

Civil Rights Division Activities and Programs (2006 Edition)

This information is taken from the 2006 edition of the Civil Rights Division's Activities and Programs Brochure, an annual publication detailing the responsibilities of the Sections within the Division, and providing examples of the Division's work. Additional information on the work of the Division can be found throughout this site and, with respect to the activities in particular areas, on the various [Division Section sites](#).

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FOREWORD



I am pleased to provide you with the 2006 edition of the Civil Rights Division's Activities and Programs brochure. The brochure is published to give a detailed description of the Civil Rights Division, the responsibilities of the Sections within the Division, and some recent examples of the Division's work.

The Civil Rights Division is committed to upholding the civil and constitutional rights of all Americans, including some of the most vulnerable members of our society. Founded in 1957, we celebrate our 50th Anniversary next year. Our proud mission remains vitally important today. The federal anti-discrimination statutes that we enforce reflect some of America's highest ideals and aspirations: equal treatment and equal justice under law. I hope that this brochure will help you better understand our mission and how we endeavor to carry it out.

If you have any questions or comments regarding the work of the Division, please contact any of the Sections listed as follows:

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Wan Kim
Assistant Attorney General
Civil Rights Division

INTRODUCTION

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, disability, religion, and national origin. Since its establishment, the Division has grown dramatically both in size and responsibility.

The Division enforces the Civil Rights Acts of 1957, 1960, 1964, and 1968; the Voting Rights Act of 1965, as amended through 1992; the Equal Credit Opportunity Act; the Americans with Disabilities Act; the National Voter Registration Act; the Uniformed and Overseas Citizens Absentee Voting Act; the Voting Accessibility for the Elderly and Handicapped Act; and additional civil rights provisions contained in other laws and regulations. These laws prohibit discrimination in education, employment, credit, housing, public accommodations and facilities, voting, and certain federally funded and conducted programs.

The Division enforces the Civil Rights of Institutionalized Persons Act of 1980, which authorizes the Attorney General to seek relief for persons confined in public institutions where conditions exist that deprive residents of their constitutional rights; the Freedom of Access to Clinic Entrances Act; the Police Misconduct Provision of the Violent Crime Control and Law Enforcement Act of 1994; and Section 102 of the Immigration Reform and Control Act of 1986 (IRCA), as amended, which prohibits discrimination on the basis of national origin and citizenship status as well as document abuse and retaliation under the Immigration and Nationality Act. In addition, the Division prosecutes actions under several criminal civil rights statutes which were designed to preserve personal liberties and safety.

The Division is responsible for coordinating the civil rights enforcement efforts of federal agencies whose programs are covered by Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, and Section 504 of the Rehabilitation Act of 1973, as amended, and assists federal agencies in identifying and removing discriminatory provision in their policies and programs.

The Civil Rights Division does not have regional offices. All Division employees are stationed in Washington, D.C. 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.

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OFFICE OF THE ASSISTANT ATTORNEY GENERAL

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The Office of the Assistant Attorney General heads the Civil Rights Division. Led by the Assistant Attorney General, who is assisted by four Deputy Assistant Attorneys General, the office establishes policy and provides executive direction and control over the enforcement actions and the administrative management activities within the Division.

The Civil Rights Division is comprised of ten program-related sections and the Administrative Management Section. In addition, the Professional Development Office is within the Office of the Assistant Attorney General. The Professional Development Office was established by the Assistant Attorney General in the fall of 2005 to enhance the

training opportunities available to new and experienced Division attorneys. The Professional Development Office hosts a comprehensive orientation program for new attorneys, and organizes a variety of skills training for more experienced lawyers. The Professional Development Office coordinates with the National Advocacy Center (NAC) to develop seminars at the NAC training facility in Columbia, South Carolina of interest to Division attorneys. In light of the training opportunities provided by participation in pro bono cases, the Office also coordinates Division lawyers' participation in the Department's pro bono program.

APPELLATE SECTION

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The Appellate Section has primary responsibility for handling civil rights cases in the Federal courts of appeals and, in cooperation with the Solicitor General, in the United States Supreme Court. The Section also provides legal counsel to other components of the Department of Justice regarding civil rights law and appellate litigation.

Most of the Section's appeals are from district court judgments in cases originally handled by litigating sections within the Division. The appellate caseload is both affirmative and defensive. Thus, the Section handles all appeals from both favorable and adverse judgments in which the government participates.

A significant portion of the Section's work involves participation as *amicus curiae* (friend of the court) in cases that have the potential for affecting Division enforcement responsibilities. In this capacity, the Section closely monitors federal court cases to 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, the Section uses the federal government's authority to file an *amicus curiae* brief to register the government's position.

The Section has been vigorously defending anti-discrimination statutes, and this effort has been largely successful. For example, in the wake of the Supreme Court's decision in *Tennessee v. Lane* last term, the Division has actively defended the constitutionality of Title II of the ADA and its abrogation of States' Eleventh Amendment immunity in a variety of contexts. The Section also has intervened in a series of cases to defend successfully the 11th Amendment.

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COMPLAINT ADJUDICATION OFFICE

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The Complaint Adjudication Office issues final decisions for the Department of Justice on administrative employment complaints filed by employees of the Department or unsuccessful applicants. Complaints may be filed under Title VII, the Age Discrimination Act, the Equal Pay Act, Section 501 of the Rehabilitation Act (covering discrimination on the basis of disability), or under Department regulations prohibiting discrimination based on sexual orientation or parental status. Complaints are filed first with the component for which the employee works, and investigated by the equal employment staff of that component. Following the investigation, if a case is not settled, the employee can ask for a hearing with an Equal Employment Opportunity Commission Administrative Judge. The case file is ultimately sent to the Complaint Adjudication Office for a final decision for the Department of Justice.

Although housed in the Civil Rights Division, the Complaint Adjudication Office has jurisdiction over EEO complaints filed against any component of the Department – the litigating Divisions and Offices in Washington, D.C., the Federal Bureau of Investigation, the Bureau of Prisons, Drug Enforcement Agency, Marshals Service, Executive Office of Immigration Review, and all United States Attorneys' Offices. The Office issues between 400 and 500 decisions per year and bases its decisions on the written investigative record compiled by the EEO office of the component and any hearing. In those cases in which the Office issues a final agency decision holding that a component of the Department has engaged in unlawful discrimination, the Office has the authority to order relief, including reinstatement, back pay, compensatory damages, and attorneys fees.

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COORDINATION AND REVIEW SECTION

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The Civil Rights Division's Coordination and Review Section 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.

Executive Order 12250

Under Executive Order 12250, the Section coordinates and ensures consistent and effective enforcement of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education and training programs; and other assistance-related statutes that prohibit discrimination on the basis of race, color, national origin, sex, or religion in federally assisted programs. (The Disability Rights Section coordinates the enforcement of disability-related nondiscrimination statutes.) Federal agencies that provide federal financial assistance are responsible for enforcing these nondiscrimination statutes.

In order to ensure consistent and effective enforcement, the Section engages in a wide variety of activities, including the development of or review and approval of regulations, policies, and enforcement standards and procedures. The Section also reviews plans and data submitted by all federal funding agencies describing their civil rights enforcement priorities, activities, and achievements. The Section provides ongoing technical assistance to federal agencies and, upon request, assists agencies in investigations of particular complaints raising novel or complex issues. The Section also coordinates the investigation of complaints filed with multiple agencies.

