



U.S. DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION



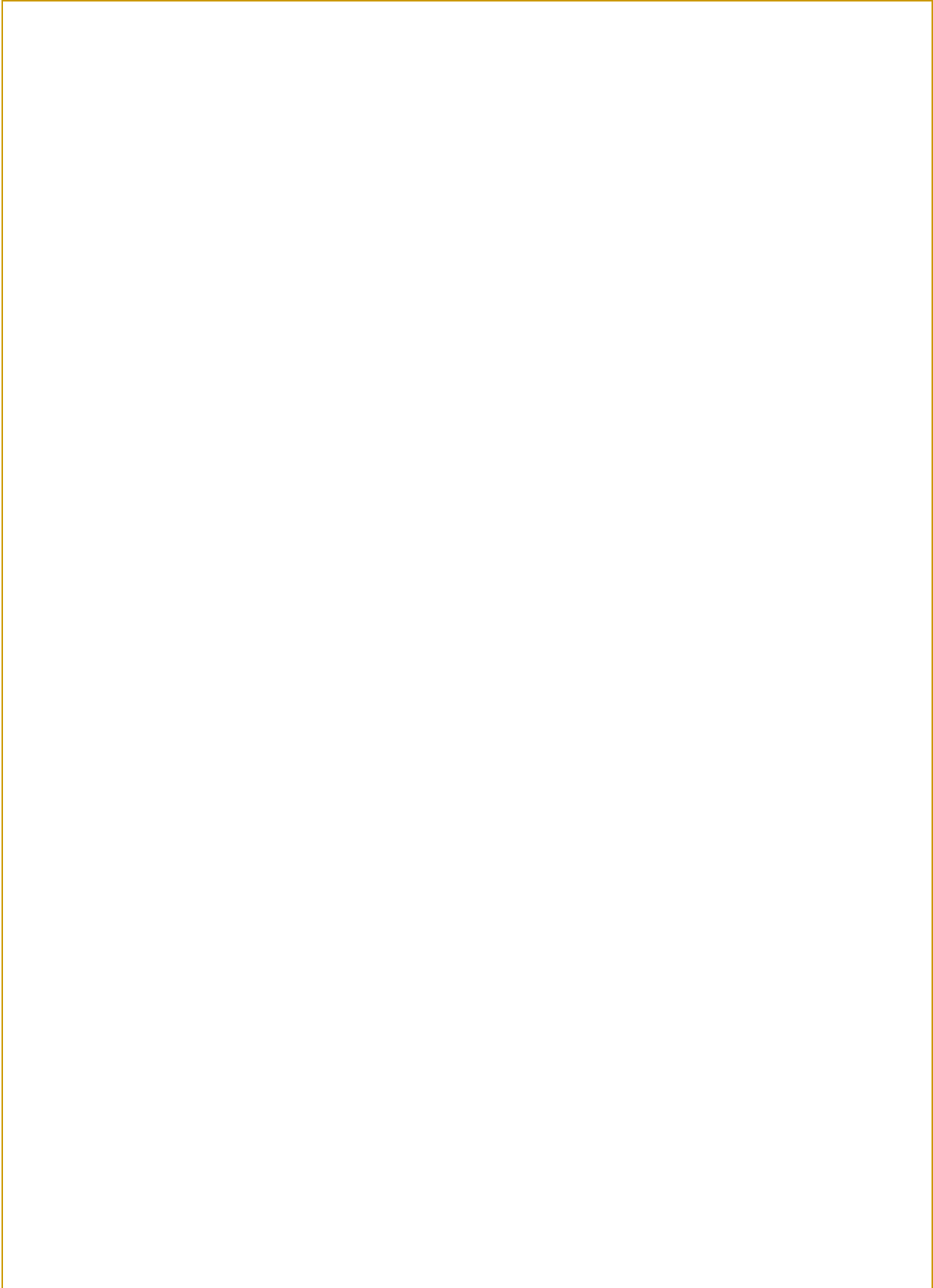
2009—2012



U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

ACCOMPLISHMENTS
2009—2012





“For today’s Department of Justice, our commitment to strengthening – and to fulfilling – our nation’s promise of equal opportunity and equal justice has never been stronger.”

