

STRATEGIC GOAL THREE:

Protect the Rights and Interests of the American People by Enforcement of Federal Laws, Legal Representation, and Defense of U.S. Interests

The Department of Justice is the Nation's litigator and is often described as the largest law firm in the world. The Department's attorney staff is administratively organized into the 94 U.S. Attorneys Offices, six litigating divisions (the Antitrust Division, the Civil Division, the Civil Rights Division, the Criminal Division, the Environment and Natural Resources Division, and the Tax Division), and the Office of the Solicitor General.

The U.S. Attorneys serve as the Attorney General's chief law enforcement officers in each federal judicial district and represent the United States in most civil and criminal matters. The litigating divisions are centralized repositories of specialized expertise and perform many critical functions, including representing the United States in cases that present novel and complex legal and factual issues; multi-district cases that require a centralized and coordinated response; cases that require extensive contact with client agencies whose headquarters are in Washington, DC; or cases in which the U.S. Attorney may be recused.

The Office of the Solicitor General represents the interests of the United States before the U.S. Supreme Court and authorizes and monitors the government's activities in the Nation's appellate courts. The U.S. Attorneys, the litigating divisions, and the Office of the Solicitor General share responsibility for representing the United States and enforcing the Nation's antitrust, civil, criminal, civil rights, environmental, and tax laws. Together, they ensure that the Federal Government speaks with one voice with respect to the law.

The Attorney General has identified a number of priorities that DOJ's litigating divisions and the U.S. Attorneys will be focusing on in FY 2002. These include initiatives to protect the public fisc from unmerited claims; to recover monies owed to the U.S. Treasury; to defend challenges to the Federal Government's laws, regulations, and initiatives; to vigorously enforce the Nation's civil rights laws; to continue to focus on enforcing the law even when parties or misdeeds affecting the U.S. are beyond our shores; and to increase efforts to combat specialized white collar crime, particularly health care fraud and internet-related crime.

MANAGEMENT CHALLENGES

There are no existing material weaknesses that will hinder the achievement of goals in this area in FY 2002, nor did DOJ's Office of the Inspector General (OIG), in its December 2000 list of the ten most serious management challenges facing DOJ, register any serious issues in this area.

PROGRAM EVALUATIONS

There are no program evaluations projected for FY 2002.

STRATEGIC OBJECTIVE 3.1: CIVIL RIGHTS

Uphold the civil rights of all Americans through enforcement of, and education about, federal civil rights laws and protections.

Annual Goal 3.1: Enforce federal civil rights laws and protections.

STRATEGIES

Investigate and prosecute civil rights crimes. Target key areas or forms of discrimination through pattern or practice litigation to uproot and remedy discriminatory public and private institutional conduct.

Investigate and prosecute individuals for civil violations of federal laws.

Educate the American business community and state and local governments regarding federal civil rights laws and requirements.

DOJ is the chief agency of the Federal Government charged with protecting constitutional and statutory rights guaranteed to all Americans. Through the Department's Civil Rights Division (CRT), the FBI and the United States Attorneys (USA), DOJ enforces numerous civil rights laws including the Americans with Disabilities Act; the Fair Housing Act; the Civil Rights Acts of 1964, 1968, and 1991; the Freedom of Access to Clinic Entrances Act; the Equal Education Opportunities Act of 1874; the Immigration Reform and Control Act; and the Voting Rights Act. In addition, the Department also investigates and prosecutes criminal violations of the Nation's civil rights laws, involving matters such as police misconduct, hate crimes, church arson and desecration, and involuntary servitude.

Our objective also requires that we educate the public about the federal civil rights laws, fostering voluntary compliance to the civil right ideals of non-discrimination, equal opportunity and justice, so that all Americans can be treated with dignity and enjoy the full bounty of the American ideals of equality, fairness, and equal opportunity.

The Department of Justice promotes compliance with basic federal civil rights protections through a multifaceted enforcement program. These civil rights laws influence a broad spectrum of conduct by individuals and public and private institutions. They prohibit discriminatory conduct in such areas as law enforcement, housing, employment, education, voting, lending, public accommodations, access to services and facilities, and treatment of juvenile and adult detainees and residents of nursing homes. They also provide criminal safeguards against hate crimes and criminal and civil safeguards against official misconduct.

The DOJ is the protector of the rule of law within the Executive Branch of government. Fair and uniform enforcement of federal law to prevent hate crimes, police profiling, and a host of other pernicious discriminatory conduct is crucial to the public's trust of government and law enforcement. In recent years, the role of the Department has expanded to issues that capture national attention, such as church arson, clinic bombings, police-profiling and hate crimes. These unpredictable events require the Department to respond both appropriately and creatively.

Police and other official misconduct; crimes of racial violence such as cross-burning, arson, and vandalism; reproductive health care violence and obstruction; victimization of migrant workers; discrimination in housing, lending, education, employment, and voting; and the basic rights of persons with disabilities will continue to be high priorities for resource allocations.

MEANS – Annual Goal 3.1

Dollars/FTE

Appropriation	FY 2000 Obligated		FY 2001 Enacted		FY 2002 Requested	
	\$ mil	FTE	\$ mil	FTE	\$ mil	FTE
Legal Counsel	5	33	5	41	5	41
Civil Rights Division	84	617	92	729	101	764
U.S. Attorneys	1	11	1	11	1	11
FBI Salaries and Expenses	35	318	35	306	35	306
TOTAL	125	979	132	1087	142	1122

Skills

Attorneys and support staff experienced in constitutional and franchise law. FBI agents experienced in civil rights violation investigations.

Information Technology

CRT is in the process of upgrading its automated Geographical Information System and Voting Section imaging system. Both are used for the analysis of redistricting submissions. The Division has upgraded its Interactive Case Management (ICM) system and desktop office automation system. FBI relies upon: ISRAA, a centralized database that tracks statistical information on cases from inception to closure; and ACS, a database that captures all information pertaining to administration of cases.

PERFORMANCE ASSESSMENT – Annual Goal 3.1

3.1A Prosecute Criminal Civil Rights Violations

Background/ Program Objectives:

CRT works with the FBI and the USA to prosecute cases of national significance involving the deprivations of personal liberties which cannot be, or are not, sufficiently addressed by state or local authorities. These include acts of racial violence; misconduct by local and federal law enforcement officials; violations of the peonage and involuntary servitude statutes that protect migrant workers and others held in bondage; criminal provisions which prohibit conduct intended to injure, intimidate, or interfere with persons seeking to obtain or to provide reproductive health services; as well as a law which prescribes interference with persons in the exercise of their religious beliefs and the destruction of religious property. The federal criminal civil rights statutes provide for prosecutions of conspiracies to interfere with federally protected rights, deprivation of rights under color of the law, and the use of threat or force to injure or intimidate persons in their enjoyment of specific rights.

FY 2000 Actual Performance:

Performance Measure: Criminal Civil Rights Actions /% Successful CRT Prosecutions

Target: 100 Cases/80% success

Actual: 83 Cases/87% success

Discussion: The FY 2000 goal for number of total cases was not reached as a result of new attorneys coming on-board later than originally anticipated. In addition, existing personnel were diverted to several high profile civil rights incidents which arose but did not result in charges being filed during the year. However, the percent of successful prosecutions exceeded the target.