The Section's intensive two-day Title VI training course, which combines classroom study of legal requirements, theories of discrimination, and investigative techniques, and culminates in the hands-on workshop "investigation" of a mock complaint, continues to be fully subscribed and receives high marks from participants. The Section also has developed a two-day Title IX training course as well as a Limited English Proficiency training course, both of which have been very well-received.

As part of its outreach efforts, the Section maintains a website, www.usdoj.gov/cor, which provides comprehensive information about its areas of responsibility, and contains copies of the Section's widely-used *Title VI Legal Manual*, *Title IX Legal Manual*, and *Investigation Procedures Manual*.

Executive Order 13166

The Section is playing a central role in assisting persons with limited English proficiency ("LEP"). The Section has taken significant steps to implement Executive Order 13166, which requires all federal funding agencies to develop guidance documents for their recipients on how to provide access for LEP persons as required by Title VI of the Civil Rights Act of 1964 and its implementing regulations. The Executive Order also requires all 85+ federal agencies to prepare a plan to improve access to their own federally conducted programs and activities by eligible LEP persons.

On June 18, 2002, following several proposed publications and review of extensive comments, the Section published a guidance document ("Guidance") for recipients of financial assistance from the Department. The Guidance sets forth a four-factor analysis that a recipient should apply to determine its level of obligation to provide LEP services: (1) number or proportion of LEP persons served; (2) frequency of contact with LEP persons; (3) the nature and importance of the program; and (4) resources available and costs. The Guidance reaffirms a commitment to further clarify the responsibilities of recipients of federal financial assistance and to help them fulfill their responsibilities to LEP persons. This Guidance serves as a model for similar guidance issued by other agencies. The intent is to ensure access while people are in the process of learning English. For some immigrants, this will take a few months or a few years. For others, it may take a next generation. Therefore, English-as-a-Second-Language programs and English language proficiency programs for school-aged children are also high priorities.

The Section has an active LEP outreach program through which it regularly communicates with affected communities concerning LEP issues. Section staff give LEP presentations and training sessions to community groups as well as to various recipient organizations and other federal agencies.

The Section has spearheaded the creation of a Federal Interagency Working Group on LEP, which functions under Section leadership. Active members of this group represent more than 35 federal agencies. Among the accomplishments of the group was the creation of a website, www.LEP.gov, which contains a wealth of information about LEP issues and has been assisting federal agencies, recipients, and the community in the quest for reasonable language access.

The Section has developed a number of LEP resources, including a major LEP resource document featuring Tips and Tools from the Field and an LEP video produced in conjunction with the Department of Health and Human Services and the Food and Nutrition Service of the Department of Agriculture. The Section has also overseen the development and publication of two LEP brochures: one for community members entitled "Know Your Rights," and one for federal agencies and recipients. In addition, the Section has hosted several conferences pertaining to LEP issues.

Executive Order 13160

The Section has an implementation and interagency coordination role with respect to the implementation of Executive Order 13160. This Executive Order prohibits discrimination in federally conducted education and training programs on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, or status as a parent. The Executive Order applies to the federally conducted education and training programs of 85+ federal agencies.

The Section developed a guidance document designed to facilitate implementation of Executive Order 13160. The Section also developed outreach materials pertaining to the Executive Order and provides ongoing technical assistance to other federal agencies. In addition, the Section developed procedures for handling Executive Order 13160 complaints filed with the Department.

Administrative Complaint Investigations

The Department of Justice is a major provider of federal financial assistance. Under agreements reached with several Department of Justice funding components, Section investigators and attorneys conduct administrative investigations of selected complaints of discrimination by their recipients. These recipients include state and local law enforcement agencies, courts, corrections systems, juvenile justice systems, and a variety of non-governmental entities.

The Section seeks case resolutions through the use of alternative dispute resolution techniques, if appropriate, in lieu of full-field investigations. In other cases, investigations may result in the issuance of formal findings of compliance or non-compliance. If voluntary compliance cannot be achieved where non-compliance is found, the Section refers the case to the appropriate Division Section for litigation or, in cooperation with the appropriate funding component within the Department, seeks to terminate the federal financial assistance through an administrative hearing.

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CRIMINAL SECTION

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The trial attorneys of the Criminal Section prosecute violations of several federal criminal civil rights statutes, including those which prohibit the following types of crimes:

Official Misconduct (18 U.S.C. § § 241, 242) -- 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 unwarranted assaults, illegal arrests and searches, and theft of property.

Interference with Federally Protected Activities (18 U.S.C. § § 241, 245, and 42 U.S.C. § 3631) -- Acts or threats of violence motivated by racial, ethnic and religious animus that interfere with federally protected activities, such as enjoying rights to housing, employment, voting, and government programs.

Interference with Exercise of Religious Beliefs and Destruction of Religious Property (18 U.S.C. § 247) -- Violent conduct targeting religious houses of worship, usually involving the arson of churches, synagogues, or mosques.

Human Trafficking Peonage and Involuntary Servitude (18 U.S.C. §§ 1581, 1584, 1589, 1590, 1592, 1594) -- Use of force or threats of force to compel persons to perform work against their will. Includes forced labor of aliens and U.S. citizens in brothels, factories, farms, or domestic service.

Interference with Access to Reproductive Health Care (18 U.S.C. § 248) -- Violence directed at reproductive health care clinics or persons seeking or providing reproductive health care.

These cases implicate basic constitutional rights and are invariably matters of intense public interest. The punishment imposed by these statutes generally depends upon the injury suffered by the victim. The more serious the injury, the

more severe the penalty. In some cases, where the victim died as a result of the defendant's conduct, the death penalty applies.

The Section receives thousands of criminal civil rights complaints annually in the form of citizen correspondence, phone calls, or personal visits to the Department of Justice, to local U.S. Attorney's Offices, or, most commonly, to the FBI. Complaints setting forth possible violations of the law for which the Section has jurisdiction are forwarded to the FBI for investigation. Upon conclusion of the investigation, the FBI forwards a report to the responsible attorney within the Division as well as to the appropriate U.S. Attorney's Office. A recommendation regarding prosecution is then made by Section attorneys in consultation with their counterparts from the U.S. Attorneys' Office based on the facts contained in the FBI report.

During the past several years, approximately 80 cases were filed annually, charging an average of 150 defendants each year. Because almost any matter which presents a violation of federal law is also a matter involving a local or state law violation, deference is given to local prosecutions. But where there is no local action or where the results of the state or local proceedings are insufficient to vindicate federal interests, a federal prosecution may be brought.

Official Misconduct

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 officers, federal law enforcement officers, and state and county judges. These officials have been charged with using their positions to deprive individuals of constitutional rights, such as the right to be free from unwarranted assaults, coerced sexual contact, illegal arrests and searches, and the deprivation of property without due process of law. Examples of recent prosecutions include a case in Memphis, Tennessee, in which eight correctional officers employed by a county jail were convicted of civil rights charges in connection with assaults on several inmates, one of which resulted in an inmate's death, and a case in Jackson, Mississippi, in which a deputy sheriff was convicted of raping a teenage girl while on duty after having previously been acquitted on local charges.

Bias-Motivated Violence

The Criminal Section also prosecutes incidents of bias-motivated violence which interfere with federally protected rights or activities, such as the rights to enjoy housing, employment, and public facilities and accommodations free from discrimination based on race or religion. Recent cases include a North Carolina prosecution in which five defendants were convicted of conspiring to interfere with the housing rights of an African-American woman and her children, and a Texas case in which two skinheads were convicted of brutally assaulting a Hispanic man as he was pumping gasoline into his car.

