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GOAL FOUR

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

IV

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 chief litigator. Its attorneys represent the United States Government in court, enforcing federal civil and criminal statutes, including those protecting civil rights, safeguarding the environment, preserving a competitive market structure, and defending the public fisc against unwarranted claims. Carrying out these responsibilities is the primary task of the U.S. Attorneys (USAs), the Department's litigating divisions, and the Office of the Solicitor General. The USAs serve as the Attorney General's chief law enforcement officers in each of the 94 federal judicial districts, representing the United States in both civil and criminal matters. The litigating divisions are centralized staffs with specialized expertise in particular areas of federal law, including civil rights, environmental law, antitrust, tax, civil justice, and criminal law. 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. Together, these Justice components ensure that the Federal Government speaks with one voice with respect to the law.

STRATEGIC OBJECTIVE 4.1

CIVIL RIGHTS

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

The Department of Justice promotes compliance with basic federal civil rights protections through a multifaceted program of criminal enforcement, civil enforcement, public education, and outreach. The Nation's civil rights laws influence a broad spectrum of conduct by individuals as well as public and private institutions. They prohibit discriminatory conduct in such areas as the administration of justice, housing, employment, education, voting, lending, public accommodations, access to services and facilities, activities that receive federal financial assistance, and the treatment of juvenile and adult detainees and residents of public institutions. They also provide safeguards against criminal actions such as official misconduct and hate crimes. In the wake of the terrorist attacks, the Department will pay particular attention to violence and threats of violence against law-abiding Arab-Americans and other Americans of Middle Eastern and South Asian descent.

During the past five years, more than 800 individuals have been charged with federal criminal civil rights crimes, including official misconduct, incidents of racial and religious violence, violations of the Freedom of Access to Clinic Entrances

Act, and trafficking and involuntary servitude violations. While some violations may most appropriately be pursued by the Federal Government, others can be addressed by either the Federal Government or by state or local prosecutors. The ultimate goal is to ensure that acts constituting federal criminal civil rights violations are sufficiently remedied, whether prosecuted federally or by local authorities.

Departmental attorneys litigate cases stemming from myriad statutes. For example, the Department enforces the Voting Rights Act of 1965 and other statutes that safeguard the right to vote of all individuals who are eligible, and that prohibit voting practices and procedures that discriminate on the basis of race, color, or membership in a language minority group.

The Department enforces Title VII of the Civil Rights Act of 1964 with respect to state and local government employers. Title VII prohibits discrimination in employment because of race, color, religion, sex, or national origin or retaliation against individuals who exercise their rights under the law, such as their right to file a charge of discrimination or to protest a practice that they reasonably believe is unlawful under the statute.

Department attorneys also enforce Title IV of the Civil Rights Act of 1964, which provides for the orderly desegregation of public elementary and secondary schools, and public colleges and universities. The Department's jurisdiction to act is triggered by the receipt of a written complaint from a parent or a student alleging that the student has been denied equal protection of the laws, or in the cases of public colleges, that the student has been denied admission or not permitted to continue to attend the college on the basis of race, color, national origin, sex, or religion.

In addition, the Department enforces the Equal Educational Opportunities Act of 1974, which prohibits discrimination in student and faculty assignment, and faculty and staff employment, and requires that states and school districts take appropriate action to overcome students' language barriers that impede equal participation in the instructional program. Furthermore, the Department has enforcement responsibility, upon receiving a referral from a government agency, to enforce several statutes that prohibit recipients of federal financial assistance from discriminating on the basis of race and national origin, sex, and disability.

The Department enforces federal statutes prohibiting discrimination in housing, consumer credit, and public accommodations. The Fair Housing Amendments Act of 1988 substantially expanded the Department's enforcement authority to combat housing discrimination by enabling it for the first time: (1) to initiate cases referred by the Department of Housing and Urban Development (HUD), on behalf of individuals who have been discriminated against; and (2) to seek actual and punitive damages for aggrieved individuals in both the HUD-referred cases and the pattern or practice cases the Department has had authority to bring since 1968. The Equal Credit Opportunity Act prohibits discrimination in credit transactions on the basis of race, color, religion, national origin, sex, marital status, age, or on the basis that an applicant's income is from public assistance. Title II of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color, religion, or national origin in certain public accommodations, such as restaurants, hotels and motels, and places of entertainment.

