U.S. Department of Justice
Civil Rights Division

Civil Rights Division Activities and Programs

FOREWORD

I am pleased to provide you with the August 2002 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 anti-discrimination statutes enforced by the Civil Rights Division reflect some of America's highest aspirations: to become a society that provides equal justice under law; to become a society that effectively protects the most vulnerable among us; and to become a society whose citizens not only protect their own individual freedom and liberty – but champion the individual freedom and liberty of their neighbors who may be different in some impertinent way. I hope this brochure helps 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 respective Sections listed inside or my office as follows:

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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, handicap, 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 paralegal and clerical personnel are required to travel since litigation activities occur in all parts of the United States.

THE STRUCTURE OF THE CIVIL RIGHTS DIVISION

The Division is headed by an Assistant Attorney General. He is assisted by Deputy Assistant Attorneys General. The Office of the Assistant Attorney General establishes policy and provides executive direction and control over litigative enforcement and administrative management activities in the Division.

The Division has ten program-related Sections and the Administrative Management Section. Eight of the Sections have enforcement responsibilities over particular subject areas; one is responsible for the coordination of federal agencies' civil rights enforcement efforts; and another handles the appellate matters and provides legal guidance. The Administrative Management Section supports the Division's work by providing services in the areas of personnel, budget, automated systems, procurement, facilities, mail and records management, and by preparing responses for information under the Freedom of Information and Privacy Acts.

The following is a brief summary of each Section's responsibilities in enforcing the laws and regulations for which it is charged.

APPELLATE SECTION

The Appellate Section has primary responsibility for handling civil rights cases in the courts of appeals and, in cooperation with the Solicitor General, in the 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 trial 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 Appellate 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 by repeatedly intervening in cases where constitutional questions are raised, and this effort has been largely successful. For example, the Section has defended 11th Amendment challenges to Title VI and Title VII of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, the Individuals with Disabilities Education Act, the Equal Pay Act, and Section 504 of the Rehabilitation Act of 1973.

The Section is also responsible for defending challenges to federal procurement programs. The Section’s caseload in this area increased markedly following the Supreme Court’s decision in *Adarand v. Pena*, 500 U.S. 515 (1995), in which the Supreme Court held that congressionally authorized race-conscious programs are subject to strict scrutiny.

COORDINATION AND REVIEW SECTION

The Civil Rights Division's Coordination and Review Section operates a comprehensive, governmentwide 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 intentional discrimination on the basis of race, color, or national origin in federally assisted programs; Title IX of the Education Amendments of 1972, which prohibits intentional 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.) The 30 federal agencies that provide federal financial assistance are subject to 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 model regulations, policies, and enforcement standards and procedures. The Section also reviews plans and data submitted by all federal funding agencies, which describe their civil rights enforcement priorities, activities, and achievements. In addition, the Section conducts targeted intensive Technical Assistance Reviews of particular agencies in order to ascertain the effectiveness of Title VI enforcement efforts. 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 publishes a quarterly newsletter, the *Civil Rights Forum*, and maintains a website, www.usdoj.gov/crt/cor, which provides comprehensive information about its areas of responsibility. The Section also continues to distribute its Title VI video, as well as its 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 30 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 95+ 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 new 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 will function as a model for similar guidance to be 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 an Interagency Working Group on LEP, which functions under Section leadership. Members of this Group, which meets bimonthly, represent more than 35 federal agencies. The Group has three very active subcommittees, which also meet bimonthly. Among the accomplishments of the group was the creation of a new website, www.LEP.gov, which promises to assist federal agencies, recipients, and the community in the quest for reasonable language access.

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 intentional 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 95+ federal agencies.

The Section developed a Guidance Document designed to facilitate implementation of Executive Order 13160. It addresses issues such as the scope of covered programs and activities, examples of discriminatory conduct, applicable legal principles, enforcement procedures, remedies, and agency reporting requirements. The Section developed outreach materials pertaining to the Executive Order and provides ongoing technical assistance to other federal agencies. The Section also serves as a repository for annual reports on complaint activity and developed a complaint report form for other federal agencies to submit in order to comply with the mandatory reporting requirement in the Executive Order. The Section also has 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.

CRIMINAL SECTION

Trial attorneys in the Criminal Section frequently prosecute cases of national significance implicating violations of basic constitutional rights. These are invariably matters of intense public interest involving acts of racial and ethnic violence, violence intended to interfere with religion, abuse of power by local and federal law enforcement officials, violations of human trafficking and involuntary servitude statutes that protect migrant workers and others held in bondage, and criminal acts in violation of the Freedom of Access to Clinic Entrances Act, which prohibit conduct intended to injure, intimidate or interfere with persons seeking to obtain or to provide reproductive health services or to exercise the First Amendment right of religious freedom at a place of worship.

The federal criminal civil rights statutes also provide for prosecutions of conspiracies to interfere with federally protected rights, deprivation of rights under color of law, the use or threat of force to injure or intimidate persons in their enjoyment of specific rights (such as voting, employment, education, public facilities and accommodations) and criminal housing interference.

The Section receives approximately twelve thousand 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 prosecutive recommendation is then made by Section attorneys in consultation with their counterparts from the U.S. Attorney's Office based on the facts contained in the FBI report.

Of the approximate 2,500 investigations conducted each year, about 80 are authorized for grand jury presentation. During the past several years, nearly 100 cases were filed each year 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. The Section has been prosecuting bias-motivated crimes in addition to those related to the events of September 11 (discussed elsewhere) and prosecuting criminal deprivations of civil rights.

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, including sexual assaults, illegal arrests and searches, and the right to be free from deprivation of property without due process of law. Last year, the Section won convictions against 5 male orderlies at the Arlington Development Center, a state run care facility in Tennessee for mentally retarded adults near Memphis for routinely beating residents. One of these beatings resulted in the death of a mentally retarded patient who could not cry out for help because he was mute. After local authorities refused to prosecute the case, we sought and received an indictment. The defendants received sentences ranging from 60 to 180 months in prison. In another case, *United States v. Waldon* two deputy sheriffs with the Jacksonville Sheriff's Office and a

civilian coconspirator were charged last year with committing robberies, thefts, and drug offenses, culminating in the robbery and slaying of a local business man who was found strangled a day after withdrawing $50,000 from a bank. The defendant officers arrested the victim on a pretext, transported him to a remote location, stole the money he had just withdrawn from the bank, and then strangled the victim in order to eliminate him as a witness. One deputy sheriff and the civilian have pled guilty for their involvement in the conspiracy. The remaining officer defendant is scheduled to be tried on October 1, 2002.