In addition, an increase of incidents of violence, threats and other forms of discrimination against Arabs, Muslims, and South-Asians, many of whom are American citizens, followed the September 11, 2001, terrorist attacks on the United States. The Criminal Section spearheaded the Department of Justice'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. Since 2001 more than 700 incidents of bias-motivated backlash crimes have been federally investigated, resulting 27 federal cases brought against 35 defendants (as of May 15, 2006). Moreover, with the help of the Department in a number of cases, state and local authorities have brought approximately 150 criminal prosecutions as of May 15, 2006. A recent successful case involved the prosecution of a conspiracy to burn a mosque in Seminole, Florida, which resulted in a prison sentence of more than twelve years for the ringleader.

Human Trafficking

Human trafficking – the acquisition or holding of human beings through the use or threat of force, fraud or coercion, for the purpose of forced labor or sexual exploitation – is an important enforcement area for the Criminal Section that has received attention at the highest levels of government. Over the past five years, the trafficking caseload has tripled, compared to the previous five-year period. Recent successful prosecutions include *United States v. Lee*, in which a sweatshop owner in American Samoa who kept over 200 victims captive was convicted at trial and sentenced to forty years in prison, and *United States v. Carreto, et al*, in which a number of defendants were convicted of forcing young Mexican women into prostitution in New York. That case resulted in prison sentences of up to fifty years, among the highest sentences ever in a human trafficking prosecution. More examples can be found in the Division's Report on Activities to Combat Human Trafficking, Fiscal Years 2001-2005.

The Trafficking Victims Protection Act of 2000 ("TVPA"), a comprehensive approach to trafficking enacted in October 2000, strengthened federal civil rights laws against involuntary servitude and trafficking and increased the penalties for these offenses. The TVPA criminalized attempts to commit involuntary servitude and established a forced labor offense, which criminalized the providing or obtaining of the labor or services of a person by threats of serious harm, including psychological harm. Prior to the enactment of the TVPA, a successful prosecution of involuntary servitude required proof that a victim was held against his/her will by actual force, threats of force, or threats of legal coercion. The TVPA also created a new offense codified at 18 U.S.C. § 1590, which prohibited trafficking with respect to peonage, slavery, involuntary servitude, or forced labor. In addition, the TVPA criminalized the confiscation of passports, immigration documents, or other identity documents in furtherance of peonage, involuntary servitude, forced labor, or trafficking.

The TVPA also established new tools in the area of victim protection and assistance, which increase prosecutors' ability to detect, investigate, and prosecute instances of trafficking. The TVPA created a new non-immigrant visa (the "T visa") for certain victims of trafficking, and authorized the use of various mechanisms to ensure the continued presence of alien victims of trafficking in order to effectuate the investigation or prosecution of trafficking cases, which encourages more victims to come forward.

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 Criminal Section oversees a national, toll-free telephone complaint line to enable victims and others to report possible trafficking and worker exploitation abuses (888-428-7581). The Criminal Section and other Justice Department components have also collaborated with the Departments of State, Health and Human Services, and Labor to develop two brochures on trafficking in persons, one for law enforcement to provide to trafficking victims and the other for use as a reference guide to help trafficking victims. The Criminal Section was 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.

Freedom of Access to Clinic Entrances

Section 248 of Title 18 of the United States code, known as the Freedom of Access to Clinic Entrances Act, 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, or in order to intimidate someone from 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.

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DISABILITY RIGHTS SECTION

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The Disability Rights Section protects the rights of persons with disabilities under Titles I, II, and III of the Americans with Disabilities Act ("ADA"). The ADA prohibits discrimination on the basis of disability in over seven million places of public accommodation, including all hotels, restaurants, retail stores, theaters, health care facilities, convention centers, parks, and places of recreation (Title III), in all activities of over 80,000 state and local governments (Title II), and in all employment practices of state and local government employers with 15 or more employees (Title I). The ADA also establishes architectural accessibility requirements for new construction and alterations of buildings and facilities covered under Title II and Title III, which generally include all nonresidential buildings and facilities.

The Section's responsibilities under the ADA include:

- Litigation under Titles II and III of the Act;
- Litigation against public employers under Title I of the Act on referral from the Equal Employment Opportunity Commission or under the Attorney General's independent pattern or practice authority;
- Certification of state and local building codes for equivalency with the requirements of the ADA Standards for Accessible Design;
- Provision of information on ADA rights and responsibilities to businesses and governments covered by the ADA, persons with disabilities, and the general public; and coordination of public outreach activities with other federal agencies with enforcement responsibilities under the ADA;
- Investigation of complaints within certain subject matter areas under Title II including, for example, law enforcement, public safety, courts, and correctional institutions;
- Coordination of the administrative enforcement of Title II by the Department of Justice and seven other designated agencies; and
- Issuance of regulations necessary to implement Title II and Title III of the ADA, including the ADA Standards for Accessible Design.

The Section also has responsibility for enforcing Section 301 of the Help America Vote Act, which requires each voting system used in an election for federal office to be accessible to individuals with disabilities, including people who are blind or who have low vision.

In addition, under Executive Order 12250, the Section coordinates and ensures consistent and effective enforcement of Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in federally assisted and federally conducted programs and activities.

Compliance Activities

The Disability Rights Section has pursued a comprehensive program of enforcement and public education under the ADA. By promoting voluntary compliance and through lawsuits and both formal and informal settlement agreements, the Division has achieved greater access for persons with disabilities nationwide in the public and private sectors. These efforts have resulted in the removal of architectural and communication barriers, and the elimination of discriminatory policies in a wide variety of settings, including hotels, restaurants, retail stores, sports arenas, child care centers, town halls, courts, and prisons.

Under the Section's Project Civic Access initiative, a wide-ranging program to ensure that state facilities, counties, cities, towns, and villages comply with the ADA, the Section has negotiated and entered into 145 agreements with 138 communities to make public programs and facilities accessible.

In the past year the Section entered a consent decree to improve the accessibility of Detroit's fixed route public bus systems and negotiated nationwide consent decrees with the country's largest movie theater chains to provide "comparable lines of sight" for patrons who use wheelchairs in stadium style movie theaters. The Section joined a settlement agreement with Washington Hospital Center and private plaintiffs to provide accessible hospital rooms and equipment to individuals with disabilities, and it resolved, by consent decree, a lawsuit alleging that Royal Oak, Michigan, violated the ADA by denying Easter Seals a land use permit needed to relocate a day facility, Dreams Unlimited Clubhouse, that provides support services for adults with severe and persistent mental illness. In addition, the Department entered into an agreement with Ticketmaster, Inc., to make its ticketing services more accessible for people with disabilities, and it also required a Missouri nursing home, by consent decree, to pay damages to a nurse's aide allegedly fired because of HIV disease and to adopt policies to prevent HIV discrimination in its employment practices.

Mediation

The Section's innovative ADA Mediation Program has become an important part of the ADA compliance program. Using more than 400 professional ADA-trained mediators throughout the United States, the ADA Mediation Program continues to expand the reach of the ADA at a minimum expense to the government. It allows the Section quickly to respond to and resolve ADA complaints effectively, efficiently, and voluntarily, resulting in the elimination of barriers for people with disabilities throughout the United States. Since its inception, more than 2,400 complaints filed with the Department alleging violation of title II and title III have been referred to the program. Of the 1,850 mediations completed, 76% have been successful.