Public Benefit: During FY 2000, the program convicted 112 individuals (either by conviction or guilty plea); including law enforcement officers and persons espousing racial animus, in an effort to keep our streets and neighborhoods safe for citizens across the country.

FY2001Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 goals.

Strategies and Initiatives to Achieve the FY 2002 Goal:

Increased community outreach with minority and other disadvantaged groups, and training for law enforcement regarding Color of Law matters will remain critical. DOJ will devote increased attention to improve the federal response to hate crimes, criminal police misconduct, involuntary servitude matters including worker exploitation, church arson and desecration, and violence directed toward health care providers. FBI's Civil Rights Program will deter civil rights violations through aggressive investigative and proactive measures regarding hate crimes; color of law violations; abortion clinic violence; and involuntary servitude and slavery.

Data Collection and Storage: Data are obtained from the case management system and manual records in the CRT.

Data Validation and Verification: Although the CRT currently maintains a large amount of case-related data manually, at each reporting interval the data are verified by the managers in the Division's Criminal Section and at the Division level.

Data Limitations: None known at this time.

Crosscutting Activities:

The USAO, CRT, and FBI coordinate extensively during the investigation and prosecution of these matters. In addition, DOJ's Community Relations Service is frequently involved in resolving community conflicts around incidents such as hate crimes and police misconduct.

CRT's Criminal Section participates in several cross-cutting programs: the National Church Arson Task Force (NCATF), which joins the efforts of the Bureau of Alcohol, Tobacco and Firearms (ATF) and the FBI with prosecutors from DOJ; the Worker Exploitation Task Force, which brings together the Department of Labor and DOJ to address involuntary servitude, slavery, trafficking, and other criminal violations involving undocumented workers; and the National Task Force on Violence Against Health Care Providers, which coordinates the investigation and prosecution of violations of the Freedom of Access to Clinic Entrances Act. The Department of Housing and Urban Development (HUD) and the Criminal Section work together to ensure that discriminatory interference with housing rights are addressed through the most effective means. HUD also participates in the NCATF through its rebuilding loan guarantee program. Additionally, OIG, INS, BOP, and USMS routinely refer complaints relating to official misconduct by federal law enforcement officers.

3.1B Prosecute Pattern or Practice Civil Rights Violations

Background/ Program Objectives:

Civil "pattern or practice" litigation is divided into four main areas: Housing and Civil Enforcement, Employment Litigation, Disability Rights, and Special Litigation. Housing and Civil Enforcement focuses on discriminatory activities by lending and insurance institutions, illegal discrimination in the sale or rental of housing, discriminatory land use by municipalities, discrimination of persons with disabilities, and discrimination in places of public accomodations.

Employment Litigation focuses on employment discrimination on the grounds of race, sex, religion, and national origin. This includes pattern or practice cases against agencies such as: state, county, and local law enforcement organizations; fire departments; state departments of correction; public school districts; and state departments of transportation. These are complex cases that seek to eliminate employment practices that have the effect of denying employment opportunities or otherwise discriminating against one or more protected classes of individuals. Relief reforming discriminatory practice and policies is a primary objective. Employment Litigation also obtains jobs, back pay, and other individual relief for victims.

Disability Rights enforces the Americans with Disabilities Act (ADA). This, combined with an innovative mediation program and a technical assistance grant program, provides a cost-effective and dynamic approach for carrying out the ADA's mandates and extends to people with disabilities the promise of equal access to everyday life.

Special Litigation focuses on pattern or practice of misconduct or discrimination by law enforcement officers including the denial of constitutional and statutory rights and discrimination based on race, color, national origin, gender, or religion. National media attention and outreach led to an increased volume of complaints in this area. An additional area of concern focuses on the deprivation of constitutional and federal statutory rights of persons in publicly operated residential facilities who are subjected to patterns of egregious and flagrant conditions of confinement. These facilities include: institutions for the mentally ill and developmentally disabled, nursing homes, juvenile detention facilities, local jails, and prisons. DOJ does not have authority to pursue an individual claim.

FY 2000 Actual Performance:

Performance Measure: Number of Pattern or Practice Cases Successfully Litigated (Resolved) /%of Pattern or Practice Cases Successfully Litigated (Resolved)

Target: 44/75% **Actual:** 44/92%

Discussion: The Division was able to achieve the goal of 44 pattern or practice cases successfully resolved and exceeded its anticipated percentage of pattern or practice cases which have been successfully resolved with a 92 percent success rate.

Public Benefit: The Division tries to ensure that all Americans are treated with dignity and enjoy the full bounty of American ideals, equality, fairness and equal opportunity. Success in these cases, related to police misconduct, the civil rights of institutionalized persons, employment practices and the ADA has improved the lives

Data Collection and Storage: Data are obtained from the case management system and manual records of the CRT.

Data Validation and Verification: Although the CRT currently maintains a large amount of case-related data manually, at each reporting interval, the data are verified by the managers of the respective Section and at the Division level.

Data Limitations: None known at this time.

of literally thousands of people. Success with the ADA related cases alone has removed both social and physical barriers.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 goals in all areas except Employment Litigation. Current estimates for that effort indicate the number of successful cases will decrease to three in FY 2001.

Strategies and Initiatives to Achieve the FY 2002 Goal:

In FY 2002, DOJ will continue to address pattern or practice civil rights cases, including police misconduct, fair housing, fair lending, employment discrimination, and disability status; however, the discretionary pattern or practice cases in Housing and Civil Enforcement remain the highest priority because of their broader impact. Most new attorneys will focus on complex lending investigations. Special Litigation's priority will be given to pattern or practice of law enforcement providing outreach, training, and consultation in the prevention of misconduct. In addition, institutions will be monitored closely to ensure that adequate treatment, living conditions, and staffing are achieved and maintained. Employment Litigation will prioritize identifying and instituting litigation to eliminate policies or practices including, hiring, promotion, testing or assignment, that discriminate on the basis of race, sex, religion, or national origin.

Crosscutting Activities:

Pattern or practice cases provide the opportunity to address egregious and systemic violations of civil rights laws. In order to bring these cases to court, DOJ coordinates its efforts internally among the CRT, FBI, BOP, USMS, USAOs, and externally with federal partners, including the Department of Labor, the Equal Employment Opportunity Commission, the Department of Housing and Urban Development, and the Department of Health and Human Services.

3.1C Protect Voting Rights

Background/ Program Objectives:

The primary mission of the Voting Section is to implement the Nation's commitment that minorities be free from discrimination in all aspects of voting and not be denied a fair opportunity to participate in the political process and elect candidates of their choice. This mission is pursued through the enforcement of federal voting rights laws designed: (1) to protect minorities against discriminatory changes in voting laws in areas of the country where vestiges of discrimination have historically resulted in lower voter registration rates of minority voters; (2) to ensure a fair opportunity of minorities, including members of several language minorities, to elect candidates of their choice; (3) to provide bilingual assistance to language minority voters with limited English speaking proficiency; (4) to ensure that voting activities during elections and at polling places are free from illegal discrimination and intimidation of minority voters through monitoring of elections by federal employees; and (5) to ensure fair and nondiscriminatory voter registration laws that promote broader voter participation in elections. The mission is also pursued through enforcement of a law designed to allow uniformed and overseas voters to register and vote in federal elections, and to make polling places accessible to the elderly and handicapped.