Since September 11, 2001, the Criminal Section has spearheaded the Department of Justice's law enforcement response to the nationwide spate of "backlash" threats and attacks against Muslims, Arabs, and South Asians. On September 13, 2001, the Section initiated a coordinated effort with the FBI to address post-September 11 “backlash” incidents of violence and threats against Arabs and Muslims. Several attorneys were designated to work with the FBI, United States Attorney's Offices, and volunteers from the Civil Rights Division to identify, investigate, and make prosecutorial decisions. Throughout this effort, the Section has coordinated with local authorities. All of these cases involve alleged discriminatory backlash crimes against individuals perceived to be of Middle-Eastern origin, including Arab Americans, Muslim Americans, Sikh Americans, and South-Asian Americans. Approximately 75% of the backlash incidents investigated occurred during the first 10 days after the September 11 attacks.

In May 2002, federal prosecutors secured a plea in one of the first backlash prosecutions we pursued following September 11. In this case, the defendant plead guilty on May 9 to a violation of 18 U.S.C. §247 for attempting to set fire to automobiles at a Seattle mosque and for shooting at the worshipers two days after September11. Other examples include a Utah case where a man pled guilty to interfering with a federally protected activity after filling two glass jars with pillow stuffing and gasoline and placing them against an exterior wall of a restaurant owned by a Pakistani-American family. After pouring gasoline across the parking lot and on the side of the restaurant, the defendant lit the fire and immediately left the area. The defendant was sentenced to 51 months in prison. In Detroit, Michigan, a man pled guilty to interfering with housing rights for selecting the name of a Pakistani born male from a residential directory telephone book because the name appeared to be "an Arab name," and subsequently calling the victim's home, leaving a message on his answering machine threatening him with bodily injury.

The Section is also responsible for prosecuting violations of the Church Arson Prevention Act of 1996, enacted to protect against religiously motivated arson and desecration of houses of worship. Most notably, defendant Jay Scott Ballinger, a self described "Luciferian," pled guilty to setting a total of twenty-nine fires in eight states throughout the United States. Ballinger was sentenced to life in prison without parole for his guilty pleas to setting five church fires in Georgia, including a fire at the New Salem United Methodist Church in which a volunteer firefighter was killed while on duty. In Minnesota, a man was charged with violating the Church Arson Prevention Act for making religiously threatening and terroristic threats on the voice mail systems of three synagogues. In another case, the defendant, an admitted former member of a vampire cult and a witches coven called the "Lepers Moon," pled guilty to desecrating the St. Edmund Catholic Church located in Lafayette, Louisiana. The defendant set small fires throughout the church causing extensive smoke and soot damage to the building. In addition, the vandalism included a cross inverted and placed inside the tabernacle, holy oil poured into the baptismal font, symbols carved into a small altar and the consecrated Eucharist removed from the tabernacle, scattered on the floor and partially burned. The defendant was sentenced to 63 months in prison and ordered to pay $70,325 restitution.

In March 2001, the Attorney General announced the creation of a new position, the “Special Counsel for Trafficking in Persons,” to work on trafficking outreach and policy issues. The Section is in the process of hiring a dozen more prosecutors and support staff to help enforce the Trafficking Victims Protection Act of 2000 (TVPA) and to assist victims. On January 31, 2002, the Justice Department issued a regulation enabling certain trafficking victims to live and work legally in the United States for three years while their cases are investigated and prosecuted and five thousand “T visas” will be available annually. In addition, the Section will be participating in an interagency center to coordinate intelligence information on human trafficking and migrant smuggling.

In *United States v. Lee*, one of the largest trafficking cases ever brought by the Section, we charged five defendants, including a Korean business man, for enslaving over two hundred Vietnamese workers in a sweatshop operation in American Samoa. The defendant and his coconspirators beat the workers, physically restrained them, and deprived them of food in an effort to force them to sew garments at a factory. Two of the defendants

have pled guilty to conspiracy charges and are cooperating with the government. Trial for the remaining defendants is scheduled to began in October 2002.

In addition to prosecuting trafficking/ slavery cases, the Criminal Section is actively involved in the Trafficking in Persons and Worker Exploitation Task Force, which is co-chaired by the Assistant Attorney General of the Civil Rights Division and the Solicitor of the Department of Labor. As part of those efforts, 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. Additionally, the Criminal Section participates 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.

DISABILITY RIGHTS SECTION

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 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 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 commercial facilities, 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; and

- Coordination of the administrative enforcement of Title II of the ADA and Section 504 of the Rehabilitation Act by other Federal Executive agencies.

The Disability Rights Section has pursued a comprehensive program of enforcement and public education under the ADA. Through lawsuits and both formal and informal settlement agreements, the Division has achieved greater access for persons with disabilities in hundreds of cases involving state and local government entities and the private sector. The resolution of these complaints has 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, town halls, courts, and prisons. In playing a part in the President’s New Freedom Initiative, the Section negotiated and entered into agreements with 21 jurisdictions to make public facilities accessible, such as city and town halls, courthouses, libraries, polling places, police stations, and parks. These 21 agreements were announced in January 2002 and signed 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 Americans with Disabilities Act (ADA). The agreements are the result of investigations and compliance reviews conducted by the Section to determine if city and state governments were providing adequate access for people with disabilities to services and programs as required by the ADA. Section staff conducted investigations and developed two technical assistance booklets, entitled

"Americans with Disabilities Act: ADA Guide for Small Towns" and "The ADA and City Governments: Common Problems." Together these documents form a blueprint that can be used by State and local governments to evaluate their programs, services, and activities in order to ensure the opportunity for full participation by persons with disabilities.

The Section has been removing barriers to access to other facilities covered by federal disability rights laws. For example, the Section reached a comprehensive settlement agreement with New York-New York Hotel and Casino to provide accessibility throughout its Las Vegas facility. This casino entered a wide ranging agreement with the Section to provide accessibility throughout its Las Vegas facility. The agreement resolves a compliance review that began prior to the hotel's construction and took place over a two-year period. Under the agreement, the hotel and casino will be fully accessible in all respects, including accessible bathroom doors in all of its 2,023 guest rooms. New York-New York also agreed to provide 84 accessible guestrooms and suites; accessible penthouse suites; in-suite accessible Jacuzzi tubs; lifts into the outdoor swimming pool and Jacuzzi; accessible hydrotherapy tub for women and an accessible Jacuzzi for men in the spa; accessible restaurant seating and Braille menus; state-of-the art assistive listening systems in all theaters, bars, and meeting rooms; accessible gaming tables and slot machines; sign language interpreters upon request for live performances and gaming lessons; and an accessible roller coaster.

