

IV

STRATEGIC GOAL FOUR:

Protect the Rights and Interests of the American People by Legal Representation, Enforcement of Federal Laws, 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, 6 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 (or specialized expertise) with client agencies whose headquarters are in Washington, D.C.; 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 2004. 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.

STRATEGIC OBJECTIVE & ANNUAL GOAL 4.1: CIVIL RIGHTS

Uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil right laws

The Department of Justice 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 (USAs), 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 1974; and the Immigration Reform and Control 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 rights 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 DOJ promotes compliance with basic federal civil rights protections through a multi-faceted 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, 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.

**STRATEGIC OBJECTIVE &
ANNUAL GOAL 4.2: ENVIRONMENT**
Promote the stewardship of America's environment and natural resources through the enforcement and defense of environmental laws and programs

Safeguarding the Nation's environment and natural resources for this and future generations is a major DOJ priority for FY 2003. DOJ's Environment and Natural Resources Division (ENRD), FBI, and U.S. Attorneys will work together with other federal agencies to enforce environmental laws; protect our natural resources; defend federal agency environmental regulations and government pollution abatement laws and programs; and assist in fulfillment of U.S. trust responsibilities. As the

Nation's chief environmental litigator, the Department will strive to increase compliance with environmental laws, deter future violations of those laws, seek redress and civil penalties for past violations that harm the environment, and seek recoupment of federal funds spent to abate environmental contamination, and monies to restore or replace damaged natural resources.

**STRATEGIC OBJECTIVE &
ANNUAL GOAL 4.3: ANTITRUST**
Promote economic competition through enforcement of and guidance on antitrust laws and principles

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 potentially anticompetitive business practices. Improvements to antitrust laws and principles are pursued through participation in interagency regulatory processes, interagency task forces, and international bodies (i.e., the World Trade Organization). 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 and the promotion of free and open competition to the benefit of all U.S. consumers and businesses.

**STRATEGIC OBJECTIVE &
ANNUAL GOAL 4.4: 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

The Tax Division (TAX) 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. TAX

contributes 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, TAX protects the public fisc by defending the rights of the United States. TAX's attorneys are guided throughout each stage of litigation by the principles of fair and uniform treatment for all categories of litigants.

**STRATEGIC OBJECTIVE &
ANNUAL GOAL 4.5: CIVIL LAWS**

Effectively represent the interests of the United States in all civil matters for which the Department of Justice has jurisdiction

DOJ will continue to 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).

PERFORMANCE SUMMARY

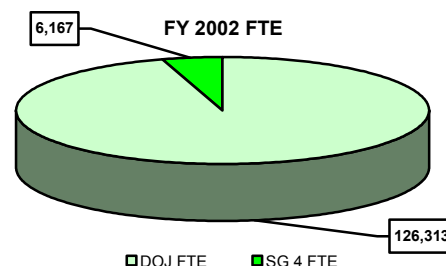
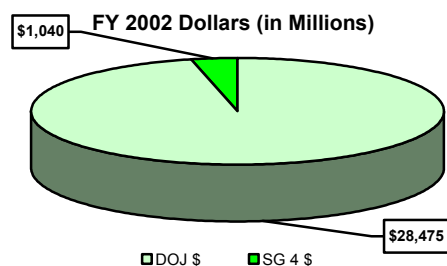
Strategic Objective, Page #	Performance Measure/ Indicator	Was the Target Achieved			FY 2002 Performance		
		Yes	No	N/A	Target	Actual	Performance Improvement From FY 2001
4.1 111	% of Successful CRT Prosecutions	■			87%	91%	
4.1 113	% of Pattern or Practice Cases Successfully Litigated (Resolved)	■			95%	100%	
4.2 115	% of Civil Environmental Cases Successfully Resolved <ul style="list-style-type: none"> Affirmative Defensive 	■ ■			80% 70%	88% 87%	
4.2 116	Cost Avoided and \$ Awarded (billions) in Civil Environmental Cases <ul style="list-style-type: none"> Awarded Affirmative Avoided Defensive 				N/A N/A	\$0.6 \$6.1	
4.3 118	Success Rates for Civil Antitrust Cases <ul style="list-style-type: none"> Civil Non-merger Matters Pursued Merger Transactions Challenged 	■ ■			90% 90%	100% 100%	
4.3 119	Savings to Consumers (billions)			■	N/A	\$0.5	
4.4 120	DISCONTINUED MEASURE: Civil Settlements and Concessions (all courts) <ul style="list-style-type: none"> # of Settlements # of Concessions 		■ ■		627 81	435 95	Less civil cases were closed, thus less settlements and concessions
4.4 121	NEW MEASURE: % of Civil Cases Successfully Litigated <ul style="list-style-type: none"> Trial Courts Appellate Courts-Taxpayer Appeals Appellate Courts-Gov't & Cross Appeals 				New for 2002	96% 97% 72%	
4.4 121	Tax Dollars Collected & Retained by Court Action & Settlement (millions) <ul style="list-style-type: none"> Tax Debts Collected Tax Dollars Retained 				N/A N/A	\$90 \$1,264	
4.5 122	% of Defensive Civil Monetary Cases where 85% or more of the Claim is Defeated	■			80%	86%	
4.5 123	\$ Collected from Affirmative Civil Cases (billions)			■	N/A	\$2.2	

Strategic Objective, Page #	Performance Measure/ Indicator	Was the Target Achieved			FY 2002 Performance		
		Yes	No	N/A	Target	Actual	Performance Improvement From FY 2001
4.5 124	\$ Collected from Health Care Fraud Cases			■	N/A	\$1.40	
4.5 125	% Favorable Resolutions in Civil Cases	■			80%	85%	
4.5 125	% Favorable Resolutions in Civil Immigration Cases	■			85%	85%	
4.5 127	% Cases Resolved using ADR	■			65%	70%	

RESOURCES

Appropriation		FY 2002 FTE	FY 2002 Actual \$ (millions)	FY 2003 FTE	FY 2003 Request \$ (millions)	FY 2004 FTE	FY 2004 Request \$ (millions)
4.1	Civil Rights Division	712	99	750	103	750	107
4.1	FBI	279	37	333	50	334	52
4.1	U.S. Attorneys	18	2	19	3	19	3
<i>Subtotal 4.1</i>		<i>1,009</i>	<i>\$138</i>	<i>1,102</i>	<i>\$156</i>	<i>1,103</i>	<i>\$162</i>
4.2	Environment & Natural Resources Division	589	64	603	63	607	72
4.2	FBI	37	5	44	7	45	7
4.2	U.S. Attorneys	62	8	67	9	67	9
<i>Subtotal 4.2</i>		<i>688</i>	<i>\$77</i>	<i>714</i>	<i>\$79</i>	<i>719</i>	<i>\$88</i>
4.3	Antitrust Division	502	75	553	90	553	92
4.3	FBI	15	2	17	3	18	3
<i>Subtotal 4.3</i>		<i>517</i>	<i>\$77</i>	<i>570</i>	<i>\$93</i>	<i>571</i>	<i>\$95</i>
4.4	Tax Division	380	52	389	56	385	57
<i>Subtotal 4.4</i>		<i>\$380</i>	<i>\$52</i>	<i>389</i>	<i>\$56</i>	<i>385</i>	<i>\$57</i>
4.5	Civil Division	1,069	170	1,099	240	1,121	236
4.5	Foreign Claims Settlement Commission	6	--	11	1	11	1
4.5	Health Care Fraud Office of Dispute Resolution	--	34	--	50	--	50
4.5	Office of Legal Counsel	--	--	3	--	3	--
4.5	Office of Solicitor General	32	5	41	5	41	6
4.5	Radiation Exposure Compensation	48	7	50	8	50	8
4.5	U.S. Attorneys	--	174	--	145	--	107
<i>Subtotal 4.5</i>		<i>2,418</i>	<i>306</i>	<i>2,610</i>	<i>346</i>	<i>2,656</i>	<i>358</i>
TOTAL SG 4		6,167	\$1,040	6,589	\$1,179	6,660	\$1,168