FY 2000 Actual Performance:

Performance Measure: Manage the Impact of the 2000 Census

Target: Section 5 Changes Reviewed: 17,175
Redistricting Reviews: 50

Actual: Section 5 Changes Reviewed: 17,761
Redistricting Reviews: 53

Discussion: Section 5 reviews are reviews of local redistricting submissions required under Section 5 of the Voting Rights Act. These reviews become especially important in the years after a decennial census as thousands of covered jurisdictions are required to draw new redistricting plans and each must be submitted for pre-clearance. We have continued to meet our goal of reviewing all Section 5 submissions in a timely manner. Meeting this goal in the FY 2001-2003 period will be a major challenge due to the tremendous increase in redistricting submissions.

Public Benefit: Since its inception in 1965, these Section 5 reviews have provided protection against voting changes that may be discriminatory and adversely affect the voting opportunities of minority voters.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 goals.

Strategies and Initiatives to Achieve the FY 2002 Goal:

In FY2002, the top priority will be to address the many voting discrimination issues that will arise as a result of redistricting plans that state and local jurisdictions throughout the country must draw after release of the 2000 Census data. The biggest challenge will be processing and reviewing in a timely manner (under Section 5 of the Voting Rights Act) the tremendous increase in redistricting submissions from covered jurisdictions (from 53 in FY2000 to an expected 1,000 in FY 2002) to ensure that minorities' opportunity to elect candidates of their choice is not adversely affected by the newly adopted plans.

Data Collection and Storage: Data are obtained from the CRT automated tracking system.

Data Validation and Verification: Data concerning the status of the redistricting submissions is extremely time sensitive, as the Attorney General must respond to them within 60 days of receipt. As a result, performance data provided by the CRT are constantly verified.

Data Limitations: None known at this time.

In addition, the litigation program will be required to address many voting rights issues that will result from redistricting through enforcement actions to challenge plans that do not afford minorities an equal opportunity to elect candidates of their choice; to defend Section 5 declaratory judgment actions that may be brought when there is an objection by the Department to a redistricting plan; and participation in private cases brought attacking the constitutionality of redistricting plans approved by the Department.

Because of a new Attorney General initiative growing out of issues that surfaced during the 2000 general election, significant resources will also be devoted to the monitoring of elections to prevent discrimination during elections and to taking steps to assist in efforts to reform election policies and procedures.

DOJ is devoting significant new resources to meet the extraordinary increase in the work of the Voting Section that results from redistricting, as well as the new Attorney General initiative. This includes additional personnel and contractor support to ensure timely review of redistricting plans and new attorneys to implement the Attorney General's initiative concerning election day issues. This will also include improved technology, including a new Geographical Information System, which is essential to analyzing redistricting plans, and a document imaging system which converts the Section 5 submissions into easily retrievable digital form.

Crosscutting Activities:

Although CRT has limited coordination with other components or federal agencies in addressing this strategic goal, personnel from USAOs often provide support and advice on the implementation of the litigation program under the Voting Rights Act. In addition, we have received periodic referrals from the Voting Assistance Project at the Department of Defense.

STRATEGIC OBJECTIVE 3.2: ENVIRONMENT

Enforce and defend federal environmental laws and programs across our land, including Indian Country, by investigating and litigating environmental and natural resources violations and issues.

Annual Goal 3.2: Enforce and defend federal environmental laws and programs.

STRATEGIES

Pursue cases against those who violate laws that protect public health, the environment and natural resources.

Defend U.S. interests against suits challenging statutes and agency actions that protect public health, the environment and natural resources.

Develop constructive partnerships with other federal agencies (especially the Environmental Protection Agency), state and local governments, community representatives, and international enforcement agencies to maximize environmental compliance.

Act in accordance with U.S. trust responsibilities to individual Indians and Indian tribes in litigation involving Indian interests.

Safeguarding the Nation's environment and natural resources for this and future generations is a major DOJ priority for FY 2002. DOJ's Environment and Natural Resources Division (ENRD), the Federal Bureau of Investigation (FBI), and U.S. Attorneys will work together to pursue and prosecute violators of environmental laws; protect our natural resources; defend federal agency environmental regulations and government pollution abatement laws and programs; and safeguard tribal trusts. As the Nation's chief environmental litigator, the Department will strive to obtain compliance with environmental statutes, obtain redress of past violations that harm the environment, establish credible deterrents against violations of those statutes, obtain civil penalties for past violations, recoup federal funds spent to abate environmental contamination, and obtain money to

restore or replace natural resources damaged through oil spills or the release of hazardous substances into the environment.

MEANS – Annual Goal 3.2

Dollars/FTE

Appropriation	FY 2000 Obligated		FY 2001 Enacted		FY 2002 Requested	
	\$ mil	FTE	\$ mil	FTE	\$ mil	FTE
Environmental & Natural Resources Division	63	631	64	635	67	635
U.S. Attorneys	1	9	1	9	1	9
FBI Salaries and Expenses	8	72	8	71	9	71
TOTAL	72	712	73	715	77	715

Skills

ENRD and the U.S. Attorneys require attorneys, particularly litigators, experienced in civil, criminal, administrative and appellate law. Experienced support staff (paralegals and litigation support assistants) and administrative specialists are also essential. The FBI requires experienced skilled

**Information
Technology**

ENRD relies upon its version of the DOJ Justice Consolidated Office Network (JCON) and its Case Management System. FBI relies upon: ISRAA, a centralized database that tracks statistical information on cases from inception to closure; and ACS, a database that captures all information

PERFORMANCE ASSESSMENT – Annual Goal 3.2

3.2A Enforce Environmental and Natural Resource Laws

Background/ Program Objectives:

The Department of Justice enforces environmental laws to protect the health and environment of the United States and its citizens. Specifically, DOJ defends environmental challenges to Government programs and activities, representing the United States in all matters concerning the protection, use, and development of the Nation's natural resources and public lands, wildlife protection, Indian rights and claims, and the acquisition of federal property.

FY 2000 Actual Performance:

Performance Measure: % of Affirmative Civil Environmental Cases Successfully Resolved (NOTE: Prior year actuals have been corrected to reflect the most recent and accurate data available.)

Target: Not Projected **Actual:** 93%

Discussion: The Department had many notable successes in affirmative cases in 2000. We reached a record settlement in the amount of \$19 million of Clean Air Act violations at 14 facilities leading to a reduction in volatile organic compounds, carbon monoxide, nitrogen oxide, and dangerous microscopic "particulate matter." Another important case involving air pollution will lead to reduced emissions of volatile organics when crude and refined petroleum products are loaded onto ships. This case included a \$6 million fine and the establishment of a health clinic to treat respiratory problems. The Department began a major initiative to bring 29 coal-burning power plants into compliance with clean air standards. The plants emit tens of millions of tons of sulfur dioxide, nitrogen oxides, and particulates because they have not installed the best available control technologies to reduce emissions. With the State of Texas we brought a Clean Water Act suit against an oil pipeline operator for pipeline leaks in 16 states. This case resulted in a \$30 million fine and corrective actions to detect and prevent future leaks.