Finally, the Department enforces the Americans with Disabilities Act (ADA) on behalf of people with disabilities to make the promise of equal access to everyday

life a reality. 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 elimination of discriminatory policies.

Strategies to Achieve the Objective

Target specific actions as part of a comprehensive strategy to safeguard the civil rights of all persons residing in the United States.

The Civil Rights Division intends to achieve its objective by, among other things, (1) developing constructive measures to promote law enforcement integrity and combat official misconduct or other criminal conduct; (2) protecting new immigrants to America by vigorously prosecuting those who exploit their vulnerability through the trafficking in persons; (3) prosecuting vigorously allegations that any American has been excluded unlawfully from polling places or that individuals or organizations have diluted lawful votes by virtue of vote fraud; (4) emphasizing the enforcement of our fair housing laws; (5) implementing the New Freedom Initiative, a comprehensive set of proposals designed to help increase access for Americans with disabilities to innovative new technologies that will facilitate their more full and active participation in our society, as well as expand their educational opportunities, better integrate them into the workforce, and promote full access to -- and involvement in -- community life.

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

Non-adversarial interaction to achieve voluntary change through education, outreach, and mediation has been an important strategy toward reducing and deterring civil rights violations. For example, the Civil Rights Division's Technical Assistance Program, mandated under Section 506 of the ADA, provides answers to questions and free publications to businesses, state and local governments, people with disabilities, and the general public.

Key Crosscutting Programs

Generally, the Department's civil rights enforcement and outreach are coordinated with all federal agencies that provide financial assistance to state, local, and nonprofit agencies, and with the other federal agencies with civil rights enforcement responsibilities (e.g., the Departments of HUD, Education, Labor, Health and Human Services, and Transportation). Coordination includes long-standing working relationships, such as jointly developing policy guidelines and handling enforcement cases, and more short-term task forces to address specific problems. Current task forces and agreements include:

Interagency Fair Lending Task Force. The bank regulatory agencies (Federal Reserve Board, Office of Thrift Supervision, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation), HUD, and the Department are members of an interagency fair lending task force that meets regularly to consult on fair lending policy and periodically issues joint policy statements.

National Task Force on Violence Against Health Care Providers. The National Task Force on Violence Against Health Care Providers coordinates the investigation and prosecution of violations of the Freedom of Clinic Entrances Act. The

Treasury Department's Bureau of Alcohol, Tobacco and Firearms and the FBI provide investigators, and the Treasury Department helps to oversee this prosecutorial effort, staffed primarily by prosecutors from DOJ's Civil Rights Division.

Trafficking in Persons and Worker Exploitation Task Force. In 1998, the Attorney General created the interagency Worker Exploitation Task Force, which is now known as the Trafficking in Persons and Worker Exploitation Task Force, to coordinate the investigation, prosecution, and protection of victims of trafficking and other exploitive work practices. The task force is co-chaired by the Assistant Attorney General for the Civil Rights Division and the Solicitor of Labor. Other federal partners include the Departments of State, Agriculture, and Health and Human Services; the Equal Employment Opportunity Commission; and the National Labor Relations Board.

Memorandum of Understanding on Housing Rights. The Department's Civil Rights Division and HUD have a Memorandum of Understanding (MOU) to ensure that criminal interference with housing rights is addressed through the most effective means. HUD refers all forcible interference reports to the Civil Rights Division, which reviews and either pursues or defers back to HUD for further action. This allows instances of provable criminal violations to be addressed through prosecution and then processed for civil remedies through HUD.

Memorandum of Understanding on Low-Income Housing Tax Credit Program. The Departments of Justice, Treasury, and HUD have a Memorandum of Understanding to promote enhanced compliance with the Fair Housing Act in the Low-Income Housing Tax Credit (LIHTC) Program administered by the Internal Revenue Service. Violations of the Fair Housing Act could result in a property owner's loss of low-income housing tax credits. The MOU establishes (1) a monitoring and notification process among the three agencies; (2) a commitment to interagency training and technical assistance; (3) a commitment to training for state housing finance agencies and architects; and (4) an agreement for interagency cooperation for research, identification, and removal of unlawful barriers to LIHTC housing.