RESOURCE COMPARISON: Strategic Goal to Total DOJ \$ and FTE



Required Skills	<p>The Department requires attorneys and support staff experienced in constitutional and statutory civil law. ENRD and the U.S. Attorneys require attorneys, particularly litigators, experienced in civil, administrative and appellate environmental law. Experienced legal support staff (paralegals and litigation support assistants) and administrative specialists are also essential. The FBI requires agents experienced in civil rights violation investigations. Additionally, the FBI requires experienced skilled investigators, particularly in the area of fraud. ATR requires experienced attorneys, economists, paralegals and support staff. ATR's desires attorneys experienced in conducting complex, international investigations and economists experienced in analyzing multi-million or -billion dollar mergers in newly emerging markets are particularly valued in the current operating environment. 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. TAX also requires skilled data management specialists, litigation assistants and paralegals to support litigation. Additionally, experts and consultants are needed to analyze complex issues and present findings in court.</p>
Information Technology Utilized	<p>Civil Rights Division relies on its Interactive Case Management (ICM) system and desktop office automation system. FBI relies on 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. ENRD relies upon its version of the DOJ Justice Consolidated Office Network (JCON) and its Case Management System. 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. The Tax Division relies upon the Justice Consolidated Office Network (JCONII) system and recently implemented TaxDoc Case Management System. The Civil Division relies on CASES its case management system, as well as on Automated Litigation Support (ALS) to scan documents, create databases and provide ready access to evidentiary information.</p>

PROGRAM EVALUTIONS

There are no program evaluations planned for FY 2003.

STRATEGIC OBJECTIVE & ANNUAL GOAL 4.1: CIVIL RIGHTS

Uphold the civil rights of all Americans, reduce racial discrimination, and promote reconciliation through vigorous enforcement of civil right laws

4.1A Prosecute Criminal Civil Rights Violations

Background/Program Objectives:

The Civil Rights Division (CRT) works with the FBI and the U.S. Attorneys to prosecute cases of national significance involving the deprivations of Constitutional liberties that cannot be, or are not, sufficiently addressed by state or local authorities. These include acts of bias-motivated 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 that proscribes 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.

Performance:

Performance Measure: % Successful Civil Rights Prosecutions [CRT]

FY 2002 Target: 87%

FY 2002 Actual: 91%

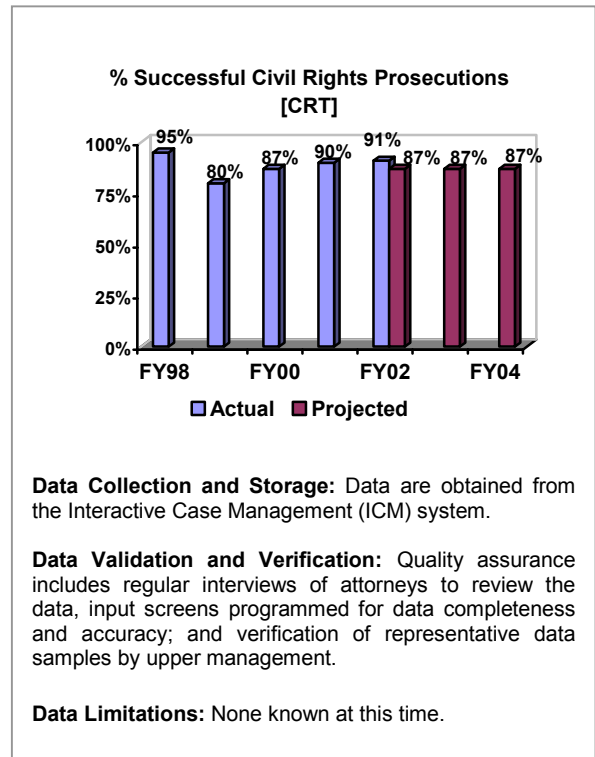
Discussion: In FY 2002, CRT exceeded its target for successful prosecutions by 4%. A total of 136 defendants were prosecuted, which resulted in 124 convictions, including 88 guilty pleas. Out of the 124 convictions, 68 were law enforcement officers.

FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 87%.

FY 2004 Performance Target: 87%

Public Benefit: CRT often prosecutes 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.

Strategies to Achieve the FY2003/FY 2004 Goal:

DOJ will continue to devote substantial attention to the investigation and prosecution of incidents involving criminal official misconduct, hate crimes, involuntary servitude/human trafficking including worker exploitation, church arson and desecration, and violence directed toward health care providers.

Crosscutting Activities:

CRT's Criminal Section participates in several cross-cutting programs: the National Church Arson Task Force, which joins the efforts of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

(ATF); the Worker Exploitation Task Force, which brings together the Department of Labor, Department of State, and Health and Human Services 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 ATF 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 effectively addressed. Additionally, the U.S. Customs, ATF, and the U.S. Secret Service telefax complaints to the section relating to official misconduct by federal law enforcement officers.

4.1B Prosecute Pattern or Practice Civil Rights Violations

Background/Program Objectives:

Civil “pattern or practice” litigation is divided into five main areas: Housing and Civil Enforcement, Employment Litigation, Disability Rights, Special Litigation, and Office of Special Counsel (OSC). Housing and Civil Enforcement focuses on discriminatory activities by lending and insurance institutions, illegal discrimination in all types of housing transactions including the sale and rental of housing and the failure to design and build multifamily living to be accessible, discriminatory land use by municipalities, discrimination in places of public accommodations, and discrimination against religious institutions by local zoning authorities.

Employment Litigation focuses on employment discrimination on the grounds of race, color, 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 forms of relief for victims.

Disability Rights enforces the Americans with Disabilities Act (ADA) on behalf of people with disabilities. Enforcement responsibilities cover a broad spectrum of potential actions to encourage individuals and entities to comply with ADA requirements, including new construction, removal of physical barriers, provision of auxiliary aids, access to employment, and the elimination of discriminatory policies. These enforcements, combined with mediation and technical assistance programs, provide cost-effective and dynamic approaches for carrying out the ADA’s mandates in conformance with the current administration’s New Freedom Initiatives.