Public Benefit: The Department's successes ensured pollution control deficiencies were corrected, emissions into the air and water were reduced, leaks and abandoned wastes were cleaned up, and solid and hazardous wastes were properly disposed. These cases led to specific improvements in the quality of the environment of the United States and to the health and safety of its citizens.

FY 2001 Performance Plan Evaluation: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

Data Collection and Storage: A majority of the performance data submitted by ENRD is generated from the division's Case Management System (CMS).

Data Validation and Verification: The division has instituted a formal data quality assurance program to ensure a quarterly review of the division's docket. The system's data is constantly being monitored by the division to maintain accuracy.

Data Limitation: Timeliness of notification by the courts

Performance Measure: Costs Avoided and \$ Awarded in Civil Environmental Cases

Actual: \$2.1 billion awarded and \$1.8 billion avoided

Discussion: The Department successfully represented a wide range of government agencies in suits that challenged environmental and public land policies and programs and in cases seeking money from the government. In addition to defending millions in claims against the federal fisc, we defended the Navy's ability to renew leases for naval bases in San Diego, and the Army's efforts to safely dispose of aging chemical weapons in the Tooele facility at the Desert Chemical Depot in Utah. Losses in these cases would have cost the government millions of dollars. The Department secured tribal water rights in Arizona for Indian tribes with whom we have a trust relationship. We defended a challenge to the reintroduction of gray wolves in the Yellowstone area, and we continued efforts to restore the Everglades through eminent domain proceedings. We obtained a final decree in a 20-year old Supreme Court original action in which we successfully defended our claim to submerged lands along the Arctic Ocean coast of Alaska. The decree resolves United States' ownership along with more than \$1.7 billion in oil and lease revenues plus interest. Under the Comprehensive Environmental Response, Compensation and Liability Act, the Department secured agreements from responsible parties to perform clean up work (estimated at \$503 million) at Superfund sites around the country and \$149 million to reimburse the Superfund for the government's costs of cleaning other sites.

Public Benefit: The Department's efforts to defend government programs, to obtain compliance with environmental statutes, to win civil penalties, and to recoup federal funds spent to abate environmental contamination demonstrated that America's environmental laws will be strictly enforced. Polluters who break environmental laws will not be allowed to gain an unfair economic advantage over law-abiding companies. The environment and public health and safety are improved by greater voluntary compliance with environmental and natural resource laws.

FY 2001 Performance Plan Evaluation: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

Strategies and Initiatives to Achieve the FY 2002 Goal:

The Department will work closely with client agencies to develop enforcement strategies specifically targeted to achieve widespread deterrence and encourage effective compliance across industry sectors that are major sources of pollution. DOJ will also defend the operating programs, permitting decisions and regulations of the federal agencies with specific focus on defending a wide range of cases including: the largest and most complex Comprehensive Environmental Response, Compensation and Liabilities Act defensive matters for which potential liability is estimated in the billions of dollars; ongoing defense of the Army's \$15 billion Chemical Demilitarization Program for destroying the nation's stockpile of chemical weapons as mandated by Congress and an International Chemical Weapons Convention; and handling new litigation challenges to federal programs. The Department will also focus on pursuing land and water claims on behalf of tribes to resolve centuries old disputes. The Department will litigate to protect tribal regulatory, adjudicatory, and tax jurisdiction; establish and protect treaty-based hunting and fishing rights; and deter and remediate pollution problems on Indian lands.

Crosscutting Activities:

The Environment Division, FBI and U.S. Attorneys are working collectively with federal agencies including the EPA, Departments of Agriculture and the Interior, and state and local governments to strengthen enforcement of environmental laws and statutes and to preserve public lands, natural resources, and tribal sovereignty.

STRATEGIC OBJECTIVE 3.3: ANTITRUST

Promote competition in the United States economy through enforcement of, improvements to, and

Annual Goal 3.3: Maintain and promote competition

STRATEGIES

Investigate and litigate business arrangements and practices that encourage anticompetitive behavior and lessen competition.
 Advance procompetitive national and international laws, regulations and policies.
 Educate businesses, consumers and counterpart agencies about antitrust law to increase their awareness and understanding.

The Antitrust Division (ATR) maintains and promotes competitive markets by enforcing, improving, and educating people about antitrust laws and principles. Enforcement of antitrust laws is pursued through the investigation and prosecution of business arrangements and practices that encourage anticompetitive behavior and lessen competition, whether those arrangements and practices involve mergers, international criminal conspiracies, or other practices that fall on the wrong side of the law. Improvements to antitrust laws and principles are achieved with a number of activities distinct in form and audience: resources devoted to participation in interagency regulatory processes, participation in interagency task forces, and memberships in international bodies (the World Trade Organization, for example) allowing ATR to pursue improvement in the competitive landscape. Finally, whether through direct contact and targeted communication with specific audiences, or via the development, publication, and distribution of policy guidance, ATR seeks to increase the breadth and depth of awareness of antitrust law. It is our hope and belief that doing so will promote competitive behavior to the benefit of all U.S. consumers and businesses.

MEANS – Annual Goal 3.3

Dollars/FTE

Appropriation	FY 2000 Obligated		FY 2001 Enacted		FY 2002 Requested	
	\$ mil	FTE	\$ mil	FTE	\$ mil	FTE
FBI Salaries and Expenses	2	18	2	18	2	18
Pre-Merger Filing Fees	82	558	90	599	104	677
TOTAL	84	576	92	617	106	695

Skills

ATR requires experienced attorneys, economists, paralegals and support staff. Attorneys experienced in conducting complex, international investigations and economists experienced in analyzing multi-million or -billion dollar mergers in newly emerging markets is particularly valued in the current operating environment.

Information Technology

ATR relies upon its Matter Tracking System and companion user interfaces; office systems, including networks and infrastructure; litigation support tools and applications, including those for courtroom presentations; and data storage capacity related to all of these technologies.

PERFORMANCE ASSESSMENT – Annual Goal 3.3

3.3A Maintain and Promote Competition

Background/Program Objectives:

ATR maintains and promotes competitive markets largely by enforcing federal civil and criminal antitrust laws. The statutory authority for the ATR's mission includes Sections 1 and 2 of the Sherman Act; Section 7 of the Clayton Act, as amended by the Hart-Scott-Rodino Antitrust Improvements Act of 1976; and a variety of other competition laws and regulations. These laws affect virtually all industries and apply to every phase of business, including manufacturing, transportation, distribution, and marketing. They prohibit a variety of practices that restrain trade, such as mergers likely to reduce the competitive vigor of particular markets, predatory acts designed to maintain or achieve monopoly power, and per se illegal bid rigging. Successful enforcement of these laws – which both, decreases and deters anticompetitive behavior – saves U.S. consumers billions of dollars, allows them to receive goods and services of the highest quality at the lowest price, and enables U.S. businesses to compete on a level playing field nationally and internationally.