*-Eric H. Holder, Jr.
Attorney General of the
United States*





The Civil Rights Division: 2009-2012



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Executive Summary

The Constitution of the United States promises equal justice under the law and freedom for all. The Civil Rights Division enforces laws designed to give meaning to that promise.

The Division has a distinguished history. For more than 50 years, the Division has enforced federal laws that prohibit discrimination and uphold the civil and constitutional rights of all who live in America. Through the robust and evenhanded enforcement of these laws, the Division expands access to opportunity and justice for everyone.

Over the past four years, the Division has worked to restore and expand this critical mission. We see every day that, despite the great progress we have made as a nation, longstanding civil rights challenges endure. At the same time, new challenges have emerged as America changes and grows. Today the Civil Rights Division must address both, bringing 21st century tools to bear to combat discrimination in all its shapes and forms.

With the leadership of President Obama and Attorney General Holder, the Division has made great progress. In his 2010 State of the Union address, President Obama noted, “My administration has a Civil Rights Division that is once again prosecuting civil rights violations and employment discrimination. We finally strengthened our laws to protect against crimes driven by hate.” Attorney General Holder repeatedly has referred to the Civil Rights Division as a “crown jewel” of the Department of Justice. The crown jewels are the civil rights laws that the Division enforces, and this Report outlines the Division’s tremendous success enforcing those laws in a wide variety of contexts.

The Division works to advance three basic principles:

- **Expanding opportunity** for all people: the opportunity to live where one chooses, the opportunity to learn, the opportunity to earn, and the opportunity to worship freely in one’s community.
- Ensuring that the **fundamental infrastructure of democracy** is in place: by protecting the right to vote and access to justice, by ensuring that communities have effective and democratically accountable policing, and by protecting those who protect us.
- **Protecting the most vulnerable** among us: by ensuring they can live free from fear of exploitation, discrimination, and violence.

Over the last four years, the Division has advanced these core principles by filing a record number of cases in many enforcement areas; by reaching historic settlements in others; by issuing landmark regulations and legal guidance; and by championing sound and sorely needed civil rights policy initiatives. In addition, the Division has pioneered new tools to learn from and engage the communities we seek to protect. Outreach is now a priority, and the Division has

forged new partnerships with U.S. Attorneys' Offices and other federal agencies to help the Division better leverage resources, strengthen overall enforcement, and respond more quickly and ably to civil rights challenges across the country. And because civil rights are human rights, the Division has played a key role in implementing the Administration's commitment to promoting respect for human rights at home and abroad.

Other innovations have helped the Division maximize the impact of our work. By employing online tools, the Division has improved transparency and expanded our communications strategy. By restoring merit-based, career-driven hiring practices, the Division has added to the ranks of wonderful professionals new employees who bring tremendous skill, energy, and diverse backgrounds to our enforcement efforts. And both attorneys and professional staff have taken on tremendous new roles at the Division, helping to overcome considerable resource constraints in recent years.

America has come a long way in the journey for equal justice under the law, but we are frequently reminded that, in the words of the late Senator Edward Kennedy, "the business of civil rights remains the unfinished business of America." The Civil Rights Division has a critical role to play in helping the nation realize the promise of its founding principles. Over the past four years the Division has continued our nation's journey toward equal justice. And the Division will continue to pursue the promise of equal opportunity in the months and years to come.

Expanding Opportunity

■ ***Expanding Equal Housing Opportunity:*** Almost 45 years after the passage of the Fair Housing Act, equal housing opportunity and equal credit opportunity remain elusive for far too many people, including racial and religious minorities, people with disabilities, and families with children. The past four years have been a period of unprecedented accomplishment by the Division in the fair housing and fair lending context as we seek to expand access to housing opportunity to everyone. In Fiscal Year 2012 alone, the monetary relief obtained by the Division in fair housing and fair lending cases was greater – by over \$250 million – than the combined monetary relief obtained between Fiscal Years 1989 and 2011.

The Division's dedicated fair lending unit, established in 2010, was essential to the unprecedented accomplishments of the last year. The three largest residential fair lending settlements in the history of the Fair Housing Act and the Equal Credit Opportunity Act have all occurred in the past year, including the record \$335 million settlement of a lawsuit against Bank of America for the discriminatory lending activities of Countrywide Financial, and the \$234 million settlement of a lawsuit against Wells Fargo Bank. Since 2009, the Division has obtained more than \$660 million in fair lending discrimination and servicemember lending settlements overall.