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 that 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; however, DOJ does not have authority to pursue an individual claim.

Office of Special Counsel for Immigration-Related Unfair Employment Practices enforces the anti-discrimination provision of the Immigration and Nationality Act on behalf of all U.S. legal workers, including U.S. citizens, lawful permanent residents, asylees and refugees. These cases focus upon employment discrimination cases based upon citizenship or immigration status, and national origin, and include both individual and pattern or practice litigation that seeks to ensure that all legal workers, whether U.S. citizens or legal immigrants, are treated fairly during the hiring and employment verification process. The OSC obtains cease and desist orders, relief for victims, including back pay and jobs, and civil penalties.

Performance:

Performance Measure: % of Pattern or Practice Cases Successfully Litigated (Resolved) [CRT]

FY 2002 Target: 95%

FY 2002 Actual: 100%

Discussion: CRT ended the year 5% above target for the percentage of Pattern or Practice Cases Successfully Litigated. The Housing and Civil Enforcement Section resolved 23 pattern or practice complaints with judgments, consent orders or settlement agreements providing significant relief to aggrieved persons. The Special Litigation Section successfully resolved a total of 13 cases. In addition to these 13 resolutions, the Section was able to resolve three investigations through out-of-court settlements with the Cincinnati Police Department, the Buffalo, New York Police Department, and the Bergen Regional Medical

Center in Paramus, New Jersey. OSC successfully resolved 2 pattern or practice cases. The Disability Rights Section successfully resolved 2 pattern or practice cases. Litigation continues against a national theater chain to correct access violations in stadium style movie theaters.

FY 2003 Performance Plan Evaluation:

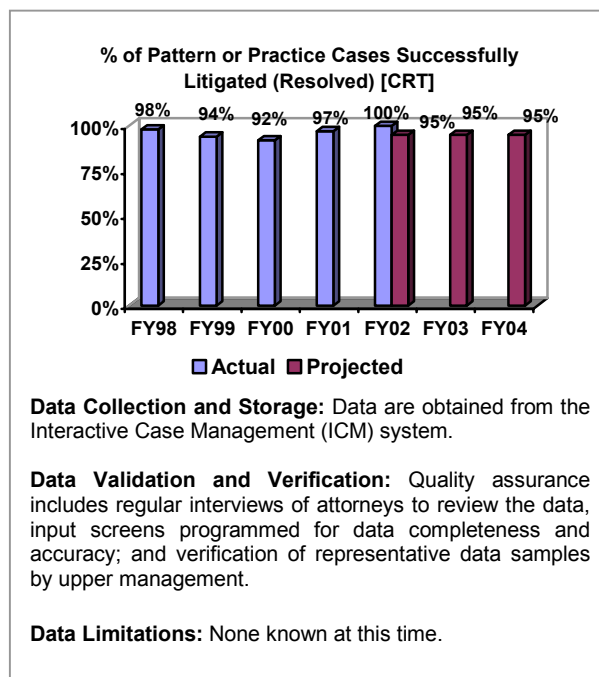
Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 95%.

FY 2004 Performance Target: 95%

Public Benefit: Success in cases involving institutionalized persons resulted in improved medical and mental healthcare, supervision, use of force polices and practices and, where appropriate, discharge planning for community placement of institutionalized persons. The police misconduct cases addressed improvements in law enforcement practices, the investigation of police misconduct complaints, and the training of police personnel. Other cases successfully resolved involved fair housing, fair lending and public accommodations cases, and a wide range of allegations including sexual harassment, race, national origin, familial statutes and disability discrimination. These resolutions provided for the design and construction of accessible housing units, the establishment of fair housing and fair lending policies, training and monitoring, and approximately \$5 million in monetary relief. The pattern or practice cases on behalf of people with disabilities continued to uphold the promise of equal access to life opportunities. The OSC cases ensured that employers fully comply with applicable anti-discrimination requirements, they helped ensure that employees understand their rights to a discrimination free workplace.

Strategies to Achieve the FY2003/FY 2004 Goal:

DOJ will continue to address pattern or practice civil rights cases, including police misconduct, fair housing, fair lending, employment discrimination, and disability discrimination. The discretionary pattern or practice cases in Housing and Civil Enforcement remain the highest priority because of their broader impact. Special Litigation's priority will be given to providing outreach, training, and consultation in the prevention of pattern or practice of law enforcement misconduct. In addition, institutions will be monitored closely to ensure that adequate treatment and living conditions are achieved and maintained, and that appropriate placements of persons with disabilities are made in



the most integrated setting. Employment Litigation will continue its present litigation and will emphasize identifying and instituting litigation to eliminate policies or practices of discrimination including, hiring, promotion, testing or assignment practices that discriminate on the basis of race, sex, religion, or national origin. Disability Rights will continue to focus on pattern and practice cases including participation in civic life (such as town halls, municipal buildings, and courts), access to employment, new construction, transportation, higher education, healthcare, and access to other public accommodations. The Office of Special Counsel will continue to focus on educational outreach for workers, employers, and non-governmental organizations to minimize the incidences of pattern and practice.

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, USAs, 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.

STRATEGIC OBJECTIVE & ANNUAL GOAL 4.2: ENVIRONMENT

Promote the stewardship of America’s environment and natural resources through the enforcement and defense of environmental laws and programs.

4.2A Enforce and Defend 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, defends environmental challenges to government programs and activities, and represents 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.

Performance:

Performance Measure: % of Civil Environmental Cases Successfully Resolved [ENRD, EOUSA]

FY 2002 Target:

80% Affirmative; 70% Defensive

FY 2002 Actual:

88% Affirmative; 87% Defensive

Discussion: The Department

experienced numerous successes in affirmative and defensive cases during FY 2002. Included in those successes is the defense of federal regulatory programs and initiatives and federal agencies against claims alleging noncompliance with federal, state and local pollution control statutes. The Department defended federal programs such as military preparedness regarding sonar technology testing, and training exercises on the Island of Vieques. Our enforcement efforts resulted in cleanup of toxic waste sites, installation of new pollution control equipment at power companies and oil refineries, and restructured and updated municipal sewage treatment systems.