Technical Assistance

The Section engages in a wide range of technical assistance activities to educate the public about the ADA's requirements. The ADA Information Line (800-514-0301 (voice) and 800-514-0383 (TTY)) receives over 100,000 calls annually seeking information and publications on the ADA. In fiscal year 2005, the Section's popular ADA Website (www.ada.gov) served more than 2.6 million visitors who viewed the pages and images more than 37 million times, a 28% increase over the prior year. The Section disseminates basic question-and-answer booklets, detailed technical assistance manuals addressing all aspects of Titles II and III of the ADA, illustrated design guides and checklists addressing specific topics, and a CD-ROM containing a complete set of ADA publications. All publications are available in standard print and in Braille, large print, audio tape, and computer disk for people with disabilities; the basic publications are also available in Spanish and other languages for people with Limited English Proficiency. The Section participated in 83 speaking and outreach events reaching over 300,000 people in the past year, including sending staff to distribute information and answer questions at eight national conferences and one state fair to promote public awareness of the ADA. The Section operates the ADA Business Connection, a multifaceted initiative for small businesses, which includes conducting a series of meetings between disability and business communities around the country, producing a series of ADA Business Briefs on discrete topics of particular interest to small business, and an ADA Business Connection destination on the ADA website.

Certification of Building Codes

The ADA requires that newly constructed or altered places of public accommodation and commercial facilities comply with Title III of the ADA, including the ADA Standards for Accessible Design ("ADA Standards"). The Justice Department is authorized to certify that state and local accessibility requirements, which are often established through building codes, meet or exceed the ADA's accessibility requirements. In any lawsuit that might be brought, an entity that complies with a certified State or local code can offer that compliance as rebuttable evidence of compliance with the ADA.

In implementing its certification authority, the Department works closely with state and local officials, providing, as needed, detailed technical assistance to facilitate efforts to bring those accessibility requirements into accord with the ADA Standards. In addition, the Department responds to requests from private entities for review of the accessibility

provisions of model codes and standards, and provides informal guidance regarding the extent to which they are consistent with the minimum accessibility requirements of the ADA. The states of Texas, Maine, Florida, North Carolina, and Maryland currently have accessibility codes certified by the Department of Justice.

Updating Architectural Standards

The Section represents the Assistant Attorney General as a member of the U.S. Architectural and Transportation Barriers Compliance Board ("Access Board"). In July 2004, the Access Board published a major revision to its ADA Accessibility Guidelines. In September 2004, the Department published an Advance Notice of Proposed Rulemaking announcing that the Department plans to revise its ADA regulations to include Standards for Accessible Design that are consistent with the Access Board's guidelines. At the same time, the Section will revise and update the ADA regulations implementing Title II and Title III.

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EDUCATIONAL OPPORTUNITIES SECTION

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The Educational Opportunities Section enforces federal statutes which prohibit discrimination in public elementary and secondary schools and public colleges and universities. The Section's enforcement responsibilities include:

Title IV of the Civil Rights Act of 1964, which provides that the Attorney General may initiate legal proceedings to further orderly desegregation (i) upon receiving a complaint from a parent that his or her minor children are denied equal protection of the law by public school officials; and, (ii) with respect to public institutions of higher learning, upon receiving a meritorious written complaint alleging that a student has been denied admission to or the opportunity to continue in attendance at a public college or university on account of the student's race, sex, national origin, color, or religion; Equal Educational Opportunities Act of 1974, which prohibits school officials from denying students equal educational opportunities (including students who may face language barriers) on account of race, color, or national origin; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act, which require that public school officials provide handicapped and disabled students appropriate educational opportunities, upon receiving a proper referral from the U.S. Department of Education, Office for Civil Rights ("OCR"); Title VI of the Civil Rights Act of 1964, which prohibits public school districts that receive federal funds from discriminating on the basis of race or national origin in a program or activity, upon receiving a proper referral from OCR; and Title IX of the Education Amendments of 1972, which prohibits school districts that receive federal funds from discriminating on the basis of gender, upon receiving a proper referral from OCR.

The Section is also authorized to (i) intervene in private suits alleging the denial of equal protection of the law based on race, sex, national origin, color, or religion which the Attorney General determines raise issues of public importance; and (ii) represent the U. S. Department of Education when the Secretary is sued by public school districts, colleges, or universities against whom OCR may take enforcement action under one of its statutes.

The Supreme Court's landmark decision in *Brown v. Board of Education*, 347 U.S. 483 (1954); mandates that public school officials not assign students to schools and classes on a racial basis, or deny students equal educational opportunity on the basis of race or color. Subsequent federal legislation and court decisions mandate that school officials not discriminate against students on the basis of gender or language barriers. Thus, the Section's work covers a variety of legal issues involving both elementary and secondary schools and institutions of higher education.

The Section continues to litigate a large number of cases in which it challenges practices of school districts which result in illegal student segregation. Such discriminatory practices usually involve decisions of school districts in reorganizing the structure of a district, new methods of assigning students to classes, constructing new schools, and modifying student attendance zones. For example, the Section in *United States v. Covington County (Miss.) School District* sought to enjoin the school district from maintaining a virtually all-white school and a virtually all-black school in violation of the district's desegregation obligations. Ultimately, the case was resolved by a consent decree under which the district agreed to re-assign black students to the white school and provide educational enhancement programs to benefit students at the predominantly black school. Additionally, in *United States v. Chicago Public Schools*, the Section has filed and won several enforcement motions to ensure that black students are provided with the opportunity to transfer to better-performing schools, that desegregation programs are adequately funded, and that English Language Learner students are provided appropriate instructional services. The Section also continues to vigorously crack down on the practice of segregating students by classroom, most notably resolving that issue via consent decree in *United States v. Dublin City (Ga.) Board of Education*, and moving to enjoin the practice in *United States v. McComb (Miss.) Municipal Separate School District*.

The Section continues to expand its efforts in cases involving religious discrimination and sexual harassment. For example, in the *Cape Henlopen (Del.) School District* matter, the Section investigated and settled a complaint of religious harassment directed toward a Muslim student by a teacher and fellow students. The Section also intervened on behalf of a student in *Scheidt v. Tri-Creek (Ind.) School Corporation* after receiving a complaint about the enforcement of Tri-Creek's attendance policy. The school district refused to allow more than one day of excused absences for religious observance. After a student missed more than one day for religious worship, the district's attendance policy threatened that the student would be given an unexcused absence and subjected to various sanctions, including loss of academic credit, inability to make up work, suspension, and possible legal action against the parent. The United States filed an amicus brief asserting that Tri-Creek's attendance policy violated the student's right to freely exercise his religion, and the parent's right to raise her child consistent with their religious beliefs. Shortly after the United States' filing, the district and plaintiffs reached a settlement.

The Section also intervened in *A.B. v. Rhinebeck (N.Y.) Central School District*, a sexual harassment case brought against the Rhinebeck school district and a former high school principal. The United States alleged that the school district was deliberately indifferent to known sexual harassment by the principal against numerous female students, including four plaintiffs in the case who are former high school students. The United States and the school district negotiated a consent decree that requires the district to develop and implement a comprehensive plan to ensure a discrimination-free educational environment.

Finally, the Section represented the Department of Education in defending the constitutionality and validity of the Department of Education's stay put regulation, 34 C.F.R. § 300.514(c), in *Henrico County (Va.) Board of Education v. R.T.*, which requires keeping the student at a school approved by the state hearing officer's decision at the expense of the school district during the pendency of an appeal of that decision.