The Department has filed 133 Fair Housing Act cases to address discrimination and segregation in housing since the beginning of this Administration. These cases include the two largest settlements in sexual harassment cases in the Department's history, involving landlords who insisted on sex in exchange for housing, exposed themselves, touched women without consent, or engaged in other outrageous conduct. Each case settled for at least two million dollars. In addition, the Division reached the largest monetary settlement ever under the Fair Housing Act to ensure

that a builder designed and constructed multifamily housing that is accessible to people with disabilities. The Division also filed important lawsuits challenging zoning requirements that were barriers to integration of people with disabilities into their communities.

■ ***Expanding Equal Educational Opportunity:*** Education is the great equalizer. Almost 60 years after the decision in *Brown v. Board of Education*, considerable work remains to provide equal educational opportunities to all of our nation's students. The Division has an active education docket that includes longstanding efforts to desegregate schools and ensure the meaningful participation of English Language Learner students. We also have an expanding docket of cases addressing school harassment, discrimination against immigrant students, and the school-to-prison pipeline, in which children arrested in schools – often for minor infractions – become entangled in unlawful and unnecessary cycles of incarceration.

Over the last four years, the Division has achieved great success on behalf of all students. We have secured relief in 43 desegregation cases by integrating faculties, expanding access to advanced courses, eliminating race-based extra-curricular activities, dismantling the school-to-prison pipeline, halting segregative student transfers, and closing single-race schools. We have also secured a record 16 settlement agreements providing for meaningful access to education for English Language Learners and 10 agreements addressing the harassment of students on the basis of race, color, national origin, sex, religion, or disability – including verbal and physical harassment of students for their failure to conform to gender stereotypes.

In addition, the Division has worked aggressively to protect the rights of students with disabilities so that all of America's students have equal access to the resources and opportunities they need to learn. We reached a major settlement agreement with a private, for-profit company, Nobel Learning Communities, which operates a network of more than 180 schools throughout the country. The agreement requires the company to provide reasonable modifications for children with disabilities at all of its schools. We also enforce the rights of individual students with disabilities, including a student who was turned away from a boarding school because he has HIV.

The Division has worked closely with our partners at the Department of Education on a number of critical education issues. In May 2011, the Division and the Department of Education issued joint guidance to remind public schools of their obligation to welcome and enroll students regardless of their or their parents' immigration status. In December 2011, we issued landmark joint guidance on promoting diversity and avoiding the harms of racial isolation in elementary and secondary schools, as well as in institutions of higher education. The Division has also worked closely with the Department of Education to combat bullying and harassment, to dismantle the school-to-prison pipeline, and to ensure the accessibility of educational technologies.

■ ***Expanding Equal Opportunity in the Workplace:*** The ability to earn a living to support oneself and one's family is at the heart of the American Dream. During the past four years, the Division has reinvigorated enforcement of Title VII of the Civil Rights Act of 1964, which makes it unlawful to discriminate against employees on the basis of race, color, national origin, sex, or religion or to retaliate against individuals who make or assist others in making discrimination claims or who protest discrimination. Through robust and fair enforcement of Title VII, the Division has triggered changes to the employment practices of public employers nationwide to ensure that applicants and employees are able to pursue their jobs free of discrimination.

The Division has obtained substantial relief for victims of employment discrimination, filing 32 lawsuits under Title VII during this Administration. These cases involve people confronting discrimination that unfairly prevents them from earning a living, such as pregnant women who were forced to take light duty assignments and African American and Latino firefighters who were prevented from competing for jobs on a level playing field.

In addition, the Division has worked to enforce the civil rights of employees and job applicants with disabilities. We have challenged public employers' use of unnecessary and non-job-related medical examinations of employees, as well as policies that exclude all job applicants with controlled diabetes or who use hearing aids. And the Division is committed to protecting the rights of work-authorized immigrants to the United States. Over the last three fiscal years, the Division has filed 12 complaints under the Immigration and Nationality Act, compared with a total of two complaints filed over the previous six years. During the same three-year period, the Division's enforcement efforts have resulted in over \$1 million in penalties imposed on employers who violated the Act, compared to \$120,000 over the prior six years.