FY 2000 Actual Performance:

Performance Measure: Success Rates for Civil Antitrust Cases

Target: Civil Non-Merger Matters: 90%

Merger Transactions Challenged: 90%

Actual: Civil Non-Merger Matters: 100%

Merger Transactions Challenged: 100%

Performance Measure: Savings to U.S. Consumers

Target: Not Projected **Actual:** \$6 billion

Discussion: Success rate for merger transactions challenged includes mergers that are abandoned, "fixed first," filed as cases with consent decrees, filed as cases but settled prior to litigation, or filed as cases and litigated successfully. Success rate for civil nonmerger matters where the Division expressed concern include matters where practices changed after the investigation was initiated, filed as cases with consent decrees, filed as cases but settled prior to litigation, or filed as cases and litigated successfully.

Merger enforcement is a key component of ATR's efforts to protect competition in the marketplace. Ensuring there are a sufficient number of competitors to maintain competition is critical to the development of new and better products and services, and the best prices and quality for consumers. The Division has been inundated with premerger filings in recent years, many of which involved multinational corporations wielding considerable market power in the U.S. and abroad. Since FY 1990, chargeable filings more than tripled. The value of U.S. merger activity increased nearly ten-fold during the same period, reaching \$1.83 trillion in 2000, according to Thompson Financial Securities Data. Although deal making slowed from the fourth quarter of 2000 into 2001, most analysts are optimistic about the longer-term health of the merger

Data Collection and Storage: Data is collected and stored in ATR management information systems (MIS), primarily in the Matter Tracking System and its companion user interfaces.

Data Validation and Verification: User training and software guides encourage accurate data entry. Instantaneous online data validations include inter-element cross-checks numeric range checks, single element list-of-values checks and mandatory data element checks. In addition, batch data analysis and ad hoc reviews are conducted periodically. Finally, programmatic review of data helps assure quality.

Data Limitations: In calculating consumer saving across our enforcement areas, key input measures, such as market elasticities of demand, if not actually estimated in the investigation or case, often had to be estimated based on anecdotal information and observations. These values are both conservative and consistently estimated over time.

market. The Division has been very successful in preventing anticompetitive mergers, achieving a 100 percent success rate for merger transactions challenged in FY 2000. We will continue to be vigilant in FY 2001.

In the civil non-merger enforcement area, the Antitrust Division also achieved an impressive 100 percent success rate. In addition, we pursued major investigations and trials involving alleged anticompetitive practices in various sectors which have a significant impact on the lives of U.S. consumers. These include transportation (American Airlines), high technology (Microsoft), financial services (Visa-MasterCard), and healthcare (Dentsply International and the Federal of Physicians and Dentists).

Public Benefit: Success in these areas saves U.S. consumers billions of dollars and ensures there are a sufficient number of competitors to maintain competition, which spurs research and development, innovation, the development of new and better products and service, and the best prices and quality for consumers.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 goal. In accordance with Department guidance, targeted levels of performance are not projected for one indicator within this goal.

Strategies and Initiatives to Achieve the FY 2002 Goal:

ATR employs three distinct strategies to maintain and promote competition (and to decrease and deter anticompetitive business behavior and practices). First is our merger enforcement strategy. This strategy focuses on the investigation and litigation of instances in which monopoly power is sought, attained, or maintained through anticompetitive conduct and by seeking injunctive relief against mergers and acquisitions that may tend to substantially lessen competition. Second is our criminal enforcement strategy. When businesses are found to be actively engaged in price fixing, bid rigging and other market allocation schemes, ATR conducts criminal investigations and prosecutions. If ATR detects market collusion and successfully prosecutes, ATR may obtain criminal fines and/or injunctive relief. (see Annual Goal 1.5E for more information). Finally, our civil non-merger enforcement strategy investigates and prosecutes civil matters to suspend or deter anticompetitive behavior. It picks up, to some degree, where our criminal enforcement strategy leaves off, pursuing matters under Section 1 of the Sherman Act in instances where the allegedly illegal behavior falls outside bid rigging, price fixing and market allocation schemes. Other behavior, such as group boycotts or exclusive dealing arrangements, that constitute "...contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce..." is also illegal under Section 1 of the Sherman Act. The civil non-merger enforcement strategy relies on a civil compulsory process to investigate alleged violations obtaining civil damages or injunctive relief, as appropriate.

Crosscutting Activities:

ATR and the Federal Trade Commission share responsibility for merger enforcement by law and practice. ATR also maintains relationship with the FBI and the U.S. Attorneys in support of enforcement.

STRATEGIC OBJECTIVE 3.4: TAX LAWS

Promote the fair, correct and uniform enforcement of the federal tax laws and the collection of tax debts to protect the public fisc from unjustified claims.

Annual Goal 3.4: Enforce federal tax laws fairly, correctly, and uniformly.

STRATEGIES

Litigate, both defensively and affirmatively, federal civil tax cases filed by and against taxpayers in federal courts.
Provide expert counsel and litigation support to defend U.S. interests in federal civil tax cases appealed to federal appeals and state

The Tax Division utilizes civil litigation to ensure that the Nation's internal revenue laws are fairly and uniformly applied and that the public complies with the Nation's tax laws. In this way, our accomplishments contributed significantly and directly to efforts by the Administration and Congress to protect the Federal fisc from unmerited claims involving tax related issues and to promote voluntary compliance with the tax laws. In addition, the Division protects the public fisc by defending the rights of the United States against the claims of others to property of taxpayers. For all stages of case

investigations, review, litigation and appeals, the Department's attorneys are guided by the principles of fair and uniform treatment for all categories of litigants.

MEANS – Annual Goal 3.4

Dollars/FTE

Appropriation	FY 2000 Obligated		FY 2001 Enacted		FY 2002 Requested	
	\$ mil	FTE	\$ mil	FTE	\$ mil	FTE
Tax Division	51	412	53	424	55	429
U.S. Attorneys	39	323	42	338	44	332
TOTAL	90	735	95	762	99	761

Skills

The Tax Division requires top tier attorneys at all experience levels and managers with significant litigation experience and substantive tax knowledge to litigate the full range of tax cases initiated by the United States and taxpayers. The Division also requires skilled data management specialists,

Information Technology

The Tax Division relies upon the Justice Consolidated Office Network (JC ON 2) system and recently

PERFORMANCE ASSESSMENT – Annual Goal 3.4

3.4A Enforce Tax Laws Fairly and Uniformly

Background/ Program Objectives:

The Tax Division (TAX) strives to promote tax compliance and protect the public fisc by ensuring that the tax laws are enforced uniformly, vigorously, efficiently, and fairly in the federal appellate courts, the federal district and bankruptcy courts, the Court of Federal Claims, and the state courts. Voluntary compliance with the tax laws is enhanced when these objectives are achieved, which both ensures an adequate flow of revenue to the Government to fund its operations, and reduces the cost of administration. TAX aims to provide high quality legal services and exercise good judgement in defending the interests of the United States in litigation initiated against the government with respect to taxes. TAX also undertakes the litigation of actions related to taxes referred by the IRS and other agencies (where TAX deems litigation to be appropriate). It provides expert litigation and substantive tax advice to U.S. Attorneys Offices throughout the country with respect to tax related matters that have been elevated to their offices, and advises the Department of the Treasury and Congress with respect to tax related legislative matters.