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EMPLOYMENT LITIGATION SECTION

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The Employment Litigation Section enforces against state and local government employers the provisions of Title VII of the Civil Rights Act of 1964, as amended ("Title VII"), and other federal laws prohibiting employment practices that discriminate on grounds of race, sex, religion, and national origin. The Section also enforces against state and local government employers and private employers the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), which 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. Pursuant to Section 707 of 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 employment practices, such as recruitment, hiring, assignment and promotion, that have the purpose or the 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 compensatory relief for individuals who have been the victims of unlawful employment practices.

An example of one of these Section 707 "pattern or practice" suits is *United States v. City of Erie*, filed in January 2004. In this suit, we alleged that the city's use of a physical abilities test ("PAT") in the screening and selection of candidates for entry-level police officer positions resulted in significant disparate impact upon women, had not been demonstrated to be "job-related" and "consistent with business necessity" as Title VII requires, and thus violated Title VII. Following a trial on the merits, the district court in December 2005 found that the city's use of the PAT violated Title VII and entered judgment for the United States. Thereafter, in March of this year, the court approved and entered a consent decree that, *inter alia*, enjoins the city from using the PAT and provides remedial relief (including job offers, retroactive seniority, and back pay) to those women who would have been appointed police officers but for the city's use of the PAT.

The Section's second Title VII enforcement mechanism is the filing of suit, pursuant to Section 706 of Title VII, against a state or local government employer based upon an individual charge of discrimination referred to the Section by the Equal Employment Opportunity Commission ("EEOC"), following a determination by the EEOC that the charge has merit and efforts to obtain voluntary compliance are unsuccessful. The Section has authority to determine whether to initiate litigation based upon a charge referred to it by the EEOC. While small in scope when compared to pattern or practice suits, these are suits that might not be pursued without the Section's participation and they often address types of discrimination that may not be remediable through pattern or practice suits. Suits initiated under this authority have involved, for example, allegations of harassment, retaliation, involuntary reassignment, failure to

promote, discrimination on the basis of pregnancy, unlawful discharge and religious discrimination.

An example of one of these Section 706 suits is *United States v. Weimar Independent School District*, filed in June 2005. In this suit, we alleged that the defendant school district failed and refused to hire the charging party, an African American woman, for the position of high school principal because of her race. A consent decree resolving the suit also was filed in June 2005. In that consent decree, the school district agreed to offer the charging party a monetary award of \$64,000, and fair, objective, and non-discriminatory consideration should she apply for employment with the school district in the future (the charging party had obtained other employment which she desired to retain after being denied the high school principal position at issue). The school district also agreed to implement extensive complaint and investigation procedures designed to prevent and correct discrimination and to train its officials and employees involved in hiring for administrative and faculty positions on the law of equal employment opportunity.

At the end of FY 2004, the Attorney General transferred enforcement authority of USERRA to the Civil Rights Division. The Assistant Attorney General for Civil Rights in turn delegated USERRA enforcement authority to the Employment Litigation Section. Under USERRA, persons may file complaints of USERRA violations with the Department of Labor. The Department of Labor investigates such complaints, makes determinations as to whether they have merit, and attempts to voluntarily resolve those complaints it determines have merit. The Department of Labor forwards to the Department of Justice all unresolved USERRA complaints of those persons who request to be represented by the Department of Justice. Upon receipt of an unresolved USERRA complaint from the Department of Labor, the Section reviews the Department of Labor's investigative file accompanying the complaint and makes a determination as to whether to extend representation to the complainant. Under USERRA, the Department of Justice has authority to appear on behalf of a claimant in a suit filed in federal district court if the Department is satisfied that the claimant is entitled to the rights or benefits being sought.

An example of one of these USERRA suits is *Goodreau v. Bridgestone/Firestone North American Tire, LLC*, filed in March 2005. In this suit, we alleged that when the plaintiff, an employee of the company, returned to the company following fifteen months of active duty in the military, the company violated USERRA when it refused to provide the plaintiff with the progressive pay increases he would have earned had he not left his employment with Bridgestone to serve in the military. Under USERRA, an employer must place an employee in military service in the same position the employee would have been absent his military service. Shortly after the filing of our complaint, the parties entered into a consent decree that was approved by the district court. The consent decree called for the company to advance the plaintiff on its progressive pay schedule and pay him his loss of earnings plus interest.

In addition, the Section has authority to prosecute enforcement actions upon referral by the Department of Labor of complaints arising under Executive Order 11246, which prohibits discrimination in employment by federal contractors. The Section also represents the Departments of Labor and Transportation and other federal agencies in suits challenging the application or enforcement of federal laws that prohibit discrimination by government contractors or recipients of federal financial assistance and/or pertain to federal minority and disadvantaged small business programs.

The litigation handled by the Section is national in scope. Attorneys assigned to the Section concern themselves with all aspects of complex civil litigation, including investigations, suit recommendations, discovery, motions practice, settlement negotiations, trials, and the monitoring and enforcement of court orders for remedial and injunctive relief. Frequently, the Section's litigation involves the testimony of expert witnesses, such as industrial psychologists, exercise physiologists, economists and statisticians.

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HOUSING AND CIVIL ENFORCEMENT SECTION

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The Housing and Civil Enforcement Section enforces the Fair Housing Act, which prohibits discrimination in all types of housing transactions; the Equal Credit Opportunity Act, which prohibits discrimination in lending; Title II of the Civil Rights Act of 1964, which prohibits discrimination in places of public accommodation, such as hotels, restaurants and certain places of entertainment; the Religious Land Use and Institutionalized Persons Act ("RLUIPA"), which prohibits, in part, land use regulations that impose substantial burdens on religious exercise; and Title III of the Civil Rights Act of 1964, which prohibits discrimination in public facilities; and the Servicemembers' Civil Relief Act, which provides civil protections in areas such as housing, credit, and tax for military personnel while they are on active duty.

The Fair Housing Act prohibits direct providers of housing, such as landlords and real estate companies, as well as municipalities, banks, insurance companies, and other entities from engaging in discriminatory housing practices based upon race, color, religion, sex, national origin, disability, or familial status. The statute authorizes the Department of Justice to bring a lawsuit if it believes that a person or entity, or a group of persons, is engaged in a pattern or practice of unlawful conduct or that a denial of rights granted to a group of persons under the Act raises an issue of public importance. The statute also creates a mechanism by which individuals may file a complaint with the Department of Housing and Urban Development if they believe that they are victims of housing discrimination. This process sometimes results in a lawsuit brought by the Department of Justice. Consistent with the broad reach of the statute, the Section has undertaken an array of enforcement activities pursuant to its pattern or practice authority.

The Section's Fair Housing Testing Program is designed to ferret out illegal discrimination in the sale or rental of housing through the use of testing. Fair housing testing, which was recognized as an important investigative tool by the Supreme Court over twenty years ago, provides a sophisticated means to detect discriminatory practices which otherwise are unlikely to be discovered. In a test for race discrimination in rental housing, for example, pairs of white and black persons trained by Section personnel pose as prospective tenants and inquire about apartments for rent at a particular complex. By comparing their treatment, the Section is able to evaluate whether a landlord is discriminating on the basis of race.

Since 1992, the Department of Justice has filed 79 pattern and practice testing cases with evidence directly generated from the fair housing testing program. The vast majority of testing cases filed to date 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. Of the 79 suits filed, 78 have been resolved. Of the 78 resolved cases, the Department has recovered more than \$12 million, including over \$2 million in civil penalties and over \$10.3 million in other damages.