■ ***Expanding Opportunity for People with Disabilities:*** Expanding access to opportunity for people with disabilities cuts across almost every area of the Division's work. The Division's disability rights docket has grown dramatically as we work to break down physical and attitudinal barriers in public accommodations and state and local government. We have also expanded access to housing, educational, and employment opportunities for people with disabilities.

A centerpiece of the Division's disability rights work over the past four years has been an aggressive effort to realize the promise of the Supreme Court's landmark *Olmstead* decision, which recognizes the right of individuals with disabilities to live and receive services in their communities rather than in institutions or other segregated settings. Since the beginning of this Administration, the Division has been involved in 44 *Olmstead* matters in 23 states. These efforts include four groundbreaking settlement agreements that the Division has signed with the states of Georgia, Delaware, Virginia, and North Carolina. Collectively, this ongoing commitment to community integration will benefit tens of thousands of individuals with disabilities throughout the country. And because *Olmstead* is not simply about where one lives, but also *how* one lives, we have worked to ensure that people with disabilities have access to other key elements for self-sufficiency and community membership, including integrated employment opportunities.

The Division has also worked hard to ensure that individuals with disabilities can access public accommodations and state and local government services without facing unnecessary and illegal barriers. Through Project Civic Access, we partner with communities to identify and break down such barriers, and have reached agreements with 42 communities of all sizes throughout the country in the past four years. As a result of these agreements, more than 1 million people with disabilities have increased civic access and can live, work, and thrive in their communities alongside their neighbors.

Meanwhile, the explosion of new technology has dramatically changed the way Americans communicate, learn, and conduct business. But for too many people with disabilities, the benefits of this technology revolution remain beyond their reach. Many websites of public accommodations and public entities are not accessible to people with vision or hearing disabilities. Devices like

Electronic book (e-book) readers, whether used as textbooks in a classroom or as a way to check out books from a library, can be unusable by someone who is blind because of the accessible features they need. Over the last four years, the Division has reached settlements to ensure that people with disabilities are not left behind as new technology emerges in libraries and schools.

■ ***Ensuring Religious Freedom:*** The freedom to practice the religion of one's choice is among the most cherished of our nation's rights. It is one of our founding principles, written into our Constitution and protected by our laws. The Religious Land Use and Institutionalized Persons Act (RLUIPA) was enacted unanimously by Congress in 2000 to protect this right, by ensuring that local zoning laws could not be used to exclude certain religious congregations, and that institutions do not place arbitrary or unnecessary restrictions on the religious practice of those confined therein.

Over the past four years, the Division opened 104 matters involving potential RLUIPA issues, determined that 26 warranted full investigation, and filed four lawsuits and eight amicus briefs to ensure that religious groups are not denied their rights because of discriminatory zoning practices. There has been a particularly steep increase in the Division's docket of zoning cases involving efforts of Muslim communities to build or expand mosques. In the 12-year history of RLUIPA, the Division has opened 31 cases involving mosques, and roughly two-thirds of these matters have been opened in the past two years. In one such case in Murfreesboro, Tennessee, we filed an amicus brief in a state court and subsequently initiated a federal lawsuit to ensure that a mosque would be permitted to open and operate in the community.

The Division also brought the first lawsuit ever filed by the Department to enforce the institutionalized-persons provisions of RLUIPA in 2011, and has initiated two additional lawsuits since that filing. Two of the cases have settled, one with the statewide repeal of a regulation that burdened the religious practice of Sikhs and Muslims, and the other with a consent decree ensuring that prisoners will have access to religious and educational materials crucial to their rehabilitation and successful return to the community.

Preserving the Infrastructure of Democracy

■ ***Protecting Voting Rights:*** In 1965, when President Johnson signed the landmark Voting Rights Act, he proclaimed that "the right to vote is the basic right, without which all others are meaningless." While the Voting Rights Act has led to significant progress toward greater electoral opportunity for all citizens, it is an unfortunate reality that unlawful discrimination in voting persists, just as it does in the workplace, in schools, and in other parts of our lives. That is why the Division's Voting Section is busier than ever. In the 2012 fiscal year alone, the Division handled a record number of new litigation matters — 43 — breaking the record that had been set the previous year. In addition, in the past year we filed amicus briefs in more cases than in the nine previous years combined.