STRATEGIC OBJECTIVE 4.2

ENVIRONMENT

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

As the Nation's chief environmental litigator, the Department enforces federal pollution abatement laws and programs to protect the health and environment of the United States and its citizens. DOJ attorneys also defend suits challenging environmental and conservation laws, programs, and activities; represent the United States in all matters concerning the protection, use and development of the Nation's natural resources and public lands; and litigate on behalf of Indian tribes and individual Indians.

In performing these functions, the Department seeks to obtain redress of past violations that harm the environment, establish credible deterrents against future violations of these laws, 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. We also take action to ensure that the Federal Government receives appropriate royalties and income from activities on public lands and waters.

In addition, the Department defends challenges to federal environmental and conservation programs and activities by representing the United States in all matters concerning the protection, use, and development of the Nation's public lands and natural resources. Representing virtually every federal agency, the DOJ faces a growing workload in a wide variety of natural resource areas, including litigation over water quality and watersheds, the management of public lands and natural resources, endangered species and sensitive habitats, and land acquisition and exchanges.

A related concern is the trust relationships the United States has with Indians and Indian tribes through numerous treaties, statutes, and Executive Orders. Under these authorities, the Federal Government performs a number of functions on behalf of these tribes, including litigating to establish or defend their rights. These suits include establishing water rights, establishing and protecting hunting and fishing rights, collecting damages for trespass on Indian lands, and establishing reservation boundaries and land rights.

Strategies to Achieve the Objective

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

The Department will represent client agencies in litigation and assist in the development of enforcement strategies that seek effective compliance with, and deter violation of, the Nation's environmental and conservation laws. The Department will strive for the fair and consistent application of these laws across the country.

For example, the Department will pursue affirmative enforcement of statutes designed to address the cleanup of hazardous waste sites; the management of hazardous wastes and used oil; the pollution of surface waters and the integrity of drinking water; the quality of air and the regulation of chemical substances and mixtures which present a risk to human health and the environment; the regulation of pesticides; and the regulation of ocean and coastal water. In these cases, the Department will work to attain economic parity for U.S. industry by assuring that illegal operators do not achieve an economic advantage through noncompliance with the Nation's laws. That this approach has been effective is evidenced by the Department's landmark settlements with more than a dozen refineries throughout the country that have agreed to reduce air emissions significantly.

The Department will work to ensure proper payments to the U.S. from income-generating activities on public lands, including timber, mining, grazing, and oil and gas production. It will take enforcement actions that protect endangered species, sensitive habitats, and natural resources in national parks and marine sanctuaries. DOJ will pursue claims for natural resource damages on behalf of federal agencies that act as trustees of those resources, including the Interior, Agriculture, and Commerce Departments. The Department will seek claims for contribution against private parties for contamination of public lands and recoupment of monies spent by the Coast Guard to clean up oil spills. DOJ also

will pursue claims that wetlands or other U.S. waters have been filled without required Clean Water Act permits.

In carrying out these responsibilities, the Department will continue to emphasize the use of Alternative Dispute Resolution (ADR) and other litigation-streamlining techniques to achieve faster, more comprehensive, and more cost-effective resolution of these complex cases. ADR has proven to be a valuable tool for the Department and client agencies to resolve environmental disputes and achieve compliance.

Defend U.S. interests against suits challenging statutes and agency actions.

The Department will continue to represent client agencies, including the Environmental Protection Agency, the Corps of Engineers, the Department of the Interior, and the U.S. Forest Service, in suits challenging the Government's administration of federal environmental, conservation, and land management laws. The Department will also defend claims that federal agencies have violated pollution laws or allegations that they have taken real property without just compensation, violating the Fifth Amendment.

The Department will defend federal agencies in suits alleging that the Federal Government is not complying with a federal, state, or local pollution-control law. For example, the Department is currently defending multiple challenges to the Navy's training exercises on the island of Vieques, Puerto Rico, as well as challenges to the Army's destruction of its stockpile of chemical weapons. The Department also will defend claims arising under the Comprehensive Environmental Response, Compensation, and Liabilities Act that a federal agency is a liable party at a Superfund site and so must share in the costs of cleanup. Ongoing litigation includes significant cases arising from the Federal Government's regulation of the economy during World War II.