FY 2003 Performance Plan Evaluation:

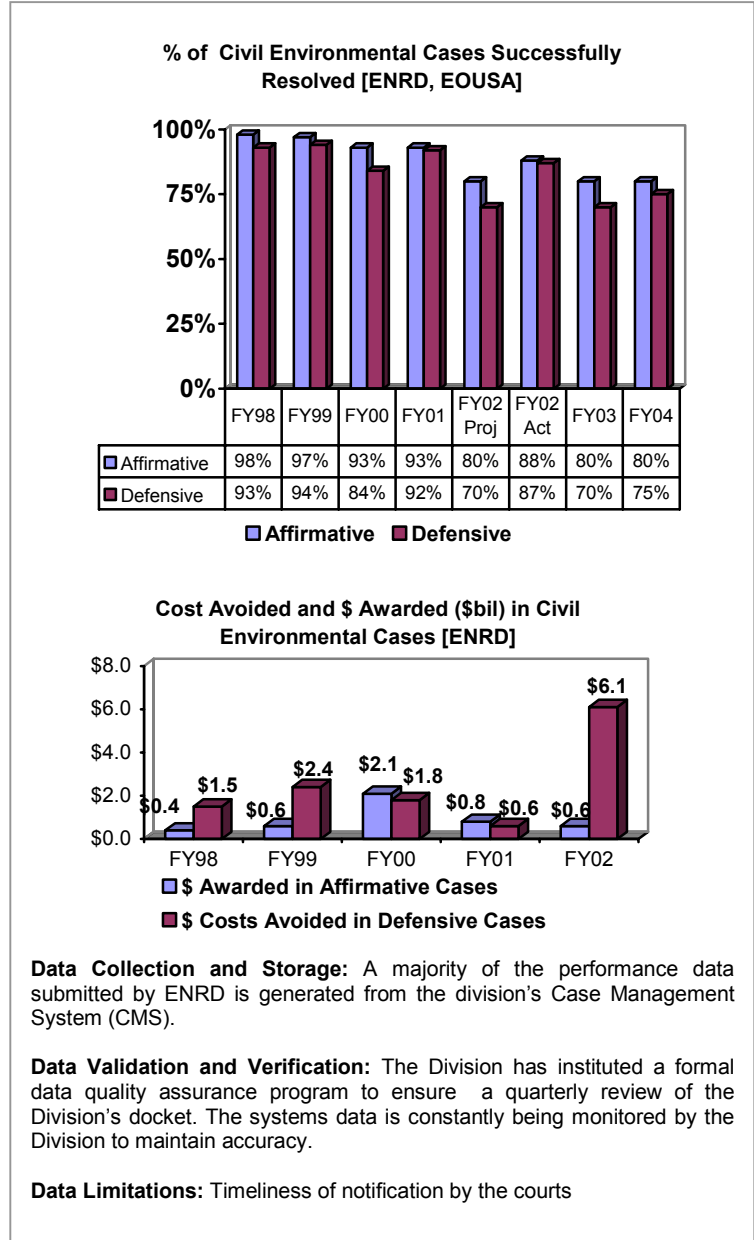
Based on FY 2002 performance, we plan to meet our original FY 2003 goals of 80% Affirmative; 70% Defensive.

FY 2004 Performance Target: 80%

Affirmative; 75% Defensive

Public Benefit: The successes of the

Department ensures the correction of pollution



control deficiencies, reduction of harmful discharges into the air, water, and land, clean up of leaks and abandoned waste, and proper disposal of solid and hazardous waste. In addition, the Department’s enforcement efforts help ensure

military preparedness, safeguard the quality of the environment of the United States, and to protect the health and safety of its citizens.

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

FY 2002 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

FY 2002 Actual: \$6.1 billion Avoided; \$0.6 billion Awarded

Discussion: The Department successfully represented a wide range of government agencies in suits that challenged environmental and public land policies and environmental programs and in cases seeking money from the government. We were also successful in defending the United States in the Court of Federal Claims saving the government civil monetary liability in the hundreds of millions of dollars. The Department aggressively enforced the environmental statutes of the United States. One case included a cost avoidance victory of \$4.7 billion where the plaintiff was seeking damages claiming that the federal government was unlawfully preventing mining in the Chugach National Forest resulting from the National Forest Service's requirement to file and gain subsequent approval of a plan of operation. In another case, the second highest Clean Water Act judgment of \$8.2 million was awarded after trial against a steel company for its unlawful discharges of oil and pollutants from five steel mills it operates in Pennsylvania. In addition, a case addressing the cleanup of sites contaminated with hazardous substances resulted in a cost recovery of \$115.5 million from a petroleum manufacturer for the clean up of a site in Texas. The Department also defended Indian Tribes securing an award of \$248 million in damages from a state where a Tribe's land was acquired illegally.

FY 2003 Performance Target: N/A

FY 2004 Performance Target: N/A

Public Benefit: The Department's efforts to defend federal programs, ensure compliance with environmental and natural resource statutes, win civil penalties, recoup federal funds spent to abate environmental contamination, ensure military preparedness, and ensure the safety and security of our water supply, demonstrated that the United States' environmental laws and regulations are being vigorously enforced. Polluters who violate these laws are not being allowed to gain an unfair

economic advantage over law-abiding companies. The deterrent effect of the Department's work encourages voluntary compliance with the environmental and natural resource laws, thereby improving the environment, the quality of our natural resources, and the safety and health of United States' citizens.

Strategies to Achieve the FY2003/FY 2004 Goal:

DOJ will work closely with client agencies to develop enforcement strategies specifically targeted to achieve widespread deterrence and encourage effective compliance across whole industry sectors that are major sources of pollution, including actions to enforce corporate responsibility by companies with environmental obligations. We also will defend the operating programs, permitting decisions and regulations of the federal agencies with a specific focus on defending a wide range of cases including: the largest and most complex Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) 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 energy, transportation and environmental programs. Efforts will continue to enforce the Clean Water Act, Clean Air Act, Resource Conservation Recovery Act (RCRA) and the Safe Drinking Water Act, and to bring actions under CERCLA to replenish the Superfund. We expect increased litigation to substantially reduce, if not eliminate, gained economic advantages of non-compliance. Additionally, we expect increased litigation to protect the nation's infrastructure, particularly focused on the safety of pipelines and major industrial and chemical manufacturing plants where enforcement actions can reduce the risk of catastrophic accidents. The Department will also continue to vigorously litigate its enforcement actions against coal fired power plants, oil refineries, and other major industries seeking to reduce unlawful emissions of sulfur dioxide, nitrogen oxides and particulate matter that have been shown to cause adverse respiratory health effects in millions of Americans. The Department will continue to focus on tribal land and water claims, as well as issues pertaining to jurisdiction

on Indian trust lands. Included in these cases are those that establish jurisdiction for law enforcement authorities over member and nonmember Indians, as well as non-Indians inside reservation boundaries, which is essential for effective law enforcement. In addition, the Department will litigate to address other issues regarding jurisdiction; to establish and protect treaty-based hunting and fishing rights; and to deter and remediate pollution problems on Indian lands. The demands of thousands of condemnations in the Everglades will continue in FY 2003.

Crosscutting Activities:

The Environment Division, FBI and USAs 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 & ANNUAL GOAL 4.3: ANTITRUST

Promote economic competition through enforcement of and guidance on antitrust laws and principles.

4.3A Maintain and Promote Competition

Background/Program Objectives:

The Antitrust Division (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 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.