In March 2006, the Attorney General launched Operation Home Sweet Home, a concentrated initiative to expose and eliminate housing discrimination in America. This initiative will focus on improved targeting of housing discrimination tests, increased fair housing testing, and public awareness efforts, including increased outreach to local fair housing organizations, a new website with an online mechanism for citizens to submit housing discrimination tips and complaints, and a toll-free tip line for citizens who feel they have been a victim of housing discrimination. For more information about this initiative, see www.usdoj.gov/fairhousing.

The Multi-Family Housing Access Forum is a nationwide program launched in 2005 to help design and building professionals understand their legal obligations under 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.

Since January 2001, those who designed and constructed multi-family housing that did not comply with the Act's accessibility requirements have had to pay over \$17 million to retrofit their properties and to compensate persons with disabilities who were injured by the violations. Although such lawsuits are a necessary part of the Division's job, voluntary compliance at the planning stage is a much more cost effective means of ensuring that the housing needs of persons with disabilities are met.

The Fair Housing Act prohibits discrimination in all lending transactions in which a residence is used as collateral. The Equal Credit Opportunity Act prohibits discrimination in these types of lending transactions as well, and also applies to all other types of lending transactions, such as credit card and consumer loans. Discrimination in home mortgage lending has been a particular focus of our enforcement efforts because home ownership is so important to American families. Since the inception of our fair lending initiative in 1992, the Section has obtained nearly \$80 million in monetary relief. In addition to monetary relief, the settlements in these cases have required significant changes in banking practices.

Most of our fair lending work has involved three types of alleged discrimination: (1) marketing/redlining (choosing to make loans and/or to seek loan applications only from whites or only in predominantly white areas), (2) underwriting (failing to make loans to minorities who are as well qualified as whites who receive loans); and (3) pricing (making loans to minorities at higher interest rates or with other less favorable terms and conditions than similarly situated whites receive).

The Section investigates and litigates possible violations of Title II (discriminating in places of public accommodation). For example, our 2004 consent decree in *United States v. Cracker Barrel Old Country Stores* requires comprehensive reforms of the company's policies, implementation of improved non-discrimination training programs, and investigations of race and/or national origin discrimination complaints lodged by customers.

Since the enactment of RLUIPA in September 2000, the Section has inquired into approximately eighty RLUIPA matters, opened over twenty-five formal investigations (a significant number of which resulted in a favorable outcome for the complainant) and filed three cases in federal court.

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OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION RELATED UNFAIR EMPLOYMENT

PRACTICES

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The work of the Office of Special Counsel for Immigration Related Unfair Employment Practices ("OSC") can be divided into three major areas: (1) protecting U.S. citizens and legal immigrants from employment discrimination based upon national origin and citizenship or immigration status, unfair documentary practices during the employment eligibility verification process, and retaliation, (2) preventing unlawful discrimination through outreach, and (3) providing advice and counsel on policy issues affecting the civil rights of U.S. citizens and immigrants.

Enforcement

OSC enforces the anti-discrimination provision of the Immigration and Nationality Act, which prohibits citizenship status and national origin discrimination in employment, unfair documentary practices when employers verify the employment eligibility of employees, and retaliation. Congress created OSC primarily to address discrimination against individuals who allegedly look or sound "foreign" or who are not U.S. citizens.

OSC receives discrimination complaints directly from the public. Many charges are received from individuals who have limited English proficiency. Staff attorneys investigate charges to determine whether the employer committed unlawful discrimination. OSC also initiates independent investigations that may involve a pattern or practice of discriminatory activity and hundreds of employees. Attorneys travel frequently to interview witnesses and review documents. For meritorious claims, attorneys are responsible for settlement discussions and litigation before administrative law judges. Subpoena enforcement actions are argued in federal district court. Appeals are heard by the federal courts of appeal. The statute provides for a number of remedies, including the assessment of civil penalties, back pay, hiring or reinstatement of injured parties, and cease and desist orders.

OSC settled or otherwise resolved investigations in 2005 that involved unlawful terminations, refusals to hire, unfair documentary practices, and retaliation. Some matters involved individual instances of discrimination and others involved patterns or practices of discrimination. Specific allegations included unlawful citizen-only hiring policies; preferences for workers on H-1B professional or H-2A agricultural visas instead of U.S. citizens; refusals to employ naturalized citizens, aliens granted asylum, and lawful permanent residents because of discriminatory documentary practices; termination of documented immigrants because participating employers did not follow proper employment eligibility verification procedures; and improper termination of work-authorized aliens granted temporary protected status (from El Salvador, Honduras, Sudan, and other countries because of ongoing conflict, effects of an environmental disaster, or other such conditions).

Respondents included some of the nation's largest companies and smaller businesses. Victims included native-born U.S. citizens, naturalized U.S. citizens, lawful permanent residents, asylees, refugees, and other work-authorized immigrants from around the world. Approximately 47 percent of OSC's settlements during FY 2005 involved Hispanic workers. Relief was obtained for legal immigrants from many countries, including El Salvador, Ethiopia, Haiti, Honduras, Liberia, Mexico, Sierra Leone, Liberia, and the Ukraine. Relief included back pay, jobs, civil penalties, and education and training of employers' human resources personnel.

OSC also employs an innovative early intervention program that brings quick, efficient, cost-effective resolutions to employment disputes that might otherwise result in the filing of charges, the accumulation of back pay awards, and investigation and litigation expenses. Based on information received from workers and employers calling OSC's worker and employer hotlines, OSC often is able to (1) correct policies and practices that violate the law; (2) minimize the impact of statutory enforcement on employers; (3) permit employers to hire the most qualified applicant and retain qualified workers; and (4) minimize periods of unemployment for workers.

OSC maintains an ongoing relationship with other federal agencies to assist in ensuring that the rights of work-authorized immigrants and U.S. citizens are protected. For example, the Section has engaged in joint efforts with the Office of Refugee Resettlement of the Department of Health and Human Services, the Department of Homeland Security, and the Social Security Administration.

Outreach

OSC emphasizes education and outreach as key tools in addressing potential immigration-related employment discrimination. OSC has adopted a multi-faceted approach to compliance assistance via its Internet site, employer and worker toll-free hotlines, training materials, compliance assistance education, media outreach, a speaker's program, and a grant program.

To leverage its outreach activity, OSC awards grants to organizations for the purpose of conducting public education

programs about the rights of employees and the responsibilities of employers under the anti-discrimination provision of the INA. OSC's grantees have included state and local fair employment practices agencies, business organizations, and non-profit and faith-based immigrant service organizations.

Grantees translate OSC materials, appear on radio call-in shows, work with local organizations to reach new populations, hold seminars and meetings, distribute OSC materials, advertise in local newspapers, develop educational packets, update current legal manuals to include changes in the immigration law, disseminate information through the world wide web, and refer charges of alleged discrimination to OSC. OSC provides technical assistance, speakers, and outreach materials to the grantees.

OSC awarded 13 grants ranging from \$40,000 to \$85,000 each, and totaling nearly \$660,000, for work performed during fiscal year 2005. OSC grantees have reached a broad spectrum of stakeholders, including, for example, small businesses in Nevada, Asian Pacific American workers throughout California, and indigenous Mexican farm workers in Oregon who speak neither Spanish nor English but rather indigenous languages like Mizteco.