As defense attorney, the Department represents federal land management agencies in challenges to regulatory and permit activities which impact public lands. The Department will defend decisions to allow oil and gas leasing on public lands, including the National Petroleum Reserve in Alaska, along with other actions the land management agencies take in fulfillment of their multiple use mandates. The Department also will defend the management and planning activities of the National Marine Fisheries Service and Fish and Wildlife Service regarding endangered species and habitats.

The Department faces a growing caseload in the natural resource areas. Defensive litigation includes representing U.S. interests in general stream adjudications. This involves thousands of parties and tens of thousands of water claims in western states; lawsuits over the restoration and management of public lands, waters, and natural resources; wildlife protection; and the acquisition of federal property. Other Departmental priorities include litigation arising from the recommendations of the President's National Energy Policy Task Force, forest management, access to public lands, and Administration programmatic goals.

Develop constructive partnerships with other federal agencies, state and local governments, and interested parties to maximize environmental compliance and natural resource management.

The Department emphasizes constructive relationships with all involved federal agencies, state and local governments, tribes, and the public. Working

cooperatively with state attorneys general on joint enforcement actions is a recent successful priority. States are now routinely given the opportunity to join the Department in enforcement cases and, where appropriate, share in any penalties obtained in settlements. Through supplemental environmental projects in civil cases, the public harmed by the illegal activity can be assisted in recovery. For instance, as part of a ground-breaking settlement, a company accused of violating the Clean Air Act agreed not only to replace refrigerant chemicals that destroy the earth's ozone layer with environmentally friendly alternatives, but also to fund an environmental justice project benefiting a low-income community in Louisiana.

From February to August 2001, the Federal Government worked cooperatively with 40 states in joint enforcement actions, joint defense cases, or joint projects. During that period, the Division and 26 state co-plaintiffs have filed settlements in 30 civil environmental enforcement actions. Our goal is to have cooperative working relationships with all 50 states by the end of FY 2001, and to continue thereafter. To facilitate this goal, DOJ's Environment and Natural Resources Division has established the position of Counsel for State and Local Affairs to serve as a liaison with state and local officials. It has also established a policy to notify states in advance of our civil environmental enforcement cases within their borders, and to initiate discussions about joint enforcement in appropriate cases.

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

The United States has established trust relationships with Indians and Indian tribes through numerous treaties, statutes, and Executive Orders. Under these authorities, the Federal Government is obligated to perform a number of functions on behalf of these tribes, including litigating to establish or defend their rights. The Department represents the United States in its trust capacity. This work includes development, investigation, and litigation of environmental issues that arise on Indian reservations; it also includes the pursuit of longstanding land and water claims on behalf of Indian tribes. The Department is responsible for protecting treaty-based hunting and fishing rights. The Department is also charged with protecting tribal regulatory, adjudicatory, and tax jurisdiction, including a tribe's sovereignty to exercise jurisdiction in domestic relations cases involving tribal members, and to enforce gaming laws and state compacts.

Key Crosscutting Programs

Coordination and Enforcement of Environmental Health Hazards. On behalf of HUD and EPA, the Department enforces the federal lead-based paint disclosure rule and provides assistance to local and state governments in enforcement of their own hazard control regulations.

Land Acquisition and Everglades Restoration. The Department is working to acquire land in South Florida needed by the Corps of Engineers, the EPA, and other federal and State agencies for implementation of the plan designed to improve water quality and drainage in the Florida Everglades.

Pipeline Safety. The Department, in conjunction with the Department of Transportation, EPA, and other federal and state agencies, is involved in litigation to ensure the safety of interstate pipelines.

Water Rights Adjudication and Public Land Management. With federal land management agencies, states, tribes, and other interested parties, the Department

is involved in a number of complex negotiations over water allocations among various user groups in the western U.S.

Environmental Remediation and Natural Resource Restoration. The Department is representing three federal agencies (EPA, Department of the Interior, and the National Oceanic and Atmospheric Administration) concerning the contamination of the Fox River and Green Bay in northeastern Wisconsin. Working closely with the State of Wisconsin and two Indian tribes, the Department filed suit to address Polychlorinated Biphenyls (PCB) contamination affecting 39 miles of sediment in the Fox Valley, which has the largest concentration of paper mills in the world.