Additionally, the Section reached an agreement with one of the nation's largest theater chains to modify its design for newly constructed stadium-style theaters to provide people with disabilities meaningful access. Stadium-style theaters are popular, but generally relegate the disabled to the first or second row, usually facing an enormous screen. The Section has sued AMC Entertainment, Inc. ("AMC"), Hoyts Cinemas Corp., and National Amusements, Inc. for engaging in a pattern or practice of violating title III of the ADA in the design and construction of movie theaters with stadium-style seating, by failing to comply with ADA regulations requiring seating "comparable to" that enjoyed by the general public. In addition, under a consent decree, the United Artists Theater Circuit (UATC), one of the nation's largest theater chains, agreed to modify its designs for newly constructed stadium-style theaters (and also for conventional theaters converted to stadium-style use) to follow certain criteria. Under these criteria, wheelchair users will sit at levels raised

above the rows in front of them with sight lines similar to those that others enjoy. The criteria also require wheelchair seating in newly constructed theaters to have vertical viewing angles equal to or better than the best 50 percent of seats in a particular auditorium. The agreement is an amendment to an earlier 1996 consent decree between United Artists, the Department of Justice, and Disability Rights Advocates, a California advocacy group, under which UATC agreed to ensure the accessibility of its newly-constructed theaters (which at the time were of conventional rather than stadium-style design) and to remove barriers in existing theaters. The new agreement also allows for a five-year extension for completion of barrier removal in existing theaters with a pledge by United Artists to spend at least $250,000 per year on that effort.

Recently in an effort to protect the blind, the Section and Norwegian Cruise Line Ltd. agreed to a consent decree requiring it to allow persons who are blind or who have low vision to travel on its cruise ships under the same terms and conditions as other passengers. The agreement settled a lawsuit brought by the Section in the U.S. District Court for the Southern District of Florida. The Section filed suit after receiving complaints from three people who alleged that the cruise line imposed requirements on them because of their blindness. The individuals said they were told they had to have a sighted companion in their cabin, obtain a doctor's note saying they were fit for travel, and sign forms assuming financial liability for shipboard injuries. After the lawsuit, Norwegian changed its policies to allow blind people to travel without special terms or conditions. Under the agreement, Norwegian will not require blind people to travel with or share a cabin with a sighted person, to obtain a medical note prior to travel, or to assume liability for travel risks, unless the same requirement applies to all passengers. The cruise line also agreed to pay a total of $42,500 in compensation to three complainants and $22,500 in civil penalties to the United States.

In an effort to protect those who are deaf, the Section entered into a settlement agreement with St. Luke's Hospital and Health Network resolving a complaint alleging discrimination against a patient and her husband, both of whom are deaf and use American Sign Language as their primary means of communication. The patient was brought to St. Luke's Hospital Emergency Department and was eventually diagnosed with meningitis. The complainant charged that there was a lack of effective communication during her emergency room visit and that her requests for

an interpreter were never granted. The agreement requires St. Luke's to provide effective communication between patients, companions, family members, and hospital staff, and to perform initial evaluations as well as ongoing assessments to determine when qualified interpreters or other auxiliary aids will be necessary. St. Luke's also agreed to provide TTYs and closed captioning for televisions on a 24-hour a day basis. Because St. Luke's is located in a rural area, it may elect to become a part of a pilot study that employs the use of video interpreting services in order to satisfy the agreement's requirement that necessary interpreters be provided within one hour. St. Luke's also agreed to pay $500 to the complainant.

The Section provides education and technical assistance through a variety of means to encourage voluntary compliance. These activities include providing direct technical assistance and guidance to the public through our ADA Information Line, ADA Home Page, and Fax on Demand; developing and disseminating technical assistance materials to the public; undertaking outreach initiatives; and coordinating ADA technical assistance government-wide. In order to make this technical assistance more accessible, the Section released a new ADA Technical Assistance CD-ROM. This free CD-ROM contains the Section's ADA documents, including regulations, the ADA Standards for Accessible Design, status reports, and technical assistance publications. Designed for use on any desktop computer or laptop with a CD-ROM drive, it makes viewing documents and identifying appropriate ADA information easier and more efficient, particularly for those lacking high-speed Internet access. Users can access the information in the same manner as a website, navigating to various publications from a home page on the CD-ROM. Documents on the CD-ROM are provided in a variety of formats, including HTML, WordPerfect, and text (ASCII), to enable people with disabilities and others to gain easy access, to translate materials to Braille, or to use screen readers. Many documents are also provided in Acrobat PDF format so that they appear as they do in print and permit the publication to be reprinted by personal computers. The CD-ROM will be available from the Section's ADA Information Line or by ordering online through the ADA Home Page.

In addition, the Section released a new technical assistance document entitled "A Guide for People with Disabilities Seeking Employment." This new guide, published jointly with the Equal Employment Opportunity Commission and the Social Security Administration, explains

the ADA employment rights of people who are receiving Social Security disability benefits, but who wish to become employed through the Social Security Administration's new Ticket to Work program. The guide will be distributed nationwide through the Social Security Administration's regional centers and is available through the ADA Information Line, ADA Fax on Demand, and the ADA Home Page.

The Section also has spearheaded a program called Business Connection, a regular monthly dialogue between senior business leaders and disability advocacy groups in an effort to achieve sensible solutions to problems associated with access and work issues facing disabled Americans. The project features a new ADA Business Connection web destination on the ADA Website providing easy access to information of interest to businesses and a new series of ADA Business Briefs that are designed to be easily printed from the website for direct distribution to a business's employees or contractors.

The Section announced a new videotape entitled "Police Response to People with Disabilities" and distributed 150 copies at the annual convention of the International Association of Chiefs of Police in Toronto in October 2001. This training videotape will educate law enforcement officers about the ADA and how to respond appropriately to people with disabilities. The videotape addresses situations involving people who have mobility impairments, mental illness, mental retardation, epilepsy or seizure disorders, speech impairments, deafness or hearing impairments, blindness or vision impairments, or other disabilities. Produced through a contract with the Law Enforcement Resource Center of Milwaukee, Wisconsin, it is available as a one-hour videotape for classroom training and as an eight-part series intended for roll-call training. This video and other pertinent technical assistance materials will be distributed to 8,000 law enforcement agencies, training academies, and U.S. Attorney's Offices nationwide.

The Section is also working with State and local governments to implement Executive Order 13217 and the 1999 *Olmstead v. L.C.* United States Supreme Court decision, which require States to place individuals with disabilities in community settings rather than institutions, where placement is appropriate and reasonable, in order to provide them with greater access to community life. The Section has identified a series of action items under the Americans with Disabilities Act, the Civil Rights of Institutionalized Persons Act, and the Fair Housing Act and is working to implement them.

