A: Organizational Chart**



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 2013 Request		
	Perm. Pos.	FTE	Amount
<b>2011 Enacted</b>	<b>815</b>	<b>817</b>	<b>\$144,495</b>
<b>2012 Enacted</b>	715	717	144,500
Adjustments to Base			
Transfers:			
JCON and JCON S/TS	0	0	377
Office of Information Policy (OIP)	0	0	(39)
Office of Tribal Justice (OTJ)	(1)	(1)	(261)
Professional Responsibility Advisory Office (PRAO)	0	0	(148)
Subtotal, ATB Transfers:	(1)	(1)	(71)
Increases:			
Pay and Benefits	0	0	1,337
Domestic Rent and Facilities	0	0	1,184
Subtotal Increases	0	0	2,521
Total Adjustments to Base	(1)	(1)	2,450
<b>2013 Current Services</b>	<b>714</b>	<b>716</b>	<b>146,950</b>
Program Changes			
Increases:			
Restore and Strengthen Civil Rights Enforcement	50	25	5,072
Financial Fraud	15	8	1,500
Subtotal Increases	65	33	6,572
Offsets:			
IT Savings	0	0	(181)
Subtotal Offsets	0	0	(181)
Total Program Changes	65	33	6,391
<b>2013 Total Request</b>	<b>779</b>	<b>749</b>	<b>153,341</b>
2012 - 2013 Total Change	64	32	8,841

All FTE numbers in this table reflect authorized FTE, which is the total number of FTE available to a component. Because the FY 2013 President's Budget Appendix builds the FTE request using actual FTE rather than authorized, it may not match the FY 2012 FTE enacted and FY 2013 request reflected in this table.

## Summary of Requirements

Civil Rights Division

Salaries and Expenses

(Dollars in Thousands)

	2011 Appropriation Enacted			2012 Enacted			2013 Adjustments to Base and Technical Adjustments			2013 Current Services			2013 Increases			2013 Offsets			2013 Request		
<b>Estimates by budget activity</b>	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
Civil Rights	815	817	144,495	715	717	144,500	(1)	(1)	2,450	714	716	146,950	65	33	6,572			(181)	779	749	153,341
<b>Total</b>	<b>815</b>	<b>817</b>	<b>\$144,495</b>	<b>715</b>	<b>717</b>	<b>\$144,500</b>	<b>(1)</b>	<b>(1)</b>	<b>\$2,450</b>	<b>714</b>	<b>716</b>	<b>\$146,950</b>	<b>65</b>	<b>33</b>	<b>\$6,572</b>	<b>0</b>	<b>0</b>	<b>-\$181</b>	<b>779</b>	<b>749</b>	<b>\$153,341</b>
Reimbursable FTE		29			29			0			29			0						29	
Total FTE		846			746			(1)			745			33			0			778	
Other FTE:																					
LEAP																				0	
Overtime		4			4						4									4	
Total Comp. FTE		850			750			(1)			749			33			0			782	



## C: Program Increases/Offsets By Decision Unit

### FY 2013 Program Increases/Offsets By Decision Unit

Civil Rights Division  
(Dollars in Thousands)

Program Increases	Location of Description by Decision Unit	Civil Rights				Total Increases
		Pos.	Agt./Atty.	FTE	Amount	
Civil Rights Enforcement	Civil Rights	50	25	25	5,072	5,072
Financial Fraud	Civil Rights	15	10	8	1,500	1,500
<b>Total Program Increases</b>		<b>65</b>	<b>35</b>	<b>33</b>	<b>\$6,572</b>	<b>\$6,572</b>
Program Offsets	Location of Description by Decision Unit	Civil Rights				Total Offsets
		Pos.	Agt./Atty.	FTE	Amount	
IT Savings	Civil Rights	0	0	0	(181)	(181)
<b>Total Offsets</b>		<b>0</b>	<b>0</b>	<b>0</b>	<b>(\$181)</b>	<b>(\$181)</b>