This unrivaled level of enforcement activity has spanned all of the voting rights laws that we enforce. For example, the Division has vigorously enforced a number of important protections for language minorities, so that eligible citizens are not precluded from full and equal participation

in the electoral process based on their language ability. This includes litigation or settlement agreements to protect Spanish-speaking voters in Riverside County, California; Cuyahoga County and Lorain County, Ohio; Orange County, New York; and Fort Bend County, Texas; to protect Spanish-speaking and Chinese-speaking voters in Alameda County, California; and to protect Native American voters in Shannon County, South Dakota; and Cibola County and Sandoval County, New Mexico.

We have also prioritized enforcement of the National Voter Registration Act, which Congress passed to increase the number of eligible citizens who register to vote and to ensure accurate and current registration rolls in federal elections. For example, we filed a lawsuit against Rhode Island to secure the state's compliance with the requirement that voter registration opportunities be offered at state offices that provide public assistance or disability services. The results of that lawsuit are striking: in just the four-month period after Rhode Island agreed to a settlement, the number of newly-registered voters at the affected offices increased more than nine-fold over the total for the previous two full years combined.

In addition, we have continued our enforcement of Section 5 of the Voting Rights Act – a linchpin of that law. Under Section 5, certain jurisdictions with a well-documented history of government-sponsored discrimination in voting are required to obtain “preclearance” for changes to their voting procedures, and to demonstrate that the change has no discriminatory purpose or effect. Congress overwhelmingly reauthorized Section 5 in 2006, and in just the past few years, we have seen vivid examples of its continuing need. For example, the Attorney General objected under Section 5 to Texas's new voter identification law, on the ground that it would have a discriminatory effect on the state's minority voters. In litigation, the evidence demonstrated that many of those without the required identification would need to travel great distances to get one, and some would have to pay for the underlying documents needed to do so. A three-judge court agreed with the Division and held that the law – perhaps “the most stringent in the country” – would have a discriminatory effect because “it imposes strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty.”

In another Section 5 lawsuit, a three-judge court agreed with the Division that two of Texas's statewide redistricting plans also could not be approved under Section 5 because they were impermissibly discriminatory. In concluding that the state's Congressional plan was infected with a discriminatory purpose, the court went so far as to note that there was “more evidence of discriminatory intent than we have space, or need, to address here.”

These examples illustrate why Section 5 is considered one of the nation's most effective and important civil rights statutes. Yet, in the seven years since its reauthorization, Section 5 has increasingly come under attack by those who claim it is no longer needed. The Division has vigorously defended Section 5 against these challenges to its constitutionality, and that defense has so far been successful. As one of the trial-court judges put it in a 2011 ruling, “Congress determined in 2006 that 40 years has not been a sufficient amount of time to eliminate the vestiges of discrimination following nearly 100 years of disregard for the dictates of the 15th Amendment.”

Although the country has made significant progress in the voting rights arena since 1965, the continuing and unfortunate reality is that both overt and subtle voting discrimination persist – and that Section 5 has not yet outlived its usefulness.

The Supreme Court will hear a challenge to Section 5 of the Voting Rights Act in its current Term, and the Justice Department is looking forward to demonstrating to the Court both that the statute is still constitutional and that it still has critically important work to do.

■ ***Expanding Access to Courts for People with Limited English Proficiency:*** Under Title VI of the Civil Rights Act, recipients of federal financial assistance, including state courts that receive funds from the Department of Justice, have an obligation to ensure that people with limited English skills can meaningfully access the programs or services the recipients offer. In the courtroom context, the stakes are high: a person with limited proficiency in English cannot effectively participate in a proceeding without language assistance. That is why the Division initiated a Courts Language Access Initiative that in the last four years has successfully helped ensure that those who cannot speak or understand English have access to justice.

The Division's Initiative combines enforcement tools with policy, technical assistance, and collaboration in an effort to ensure that people with limited English skills receive interpretation and language services in court proceedings and operations. Through this Initiative, the Division has entered into agreements with court systems from Colorado to Maine to ensure that free interpreter services and other language access tools are available to everyone. The Division has also issued a guidance letter to all chief justices and administrators of state court systems clarifying the obligation of courts that receive federal financial assistance to provide oral interpretation, written translation, and other language assistance services to people who are limited English proficient in all proceedings and court operations. At the same time, the Division has collaborated with bench, bar, and interpreter organizations to support efforts to expand language services in the courts.