Performance:

Performance Measure: Success Rates for Civil Antitrust Cases [ATR]

FY 2002 Target:

Civil Non-Merger Matters Challenged: 90%

Merger Transactions Challenged: 90%

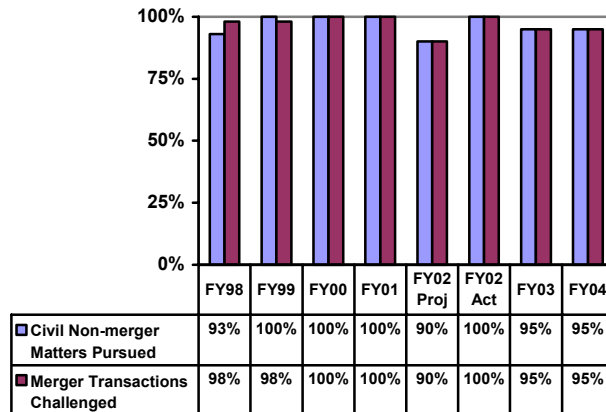
FY 2002 Actual:

Civil Non-Merger Matters Challenged: 100%

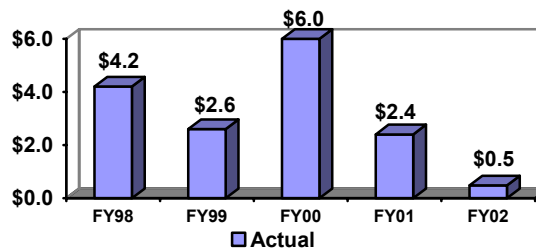
Merger Transactions Challenged: 100%

Discussion: The success rate for civil non-merger matters includes investigations in which business practices were changed after the investigation was initiated, a case was filed with consent decree, or a case was filed and litigated successfully. ATR's success in preventing anticompetitive behavior in the civil non-merger arena has been notable. ATR won every case it challenged in FY 2001 and FY 2002 and has exceeded the FY 2002 target of 90%.

Success Rates for Civil Antitrust Cases [ATR]



Savings to U.S. Consumers (\$Bil) [ATR]



Data Collection and Storage: Data are collected and stored in ATR management information systems, 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 savings across our enforcement areas, key input measures, if not actually estimated in the investigation or case, were estimated based on anecdotal information and observations. These values are both conservative and consistently estimated over time.

The success rate for merger transactions challenged includes mergers that are abandoned, fixed before a complaint is filed, filed as cases with consent decrees, filed as cases but settled prior to litigation, or filed and litigated successfully. Although the merger workload has declined, many of the matters involve complex anticompetitive behavior and large, multinational corporations and require significant resources to review. ATR achieved considerable success in preventing anticompetitive mergers, and exceeded the FY 2002 target success rate for merger transactions challenged.

FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goals of 95% success rate for Civil Non-Merger Matters Challenged and Merger Transactions Challenged.

FY 2004 Performance Target: 95% success rate for Civil Non-Merger Matters Challenged and Merger Transactions Challenged

Public Benefit: ATR's enforcement efforts in its civil program are essential to the overall health of the U.S. economy. By blocking potentially anticompetitive mergers and pursuing other potentially illegal behavior such as group boycotts or exclusive dealing arrangements, ATR safeguards competition and promotes innovation. The ultimate beneficiary of our work is the consumer who is afforded a greater choice of quality products at lower prices.

Performance Measure: Savings to U.S. Consumers (as the result of ATR's Civil enforcement efforts) [ATR]

FY 2002 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

FY 2002 Actual: \$.5 billion (\$481 million)

Discussion: The estimated value of consumer savings generated by ATR's civil enforcement efforts in any given year depends upon the size and scope of the matters encountered and thus, varies considerably.

FY 2003 Performance Target: N/A

FY 2004 Performance Target: N/A

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.

Strategies to Achieve the FY2003/FY 2004 Goal:

ATR employs two 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, our civil non-merger enforcement strategy supports the investigation and prosecution of civil non-merger matters to suspend or deter anticompetitive behavior. Other behavior, such as group boycotts or exclusive dealing arrangements, that inappropriately restrain free and open trade or commerce is illegal under Section 1 of the Sherman Act.

Crosscutting Activities:

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

STRATEGIC OBJECTIVE & ANNUAL GOAL 4.4: 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

4.4A Enforce Tax Laws Fairly and Uniformly

Background/Program Objectives:

TAX plays an important role in maintaining the largest source of funding for federal government activities, the federal tax system. TAX promotes tax compliance and protects the public fisc by enforcing the tax laws in the federal appellate courts, the federal district and bankruptcy courts, the Court of Federal Claims, and the state courts. Vigorous, efficient, and fair enforcement promotes voluntary compliance with the tax laws and ensures a continued flow of revenue to the Government to fund its operations. TAX defends the interests of the United States in tax litigation brought against the government and also initiates meritorious litigation referred to it by the IRS and other federal agencies. It provides expert litigation and substantive tax advice to USAs and advises the Department of Treasury and Congress on tax-related legislative matters.

Performance:

Performance Measure: DISCONTINUED MEASURE: Civil Settlements and Concessions (all Courts) [TAX] (NOTE: This measure has been discontinued as it is not outcome oriented.)

FY 2002 Target:

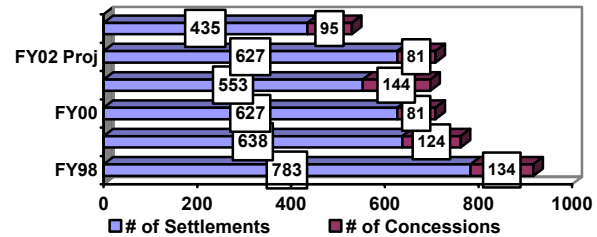
Civil Settlements: 627; Concessions: 81

FY 2002 Actual:

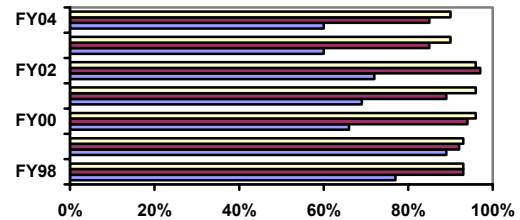
Civil Settlements: 435; Concessions: 95;
(and Agreed Dispositions: 766)

Discussion: To ensure that the tax laws are equitably and consistently enforced throughout the nation, TAX determines that some cases should not go to trial and should instead be resolved through settlement, concession, or other agreed disposition. The number of cases so resolved in any fiscal year depends on a number of variables, including the actual number of cases susceptible to settlement, their complexity, the number of tax years involved, and the dollar amounts at issue. Because these variables change greatly from year to year, it is often difficult to generate accurate estimates. As a result, there are frequently significant differences between the projected and actual numbers of civil settlements

DISCONTINUED MEASURE: Civil Settlements and Concessions (all Courts) [TAX]

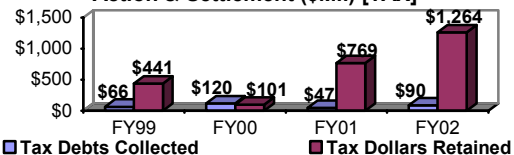


NEW MEASURE: % of Civil Cases Successfully Litigated in Court [TAX]