## D: Resources by DOJ Strategic Goal and Strategic Objective

### Resources by Department of Justice Strategic Goal/Objective Civil Rights Division (Dollars in Thousands)

Strategic Goal and Strategic Objective	2011 Appropriation Enacted		2012 Enacted		2013 Current Services		2013				2013 Request	
	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s	Increases		Offsets		Direct, Reimb. Other FTE	Direct Amount \$000s
							Direct, Reimb. Other FTE	Direct Amount \$000s	Direct, Reimb. Other FTE	Direct Amount \$000s		
2.5 Promote and protect Americans' civil rights	846	144,495	746	144,500	745	146,950	33	6,572		(181)	778	153,341
<b>Subtotal, Goal 2</b>	<b>846</b>	<b>144,495</b>	<b>746</b>	<b>144,500</b>	<b>745</b>	<b>146,950</b>	<b>33</b>	<b>6,572</b>	<b>0</b>	<b>(181)</b>	<b>778</b>	<b>153,341</b>
<b>Subtotal, Goal 3</b>	<b>846</b>	<b>144,495</b>	<b>746</b>	<b>144,500</b>	<b>745</b>	<b>146,950</b>	<b>33</b>	<b>6,572</b>	<b>0</b>	<b>(181)</b>	<b>778</b>	<b>153,341</b>
<b>GRAND TOTAL</b>	<b>846</b>	<b>144,495</b>	<b>746</b>	<b>144,500</b>	<b>745</b>	<b>146,950</b>	<b>33</b>	<b>6,572</b>	<b>0</b>	<b>(181)</b>	<b>778</b>	<b>153,341</b>

## E. Justification for Base Adjustments

### Justification for Base Adjustments Civil Rights Division

	<u>POS</u>	<u>FTE</u>	<u>Amount</u>
<u>Transfers</u>			
<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 2013.	0	0	377
<u>Office of Information Policy (OIP) Transfer to GA.</u> The component transfers \$39,000 for the Office of Information Policy (OIP) into the General Administration appropriation will 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	(39)
<u>Office of Tribal Justice (OTJ) Transfer to GA.</u> - One positions 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)
<u>Professional Responsibility Advisory Office (PRAO).</u> The component transfers \$148,000 for the Professional Responsibility Advisory Office (PRAO) into the General Administration appropriation will 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	(148)
<b>Total Transfers:</b>	(1)	(1)	(71)
<u>Increases</u>			
<u>2013 Pay Raise.</u> This request provides for a proposed 0.5 percent pay raise to be effective in January of 2013. The increase only includes the general pay raise. The amount request, \$346,000, represents the pay amounts for 3/4 of the fiscal year plus appropriate benefits (\$265,000 for pay and \$81,000 for benefits.)	0	0	346
<u>Retirement.</u> Agency retirement contributions increase as employees under CSRS retire and are replaced by FERS employees. Based on OPM government-wide 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 \$187,000 is necessary to meet our increased retirement obligations as a result of this conversion.	0	0	187
<u>Employees Compensation Fund.</u> The \$9,000 decrease reflects payments to the Department of Labor for injury benefits paid in the past year under the Federal Employee Compensation Act. This estimate is based on the first quarter of prior year billing and current year estimates.	0	0	(9)
<u>Health Insurance.</u> Effective January 2012, this component's contribution to Federal employees' health insurance premiums increased by 7.7 percent. Applied against the 2011 estimate of \$3,922,000, the additional amount required is \$303,000.	0	0	303
<u>FERS Rate Increase.</u> On June 11, 2010, the Board of Actuaries of the Civil Service Retirement System recommended a new set of economic assumptions for the Civil Service Retirement System (CSRS) and the Federal Employees Retirement System (FERS). In accordance with this change, effective October 1, 2011 (FY 2012), the total normal cost of regular retirement under FERS will increase from the current level of 12.5% of pay to 12.7%. The total FERS contribution for Law Enforcement retirement will increase from 27.0% to 27.6%. This will result in new agency contribution rates of 11.9% for normal costs (up from the current 11.7%) and 26.3% for law enforcement personnel (up from the current 25.7%). The amount requested, \$147,000, represents the funds needed to cover this increase.	0	0	147