■ ***Ensuring Effective, Accountable Policing:*** The American people give law enforcement officers broad powers to detain, arrest, and use force – even deadly force – so that they can protect the public. The Constitution and federal law require that this power be used responsibly. And when officers or agencies abuse their power and deprive, or conspire to deprive, individuals of rights granted under the Constitution or federal law, the Division has tools to respond.

On the criminal prosecution front, the Division and our partners in U.S. Attorneys' Offices have charged 254 law enforcement officials for criminal civil rights violations in 177 cases in the past four fiscal years, a 9 percent increase in cases charged from the previous four-year period. These prosecutions, including the criminal prosecutions of former New Orleans police officers for tragic offenses committed in the aftermath of Hurricane Katrina, are a critical component of the Division's police reform efforts.

Moreover, in the aftermath of the riots in Los Angeles following the verdict in the Rodney King beating case, Congress passed a critical bill granting new authority to the Division to investigate systemic violations of constitutional and statutory rights by police departments. This "pattern or practice" authority is fundamental to our efforts to work collaboratively with police departments and communities to ensure effective, accountable policing. Under the leadership of Attorney General Holder, the Division has worked with more departments and has initiated more investigations than ever before. In 2012 alone, the Division entered into far reaching, court enforceable agreements with six jurisdictions to address serious policing challenges, easily the most agreements in the nearly 20 year history of the law.

Increasingly, police chiefs are approaching the Division to request assistance in addressing vexing policing challenges. We continue to work with other components within the Department of Justice, such as the Office of Community Oriented Policing Services (COPS), to provide technical assistance to departments. COPS and other federal components have unparalleled expertise in policing and have become increasingly significant partners in our efforts to ensure effective, accountable law enforcement.

■ ***Protecting Those Who Protect Us:*** Servicemembers make tremendous sacrifices for our nation. When their duties call them far away from home, the Division stands ready to protect their rights. And in the past four years, the Division has done more civil rights work in more areas on behalf of servicemembers than ever before.

Under the Servicemembers Civil Relief Act, the Division reached settlements in 2012 with the nation's five largest mortgage loan servicers, who agreed to compensate all of the servicemembers they improperly foreclosed on or charged unlawfully high interest rates. Together with three other wrongful foreclosure settlements reached by the Division in 2011 and 2012, the vast majority of foreclosures against servicemembers will now be subject to court-ordered review. In addition, servicers and lenders are being required to pay more than \$50 million in monetary relief to servicemembers under these eight settlements, and that number will increase once the foreclosure reviews of the five largest servicers are completed in 2013.

The Division has also expanded our efforts to protect the employment rights of servicemembers returning from active duty. Forty-six of the 79 total lawsuits the Division has filed under the Uniformed Services Employment and Reemployment Rights Act (USERRA) since 2004, when the Division first obtained USERRA jurisdiction, were filed in the past four years. In a 2012 case, the Division obtained our largest-ever recovery under this law.

Servicemembers, their families, and overseas citizens must further be able to vote and have their votes counted. In 2009, Congress enacted the Military and Overseas Voter Empowerment Act, also called the MOVE Act, which has been described as the most important development in voting rights for servicemembers in decades. The Division has made the aggressive enforcement of the MOVE Act a top priority. In 21 different instances in the two years after the MOVE Act took effect, the Division has gone to court or reached settlement agreements with states that violated the law's requirements. In each case, our goal was to ensure that the voting rights of servicemembers and overseas citizens were fully protected.

Protecting Individuals from Exploitation, Discrimination & Violence

■ ***Combating Hate Crimes:*** The ability to live safely in one's community is a basic civil right. Over the past four years, the Division has worked aggressively to prevent, investigate, and prosecute hate crimes motivated by bias, including crimes of murder, assault, threats, and arson. The Division convicted 141 defendants on federal hate crime charges between fiscal year 2009 and fiscal year 2012, a 74 percent increase from the preceding four-year period. The recently enacted Shepard-Byrd Hate Crimes Prevention Act is an especially critical tool in the Division's hate crimes enforcement arsenal. From the passage of the Shepard-Byrd Act through

the end of 2012, the Department has brought 15 cases, charging 39 defendants under the Act. Thirty-five of these defendants have been convicted on hate crimes related charges, and one is awaiting trial.