STRATEGIC OBJECTIVE 4.3

ANTITRUST

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

The Department maintains and promotes competitive markets largely by enforcing federal antitrust laws. 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 and predatory acts designed to maintain or achieve monopoly power. 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.

Several key trends have impact on the Department's antitrust efforts. The first of these is the globalization of trade. The second is rapid technological change. The third is deregulation. All three trends have ramifications for the Department's antitrust work and workload.

The value of mergers occurring globally is significant, and large cross-border mergers are no longer an anomaly. In our civil non-merger program, as well, the cases we encounter often have global reach. Whether taking more time to coordinate with foreign antitrust counterparts or more money to translate foreign documents, the Department's increasingly common investigations with international dimensions are significantly more complex than in previous years.

A number of our most important industries have been characterized recently by unprecedented levels of technological change. The accelerated flow of information means the collection and review of evidence has become more laborious. The greater technological sophistication of the marketplace means the methods to constrain competition have become more sophisticated, as well. New industries are created virtually overnight. The Department must stay on top of all these developments to effectively enforce the antitrust laws.

In recent decades, legislative and regulatory changes in the United States have reversed a generation of pervasive government regulation and have deregulated such basic industries as telecommunications, energy, financial services, and transportation. Competition, with appropriate reliance upon antitrust laws, has again become the norm. This transition has meant an increased role for antitrust -- both working with various agencies to find ways to replace regulatory

constraints with competitive incentives and effectively following up with necessary enforcement of the broader antitrust laws as may become necessary. Again, the Department is faced with more work that is more complex.

Strategies to Achieve the Objective

Investigate and litigate business arrangements and practices that encourage anticompetitive behavior and reduce competition.

The Department employs two distinct strategies 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. The Government seeks injunctive relief against mergers and acquisitions that may 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.

Advance procompetitive national and international laws, regulations, and policies.

With a number of activities distinct in form and audience, the Department promotes competition through further improvement of the competitive landscape at all levels: inter- or intra-governmentally, nationally, and internationally. Departmental resources are devoted to participation in interagency regulatory processes, for example, to ensure that business practices conform with regulatory rules. In addition, Department officials routinely participate in interagency task forces related to competition issues. At the international level, Department membership in bodies such as the World Trade Organization provides an opportunity for the promotion of "competition-friendly" policies and practices. In all cases, our goal remains the deterrence of anticompetitive behavior.

Guide and educate businesses, consumers, and counterpart agencies about antitrust law to increase their awareness and understanding.

Whether through direct contact and targeted communication with specific audiences, or via the development, publication, and distribution of policy guidance, the Department seeks to increase the breadth and depth of awareness of antitrust law. One example of Departmental activity in this area is our Business Review Program, which provides timely information on antitrust law and how it applies under different situations, along with the likely reaction of the Department to a proposed business action or arrangement. Another example is tailored training provided to state antitrust attorneys and investigators. In all instances, by reaching as many individuals, companies, agencies, and other groups as possible, and by providing them with detailed and specific guidance on the law, the Department seeks to promote competitive behavior and deter anticompetitive behavior.

Key Crosscutting Programs

Antitrust Division and Federal Trade Commission (FTC) Merger Clearance Process. Section 7 of the Clayton Act, as amended, requires certain enterprises that plan to merge or to enter

into acquisition transactions to notify the Department's Antitrust Division and the FTC of their intention, and to submit certain information to those authorities. Once pre-merger notification has been made, the Department and the FTC employ a clearance process, based largely on complementary areas of expertise, in order to quickly determine which body will review and/or investigate a particular merger transaction. Following clearance, the transaction is reviewed to determine whether there are any competitive issues at stake. Throughout the clearance process the agencies maintain close communication in order to ensure that competitive concerns are addressed efficiently and effectively and that the process is undertaken without unduly burdening legitimate business interests.

STRATEGIC OBJECTIVE 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 federal fisc from unjustified claims.

The Department strives to enforce the federal tax laws consistently and impartially and to ensure that taxpayers are treated fairly. The federal tax laws and regulations are complicated and, as a nation, we depend upon individuals and corporations to comply voluntarily with the tax code. Enforcement plays an important role toward ensuring voluntary compliance and realizing the maximum legal collection of tax revenues. The Department assists the Internal Revenue Service (IRS) with one of its key strategic objectives, "Increasing Voluntary Compliance." Referred from the IRS, the Department's work of enforcing federal tax laws includes litigating all federal civil tax cases appealed to the United States courts of appeal and state appellate courts; investigating and prosecuting individuals and corporations for tax evasion; and litigating all civil tax lawsuits filed in federal district courts, bankruptcy courts, the Court of Federal Claims, and state courts.