	<u>POS</u>	<u>FTE</u>	<u>Amount</u>
<u>Changes in Compensable Days.</u> The decreased cost for one compensable day in FY 2013 compared to FY 2012 is calculated by dividing the FY 2012 estimated personnel compensation \$79,022,000 and applicable benefits \$15,175,000 by 261 compensable days.	0	0	363
<u>General Services Administration (GSA) Rent.</u> GSA will continue to charge rental rates that approximate those charged to commercial tenants for equivalent space and related services. The requested increase of \$1,138,000 is required to meet our commitment to GSA. The costs associated with GSA rent were derived through the use of an automated system, which uses the latest inventory data, including rate increases to be effective in FY 2013 for each building currently occupied by Department of Justice components, as well as the costs of new space to be occupied. GSA provided data on the rate increases.	0	0	1,138
<u>Security Charges.</u> Guard Service includes those costs paid directly by DOJ and those paid to Department of Homeland Security (DHS). The requested increase of \$46,000 is required to meet our commitment to DHS and other security costs.	0	0	46
<b>Total Increase:</b>	0	0	\$2,521
<b>Total ATB:</b>	(1)	(1)	\$2,450

## F: Crosswalk of 2011 Availability

### Crosswalk of 2011 Availability

Civil Rights Division

Salaries and Expenses

(Dollars in Thousands)

Decision Unit	FY 2011 Enacted Without Balance Rescissions			Balance Rescissions			Reprogrammings / Transfers			Reallocations			Carryover	Recoveries	2011 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Amount	Amount	Pos.	FTE	Amount
Civil Rights Division	815	817	144,495	0	0	0	0	0	2,000	0	0	2,031	0	0	815	817	148,526
<b>TOTAL</b>	<b>815</b>	<b>817</b>	<b>\$144,495</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$2,000</b>	<b>0</b>	<b>0</b>	<b>\$2,031</b>	<b>\$0</b>	<b>\$0</b>	<b>815</b>	<b>817</b>	<b>\$148,526</b>
Reimbursable FTE		29														29	
Total FTE		846			0			0			0					846	
Other FTE																	
LEAP																0	
Overtime		4														4	
Total Compensable FTE		850			0			0			0					850	

\* Reprogrammings/Transfers: In FY 2011, \$2,000,000 was transferred from the General Legal Activity (GLA) OPM election monitoring account to CRT.

\* Reallocations: In FY 2011, \$2,031,000 was reallocated from the GLA Automated Litigation Support (ALS) account to CRT.

## G: Crosswalk of 2011 Availability

### Crosswalk of 2012 Availability

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

Decision Unit	FY 2012 Enacted Without Balance Rescissions			Balance Rescissions			Reprogrammings / Transfers			Carryover	Recoveries	2012 Availability		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Amount	Amount	Pos.	FTE	Amount
Civil Rights Division	715	717	144,500	0	0	0	0	0	0	0	0	715	717	144,500
<b>TOTAL</b>	<b>715</b>	<b>717</b>	<b>\$144,500</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>715</b>	<b>717</b>	<b>\$144,500</b>
Reimbursable FTE		29											29	
Total FTE		746			0			0					746	
Other FTE														
LEAP		0			0			0					0	
Overtime		4			0			0					4	
Total Compensable FTE		750			0			0					750	

## H: Summary of Reimbursable Resources

### Summary of Reimbursable Resources

Civil Rights Division

Salaries and Expenses

(Dollars in Thousands)

Collections by Source	2011 Enacted			2012 Planned			2013 Request			Increase/Decrease		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
BOP	0	10	1,167	0	10	1,405	0	10	1,370	0	0	(35)
FBI			625			625			625	0	0	0
DEA			84			110			110	0	0	0
EOUSA			142			294			279	0	0	(15)
USMS			271			175			175	0	0	0
CRS			0			12			12	0	0	0
OIG			0			25			25	0	0	0
OJP			468			320			320	0	0	0
JMD			56			55			55	0	0	0
EOIR			7			42			42	0	0	0
ATF			162			100			100	0	0	0
US TRUSTEES			0			0				0	0	0
ROL/DAG			25			0				0	0	0
SBA			0			0				0	0	0
HHS	0	19	5,700	0	19	10,318	0	19	10,210	0	0	(108)
STATE			0			0				0	0	0
WHITE HOUSE			0			0				0	0	0
OVC/NAVC			12			10			10	0	0	0
DHS										0	0	0
USPC						30			25	0	0	(5)
NDIC						11			10	0	0	(1)
NSD			67			11			10	0	0	(1)
<b>Budgetary Resources:</b>	<b>0</b>	<b>29</b>	<b>\$8,786</b>	<b>0</b>	<b>29</b>	<b>\$13,543</b>	<b>0</b>	<b>29</b>	<b>\$13,378</b>	<b>0</b>	<b>0</b>	<b>(\$165)</b>