The Section responds to requests from state and local jurisdictions seeking certification that their accessibility standards for new construction and alterations meet or exceed ADA accessibility requirements, and from model code organizations for technical assistance regarding consistency of their standards with the ADA. The Section coordinates Federal enforcement of section 504 of the Rehabilitation Act and other Federal statutes that prohibit discrimination on the basis of disability in programs that receive Federal financial assistance and represents the Attorney General in his or her statutory role as a member of the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). The Section is responsible for developing regulations necessary to implement titles II and III of the ADA, and for coordinating ADA implementation by the eight Federal agencies designated to investigate title II complaints. The Section also assists with the implementation of Section 508 of the Rehabilitation Act, which requires the Federal government to ensure that the electronic and information technology developed, procured, maintained, or used by Federal agencies is accessible to people with disabilities.

EDUCATIONAL OPPORTUNITIES SECTION

The Supreme Court's 1954 landmark decision in *Brown v. Board of Education* held that the segregation of students on the basis of race in public schools was a violation of the U.S. Constitution. Subsequent federal legislation and court decisions mandate that school officials not discriminate against students on the basis of race, color, national origin, sex, religion, language barriers, or disabilities. Thus, the work of the Educational Opportunities Section covers a variety of legal issues involving both elementary and secondary schools and institutions of higher education.

The laws enforced by the Section include Title IV of the Civil Rights Act of 1964, and the Equal Educational Opportunities Act of 1974. The Section also initiates enforcement activities upon receiving a referral from other agencies to enforce Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act; and the Individuals with Disabilities Act. The Section may also intervene in private lawsuits which allege violations of the Equal Protection Clause or the education related

anti discrimination statutes referred to above. The Section also participates as *amicus curiae*, addressing issues in which the government has an interest. Finally, the Section also represents the Department of Education in certain types of suits filed either against or on behalf of the Department of Education.

Among the Section's most important priorities is its responsibility to monitor approximately 400 school districts currently covered by desegregation orders in cases in which the United States is a party. To ensure that districts comply with their obligations, the Section routinely reviews matters relating to student assignment, faculty assignment and hiring, transportation policies, extracurricular activities, the availability of equitable facilities, and the distribution of resources. The Section also routinely responds to requests by other parties to modify court orders to reflect current circumstances, and also to requests by parties and courts regarding unitary status and the ultimate dismissal of the lawsuit. As a result of these activities, the Section obtained relief in a number of cases, including improved facilities for minority students, the consolidation of schools to ensure desegregation, the recruitment of minority faculty and staff, as well as shortened and more equitable transportation routes for minority students. Also, where appropriate, the Section agreed that the desegregation process had been completed in several districts and agreed to declarations of unitary status.

For example, the Section obtained student assignment and faculty assignment relief in several desegregation cases. The Section obtained student assignment relief in Colleton County, South Carolina (consolidation of schools); Port Arthur, Texas (consolidation of schools); Coosa County, Alabama (construction of new consolidated school); and Watson Chapel, Arkansas (district closed small all white school). Faculty relief was obtained in Evangeline and St. Landry Parishes in Louisiana, where the court ordered that the school district make faculty reassignments so that the racial composition of the faculty at each school approximated the racial composition of the faculty in the entire district. This was to comply with the requirements of *Singleton v. Jackson Municipal Separate School District*, 419 F.2d 1211 (5th Cir. 1969). The Section also successfully defended the court-ordered remedial diversity scholarships in the Alabama higher education desegregation case from a legal challenge. The Section also reached a statewide settlement in a

gender discrimination case in which we intervened in South Dakota to ensure that girls will have equal opportunity in high school athletics through the non discriminatory scheduling of sports.

In addition, the Section is protecting educational opportunities for institutionalized students. For example, when the Section learned that the state and school authorities had not met all of their responsibilities in providing special education services to disabled pre-trial detainees at the Cook County (Illinois) Jail, the Section sought to reinstate the case to obtain appropriate relief.

On April 23, 2001, the Section and several private plaintiffs settled -- for $500 million -- a 25-year old lawsuit that was brought to desegregate Mississippi's higher education system. The bulk of that money will go to improving the curricula and physical facilities at traditional black colleges in Mississippi. On February 15, 2002, the court entered a final judgment approving a $503 million Settlement Agreement in the Mississippi higher education case, *Ayers & United States v. Fordice*. The Settlement Agreement provides: (1) approximately $246,000,000 in guaranteed funding over a 17 year period for academic programs at the State's three historically black (HB) universities; (2) $500,000 annually for five years and $750,000 for a subsequent five year period, to provide financial assistance to participants in a summer Developmental Program currently offered for students who do not qualify for regular admission under admission criteria adopted by the Board in 1995; the funds will be available to students at all eight four-year institutions; (3) provides $75,000,000 in guaranteed funding over a five-year period for designated capital improvement projects at the HBIs; (4) $70,000,000 in public endowments over a 14-year period for the benefit of the HBIs; (5) up to $35,000,000 in private endowments over a seven-year period for the HBIs; (6) for transfer of full governance and unrestricted use of the endowment to the HBIs upon attaining 10% other-race enrollment for three consecutive years; (7) for Jackson State University to be recognized as a comprehensive university and the designation of the Mississippi Veterans Memorial Stadium as the home of the JSU Tigers; JSU will get a seat on the Stadium Commission which controls the facility; and (8) for dismissal of the underlying litigation, with retention of jurisdiction in the district court for the specific purpose of enforcement of the terms of the Agreement, as contemplated by *Kokkonen v. Guardian Life Ins. Co.*, 511

U.S. 375 (1994). Having recently received, as requested, a concurrent resolution from the Mississippi Legislature endorsing the Settlement Agreement and agreeing to fund it on the terms called for, the court stated that "their action will be given precedence," noting that "it is not illegal to do more than that required by the Constitution." Accordingly, the court approved the Settlement Agreement as fair, reasonable, adequate and in the best interest of the class and dismissed with prejudice the underlying action.

On January 31, 2002, the Section executed a settlement agreement on behalf of the United States with the State of New York, the City of Yonkers, the Yonkers Board of Education, and the Yonkers NAACP. The agreement marked the successful conclusion to a two-decades old desegregation lawsuit brought against Yonkers, New York, and the Yonkers school board by the Department of Justice and the NAACP. Under the terms of the agreement, the state will provide $300 million over five years and the school board will use that money to fund and implement forty new or existing educational programs aimed at narrowing the performance gap between minority and non-minority students and to improve the educational opportunities of all of the children of Yonkers. The agreement dismisses the education side of the case, while allowing the housing side to proceed, and retains federal court jurisdiction to enforce the agreement's terms. Over the next five years, the agreement requires: the State of New York to provide $300 million to the Yonkers Public Schools ("YPS"); the City of Yonkers to maintain its current budget of approximately $135 million for the YPS; and the Yonkers Board of Education to implement approximately 40 remedial educational programs and to maintain kindergarten and pre-kindergarten in substantially the same manner as they are currently provided.