	FY98	FY99	FY00	FY01	FY02	FY03	FY04
Trial Courts	93%	93%	96%	96%	96%	90%	90%
Appellate Courts - Taxpayer Appeals	93%	92%	94%	89%	97%	85%	85%
Appellate Courts - Gov't & Cross Appeals	77%	89%	66%	69%	72%	60%	60%

Tax Dollars Collected & Retained by Court Action & Settlement (\$Mil) [TAX]



Data Definition: A settlement is an agreed disposition of a case that the client agency has asked us to defend or prosecute and which is based on both parties taking less than they could ultimately obtain if they were completely successful in the litigation and in collecting any judgment. A concession is a voluntary disposition, without a quid pro quo, of a case or an issue that the client agency did not agree to at the administrative level or initially asked us to defend, or of a case in which suit has been authorized on behalf of the Attorney General, on the basis that the case should not be defended or prosecuted. An other agreed disposition is any other agreed disposition that does not require a determination on the merits by the court and results in some litigation benefit to the non-government party. Other dispositions usually occur where the matter reaches litigation without prior administrative consideration so that the client agency does not have an opportunity to take a per-litigation position and does not take a position in the litigation.

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. Section Chiefs make projections and set goals. 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.

and concessions. There were fewer civil cases ready for trial or other disposition during FY 2002, which meant that there were fewer settlements, concessions, and other dispositions than projected. The primary reason for this change is the shift in the composition of referred cases toward sophisticated, resource-intensive cases involving enormous dollar amounts (as confirmed by the increased collections and retentions reflected below). Also, an unexpectedly large percentage of TAX's cases arose from enforcement initiatives generating cases not susceptible to settlement (i.e. tax promoters or tax protesters).

Public Benefit Ensuring that tax laws are enforced uniformly, vigorously, efficiently, and fairly promotes voluntary tax compliance. Honest taxpayers see that violators are held accountable and that non-compliance with the tax laws carries serious adverse consequences. In turn, voluntary tax compliance ensures that the federal fisc is protected and the Government is properly funded.

Performance Measure: NEW MEASURE: Civil Cases Successfully Litigated in Court [TAX]

FY 2002 Actual:

Trial Courts (complete and partial successes): 96%
Appellate Courts – Taxpayer Appeals: 97%
Appellate Courts – Gov't & Cross Appeals: 72%

Discussion: These successes resulted in legal precedent that provided taxpayers, including individuals, businesses and industries, with guidance regarding their tax obligations, as well as the collection of significant tax revenues and the protection of the fisc against unfounded taxpayer claims. TAX targeted the promoters of abusive tax schemes and scams sold on the internet and obtained injunctions halting the promotions. TAX also prevailed in litigation that identified for the IRS many thousands of taxpayers likely to have evaded taxes.

FY 2003/2004 Performance Targets:

Trial Courts (complete and partial successes): 90%
Appellate Courts – Taxpayer Appeals: 85%
Appellate Courts – Gov't & Cross Appeals: 60%

Performance Measure: Tax Dollars Collected and Retained by Court Action and Settlements [TAX]

FY 2002 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

FY 2002 Actual:

\$90 million collected
\$1.246 billion retained

Discussion: TAX collected substantial amounts for the federal fisc in affirmative litigation and retained even more substantial amounts in defensive tax refund and other litigation. In addition, its litigation affected the revenue involved in many cases being handled administratively by the IRS. The Department does not measure the revenue effect of its litigation on IRS cases. This indicator fluctuates in response to the type and stage of litigation resolved during the year. Five exceedingly complex, resource-intensive cases generated approximately 77% of the \$1.246 billion retained by the Tax Division in FY 2002. Of the \$90 million collected in FY 2002, \$34 million resulted from three similarly complex, resource-intensive cases involving issues ranging from personal income taxes to corporate fraud.

FY 2003 Performance Target: N/A

FY 2004 Performance Target: N/A

Public Benefit: See above.

Strategies to Achieve the FY2003/FY 2004 Goal:

TAX will continue its efforts to clarify the law, defend against unmerited claims, fairly pursue civil violations of our tax laws, collect taxes owed, and defend against those who seek to undermine compliance with the Internal Revenue Code and evade or avoid federal taxes. As part of this effort, TAX will concentrate on: the shut down of widely-promoted abusive tax schemes and scams; the elimination of abusive corporate tax shelters; and the identification, investigation, and targeting of taxpayers using offshore bank accounts to evade taxes. TAX will: 1) litigate complex corporate tax shelter cases affecting billions of dollars in revenue, coordinating within TAX and with IRS so that similar shelters are tracked and handled effectively and consistently; 2) use civil injunctive and penalty litigation to combat the promotion of abusive tax schemes on the internet; and 3) develop a common strategy to detect, fight, and punish the use of offshore bank accounts to evade or avoid taxes. TAX will continue to maintain a special counsel for tax protest matters to respond to new issues arising in the illegal tax protest movement.

Crosscutting Activities:

In addition to its work providing tax advice to other Divisions and agencies, TAX and IRS frequently consult on new and sensitive tax issues and litigation.

STRATEGIC OBJECTIVE & ANNUAL GOAL 4.5: CIVIL LAWS

Effectively represent the interests of the United States in all civil matters for which the Department of Justice has jurisdiction

4.5A 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 a strong defense against unwarranted and exaggerated claims to ensure that only those claims with merit under the law are paid.

Performance:

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

FY 2002 Target: 80%

FY 2002 Actual: 86%

Discussion: For the third straight year, the Civil Division exceeded its 80% goal. This accomplishment understates CIV's success because, by definition, the measure excludes cases that do not specify monetary amounts, such as challenges to provisions in entitlement programs, including Medicare. CIV's effective defense of these provisions that limit federal expenditures affect billions of dollars of public funds annually.

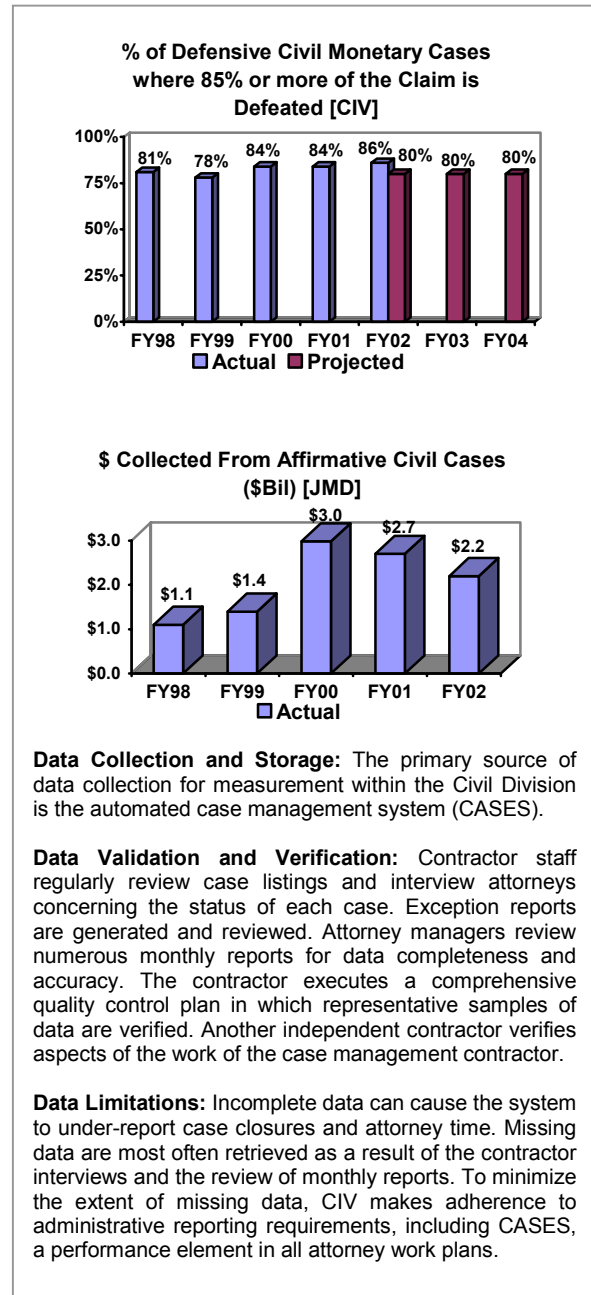
FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 80%.