Given the complexity of the code, many disputes arise on its application to a specific individual or business. When the disputes are not resolved through IRS administrative processes, they often become lawsuits in federal and state courts. The taxpayer may appeal an unfavorable lower court decision to a higher federal court of appeals or state appellate court. Department trial attorneys litigate these cases both in the lower courts and the appellate courts. A significant portion of these suits are tax refund claims challenging the IRS's determination of a taxpayer's federal income, employment, excise, and/or estate tax liabilities.

Defending federal tax claims as well as defending the feasibility of reorganization plans in bankruptcy proceedings represents another major portion of civil litigation. The Department's tax litigation docket also includes enforcement of IRS administrative summonses that seek information essential to determine and collect taxpayers' liabilities; suits to collect taxes and other monies often hidden by fraudulent conveyances, sham entities, and alter egos; suits against IRS and other government officials for torts and constitutional violations allegedly committed in connection with tax collection activities; suits against the IRS brought pursuant to the Freedom of Information and Privacy Acts; and state and local intergovernmental tax immunity suits. The Department also defends the constitutionality of tax statutes and the validity of Treasury Department regulations.

Strategies to Achieve the Objective

Litigate, both defensively and affirmatively, federal civil tax cases filed by and against taxpayers in federal courts.

Defensive litigation by the Department's civil trial attorneys often involves thousands of tax cases pending administratively at the IRS and generates significant revenue for the federal treasury. Defensive litigation also includes Department trial attorneys representing IRS officers against complaints made by taxpayers who allege misconduct by government officials for activities related to tax collection. These lawsuits can cripple morale if employees who have done nothing improper believe that they can be held personally liable for simply doing their jobs. The IRS workforce relies upon the Department for a vigorous defense against spurious lawsuits.

Approximately 10 percent of the Department's civil tax litigation docket involves responses to frivolous tax protest arguments. These resource-intensive cases are essential to keep illegal tax protest activities from increasing. Honest taxpayers who perceive that individuals engaging in illegal tax protest activities have "gotten away with it" will themselves be discouraged from voluntarily paying their taxes. This litigation saves the U.S. Treasury millions of dollars annually.

Also important to the Department's strategy is its affirmative civil litigation program. Litigation activities include seeking judgments to enforce IRS assessments against taxpayers in cases involving fraudulent transfers made by delinquent taxpayers attempting to place their assets out of the reach of the IRS. They also include the enforcement and foreclosure of federal tax liens. The Department is beginning to initiate more affirmative litigation against persons who employ increasingly sophisticated means to unlawfully shield their assets from collection.

As part of their representation of the IRS in the courts, Department civil trial attorneys conduct, in each case, an independent review of the Service's administrative determinations. This review often results with the Tax Division declining to bring certain affirmative litigation; in defensive cases the review may result in some complete concessions, where Department attorneys determine that the IRS's administrative position cannot be legally or factually supported. This vital review function promotes the integrity of the federal tax system by ensuring that taxpayers and others involved in trial-level litigation are treated fairly and consistently nationwide.

Provide expert counsel and litigation support to defend U.S. interests in federal civil tax cases appealed to federal appeals and state appellate courts.

Department trial attorneys provide expert counsel and litigation support on all federal civil tax cases that are appealed to the United States courts of appeal and state appellate courts. Defending the IRS against a wide variety of taxpayer appeals is critical for ensuring taxpayers are treated fairly as well as ensuring that the federal tax code is applied in a fair and impartial manner. The Department's work also ensures that the federal fisc is protected against unjustified claims. Many of the tax cases appealed involve millions, and in some cases, billions of dollars of potential tax revenue.

Key Crosscutting Programs

Joint Trust Task Force Working Group. Coordinated efforts between the IRS and the Department are necessary to combat abusive trusts, which pose a significant problem for our tax system. In that regard, the Tax Division and the IRS have established a Joint Trust Task Force Working Group to identify in advance, and to propose solutions for, issues which affect criminal and civil actions in this area.