In addition, the Section defends the constitutionality of provisions of education related federal statutes when the statute is challenged in federal district courts. The Section intervened in several cases to defend statutes such as IDEA and Section 504, regarding whether Congress appropriately abrogated a state's sovereign immunity and whether state's waived sovereign immunity by accepting federal funds.

EMPLOYMENT LITIGATION SECTION

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 by the Equal Employment Opportunity Act of 1972 and the Pregnancy Discrimination Act of 1978, and other federal laws prohibiting employment practices that discriminate on grounds of race, sex, religion, and national origin.

The Section initiates litigation in two ways. Under the statutes it enforces, the Attorney General has authority to bring suit 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 has 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 compensatory relief for individuals who have been the victims of the unlawful employment practices. These cases very frequently are resolved by consent decree prior to trial.

The Section's second enforcement mechanism is the filing of suits based upon individual charges of discrimination referred to the Section by the Equal Employment Opportunity Commission (EEOC). Charges are filed with the EEOC by individuals who believe that they were unlawfully denied an employment opportunity or otherwise discriminated against by a state or local government employer. If, after investigation, the EEOC determines that a charge has merit and efforts to obtain voluntary compliance are unsuccessful, the EEOC may refer it to this Section. The Section then has authority to determine whether or not to initiate litigation. A limited number of these suits are initiated each year. While small in scope when compared to pattern or practice suits, these are cases 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.

The Section also represents the Departments of Labor and Transportation and other federal agencies when they are sued for what is alleged to be overzealous enforcement of federal laws that prohibit discrimination and/or require affirmative action by government contractors or recipients of federal financial assistance. 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 litigation handled by the Section is national in scope. Attorneys assigned to the Employment Litigation Section concern themselves with all aspects of complex litigation, including investigation of complaints of employment discrimination, recommendations for litigation, discovery, settlement negotiations, trial of complaints that have not been voluntarily resolved, and implementation of court orders for remedial and injunctive relief. Frequently, the Section's litigation raises issues of constitutional law and may involve the testimony of expert witnesses, such as industrial psychologists, exercise physiologists, economists, and statisticians.

In the past year and a half, the Section has successfully negotiated a number of consent decrees or settlement agreements in cases involving discrimination based on race, sex, and religion. They include: (1) a 2001 supplemental consent order in the Milwaukee Fire Department case where we secured $1.8 million in back pay and 40 jobs for African-American victims of hiring discrimination; (2) a settlement with the City of Newark based on religious discrimination affecting Muslim police officers; and (3) three consent decrees resolving allegations of sexual harassment. The Section’s most significant settlement in terms of the numbers of victims and amount of relief was in the North Carolina Department of Corrections case, a long-standing disparate treatment sex discrimination case. Over 1,200 female victims will share $5.5 million in back pay; 464 victims will be hired; and 35 victims will receive promotions.

In *U.S. v. City of Newark*, the Section settled a lawsuit against the City of Newark in which the Section alleged that the City had discriminated against current and former police officers on the basis of their religion by failing to reasonably accommodate their religious observance, practice, and belief as Muslims. The suit also alleged that the City threatened the

Muslim officers with termination, transferred them to undesirable assignments, and denied them opportunities to work special overtime events. Under the consent decree, the City will offer to pay $53,600 in back pay and compensatory damages to 10 current and former Newark police officers. In addition, the City will implement non-discriminatory employment policies designed to reasonably accommodate the religious practice of police department employees.

In yet another example of the Section's commitment to ensuring equal employment opportunities, the filing of a lawsuit against a county in a mid-Atlantic State was authorized. This matter arose from an EEOC charge in which the charging party, a female formerly employed in the county's fire department, alleged that she was subjected to sexual harassment by her male co-workers throughout her tenure as a firefighter and fire technician. The charging party also alleged that the county retaliated against her by imposing an operational suspension and issuing a letter of reprimand after she complained about the sexually hostile work environment. The EEOC found reasonable cause to believe that the charging party was subjected to sexual harassment and retaliation, and referred the matter to us after conciliation efforts were unsuccessful. The Section conducted a supplemental investigation and confirmed that unlawful discrimination occurred. After receiving the Section's notice letter, the county has expressed a willingness to consider entering into a consent decree.

HOUSING AND CIVIL ENFORCEMENT SECTION

The Housing and Civil Enforcement Section has responsibility for enforcing federal civil rights laws, including 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; and the Religious Land Use and Institutionalized Persons Act, which prohibits, in part, land use regulations that impose substantial burdens on religious exercise.

The Fair Housing Act applies not only to actions by direct providers of housing such as landlords and real estate companies, but also to actions by municipalities, banks, insurance companies, and other entities whose discriminatory practices make housing unavailable to persons because of their race, color, religion, sex, national origin, handicap, or familial status. The statute authorizes the Department of Justice to bring lawsuits to address discriminatory policies or "patterns and practices" and also creates a mechanism by which individuals may file a complaint with the Department of Housing and Urban Development (HUD), and 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 Fair Housing Act prohibits discrimination in all lending transactions in which a residence is used as a 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 obtained more than $63 million in monetary relief. In addition to monetary relief, the settlements in these cases have required changes in banking practices.

Most of the cases involved home loans, usually mortgage loans, including one case involving mobile home loans. A few cases have involved consumer credit. Most of the cases alleged discrimination against African Americans but various cases have also alleged discrimination against Hispanics, Native Americans, women and older persons. The cases have involved three types of alleged discrimination -- (1) marketing (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 has testing program 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.

A recent significant victory includes a $451,208 verdict against a landlord who sexually harassed a number of his female tenants, and two consent decrees against nightclub owners in Kansas and Alabama who denied black patrons access to the clubs on the same basis as whites. In *United States v. L. T. Jackson* (S.D. Miss.), the Section alleged that the owner and manager of numerous rental properties located throughout Jackson, Mississippi, violated the Fair Housing Act by subjecting female tenants and, in some cases, their teenage daughters, to severe, pervasive, and unwelcome verbal and physical sexual advances. The suit also alleged that the defendant demanded sexual favors from female tenants and evicted or otherwise retaliated against women who did not submit to his sexual advances. Most of the alleged victims are lower-income, single women who had limited opportunities to seek other housing, making them particularly vulnerable to harassment by a landlord. After a seven-day trial in March 2002, a jury reached a verdict and awarded punitive and compensatory damages in the amount of $451,208, to be divided among 22 female tenants whom the jury found were victims of the harassment. Post-trial motions are pending before the court, including the United States' request for injunctive relief and civil penalties.