OSC has national toll-free telephone lines for both workers and employers. The hotlines are staffed on a full-time basis by an equal opportunity specialist who is fluent in Spanish and other languages (a language service provides additional interpretation as needed), with the assistance of OSC attorneys and other equal opportunity specialists. They promptly address questions, concerns and practices, advise employers on how to avoid discrimination in the workplace and informally resolve disputes, as discussed above, through its early intervention program. OSC handles many thousands of calls on its hotlines each year.

OSC provides the public with training material, including booklets, posters and educational videotapes, regarding how to ensure compliance with the non-discrimination provision of the INA. The employer hotline contains a fax-back feature that allows employers to quickly and efficiently receive OSC education material. OSC distributed approximately 68,500 individual pieces of educational materials in fiscal year 2005, 43 percent of which were in Spanish.

OSC also directly conducted nationwide outreach to workers, employers, non-governmental organizations, other federal agencies, and state and local governments during 2005. For example, OSC teamed up with the Equal Employment Opportunity Commission ("EEOC") on numerous occasions to provide staff presentations to employers throughout the country via the EEOC's Technical Assistance Program Seminars. In combination with outreach events conducted by its grant recipients, OSC conducted approximately 400 events in fiscal year 2005.

OSC's Internet site provided helpful information specifically designed for workers and employers. The site describes the legal obligations of employers to comply with the anti-discrimination provision of the INA and provides other information to assist compliance, such as brochures and booklets in PDF format directed to both employers and workers, frequently asked questions, and legal references. OSC also issues a newsletter, entitled *OSC Update*, as a tool to efficiently disseminate educational material, legal developments, and outreach tips. OSC Update is sent to more than 4,000 organizations via the Internet and mail.

Policy Work

OSC worked on a number of policy matters in FY 2005 that involved the civil rights of U.S. citizens and work-authorized immigrants. Most of the policy work involved working with other federal agencies, including working with the Department of Labor and with U.S. Citizenship and Immigration Services within the Department of Homeland Security.

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SPECIAL LITIGATION SECTION

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The Special Litigation Section enforces federal civil rights statutes in four major areas: (1) conditions of institutional confinement; (2) law enforcement misconduct; (3) access to reproductive health facilities and places of religious worship; and (4) protection of institutionalized persons' religious exercise rights.

Conditions of Institutional Confinement

The Special Litigation Section protects the constitutional and federal statutory rights of persons confined in certain institutions owned or operated by state and local governments. These institutions include facilities for individuals who are mentally ill or developmentally disabled, nursing homes, juvenile correctional facilities, and adult jails and

prisons. The Section's authority to do this work is derived from the Civil Rights of Institutional Persons Act of 1980 ("CRIPA"), 42 U.S.C. § 1997, which gives the Attorney General the authority to investigate institutional conditions and file suit against state and local governments to protect the basic rights of the nation's most vulnerable persons. Section investigations typically focus on myriad issues depending on the type of institution and the nature of alleged unconstitutional conditions. Issues include, for example, abuse, medical and mental health care, security, adequacy of treatment and training, and education. 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.

Since CRIPA was enacted, the Section has initiated more than 400 investigations of various facilities throughout the states, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the Territories of Guam and the Virgin Islands. As a result of the Section's CRIPA efforts, tens of thousands of institutionalized persons who were living in dire, often life-threatening, conditions now receive adequate care and services. In fact, the Section's CRIPA docket has multiplied since 2001. The Section has opened 60 new investigations, an increase of almost 50 percent over the preceding five years. These efforts have yielded 47 substantial agreements, including 10 consent decrees. The Section's work in institutions has focused recently on sexual victimization of women prisoners, the unmet mental health needs of inmates and pre-trial detainees, abuse and neglect in nursing homes, facilities for persons with developmental disabilities, and juvenile detention facilities.

The Section's Juvenile Justice work has been effective in uncovering violations and working with local jurisdictions to bring about much needed reform. The Section is proud to report that this previously under-served area is now a leading enforcement area of our office. In addition, our work has been heralded by professionals in the field and media reports.

Section staff are involved in a broad array of activities to vindicate the federal rights of institutionalized persons. In addition to reviewing complaints and conducting investigations, Section activities include monitoring and enforcing court orders or settlements, litigating large, complex institutional reform cases, and writing amicus briefs on issues of national import. Section staff work closely with nationally renowned experts to evaluate institutional conditions by touring 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. The Section has been successful in resolving the vast majority of CRIPA investigations that have uncovered unlawful conditions by obtaining voluntary correction or a settlement designed to improve conditions and ensure the provisions of appropriate services.

Law Enforcement Misconduct

The Special Litigation Section enforces the police misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, which authorizes the Attorney General to seek equitable and declaratory relief to redress a pattern or practice of illegal conduct by law enforcement agencies or agencies responsible for the administration of juvenile justice. The Section also enforces the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d, 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 financial assistance from the Department of Justice.

The Section is extremely proud of our police program, and has placed an emphasis on technical assistance. In the past five years, the Section has written 19 technical assistance letters and provided hundreds of hours of on-site technical assistance to law enforcement agencies, large and small, throughout the country.

The Section's work has had a significant impact and involved major city police departments in Cincinnati, Detroit, and the District of Columbia. The Section's work recognizes the unique posture of each case, resulting in varied resolutions of our investigations. In the last five years, the Section has obtained 14 significant agreements, including four consent decrees.

Access to Reproductive Health Facilities and Places of Religious Worship

The Section also enforces the civil provisions of the Freedom of Access to Clinic Entrances Act of 1994 ("FACE"), 18 U.S.C. § 248. 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 FACE 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.

The Section has served a pivotal role in enforcing the FACE Act to protect patients and health care providers against threats of force and physical obstruction of reproductive health facilities. Civil FACE actions have been filed in a dozen states and the District of Columbia. Section attorneys have obtained temporary restraining orders and preliminary and permanent injunctions under the FACE Act and have won civil and criminal contempt motions. The Section also has been involved in the successful defense of constitutional challenges to the FACE Act.

Protection of institutionalized persons' religious exercise rights

The Religious Land Use and Institutionalized Persons Act ("RLUIPA"), 42 U.S.C. § 2000cc, was signed into law on September 22, 2000. The Special Litigation Section has enforcement responsibilities under Section 3 of RLUIPA, which protects the rights to free exercise of religion for institutionalized persons. Pursuant to this authority, the Section is authorized to investigate and bring civil actions for injunctive relief to enforce compliance with RLUIPA.

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VOTING SECTION

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The Voting Section is responsible for enforcement of the Voting Rights Act of 1965, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, the Help America Vote Act of 2002, and other statutory provisions designed to safeguard the right to vote of citizens, including racial and language minorities, disabled and illiterate persons, and overseas citizens and military personnel.

To carry out its mission, the Section brings lawsuits against states, counties, cities, and other jurisdictions to remedy denials and abridgements of the right to vote, and also defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General.

Today, the Division is engaged in the most ambitious program in its history to protect the voting rights of language minority citizens. Section 203 of the Voting Rights Act requires certain jurisdictions - based on the presence of large numbers of voting age citizens with limited English proficiency - to provide bilingual voting materials and assistance to American Indians, Asian Americans, Alaskan Natives, and persons of Spanish heritage.

Since 2002, the Voting Section has filed and won more cases to enforce Section 203 than in the entire previous history of the Voting Rights Act. Following unprecedented outreach and efforts to encourage voluntary compliance, the Voting Section began systematically investigating compliance across the United States. The results have included the first case ever to protect Filipino voters, the first four actions ever to protect Vietnamese voters, 80 percent of all Section 203 cases to protect Latino voters, and a string of successful lawsuits across the United States, from San Diego to Boston and from Florida to Washington State. The Section also persuaded federal courts to extend consent decrees protecting the rights of Navajo and Pueblo voters in three New Mexico Counties. Each of our enforcement agreements provides comprehensive relief for minority language voters, and includes innovative procedures to involve local minority language voters themselves to help shape programs to serve them.