FY 2000 Actual Performance:

Performance Measure: Civil Settlements and Concessions (all Courts)

Target: Settlements: 640 **Actual:** 627
Concessions: 140 **Actual:** 81

Performance Measure: Tax Dollars Collected and Retained by Court Action and Settlements (NOTE: Prior year actuals have been corrected to reflect the most recent and accurate data available.)

Target: Not Projected
Actual: Collected: \$120.3 million
Retained: \$100.8 million

Discussion: The civil litigation program promotes the protection of tax revenues while striving to assure the fair and consistent treatment of taxpayers nationwide. In July 1998, the IRS Restructuring and Reform Act of 1998 (RRA98) was enacted. RRA98 radically altered the way the Tax Division's principal client agency, the IRS, functions. RRA98 also granted new rights to taxpayers both, at the IRS administrative level and at the judicial level. The full effect of those changes is not yet known, as the IRS spent much of 1999 implementing the new legislation and continuing to restructure internally. The Division has been expending significant resources to interpret the numerous new provisions of RRA98, work with the IRS to arrive at consistent, fair position, and train civil litigation's program staff to handle litigation involving these provisions. Additional work remains to be done in all of these areas, as new issues continue to arise.

The IRS' much publicized shift in resources away

Data Definition: Concession is a determination that a position taken by the IRS is incorrect and therefore the matter is resolved without demanding a quid pro quo from the other party.

Data Collection and Storage: TAX utilizes a case management system known as TaxDoc. The Division recently revised the complement of indicators that are tracked.

Data Validation and Verification: There are new procedures to collect and record pertinent data on activities related to specific issues enabling Section Chiefs to make projections and set goals based on complete, accurate, and relevant statistics. On a quarterly basis, the Performance Management Committee reviews all the statistics.

Data Limitations: The Division lacks historical data on some activities that are now tracked in the new case management system. The new information system may cause variations in the way some statistics are presented.

from audit and collection to implementing the new legislation and improving customer service appears to have affected case receipts. Overall, the reported outcomes continue to reflect positively on the civil litigation program's productivity, debt collection, and other revenue-enhancement efforts.

Public Benefit: Though the deterrent effect cannot be measured, ensuring that tax laws are enforced uniformly, vigorously, efficiently, and fairly in the federal appellate courts, the federal district and bankruptcy courts, the Court of Federal Claims, and the state courts, has a positive impact on income tax reporting. Taxpayers see that violators are not able to "beat the system" and that all taxpayers are required to pay their fair share. The Tax Division's litigation and enforcement efforts achieve our joint goals with the IRS for citizens of this nation to voluntarily comply with tax laws which, in turn, advance the federal fiscal system.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we do not expect to achieve the corresponding FY 2001 goals. As it is not possible to make informed projections about the impact of RRA98 and the changes in IRS operations on TAX's performance, TAX anticipates that out-year performance will reflect essentially straight-line figures from its FY 1999 levels. In accordance with Department guidance, targeted levels of performance are not projected for one indicator within this goal.

Strategies and Initiatives to Achieve the FY 2002 Goal:

In FY 2002, the Tax Division will further efforts to clarify the law, defend against unmerited claims, fairly pursue civil violations of our tax laws, protect the collection of tax revenues, and defend against those who seek to undermine compliance with the IRS code and evade or avoid federal taxes. In those cases that have to be litigated, TAX will settle those cases that should be settled and concede those cases where it has become apparent that the agency's position is incorrect. TAX will further its effort to attack abusive tax schemes by commencing action as soon as the case is properly referred to stop the illegal promotions before many taxpayers are harmed. It will continue to cooperate with the IRS in its current efforts to stop the pyramiding of tax withholdings by commencing injunction actions as soon as they are properly referred. TAX will also maintain a special counsel for tax protest matters to track and respond to new trends and novel issues arising in tax protest issues. Finally, TAX will continue to provide litigation and substantive tax advice to Assistant U.S. Attorneys and will continue to provide advice to the Department of the Treasury and Congress in legislative matters.

Crosscutting Activities:

TAX and IRS frequently consult on new and sensitive tax issues and litigation. To attack abusive tax schemes, TAX and IRS are jointly involved in the Illegal Tax Protest Initiative, the International Compliance Initiative and the Abusive Trust Initiative. TAX is currently working with IRS to implement streamlined IRS procedures for referring tax injunction actions against promoters of abusive tax schemes. In addition, TAX and IRS coordinate litigating positions on new issues, including the administrative seizure of personal residences and collection due process hearings to ensure compliance with RRA98. Finally, TAX and IRS embarked on a pilot project to stop pyramiding of withholding tax liabilities by utilizing the injunction remedy if IRS administrative remedies fail. TAX also works with the U.S. Attorneys Offices to provide advice on tax cases and litigation.

STRATEGIC OBJECTIVE 3.5: CIVIL LAWS**Effectively represent the United States in all civil matters for which the Department of Justice has jurisdiction.*****Annual Goal 3.5: Protect the public fisc, continue vigorous civil enforcement and increase the number of cases using alternative dispute resolution.*****STRATEGIES**

Assert the interests of the U.S. Treasury, prevailing against unwarranted monetary claims while resolving fairly those claims with merit.

Defend the laws, programs and policies of the United States when challenged in court, including those which affect how sizeable portions of the federal budget are spent.

Implement the civil justice reform initiatives to resolve classes of claims for which traditional litigation has proven ineffective. Ensure the intent of Congress and the collective efforts of the immigration agencies by defending immigration laws and policies, as well as class action suits or immigration judgments involving individuals.

Recover monies owed to the U.S. as a result of fraud, loan default and bankruptcy.

Enforce consumer protection laws by seeking civil and criminal penalties available under existing statutes.

In FY 2002, DOJ will continue to effectively represent the United States in civil matters, protecting the public fisc, ensuring that the federal Government speaks with one voice in its view of the law, preserving the intent of Congress and advancing the credibility of the United States before the courts. In addition, DOJ will continue to place emphasis on the expanded and appropriate use of alternative dispute resolution (ADR).

MEANS – Annual Goal 3.5**Dollars/FTE**

Appropriation	FY 2000 Obligated		FY 2001 Enacted		FY 2002 Requested	
	\$ mil	FTE	\$ mil	FTE	\$ mil	FTE
Solicitor General	7	48	7	50	7	50
Civil Division	146	1076	154	1091	161	1091
Office of Dispute Resolution	0	1	0	3	0	3
U.S. Attorneys	217	1962	233	2049	249	2010
Foreign Claims Settlement Comm.	1	4	1	11	1	11
Radiation Exposure Compensation Admin Exp	1	0	2	0	2	0
Radiation Exposure Compensation Trust Fund	11	0	11	0	11	0
Health Care Fraud (GA – Fee account)	30	0	34	0	34	0
TOTAL	413	3091	442	3204	465	3165

Skills

This area requires highly qualified teams of attorneys, as well as support staff trained and configured to take full advantage of new technologies. Experts and consultants are needed

**Information
Technology**

The Civil Division relies on Automated Litigation Support (ALS) to scan documents, create databases and provide ready access to evidentiary information, and on CASES, its case management system.