In continuing efforts to fight racial discrimination in housing, the Section alleged in *United States v. Spring Valley Properties*, (C.D. Ill.), that the owner of a number of apartment complexes and single-family homes in and around Danville, Illinois violated the Fair Housing Act by discriminating on the basis of race. The Section contended that employees were instructed to discourage African American home seekers from applying by falsely telling them that units were unavailable for rent and by steering them away from certain of the defendants' apartment properties

and to others where the defendants did allow African Americans to rent. The parties entered into a consent order in March 2002 to resolve the allegations in the United States' complaint and a consolidated private plaintiff action. The consent order provides injunctive relief and requires the defendants to pay a total of $415,000 in damages to aggrieved persons, in civil penalties, and in attorney's fees for plaintiffs' counsel.

OFFICE OF SPECIAL COUNSEL FOR IMMIGRATION RELATED UNFAIR EMPLOYMENT PRACTICES

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 status, unfair documentary practices, and retaliation; (2) prevention of unlawful discrimination through outreach, and (3) providing advice and counsel on policy issues affecting the civil rights of U.S. citizens and immigrants.

Prohibiting Unlawful Discrimination: OSC enforces the anti-discrimination provision of the Immigration and Nationality Act (INA), 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 that may involve hundreds of employees. Attorneys travel frequently to interview witnesses and review documents. For meritorious claims, the attorney is responsible for settlement discussions and litigation before administrative law judges. 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.

For example, in March 2001, the Section reached a settlement with the Excalibur Hotel and Casino in Las Vegas, resolving the Section's allegations that the hotel had discriminated against work-authorized aliens during the employment eligibility process. The Section alleged that rather than impose the same requirements on all employees, as is required by federal law, the Excalibur instead illegally held work-authorized aliens to different and more difficult standards than it applied to persons who asserted that they were U.S. citizens. The Excalibur's illegal demands resulted in the discharge or suspension of 22 of its workers. The Excalibur agreed to pay more than $50,000 in civil penalties and back pay.

On December 20, 2001, the Section announced that it had reached a settlement with Bland Farms of Reidsville, Georgia, the country's largest grower and shipper of Vidalia onions. Bland Farms agreed to pay over $62,000 in back pay to U.S. workers to settle the Section's complaint of citizenship status discrimination. In this case, the Section alleged that Bland Farms preferred to hire temporary agricultural workers from Mexico on H-2A non-immigrant visas rather than U.S. citizens or work-authorized immigrants. Bland Farms had initially asserted that it could not find U.S. workers who were willing to take field jobs or work in its packing sheds. However, the Section's investigation found that when U.S. citizens applied for work with Bland Farms, they were denied jobs or were offered less desirable positions. In addition to the back pay award, Bland Farms paid a $15,000 civil penalty.

In addition, the Section recently settled pattern or practice litigation against a nationwide meat packing company. The complaint alleged that one of the company's plants maintained a pattern or practice of citizenship status discrimination and unfair documentary practices against work authorized immigrants and U.S. citizens (who appeared "foreign" to company hiring personnel) with respect to the hiring process. The settlement requires the company to pay $187,500 in civil penalties and back pay, publish newspaper advertisements inviting alleged victims to reapply for positions, conduct employment interviews monitored by Section staff, and attend extensive training provided by Section staff.

The Hertz Corporation settled a complaint filed by the Section that alleged that the company terminated a lawful permanent resident after he presented valid documentation to establish his employment eligibility. The employee presented his valid foreign passport with an INS-issued

lawful permanent resident stamp. The company believed that this type of document was "often forged by Mexicans" and insisted that the individual present a valid "green card." When the individual was unable to do so, he was fired, even though his attorney wrote to the company and explained that the individual had already shown appropriate documentation. Hertz agreed to pay a $50,000 civil penalty and back pay to the individual.

Furthermore, the Section has been following up on numerous complaints brought to its attention by individuals. Particularly in the wake of the terrorist attacks of September 11, the Section has ensured timely and ongoing responses to both employer and worker concerns about the employment of non-citizens in the aftermath of the attacks.

To further assist in protecting these workers, the Section maintains an ongoing relationship with other federal agencies to assist in ensuring the rights of work authorized immigrants and U.S. citizens are protected. The Section has engaged in joint efforts with the Office of Refugee Resettlement, the Immigration and Naturalization Service, and the Social Security Administration ("SSA") to create SSA field guidance to provide expedited unrestricted Social Security cards to asylees. This will help ensure that asylees are not denied jobs because of INS processing delays of employment authorization documents.

The Section has expanded and improved its outreach program by increasing outreach to the employer community by using ethnic media to communicate OSC's mission to under- served communities, and by increasing our emphasis on establishing partnerships with State and local governments. The Section has also implemented a plan to create a more balanced outreach program. In the past, the Section's outreach has been primarily directed towards the worker community. However, the statute imposing the outreach requirements call for an outreach program that increases the knowledge of both employers and employees. In order to meet that requirement, the Section met with representatives of employer groups and sought their advice on how to better communicate with employers. The Section has tailored employee outreach to better reach under-served portions of the worker community by using ethnic media outlets more efficiently. Specifically, Section attorneys and staff will participate in foreign language radio programs. OSC staff also appeared on Haitian (Creole language) radio programs in New York City and Florida. Large numbers of Haitian immigrants depend exclusively on these types of programs for their news and entertainment.

SPECIAL LITIGATION SECTION

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 derives its primary authority in this area from the Civil Rights of Institutional Persons Act (CRIPA), which was enacted in 1980. CRIPA gives the Attorney General the authority to investigate institutional conditions and file suit against state and local governments for a pattern or practice of egregious or flagrant unlawful conditions. 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 investigated more than 350 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.

The Section's work in institutions has focused recently on abuse and neglect in nursing homes, facilities for persons with developmental disabilities, 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 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. When jurisdictions implement the reforms, the settlements come to an end. This has been the case, for example, in Kentucky, Michigan and Arizona.

The Section has concentrated on obtaining widespread relief, where possible. For example, the Section has entered into settlements covering 31 juvenile correctional facilities in Georgia, 19 juvenile correctional facilities in Puerto Rico, 13 juvenile correctional facilities in Kentucky, all state-operated facilities for persons with developmental disabilities in Tennessee and all such facilities operated by Puerto Rico, eight mens' prisons and two women's prisons in Michigan, five women's prisons in Arizona and a number of jails throughout Mississippi.

The Section is actively involved with other components of the Justice Department as well as other federal agencies that regulate, fund, and provide technical assistance to institutions. For example, Section staff work with the Office of Juvenile Justice and Delinquency Prevention, the National Institute of Corrections, the Bureau of Prisons , the United States Department of Education, and the United States Department of Health and Human Services. Special Litigation Section attorneys also serve on the Department's Health Care Fraud Working Group.