FY 2004 Performance Target: 80%

Public Benefit: Favorable resolutions in defensive cases prevent the Treasury from incurring massive losses and preserve funds to support the counterterrorism fight, military objectives, economic stimulus efforts, or other key initiatives.

The following cases are examples of CIV's efforts on behalf of taxpayers. Thousands of plaintiffs, who asserted losses exceeding \$1 billion, brought third-party claims against the government in *Valenzuela v. Hughes*. CIV's negotiation of a voluntary dismissal ended the government's role in this 15-year-old suit. In a patent case, Exxon



agreed to accept \$2,583 to settle a claim that the company valued at more than \$100 million.

Performance Measure: \$ Collected From Affirmative Civil Cases [JMD]

FY 2002 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

FY 2002 Actual: \$2.2 billion

Discussion: See above.

FY 2003 Performance Target: N/A

FY 2004 Performance Target: N/A

Public Benefit: See above.

Strategies to Achieve the FY2003/FY 2004 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 taxpayers' 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 enhance 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 Masters at the U.S. Court of Federal Claims to justly resolve vaccine claims and to coordinate policy.

4.5B Continue Vigorous Civil Enforcement

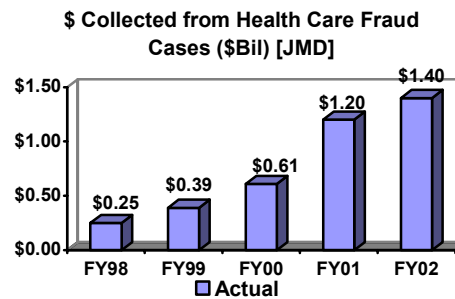
Background/Program Objectives:

The number one priority of the Department of Justice is fighting the war on terrorism. By securing favorable resolutions in civil cases, the Civil Division 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, but are not limited to, litigation concerning the freezing of terrorist financial assets, cases challenging the constitutionality of federal statutes, and tort cases brought against third parties where sensitive security information is sought from the United States.

DOJ attorneys must also respond to a variety of immigration-related suits, including a heightened level of counterterrorism litigation and constitutional challenges to new immigration laws or reformed procedures. Landmark cases concern the detainees at Guantanamo Bay and New York, the media's access to immigration hearings, and constitutional challenges to the USA PATRIOT Act. The majority of immigration cases involves individual or class actions opposing actions by the INS and immigration judges.

Moreover, 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 \$5.2 billion and are expected to increase, since the current docket includes a number of matters with the potential of significant recoveries.

DOJ serves a vital role when the laws, programs and policies of the United States are attacked in court. These actions run the full gamut, such as challenges to Presidential determinations under the War Powers Act, to suits disputing the administration of the Medicare program. Other notable litigation involves the inclusion of the words "under God" in the Pledge of Allegiance, campaign finance reform, airline passenger identification requirements and luggage searches, intercepted cell-phone communications, and the military's press policy.



Data Collection and Storage: The primary source of data collection for measurement within the Justice Management Division is the Financial Management Information System (FMIS).

Data Validation and Verification: The Debt Accounting Operations Group, Finance Staff, JMD executes a comprehensive quality control plan in processing all collections by the DOJ.

Data Limitations: Miscoded information can cause the system to under-report specific recoveries under the heading of *health care*; however, this does not affect the actual monetary recoveries realized.

Performance:

Performance Measure: \$ Collected from Civil Health Care Fraud [JMD]

FY 2002 Target: In accordance with Department guidance, targeted levels of performance are not projected for this indicator.

FY 2002 Actual: \$1.4 billion

Discussion: See Public Benefit below.

FY 2003 Performance Target: N/A

FY 2004 Performance Target: N/A

Public Benefit: Department attorneys reached a \$585 million civil settlement with TAP Pharmaceuticals, the manufacturer of Lupron, a drug used for the treatment of advanced prostate cancer. In addition, TAP agreed to pay a criminal fine of \$290 million, the largest fine ever in a health care fraud prosecution, bringing the total recovery to \$875 million. For more additional information on this case see the Public Benefits section under 2.4A.

Schering-Plough Corporation agreed to pay \$500 million to resolve allegations that the company did not manufacture drugs in compliance with Food and Drug Administration (FDA) regulations. For example, it was found that the company manufactured asthma inhalers without the correct amount of medicine inside.

Performance Measure: % of Favorable Resolutions in Civil Cases [CIV, EOUSA] (NOTE: Prior year actuals have been updated to reflect the most current and accurate data available.)

FY 2002 Target: 80%

FY 2002 Actual: 85%

Discussion: As in prior years, the performance target was surpassed, protecting the interests of the American people by effective legal representation in more than 51,000 cases.

FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 80%.

FY 2004 Performance Target: 80%

Public Benefit: The Department's success in civil litigation preserves taxpayers' dollars through affirmative and defensive litigation and ensures the intent of laws and of government programs and policies.

Approximately \$440 million was recovered for the government and Indian tribes from 1998 through 2002 from sixteen oil companies that knowingly undervalued the oil produced from federal and Indian lands to reduce the amount of royalties owed to the United States and Indian tribes. Additionally, the constitutionality of the Oil Pollution Act of 1990 was upheld, and the owners and operators of EXXON VALDEZ were denied access to Prince William Sound.

Performance Measure: % of Favorable Resolutions in Civil Immigration Cases [CIV, EOUSA]

FY 2002 Target: 85%

FY 2002 Actual: 88%

Discussion: As in prior years, the performance target was surpassed, ensuring that immigration enforcement actions are upheld in federal trial and appellate courts.