Additionally, the Division has worked with religious communities across the country to ensure that such communities feel safe from force and threats directed at them because of their religious beliefs. Through our backlash initiative, Division attorneys, along with their partners in the U.S. Attorneys' Offices, have actively investigated and prosecuted cases involving violence directed at those who are, or are perceived to be, members of the Arab, Muslim, Sikh, Middle Eastern, and South Asian communities. Together we brought charges in 11 cases against 14 defendants between fiscal year 2009 and fiscal year 2012, with 10 convictions.

■ ***Prosecuting & Preventing Human Trafficking:*** Combating human trafficking by prosecuting traffickers, dismantling and deterring trafficking networks, and protecting and serving the needs of victims are among the highest priorities for the Justice Department. The Division's human trafficking docket continues to expand dramatically. Over the past four years, the Division and U.S. Attorneys' Offices have prosecuted a record number of trafficking cases involving forced labor and sex trafficking of adults, charging 194 cases, an increase of over 39 percent from the previous four-year period. In fiscal year 2012, we brought 55 cases, a record number. At the same time, we have dramatically expanded partnerships with state and local law enforcement agencies, foreign governments, and non-governmental organizations to further our prosecution efforts.

■ ***Protecting the Civil Rights of Individuals in the Criminal & Juvenile Justice Systems:*** Individuals confined in institutions are often among the most vulnerable in our society. The Division has long enforced laws protecting the civil rights of people who are incarcerated, protecting prisoners from abuse by staff or by other prisoners, ensuring that prisoners have access to adequate medical and mental health care, and providing for environmental health and safety. In the last four years, the Division has initiated seven new investigations of correctional institutions under the Civil Rights of Institutionalized Persons Act (CRIPA), issued 12 findings letters, and settled more than 10 of these matters. As a result, we currently have matters related to correctional institutions in over 25 states and U.S. territories.

Almost 20 years ago, with the passage of the Violent Crime Control and Law Enforcement Act of 1994, Congress gave the Division the authority to investigate government agencies that are responsible for the administration of juvenile justice and alleged to be depriving juveniles of constitutional or federal statutory rights. In 2012, for the first time since the passage of the Act, the Division issued findings that juvenile courts were depriving juveniles of their constitutional rights and reached a comprehensive agreement to protect those rights. We have also continued our traditional corrections work to enforce the rights of youth confined in juvenile detention and correctional facilities run by state and local governments. Through these efforts, we have reached agreements concerning seven facilities for juveniles in Puerto Rico, seven juvenile facilities in Ohio, and 14 juvenile facilities in Los Angeles County, California.

■ ***Ensuring Access to Reproductive Health Facilities:*** The Division protects the right of people to safely obtain and provide reproductive health care. In the last four years, the Division has prosecuted 11 criminal cases under the Freedom of Access to Clinic Entrances (FACE) Act,

charging 12 defendants. The Division has also brought nine civil FACE cases, compared with only one during the previous eight-year period.

Expanding Tools, Leveraging Resources & Strengthening the Infrastructure to Protect Civil Rights

Effective civil rights enforcement requires a wide range of tools that the Division has used extensively over the past four years. One of the Division's major accomplishments over this period is the creation of a new Policy and Strategy Section. That Section now provides a focal point for proactive policy development and legislative proposals, integrates and protects Division equities across the federal government, and fulfills a critical public education role for the Division.

Civil rights enforcement is a joint venture of the Civil Rights Division and our U.S. Attorney partners across the country. While the Division is the hub of the Justice Department's enforcement program, we increasingly rely on committed partners in the 94 U.S. Attorneys' Offices to fully enforce our nation's civil rights laws. In addition, we have dramatically expanded our partnerships with other federal agencies that share responsibility for enforcing federal civil rights laws, as well as with state and local governments. For example, we lead Interagency Working Groups on Title VI and Limited English Proficiency, and work intensively with our sister civil rights agencies to ensure consistent and coordinated civil rights enforcement.