Law Enforcement Misconduct. The Special Litigation Section 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 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, 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 has successfully engaged in resolving and investigating allegations against police departments by taking a cooperative approach. Under 42 U.S.C. § 14141, the Attorney General is authorized to file lawsuits seeking court orders to reform police departments engaging in a pattern or practice of violating citizens' federal rights. The Section is continuing investigations and negotiations with a number of cities. The Cincinnati Police investigation recently reached a settlement and investigations were opened into several other departments.

The Cincinnati settlement agreement is an example of the success of the Section's approach to investigations of police departments. In April 2001, the City of Cincinnati was literally and figuratively smoldering in the wake of riots touched off by community reaction to a number of controversial police shootings. One year later, Attorney General Ashcroft presided over the signing ceremony for an agreement between the Department of Justice and the City of Cincinnati that implemented significant reforms with respect to uses of force by the Cincinnati Police Department. Moreover, by engaging in a collaborative negotiation process with the City, the police, and community groups, the Department of Justice agreement will be jointly monitored and enforced along with a separate agreement among the community groups and the City. This unique and historic arrangement achieved real reform without the need for protracted litigation or a consent decree. It reflected the Section's desire to help fix the problems in Cincinnati.

In addition to these agreements, the Section continues to ensure implementation of consent decrees with the police departments of Steubenville, Ohio and Pittsburgh, Pennsylvania. In *United States v. City of Steubenville* (S.D. Ohio), the section filed its complaint and a consent decree resolving our claims of excessive force, false arrests, improper searches and seizures, and related management failures in 1997. The Section continues to monitor compliance with the decree. The city

attorney and others have noted the improvements in the police department since entry of the decree in press reports. The Section continues to review the regular reports filed by the local monitor. In *United States v. City of Pittsburgh* (W.D. Penn.), the court entered a consent decree resolving the Section's claims of excessive force, false arrests, improper searches and seizures, and related management failures in 1997. The Section is monitoring compliance with the consent decree. This includes a regular review of the auditor's report on compliance with the consent decree.

In addition to the cases noted above, Memoranda of Understanding have been completed in investigations of the Highland Park, Illinois and Washington, D.C. police departments. In Washington, D.C., at the request of Mayor Williams and Chief Ramsey, the Section investigated allegations of excessive force by the Metropolitan Police Department (MPD) and MPD policies and practices. On June 13, 2001, the Attorney General, along with Mayor Williams and Chief Ramsey, held a press conference to announce that the parties had entered into a Memorandum of Agreement (MOA) resolving the Section investigation. In Highland Park, Illinois, the Section executed an MOA resolving its investigation into allegations of discriminatory traffic stops of African American and Hispanic persons in July 2001. In September 2000, after the Section had opened its investigation, the court in a lawsuit by private plaintiffs, who alleged that they had been the subject of discriminatory traffic and pedestrian stops by the Highland Park police, entered a consent decree resolving those claims. The consent decree contains remedial measures similar to those that the Section had obtained in its New Jersey consent decree and Montgomery County, Maryland settlement. The Section's MOA incorporates the reforms included in the consent decree and authorizes the Section to monitor compliance with those reforms.

The Section continues to pursue administrative investigations in Montgomery County, Maryland and to ensure compliance with the agreement reached almost two years ago. In Montgomery County, Maryland, the Section entered into a settlement agreement with the county and the Fraternal Order of Police (FOP) to resolve the Section's administrative investigation, in which the Section found discriminatory traffic enforcement practices and problems with training, supervision, complaint investigation, and discipline in January 2000. The Section is monitoring compliance with the agreement.

The Special Litigation Section works closely with various sections in the Division, the Office of Justice Programs, and the FBI in the Department-wide efforts to combat police misconduct.

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). 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. FACE 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 FACE 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 FACE and have won civil and criminal contempt motions. The Section also has been involved in the successful defense of constitutional challenges to FACE.

Section attorneys work closely with the offices of the United States Attorneys and State Attorneys General by providing technical assistance and conducting joint FACE prosecutions. In addition, the Section serves on the Task Force on Violence Against Reproductive Health Providers.

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 the Act 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.

VOTING SECTION

The Voting Section is responsible for the enforcement of the Voting Rights Act of 1965, the National Voter Registration Act of 1993, the Voting Accessibility for the Elderly and Handicapped Act, the Uniformed and Overseas Citizens Absentee Voting Act, and other statutory provisions designed to safeguard the right to vote of racial and language minorities, disabled and illiterate persons, overseas citizens, persons who change their residence shortly before a Presidential election, and persons 18 to 20 years of age.

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; defends lawsuits that the Voting Rights Act authorizes to be brought against the Attorney General; reviews changes in voting laws and procedures administratively under Section 5 of the Voting Rights Act; and monitors election day activities through the assignment of federal observers under Section 8 of the Voting Rights Act.

Section 5 of the Voting Rights Act of 1965 is one of the special provisions of the Voting Rights Act that apply to nine states in their entirety and one or more counties in seven other states. Section 5 requires that any change with respect to voting that a specially covered jurisdiction, or any political subunit within it, makes with respect to voting is legally unenforceable unless and until the jurisdiction obtains from the federal court in the District of Columbia or from the Attorney General a determination that the change is not discriminatory on account of race, color, or membership in a language minority group. If the jurisdiction is unable to prove the absence of such discrimination, the Attorney General objects to the change, and it remains legally unenforceable. In the wake of the 2000 census, many voting changes are made at all levels of government. The Section continues its timely review of Section 5 submissions. The Section has processed several thousand Section 5 submissions. The Attorney General has interposed objections in a number of cases.

The Section continues to monitor local elections. For example, Passaic County, New Jersey is a covered jurisdiction that was found to not be conducting bilingual elections as required by Section 203 of the Minority

Language Provisions of the Voting Rights Act. In *U.S. v. Passaic County, NJ*, the Section entered into a consent decree after Hispanic and Spanish language voters were denied equal access to the election process and denied assistance from their person of choice in violation of Sections 2 and 208, respectively. Passaic County conducts four elections each year, all monitored by federal observers. A three-judge panel of the U.S. District Court for New Jersey appointed an independent elections monitor to ensure that the County will comply with court orders in the case. The monitor has assisted the County in its efforts to comply with the court's orders and to implement major institutional reforms. There are eight more election cycles until the December 2003 expiration date of the consent decree.

The Section has also sent federal election observers to the following locations: Cicero, IL; St. Louis, MO; Clarksdale, MS; Macon, MS; Webb, MS; Irving, TX; Selma, TX; Reading, PA; Isola, MS; Sunflower, MS; Vicksburg, MS; Los Angeles, CA; Marion County, SC; Osceola County, FL; Bronx and New York Counties, NY; Suffolk County, NY; Hamtramck, MI; Maple Heights, OH; Lawrence, MA; Ridgeville, SC; Drew, MS; and Centreville, MS.