## I: Detail of Permanent Positions by Category

### Detail of Permanent Positions by Category

Civil Rights Division  
Salaries and Expenses

Category	2011 Enacted		2012 Enacted		2013 Request					
	Total Authorized	Total Reimbursable	Total Authorized	Total Reimbursable	ATBs	Program Increases	Program Offsets	Total Pr. Changes	Total Authorized	Total Reimbursable
Civil Rights Analysts (160)	16	0	16			2		2	18	
Personnel Management (200-299)	11	0	11			2		2	13	
Clerical and Office Services (300-399)	230	5	154	5		2	0	2	156	5
Accounting and Budget (500-599)	7	0	7			1		1	8	
Architects (808)	10	0	10					0	10	
Attorneys (905)	384	24	384	24	(1)	35		35	418	24
Paralegals/Other Law (900-988)	127	0	102			18	0	18	120	
Information & Arts (1000-1099)	3	0	3					0	3	
Math Statistical Group	3	0	3			5		5	8	
Information Technology Mgmt (2210)	18	0	18					0	18	
Miscellaneous Operations (010-099)	6	0	7				0	0	7	
<b>Total</b>	<b>815</b>	<b>29</b>	<b>715</b>	<b>29</b>	<b>(1)</b>	<b>65</b>	<b>0</b>	<b>65</b>	<b>779</b>	<b>29</b>
Headquarters (Washington, D.C.)	815	29	715	29	(1)	65	0	65	779	29
U.S. Field										
Foreign Field								0	0	
<b>Total</b>	<b>815</b>	<b>29</b>	<b>715</b>	<b>29</b>	<b>(1)</b>	<b>65</b>	<b>0</b>	<b>65</b>	<b>779</b>	<b>29</b>



## J: Financial Analysis of Program Changes

### Financial Analysis of Program Changes

Civil Rights Division  
Salaries and Expenses  
(Dollars in Thousands)

	Civil Rights		Civil Rights		Civil Rights			
	Civil Rights Enforcement		Financial Fraud		IT Savings		Program Changes	
	Pos.	Amount	Pos.	Amount	Pos.	Amount	Pos.	Amount
Grades:								
SES							0	0
GS-15							0	0
GS-14	25	2,932	12	1,400			37	4,332
GS-13			1	90			1	90
GS-12	17	1,442					17	1,442
GS-11	4	250					4	250
GS-10							0	0
GS-9	3	154	1	52			4	206
GS-8							0	0
GS-7	1	54	1	44			2	98
GS-5								
Total positions & annual amount	50	4,832	15	1,586			65	6,418
Lapse (-)		-2,416		-793				-3,209
Other personnel compensation								
Total FTE & personnel compensation	50	2,416	15	793	0	0	65	3,209
Personnel benefits	0	664	0	216	0	0	0	880
Travel and transportation of persons		244		51			0	295
Transportation of things		16		5			0	21
GSA rent							0	0
Communication, rents, and utilities		40		12			0	52
Printing		23		8			0	31
Advisory and assistance services		156		8			0	164
Other services		602		132		(181)	0	553
Purchases of goods & services from Government accounts		20		6			0	26
Research and development contracts							0	0
Operation and maintenance of equipment		0		4			0	4
Supplies and materials		53		16			0	69
Equipment		465		137			0	602
Buildout		373		112			0	485
Total, 2013 Program Changes Requested	50	\$5,072	15	\$1,500	0	(\$181)	65	\$6,391