The Division also has set records in its enforcement of Section 208 of the Voting Rights Act, which protects the right of voters who need assistance in casting their ballots, such as disabled or illiterate voters, to receive that assistance from a person of their own choice, other than their employer or union official. Since 2001, the Voting Section has filed two thirds of all of the cases in its history to enforce this important protection of voters from intimidation and undue influence.

At the same time, the Division continues to enforce the provisions of Section 2 of the Voting Rights Act, which provides that the right to vote may not be denied or abridged on account of race or color, or because of membership in a language minority group. In 2005, the Division challenged the at-large election system in Osceola County, Florida; sued to protect Chinese and Vietnamese voters in Boston from racially discriminatory treatment at the polls (which included taking the ballots from voters and marking them regardless of the voters' wishes); filed a case under Section 2 and Section 11(b) of the Voting Rights Act over intentional race-based discrimination by local party and election officials against white citizens (a case that produced the Voting Section's first motion for an order against witness intimidation); and, early in 2006, filed a successful challenge to discriminatory challenges to the eligibility of Latino voters in Long County, Georgia.

The Civil Rights Division also gives significant priority to ensuring that members of the armed forces and other persons protected by the Uniformed and Overseas Citizens Absentee Voting Act ("UOCAVA") are able to request, receive, and cast a ballot for federal offices in a timely manner in federal elections. In addition to several instances where the Voting Section was able to resolve problems with state officials without the necessity of litigation, the Division initiated litigation against the Commonwealth of Pennsylvania in April 2004 and the State of Georgia in July 2004. The Division was able to obtain court orders requiring changes in the deadlines for the return of ballots from covered voters so that those ballots would be counted in each jurisdiction's 2004 primary election. The Voting Section continued vigorous enforcement of UOCAVA in 2006 with lawsuits to protect uniformed and overseas voters in Alabama and North Carolina.

Also during 2005, the Division brought suit against the State of Missouri under the National Voter Registration Act, a

law designed to expand registration opportunities for all citizens and to ensure proper maintenance of voter registration lists. In Missouri, the complaint alleges that some voters in some counties are removed from the voter lists without proper notice, while other counties fail to remove dead persons and other ineligible, so that in two counties there are more registered voters than the total population of all ages.

Finally, the Division has been very active in enforcing the Help America Vote Act ("HAVA"). The Act was passed in 2002 to improve the administration of elections in the United States by: (1) creating a new federal agency, the Election Assistance Commission, to serve as a clearinghouse for election administration information; (2) providing funds to states to improve election administration and replace outdated voting systems; and (3) creating minimum standards for states to follow in several key areas of election administration. The minimum standards are complex in many respects, and since 2002 the Division has undertaken a multi-faceted approach to inform state and local officials of their obligations under the new law. The Voting Section filed two lawsuits, in California and New York, to enforce the voter information provisions of HAVA which took effect in 2004, and filed suit against the state of New York in 2006 to assure the use of accessible and reliable voting machines and to obtain an accurate statewide voter registration database as required by HAVA.

In addition to litigation, a major and growing function of the Voting Section is to monitor election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act, and through monitoring by attorneys in other areas. During the past few years, the Civil Rights Division has significantly increased its election monitoring activities, particularly in the use of Departmental staff in those areas of the country where the Attorney General cannot send federal observers because the jurisdictions are not subject to the special provisions of the Voting Rights Act. During the 2004 calendar year, the Division deployed nearly 2,000 individuals to 29 states to monitor 163 separate elections, the most ever, and also set a record in 2005 for "off year" monitoring of municipal and other elections.

The Voting Section also conducts administrative review of changes in voting laws and procedures under Section 5 of the Voting Rights Act. Section 5 is one of the special provisions of the Voting Rights Act that applies to nine states in their entirety and to one or more counties in seven other states. Section 5 prohibits a covered jurisdiction, or any political subunit within it, from implementing any change with respect to voting until it obtains a determination from the federal court in the District of Columbia or from the Attorney General that the change is not retrogressive – that it does not worsen access to the franchise on account of race, color, or membership in a language minority group. Virtually all jurisdictions seek administrative review by submitting the proposed changes to the Attorney General, who annually receives between 4,000 and 5,000 submissions consisting of over 15,000 discrete changes affecting voting. Following each Census, jurisdictions at all levels of government redraw the boundaries used to elect their officials, and these redistricting plans as well as the many accompanying changes, such as revised voting precincts or changed polling places, are reviewed by the Civil Rights Division for those jurisdictions subject to Section 5's requirements.

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ADMINISTRATIVE MANAGEMENT SECTION

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In support of the enforcement responsibilities of the Division, the Administrative Management Section provides a diverse array of management and technical services. These services include personnel administration, budget formulation and execution, litigation support, facility and procurement services, mail and file operations, and information technology applications.

The Division has upgraded its office automation system, which provides modern hardware and software for office automation. As a result, Division employees are provided with the essential tools for day-to-day litigation and support activities: word processing, automated legal research, spreadsheets, courtroom presentations, e-mail and Internet access. This ensures that the Division remains technologically competitive with the private bar.

The Division maintains an Internet site at www.usdoj.gov/crt. A copy of this brochure, as well as documents pertaining to the work of the Division, is available at this site. The Division also maintains its own Intranet, which is a principal means of communicating information to employees, including administrative information, all employee announcements, and the Division-wide calendar. The CRT Intranet facilitates the work of the Division, and furthermore enhances a sense of community among the Division employees who are currently located in separate buildings in the D.C. area.

The Division also has a very dynamic software application development program. This program makes available automated tools to track and support correspondence, cases, litigation, workload, and requests. The Interactive Case Management ("ICM") system and the Geographic Information System ("GIS") are two of these systems.

ICM, the first Division-wide case management system, has become an important senior management tool used to account for operational and programmatic activities of the Division's law enforcement effort. This system is designed to track, count, and measure all investigations and cases throughout their life cycle. It generates management reports reflecting the Division's workload for management, and includes a time reporting feature to capture, analyze, and report the level of effort attorneys and professionals dedicate to investigation and case-related tasks.

The Division's GIS provides mapping litigation support services through a state-of-the art computer system and online demographic information based on the 1990 and 2000 Census. Through the GIS Group, the Division offers a wide variety of GIS and mapping related services, including user support, application development, data conversion, data warehousing, and GIS training.

The Division manages a number of special recruitment programs for employment, including the Department's Honors Program; a recruitment program for outstanding third-year law students, full-time graduate law students, and judicial law clerks; the summer intern program for college students; the part-time summer employment program for high school students; and volunteer internships for law and college students.

The Freedom of Information Privacy Act staff ensures that the Division complies with all aspects of the Freedom of Information and Privacy Acts which may require, for example, the periodic publication of various notices within the *Federal Register* under both statutes, as well as the processing of records in response to FOI/PA requests from the public. The Branch provides procedural guidance to citizens and legal counsel to other sections of the Civil Rights Division regarding FOI/PA requests and the proper handling of privileged materials. The FOI/PA Branch also coordinates and represents the Division's interests in FOI/PA litigation and in the administrative appeals of request denials.

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