STRATEGIC OBJECTIVE 4.5

CIVIL LAWS

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

The Department, through its Civil Division and the U.S. Attorneys, each year represents some 200 federal agencies in litigation arising from federal contracts or alleged government misconduct. We also defend challenges to the laws, policies, and programs of the United States.

Civil lawsuits involving large monetary claims are a fact of life. Plaintiffs advancing contract claims, allegations of negligence, claims of patent infringement, and the like seek to assign liability to the Government in lawsuits where huge sums of money are at risk. The majority of civil suits handled by the Department are defensive. Over the last decade the number of cases involving multibillion dollar stakes has virtually doubled. Moreover, changes in the law have radically increased the exposure of the United States, as an employer and as an insurer of extra-governmental entities, to potential liability. That increase is reflected in case numbers, complexity, and dollar amounts. It is the Department's job to ensure that only those claims with merit under the law are paid.

New laws, typically enacted only after a painstaking legislative process, are often attacked in court. Recent litigation challenging the laws and policies of the United States involves some of the most probing issues of our time. Examples include gun control, pornography on cable television and the Internet, welfare reform, gays in the military, and tobacco regulation. Unlike the majority of civil suits handled by the Department which involve monetary claims, these lawsuits seek remedies that can affect vital aspects of our society - - how we respond to violence, poverty, and the emergence of the Information Age.

Other lawsuits take aim at various provisions of our entitlement programs and can profoundly affect federal expenditures. Reforms embodied in the Welfare Reform Act of 1996 and subsequent legislation will continue to generate broad class actions seeking millions of dollars in increased federal aid. It is likely that housing and health care reform legislation in the next few years will also be fertile areas for litigation. It is a near certainty that as the multiyear effort to reform the Social Security Administration's \$58 billion disability benefits program reaches the implementation stage during the next few years, numerous substantial broad-based challenges will be launched.

In a number of situations, through the implementation of specialized tort compensation systems, the Department has improved access to justice for the Nation's citizens, leading to more efficient and effective resolution of disputes in the areas of occupational disease and vaccine injury. The National Vaccine Injury Compensation Program (NVICP) created an alternative to traditional product liability and medical malpractice litigation for persons alleging injury from vaccinations. Under the NVICP, individuals meeting the statutory criteria are compensated fairly and quickly, and non-meritorious cases are successfully defended, thereby preserving Program funds for those who are truly entitled to them. Under the Radiation Exposure Compensation Act (RECA), individuals who contracted certain diseases as a result of their exposure to radiation released during

nuclear weapons tests or in underground uranium mines have received over \$244 million in compensation since the Department's RECA Program began receiving claims in 1992. Through the RECA Program, individuals whose health was put at risk to serve the national security interests of the United States are provided an effective, efficient, non-adversarial forum in which to seek redress.

In addition to providing representation in the kinds of cases discussed above, the Department must respond to a variety of immigration-related suits, mostly dealing with challenges targeting orders of exclusion, detention, and expulsion. Over the course of the past decade, this workload has tripled, coinciding with intensified enforcement efforts and the emergence of new laws. The lion's share of immigration litigation involves individual challenges and class action suits directed against the actions and determinations of INS, immigration judges, and the Board of Immigration Appeals.

While only a minority of immigration cases and matters involves suspected alien terrorists, antiterrorism efforts will receive greater emphasis in the Department in the foreseeable future. The Antiterrorism and Effective Death Penalty Act and the Immigration Reform and Immigrant Responsibility Act have significantly expanded the Department's role in the fight against international terrorism. The Civil Division figures prominently in interagency efforts to designate foreign terrorist organizations for purposes of criminal and civil terrorism fund-raising laws, the defense of such designations, and the defense of the fund-raising provisions themselves against constitutional and other attacks. The Civil Division also heads the Alien Terrorist Removal Court litigation unit.