PERFORMANCE ASSESSMENT – Annual Goal 3.5

3.5A Protect the Public Fisc

Background/ Program Objectives:

Billions of dollars are saved annually through DOJ's successful defense of the public fisc in lawsuits alleging unwarranted monetary claims. Plaintiffs advancing contract claims, allegations of government misconduct, claims of patent infringement and the like, expose the government to potentially staggering losses. DOJ consistently mounts strong defense against unwarranted and exaggerated claims to ensure that only those claims with merit under the law are paid.

FY 2000 Actual Performance:

Performance Measure: % of Defensive Civil Monetary Cases Where 85% or More of the Claim is Defeated

Target: 80% **Actual:** 84%

Discussion: To meet this goal, the Civil Division concentrated resources on the highest-stakes cases and pursued effective litigation strategies. This strategy is still valid and will be used in FY 2001 and beyond. In the future, the Division will continue to support its core mission to ensure that only those claims with merit are paid by drawing upon the expertise of its litigators, available technology and the services of subject matter specialists.

Public Benefit: The United States Treasury would sustain billions of dollars in losses absent successful defense against unwarranted claims. Averting such losses saves the public fisc from being drained of funds that could be used for critical programs, debt relief, or tax reductions.

Performance Measure: \$ Collected From Affirmative Civil Cases

Target: N/A **Actual:** \$2.983 billion

Discussion: The Department combined the efforts of law enforcement officers, investigators, and litigators to recover dollars lost to the U.S. Treasury through fraud, loan default, and bankruptcies. This strategy is still valid and will be continued in the future. In FY 2001 and beyond, we will continue to prosecute fraud and represent the government's interests in affirmative litigation.

Public Benefit: Successful recovery efforts prevent the U.S. Treasury from sustaining significant losses. By recouping money owed to the government, hundreds of millions of dollars are freed up for critical programs, debt relief, or tax reductions.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 target. In accordance with Department guidance, targeted levels of performance are not projected for one indicator within this goal.

* The chart replaces “% of Favorable Resolutions in Defensive Monetary Cases”

Data Collection and Storage: The primary source of data collection for measurement within the Civil Divisions is the automated case management system (CASES).

Data Validation and Verification: Contractor staff regularly review case listings and interview attorneys concerning the status of each case. Exception reports are generated and reviewed. Attorney managers review numerous monthly reports for data completeness and accuracy. The contractor executes a comprehensive quality control plan in which representative samples of data are verified. Another independent contractor verifies aspects of the work of the case management contractor.

Data Limitations: Incomplete data can cause the system to under-report case closures and attorney time. Missing data is most often retrieved as a result of the contractor interviews and the review of monthly reports. To minimize the extent of missing data, CIV made adherence to the reporting requirements of CASES a performance element in all attorney work plans.

Strategies and Initiatives to Achieve the FY 2002 Goal:

DOJ legal staff will fight for and guard the financial interests of the United States at trial, at the settlement table, and at the highest levels of judicial review, asserting the taxpayer's stake in financial disputes as they move through appellate stages. Automated Litigation Support will be employed to master voluminous evidence collections and prepare for trial. Experts and consultants will be enlisted to underscore the government's case in complex and technical suits, as well as to refute the assertions of our well-financed opponents.

DOJ will investigate allegations brought forth by "whistle blowers" and where appropriate, seek recoveries and civil penalties. Through collaborative efforts with other federal and state agencies we will pursue health care fraud enforcement, emphasizing massive cases with potential recoveries in the billions of dollars. The taxpayers' interests will be effectively represented in bankruptcies and loan defaults. Finally, alternative dispute resolution will be increasingly used as an alternative to litigation.

Crosscutting Activities:

The Civil Division works closely with the Department of Health and Human Services and the Office of Special Matters at the U.S. Court of Federal Claims to justly resolve vaccine claims and to coordinate policy.

3.5B Continue Vigorous Civil Enforcement

Background/ Program Objectives:

In addition to being a fiscal bulwark, DOJ serves an equally vital role when the laws, programs and policies of the United States are attacked in court. By securing favorable resolutions in such civil cases, DOJ ensures the intent of Congress, as well as represents the government's response to some of the most probing issues of our time. Examples include welfare reform, pornography on cable television and the Internet, gun control, tobacco regulation, privacy of motor vehicle records, and provision of entitlement programs.

To safeguard Medicare and other federally funded health programs, combating health care fraud remains a key focus. Recoveries in health care fraud actions have already topped \$3 billion and are expected to increase, since the current docket includes a number of matters with the potential of immense recoveries. The Internet has emerged as fertile new ground for acts of consumer fraud. The identification, investigation, and prosecution of Internet-related crime is a top priority within DOJ, as well as across the entire federal government. Emphasis will be placed on Internet pharmacies that dispense powerful prescription drugs without a valid prescription.

DOJ must respond to a variety of immigration-related suits, including those dealing with alien terrorists. Over the past decade, this workload has tripled, coinciding with increased resources and intensified enforcement. The majority of the cases involve individual or class actions opposing the decision of the INS and immigration judges; other key suits pose constitutional challenges to new immigration laws or reformed procedures.

FY 2000 Actual Performance:

Performance Measure: % of Favorable Resolutions in Civil Health Care Fraud Cases

Target: 85% **Actual:** Data is no longer available at this level – the activity is included in the overall measure “% of Favorable Resolutions in Civil Cases” also included in this section.

Performance Measure: \$ Collected from Civil Health Care Fraud (NOTE: Prior year actuals have been corrected to reflect the most current and accurate data.)

Target: N/A **Actual:** \$609 Million

Discussion: The Department collaborates with the Department of Health and Human Services, state investigative organizations, and other law enforcement agencies to recover losses from those who defraud Medicare, Medicaid, and other federal health care programs. This strategy is still valid and will be used in 2001 and beyond. In the future, the Department will continue its nationwide effort to combat health care fraud through the vigorous enforcement of the False Claims Act and the Health Insurance Portability and Accountability Act.

Public Benefit: The Department's success in health care fraud litigation returns millions of dollars to the U.S. Treasury, benefiting Medicare and other federally-funded health care programs.

FY 2001 Performance Plan Evaluation: In accordance with Department guidance, targeted levels of performance are not projected for one indicator within this goal.

Data Collection and Storage: The primary source of data collection for measurement within the Civil Division is the automated case management system (CASES).

Data Validation and Verification: Contractor staff regularly review case listings and interview attorneys concerning the status of each case. Exception reports are generated and reviewed. Attorney managers review numerous monthly reports for data completeness and accuracy. The contractor executes a comprehensive quality control plan in which representative samples of data are verified. Another independent contractor verifies aspects of the work of the case management contractor.