## K: Summary of Requirements by Grade

### Summary of Requirements by Grade

Civil Rights Division  
Salaries and Expenses

	2011 Enacted w/Rescissions	2012 Enacted	2013 Request	Increase/Decrease
Grades and Salary Ranges	Pos. Amount	Pos. Amount	Pos. Amount	Pos. Amount
SES, \$119,554 - 179,700	18	21	21	0
GS-15, \$123,758 - 155,500	269	328	328	0
GS-14, \$105,211 - 136,771	129	72	107	35
GS-13, \$89,033 - 115,742	96	80	80	0
GS-12, \$74,872 - 97,333	79	35	55	20
GS-11, \$62,467 - 81,204	79	56	60	4
GS-10, \$56,857 - 73,917	7	4	4	0
GS-9, \$51,630 - 67,114	37	36	40	4
GS-8, \$46,745 - 60,765	18	15	15	0
GS-7, \$42,209 - 54,875	58	34	36	2
GS-6, \$37,983 - 49,375	6	4	4	0
GS-5, \$34,075 - 44,293	6	4	4	0
GS-4, \$30,456 - 39,590	12	9	9	0
GS-3, \$27,130 - 35,269	1	9	9	0
GS-2, \$24,865 - 31,292		7	7	0
GS-1, \$22,115 - 27,663				
<b>Total, Appropriated Positions</b>	<b>815</b>	<b>715</b>	<b>779</b>	<b>65</b>
<b>Average SES Salary</b>	<b>\$162,402</b>	<b>\$163,795</b>	<b>\$163,795</b>	
<b>Average GS Salary</b>	<b>\$93,284</b>	<b>\$93,284</b>	<b>\$93,750</b>	
<b>Average GS Grade</b>	<b>13</b>	<b>13</b>	<b>13</b>	

## L: Summary of Requirements by Object Class

### Summary of Requirements by Object Class

Civil Rights Division

Salaries and Expenses

(Dollars in Thousands)

	2011 Actuals		2012 Availability		2013 Request		Increase/Decrease	
	FTE	Amount	FTE	Amount	FTE	Amount	FTE	Amount
Object Classes								
11.1 Direct FTE & personnel compensation	620	\$64,110	609	\$60,592	641	\$64,069	32	\$3,477
11.3 Other than full-time permanent	110	14,439	108	12,837	108	12,805	0	(32)
11.5 Total, Other personnel compensation	0	1,001	4	950	4	1,051	0	101
Overtime							0	0
Other Compensation							0	0
11.8 Special personal services payments		5		8			0	(8)
13.0 Benefits For Formal Personnel				787		3		
Total	730	79,555	721	75,174	753	77,928	32	3,538
Other Object Classes:								
12.0 Personnel benefits		21,097		20,357		21,852		1,495
21.0 Travel and transportation of persons		4,155		3,907		4,202		295
22.0 Transportation of things		627		655		638		(17)
23.1 GSA rent		16,486		16,869		18,007		1,138
23.2 Moving/Lease Expirations/Contract Parking		359		399		462		63
23.3 Comm., util., & other misc. charges		2,400		2,426		2,478		52
24.0 Printing and reproduction		194		307		338		31
25.1 Advisory and assistance services		3,658		4,287		4,551		264
25.2 Other services		14,841		13,762		14,535		773
25.3 Purchases of goods & services from Government accounts (Antennas, DHS Sec. Etc.)		4,300		5,489		6,315		826
25.4 Operation and maintenance of facilities		93		91		97		6
25.6 Medical Care		59		63		64		1
25.7 Operation and maintenance of equipment		82		83		87		4
26.0 Supplies and materials		329		432		501		69
31.0 Equipment		175		199		801		602
320 Land & Structure				0		485		485
<b>Total obligations</b>		<b>\$148,410</b>		<b>\$144,500</b>		<b>\$153,341</b>		<b>\$9,140</b>
Reallocations		(2,031)						
Transfers		(2,000)						
Unobligated balance, start of year								
Unobligated balance, end of year								
Unobligated Balance, expiring		116						
Recoveries of prior year obligations								
<b>Total DIRECT requirements</b>		<b>144,495</b>		<b>144,500</b>		<b>153,341</b>		<b>8,841</b>
Reimbursable FTE:								
Full-time permanent	27	\$0	29	\$0	29	\$0		
23.1 GSA rent (Reimbursable)		\$175		\$184		\$184		
25.3 DHS Security (Reimbursable)		\$2		\$2		\$2		