Hundreds of millions of dollars are lost to the U.S. Treasury each year as a result of procurement fraud, health care fraud, loan defaults, and bankruptcies. These losses reduce resources vital to a host of federally-funded programs, including Medicare. Efforts to recoup money owed to the United States have yielded huge collections in the past decade - over \$11 billion. Further, criminal prosecutions have resulted in court-ordered criminal restitution and fines collection, the responsibility for which falls to the Justice Department. Today's docket includes a number of matters that are massive with respect to potential recoveries, the size of evidentiary collections, and the complexity of issues that underscore the Government's case. As our adversaries enlist the help of top law firms and consultants, substantial Government resources are required to achieve favorable settlements and judgments on behalf of the United States and victims of crime.

Finally, violations of the Food, Drug and Cosmetic Act; the Consumer Product Safety Act; and the Federal Trade Commission Act pose threats to the health and safety of millions of Americans. When such violations involve major patterns of fraud, illegal conduct, and unfair credit and marketing practices, the Department pursues civil and criminal actions to stop and deter such activity. The emergence of the Internet has provided a new and extraordinarily powerful medium for marketing products and services. Contributors to the Internet have enjoyed a virtually free rein on marketing approaches. While this "open" approach has provided the public with an explosion of information, it has also created the means for large-scale fraud, deception, and criminal practice.

Strategies to Achieve the Objective

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

Hundreds of millions of dollars are saved annually as a result of the Department's successes in defending national interests in major defensive lawsuits against unwarranted monetary claims on the public fisc. Such defensive litigation requires the diligence of Department staff who 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 Government's interest in major disputes as they proceed through appellate stages.

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.

Defending the national interests of the many and varied laws, programs, and policies of the United States is a critical role of the Department for maintaining civil law and order. Many of these civil lawsuits threaten or affect our national security, public safety, or social and moral codes.

Implement civil justice reform initiatives to resolve classes of claims for which traditional litigation has proven ineffective.

The Department must defend against thousands of plaintiff claims alleging Government neglect or wrongful conduct. Such suits usually involve massive discovery requirements, protracted trial schedules, arcane subject matter, and substantial stakes. When traditional litigation has proven ineffective, Congress has created specialized programs (e.g., National Childhood Vaccine Injury Act and the Radiation Exposure Compensation Act). When appropriate, the Department must continue to evaluate cases to determine whether they will benefit from use of ADR and, if necessary, engage in such processes to expedite case resolution and reduce costs.

Ensure the intent of Congress and the collective efforts of immigration agencies by defending immigration laws and policies, as well as class action suits or immigration judgments involving individuals.

The Department's heightened emphasis on immigration enforcement portends a rise in related immigration caseload. This litigation ranges from individual challenges to federal enforcement actions and class action suits directed against federal immigration agencies (e.g., denial of visas and passports, political asylum, and administrative judgments on alien removal).

Recover monies owed to the United States and victims as a result of fraud, loan default, and bankruptcy.

The Department protects the public fisc through a variety of affirmative litigation to fight fraud, loan default, and bankruptcy, focusing on matters involving widespread fraud and the potential for substantial recoveries. We investigate allegations brought forth by "whistle-blowers" and, where appropriate, pursue recoveries and civil penalties available under the False Claims Act. The Department emphasizes health care fraud enforcement, through collaborative efforts with other federal and state agencies to recover the billions of dollars lost from Medicare and other federally-funded programs. The Department also actively pursues collection of federal and non-federal restitution and criminal fines.

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

The existence of the Internet has placed new demands on law enforcement regarding the identification, investigation, and pursuit of consumer fraud. In particular, the relatively new phenomenon of Internet pharmacies - - which often dispense powerful prescription drugs without valid prescriptions from a doctor - - pose a significant danger to consumers. To fight such trends, the Department will concentrate its activity on matters involving consumer law violations which pose the greatest potential threat to the public.

Key Crosscutting Programs

Civil Cases Involving the National Childhood Vaccine Injury Act. The Civil Division will continue to work closely with HHS and the U.S. Court of Federal Claims in handling cases filed under the National Childhood Vaccine Injury Act. Managers at the

respective agencies coordinate matters of policy, budget, case processing, and strategy. At the trial level, medical staff at HHS assist the Department in developing medical evidence and providing expert witness support. In conjunction with the Office of Special Masters at the U.S. Court of Federal Claims, HHS and the Department have striven to ensure just decisions in the thousands of cases filed since the inception of the program in 1988.

MANAGEMENT CHALLENGES

The Department does not face any mission-critical management problems or challenges which would significantly hinder the Department from achieving this strategic goal.