Data Limitations: Incomplete data can cause the system to under-report case closures and attorney time. Missing data is most often retrieved as a result of the contractor interviews and the review of monthly reports. To minimize the extent of missing data, CIV made adherence to the reporting requirements of CASES a performance element in all attorney work plans.

Performance Measure: % of Favorable Resolutions in Civil Cases (NOTE: Prior year actuals have been corrected to reflect the most current and accurate data.)

Target: 80% **Actual:** 85%

Discussion: The combined efforts of the Civil Division and the U.S. Attorneys Office enabled successful resolutions in over 43,000 cases ensuring that the government was effectively represented. In the future, the Department will continue to apply the resources necessary to defend the laws, programs, and policies of the government and to protect the public fisc through affirmative and defensive litigation.

Public Benefit: The Department's success in civil litigation preserves taxpayers' dollars and ensures the intent of laws enacted and administered by elected government officials.

Performance Measure: % of Favorable Resolutions in Civil Immigration Cases (NOTE: Prior year actuals have been corrected to reflect the most current and accurate data.)

Target: 85% **Actual:** 86%

Discussion: The combined efforts of the Civil Division and USAOs enabled successful resolutions in a record number of immigration-related claims. In federal court, the Department upheld enforcement actions and decisions rendered earlier in the immigration process. This strategy is still valid and will be used in 2001 and beyond. In the future, the Department will continue to apply the resources necessary to defend the laws, policies, and procedures that regulate alien movement across national borders.

Public Benefit: The Department's success in enforcing immigration laws enables the nation to control its borders.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 targets.

Strategies and Initiatives to Achieve the FY 2002 Goal:

In FY 2002, efforts will focus on: (1) continuing to pursue health care fraud against federally funded programs, in concert with federal and state law enforcement programs; (2) continuing to remove criminal aliens and enforcing the Nation's immigration laws by effectively defending administrative decisions and INS programs and policies; (3) combating consumer fraud on the Internet; and (4) successfully resolving all civil cases, including challenges to congressional enactments, federal programs and policy initiatives.

Crosscutting Activities:

The Civil Division and the U.S. Attorneys Offices work closely with the FBI, HHS, DOD, the Veteran's Administration, and state medical fraud units to recover monies lost by federal health care programs. They also participate with other federal, state, and local agencies on the Consumer Protection Initiatives Committee of the Attorney General's Council on White Collar Crime. Increasingly, the Committee's efforts deal with matters involving Internet crime. The Civil Division also collaborates with the State Department among others in the designation of foreign terrorist organizations.

Data Collection and Storage: The primary source of data collection for measurement within the Civil Division is the automated case management system (CASES).

Data Validation and Verification: Contractor staff regularly review case listings and interview attorneys concerning the status of each case. Exception reports are generated and reviewed. Attorney managers review numerous monthly reports for data completeness and accuracy. The contractor executes a comprehensive quality control plan in which representative samples of data are verified. Another independent contractor verifies aspects of the work of the case management contractor.

Data Limitations: Incomplete data can cause the system to under-report case closures and attorney time. Missing data is most often retrieved as a result of the contractor interviews and the review of monthly reports. To minimize the extent of missing data, CIV made adherence to the reporting requirements of CASES a performance element in all attorney work plans.

3.5C Increase the Number of Cases Using Alternative Dispute Resolution (ADR)

Background/ Program Objectives:

Executive Order 12778 directs:

Litigation counsel [are to] make reasonable attempts to resolve a dispute expeditiously and properly before proceeding to trial. Whenever feasible, claims should be resolved through informal discussions, negotiations, and settlements rather than through utilization of any formal or structured Alternative Dispute Resolution (ADR) process or court proceeding. At the same time, litigation counsel should be trained in dispute resolution techniques and skills that can contribute to the prompt, fair, and efficient resolution of claims. Where such benefits may be derived, and after consultation with the agency referring the matter, litigation counsel should suggest the use of an appropriate ADR technique to the private parties.

It is our job to implement the President's directive consistently with our mission to defend the interest of the United States in civil litigation proceedings. In FY 2002, DOJ attorneys will increase efforts to employ ADR including mediation, negotiation, and other litigation streamlining techniques in appropriate civil cases.

FY 2000 Actual Performance:

Performance Measure: Number of Cases Using ADR (CIV, CRT, ENRD, TAX, and EOUSA)

Target: 2,000 **Actual:** 2,815

Discussion: The Office of Dispute Resolution continued its program of training and assistance to Department attorneys in the use of dispute resolution to settle pending civil litigation. The Office has made it possible for our litigators to increase their use of dispute resolution every year since the program began; by assisting litigators in the selection of cases as suitable for mediation or other forms of dispute resolution, arranging for the selection of a qualified neutral, and advising on mediation advocacy tips.

Public Benefit: Mediation and other forms of dispute resolution provide several important public benefits. First, mediation assists in the early settlement of cases, thereby freeing resources to handle other matters that cannot or should not settle. Second, mediators can assist counsel in negotiating favorable settlement terms because the parties can focus on interests that may transcend their legal positions and arrange for a disposition on terms no court could order. Third, mediation empowers individuals to participate in the resolution of their own disputes, rather than deferring to their attorneys, and provides a context for settlement discussions that minimizes the adversarial nature of litigation.

FY 2001 Performance Plan Evaluation: Based on program performance in FY 2000, we expect to achieve the corresponding FY 2001 goals.

Strategies and Initiatives to Achieve the FY 2002 Goal:

In many circumstances, our attorneys are able to negotiate settlement in civil litigation through one-on-one negotiations with opposing counsel. However, there are also a considerable number of cases where such settlement discussions would be unproductive, protracted, or highly positional. The use of dispute resolution in such civil litigation, especially mediation, permits our attorneys to obtain settlements that are in the best interests of the government. Mediation is the preferred dispute resolution process because skilled mediators can work with the parties and their counsel, encouraging them to go beyond the legal positions advanced by counsel and focus on the underlying interests of the litigants. In many cases, our attorneys are able to construct creative settlements that include terms favorable to the United States that no one would have identified, but for the assistance of a mediator. Because our experience continues to show that mediation permits us to negotiate more efficiently, we remain committed to promoting the use of dispute resolution in civil litigation in the Department's dispute resolution program.

Data Collection and Storage: The primary source of data collection for tabulating the Department's use of ADR is component reporting. Each litigating component is responsible for tracking attorney usage of ADR and forwarding this information to the Office of Dispute Resolution.

Data Validation and Verification: CIV, CRT, and ENRD, track ADR information in case management/docket tracking systems; TAX and EOUSA gather data through the use of manual records.

Data Limitations: Although current methods may foster some inconsistencies in data validation, the Senior Counsel for ADR is presently working with components to develop automated reporting systems.

Crosscutting Activities:

The Civil Division's Childhood Vaccine Injury Program, together with HHS and the Office of Special Matters of the U.S. Court of Federal Claims, are exploring opportunities to more fully utilize ADR in pending vaccine cases.