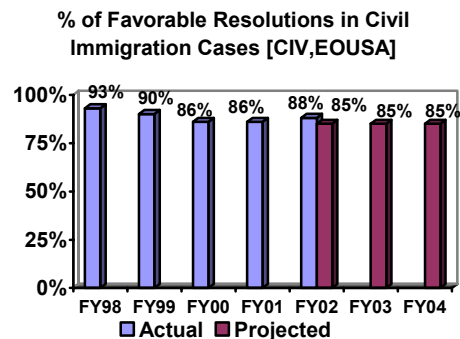
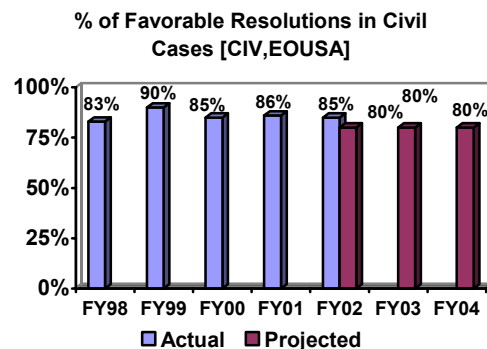
The Department received a record 7,500 new immigration cases in 2002, a 40 % increase over 2001. This growth resulted from intensified INS enforcement and from the Attorney General's mandate to reduce the backlog of cases pending before immigration judges.

FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 85%.

FY 2004 Performance Target: 85%

Public Benefit: Effective defense of counterterrorism laws, such as the USA PATRIOT Act and related antiterrorism legislation, and of



Data Collection and Storage: The primary source of data collection for measurement within the Civil Division is the automated case management system (CASES). Data for EOUSA are derived from USAs central case management system, which contains district information including criminal matters, cases, and appeals.

Data Validation and Verification: Within Civil Division: 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. EOUSA: The USAs offices are required to submit bi-yearly case data certifications to EOUSA. The data are reviewed by knowledgeable personnel (such as supervisory attorneys and legal clerks) in each district.

Data Limitations: Civil Division: Incomplete data can cause the system to under-report case closures and attorney time. Missing data are 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. EOUSA: Data are reviewed by knowledgeable personnel (such as supervisory attorneys and legal clerks) in each district.

counterterrorism activities, upholds the government's response to the ongoing threat from terrorists. The formal designation of terrorist organizations and the related freezing of their

financial assets constrain the proliferation and actions of terrorist groups.

Strategies to Achieve the FY2003/FY 2004 Goal:

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

Crosscutting Activities:

The Civil Division collaborates with the State and Treasury Departments, among others, in the designation of foreign terrorist organizations. The Civil Division and the Executive Office for U.S. Attorneys 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.

4.5C Increase the Number of Cases Using Alternative Dispute Resolution (ADR)

Background/Program Objectives:

Executive Order Executive Order 12988 directs:

[L]itigation counsel shall make reasonable attempts to resolve a dispute expeditiously and properly before proceeding to trial. . . Where the benefits of Alternative Dispute Resolution (“ADR”) 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 parties. . . . To facilitate broader and effective use of informal and formal ADR methods, litigation counsel should be trained in ADR techniques.

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 2003, DOJ attorneys will increase efforts to employ ADR including mediation, negotiation, and other litigation streamlining techniques in appropriate civil cases.

Performance:

Performance Measure: Percentage of Cases Resolved using ADR [CIV, CRT, ENRD, TAX, EOUSA]

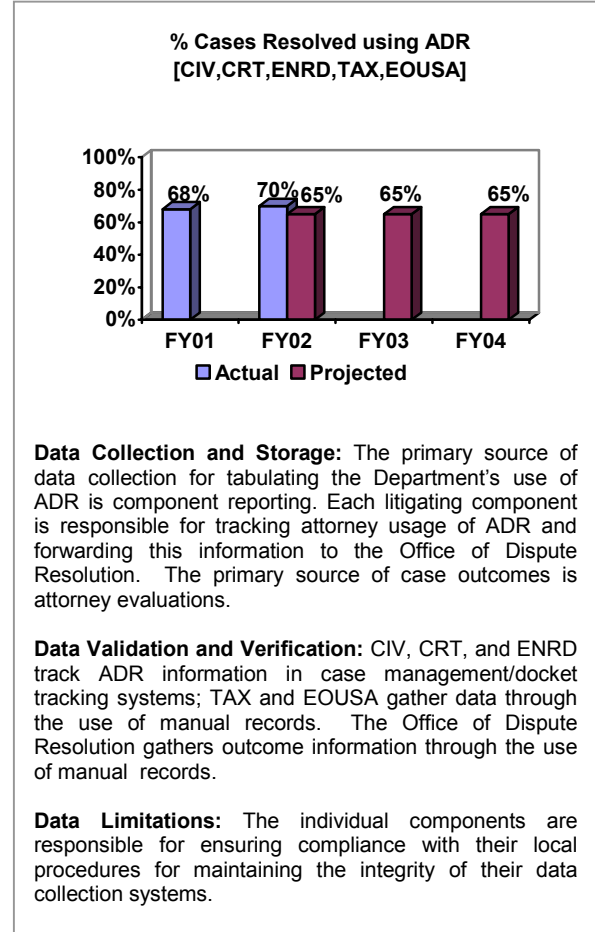
FY 2002 Target: 65%

FY 2002 Actual: 70%

Discussion: We exceeded our target, with 70% of dispute resolution proceedings producing favorable resolutions.

ADR saved the Department attorneys’ time in resolving litigation. For example, attorneys estimated that early resolution of one case through mediation saved an estimated 250 hours of depositions, another avoided 60 hours of discovery as well as trial, another avoided at least 30 depositions, and another saved the time and expense of full briefing of an issue.

Even where the case did not settle, ADR was still valuable in narrowing the issues for trial or improving the relations between the parties. Attorneys reported that ADR allowed the parties to negotiate a disposition that best served their interests, and which may have been beyond the jurisdiction of a court to order. For example, in



several workplace cases, the parties agreed upon the voluntary separation of a government employee, a result that could not have been accomplished through trial.

FY 2003 Performance Plan Evaluation:

Based on FY 2002 performance, we plan to meet our original FY 2003 goal of 65%.

FY 2004 Performance Target: 65%

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 a court would not have the power to 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.

Strategies to Achieve the FY2003/FY 2004 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 would not have been identified without the assistance of a mediator. Our experience with the Department's dispute resolution program continues to show that mediation permits more efficient negotiation. We remain committed to promoting the use of dispute resolution in the Department's civil litigation.

Crosscutting Activities:

Pursuant to the Administrative Dispute Resolution Act, the President appointed the Attorney General to coordinate ADR for the entire executive branch of the federal government, and the Office of Dispute Resolution manages these activities on a day-to-day basis. In this role, the office works with the federal Interagency ADR Working Group to draft national ADR policies, issue guidance on best practices, and promote the use of ADR government-wide. Recent projects have included materials covering confidentiality, evaluation, and arbitration. The office manages the federal government's ADR website, www.adr.gov, and is in the process of publishing a resource book for users of ADR both inside and outside the government. The office conducts ADR training for other agencies and assists them in locating appropriate neutrals throughout the country.