The Section is committed to protecting the rights of those with limited English proficiency (LEP). Under Section 203 of the Voting Rights Act, in areas in which 5% of the population, or at least 10,000 people, are LEP, local authorities are required to provide bilingual voting materials. This provision is vital to ensuring that the political voice of language minorities is heard. The Census Director released the post-2000 coverage determinations on July 26, 2002 and the Section is working to ensure that local jurisdictions fulfill their responsibilities under this law.

The Section recently prevailed in a case brought by the State of Georgia to obtain a declaration that its congressional, state senate, and state house redistricting plans did not violate Section 5 of the Voting Rights Act. In *Georgia v. Ashcroft*, the court agreed with the Section's position and rejected the state's senate plan because it unnecessarily harmed minority voting strength. Georgia has since submitted a new plan to the court, which the court approved.

In *United States v. Blaine County*, the Section prevailed at trial in a Section 2 vote dilution case brought on behalf of American Indians living in Blaine County, Montana. Such victories, especially on behalf of American Indians, are rare. No American Indian had been elected to the local county commission in over 80 years. Working in conjunction with the Department's Office of Tribal Justice, the Section is now negotiating a remedial plan that will take into account the unique cultural sensitivities of American Indians and give them a reasonable opportunity to elect the candidates of their choice.

On November 27, 2001, the Section filed a complaint in the United States District Court for the District of Colorado alleging that Alamosa County, Colorado's at-large method of electing its board of commissioners violates Section 2 of the Voting Rights Act. The complaint specifies that the at-large method of electing Alamosa County's three-member board of commissioners, under which only two Hispanic candidates have been elected since 1984 and none prior to 1984, dilutes Hispanic voting strength in the county.

In *United States v. Charleston County, South Carolina*, the Section challenged the at-large method of election for the nine-member Charleston County Council. Since the inception of this county governing body in the 1940s, only three African American people have been elected to it, even though African Americans, according to the 2000 Census, comprise over 34% of the County's residents. The only African American person who is presently on the Charleston County Council has been elected to that office on three occasions and has never received, according to the studies done by experts for both sides, more than 30% of the votes cast by African American voters. No African American candidate preferred by African American voters has been elected to the county council since 1990, and African American candidates for the county council preferred by African American voters have not usually won election to the county council, whether that candidate is an African American or a Caucasian person.

The Section recently reached a settlement in a long-running Section 2 case. A settlement agreement and stipulation of dismissal was approved by the District Court for the District of Massachusetts in *United States v. City of Lawrence*, a case in which the Section alleges that the current election plans for the Lawrence City Council and School Committee dilute

the votes of Hispanics. The agreement was facilitated by a settlement conference with the court on February 14, 2002, and was approved by the court on February 25, 2002. In exchange for the Section's voluntary dismissal of the suit, the City has agreed to modify its current districting plan for the city council and the school committee to afford Hispanic voters a reasonable opportunity to elect their chosen representatives in three of six districts, one more than was afforded in the City's existing plan adopted in June 2001. The City has agreed to waive any claim or issue preclusion or timeliness arguments against a possible Section 2 claim by the Section following the 2003 municipal elections. The City has also agreed to appoint to its Board of Registrars of Voters a member who is bilingual in English and Spanish and to do the same when the next full-time vacancy occurs on the staff of the elections office at City Hall. On February 27, 2002, the Section and the City defendants jointly entered into a settlement agreement, in which the City agreed to modify its current districting plan for the city council and the school committee.

The Section has taken seriously the Attorney General's announcement in March 2001 that the Section should make election reform a priority. A new Senior Counsel for Voting Reform is now working within the Section, along with two career attorneys who work solely on reform matters. The Senior Counsel reports directly to the Assistant Attorney General for the Civil Rights Division. All three of these lawyers are actively exploring best election practices in order to advise state level officials in the future. They are also preparing to help fulfill the Section's responsibilities under any election reform bill that is enacted into law. The voting reform attorneys in the Section have carefully followed the progress of the Ney-Hoyer Bill in the House of Representatives (H.R. 3295) and the Dodd bill in the Senate (S. 565), both of which are now being reconciled in a congressional conference. Both committee bills would impose new voting requirements and make money available for state-level reform. Both would also give new responsibilities to the Section. The bills are currently under review by both the Voting Section and Voting Reform staff of the Civil Rights Division.

The Section filed a case under the Uniformed and Overseas Citizen Absentee Voting Act ("UOCAVA") against the State of Texas and both the Republican and Democratic parties, seeking a temporary restraining order (TRO) and preliminary injunction. The suit concerned the run-off election

in Texas scheduled for April 9, 2002 and the problems men and women in our armed forces would have in receiving and returning ballots in time to be counted. This problem first surfaced before the March 12, 2002 primary upon a referral from the Department of Defense -- the chief administrator of UOCAVA. The Section worked to get the defendants to agree to take steps to ensure the overseas votes are counted without the need for litigation. The Section sought to require the acceptance of a federal absentee ballot that UOCAVA requires in general elections. The Section's application for a TRO was heard and the court granted it.

ADMINISTRATIVE MANAGEMENT SECTION

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 automated systems.

The Division utilizes the Justice Consolidated Office Network (JCON), which provides modern hardware and software for office automation. JCON provides Division employees with the essential tools for day-to-day litigation and support activities: word processing, automated legal research, spreadsheets, court room presentations, e-mail and Internet access. JCON continuously increases the quality and efficiency of the work in the Division in addition to providing the latest off-the-shelf applications that allow flexibility, creativity and enhanced communication capability from each work station.

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 are available at this site. The Division also maintains its own CRT Intranet, which is the principle means of communicating information to employees. This includes 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's employees who are currently located in separate buildings in the D.C. area.

Another tool used at the Division is ICM, the first division-wide case management system, which 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. This system can generate reports to provide a view of 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 on investigations and case related tasks.

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

The Division participates in a number of special recruitment programs for employment, including: the Department's Honor 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 Administrative Management Section also contains the Freedom of Information/Privacy Act (FOI/PA) Branch. The Branch's principal function is to ensure 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.

CONCLUSION

The Civil Rights Division continues to be the primary institution within the federal government responsible for enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin. Staffing and funding levels have increased to meet the demands of expanded enforcement responsibilities. Today, the Division's full-time staffing level consists of 336 attorney and 417 paralegal and support positions. Employees of the Division are dedicated professionals, responsible for safeguarding the constitutional and statutory rights of all Americans.

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