Finally, the Division has increased and improved our outreach efforts. Outreach to specific communities and constituencies, as well as to the public at large, is critical to proactively deterring and combating discrimination, rather than simply reacting to discriminatory acts that have already occurred. At the same time, we use outreach to educate people and communities about their rights, and to inform our enforcement efforts and the remedies we pursue.



More than 50 years after its creation, the Civil Rights Division continues to play a critical role in combating discrimination. We have undeniably come a long way – the rights for which so many civil rights pioneers fought, bled, and sometimes gave their lives are now guaranteed by law. We have seen tremendous movement not only legally but in public attitudes and acceptance.

However, the Division's robust caseload is a stark reminder that too many in our nation continue to face barriers to true opportunity. Whether those barriers are overt, in the form of blatant discrimination and violence, or subtle, in the form of policies that are neutral on their face but discriminatory in practice, they stand in the way of our nation's ability to fulfill its greatest promise. Today, we still very much need a Civil Rights Division to represent our nation's conscience. Over the past four years, we have worked vigilantly to restore and transform the Division to carry out this critical task. Going forward, we will continue to ensure the Division stands ready to protect, defend, and advance civil rights in our nation.



The Civil Rights Division: 55 Years

Established by the Civil Rights Act of 1957, the Civil Rights Division has been instrumental in many of our nation's battles to advance civil rights. From dismantling the segregation of our nation's schools to prosecuting hate crimes; from ensuring that women have equal opportunity in the workplace to guaranteeing that individuals with disabilities can access civic services to which we all have a right – the Division is the primary federal agency responsible for protecting the civil and constitutional rights of all Americans.

The Division has grown in size and scope over the decades. The landmark civil rights laws of the 1960s greatly expanded civil rights protections, as well as the Division's jurisdiction. Today, the Division's over 600 employees enforce laws that protect the civil rights of all Americans, including racial and ethnic minorities; members of all religious faiths; women; persons with disabilities; servicemembers; those housed in public institutions; victims of hate crimes, excessive force, and human trafficking; people seeking access to reproductive care; gay, lesbian, bisexual and transgender individuals; and people who speak other languages or come from other nations.

The Division's work is carried out by 11 sections, as well as an Administrative Management Section:

- Appellate Section
- Criminal Section
- Disability Rights Section
- Educational Opportunities Section
- Employment Litigation Section
- Federal Coordination and Compliance Section
- Housing and Civil Enforcement Section
- Office of Special Counsel for Immigration-Related Unfair Employment Practices
- Policy and Strategy Section
- Special Litigation Section
- Voting Section

A Record of Accomplishment, 2009-2012

- \$660 million** The monetary relief the Division has obtained in lending settlements since the beginning of this Administration, including the three largest residential lending discrimination settlements in the Justice Department's history.
- \$4+ million** The monetary relief obtained in the two largest settlements ever reached by the Department in sexual harassment suits filed under the Fair Housing Act.
- 8,500** The number of English Language Learner students in Boston who were offered the language instruction they need for the first time under an agreement the Division and the Department of Education reached with Boston in 2010.
- \$128 million** The Justice Department's largest-ever damages award in an employment discrimination case. The Division challenged discriminatory hiring practices in the New York City Fire Department, winning monetary damages and 293 jobs for people who applied to work as firefighters and experienced discrimination because of their race or national origin.
- 44** The number of matters in which the Division has participated across 23 states to ensure that people with disabilities have the opportunity to live and thrive in their communities, as they are entitled to under federal law.
- 5,000** The number of individuals with disabilities who will gain access to the opportunity to live and thrive in their community under a single agreement the Division reached with the State of Virginia in 2012.
- \$16 million** The largest monetary settlement the Division has ever secured to enforce the Americans with Disabilities Act. Reached in 2011, the settlement requires 10,000 bank and financial-related retail offices to ensure access for people with hearing or speech disabilities.
- 46** The number of cases the Division has filed to protect the employment rights of servicemembers since 2009, a 39% increase over the previous four years.
- 141** The number of defendants the Division has convicted on federal hate crimes charges over the past four fiscal years, a 74% increase over the previous four years.
- 194** The number of human trafficking cases the Division and U.S. Attorneys' Offices have brought over the past four fiscal years — a 40% increase over the previous four years — including a record 55 cases in 2012 alone.
- 43** The number of new voting cases the Division handled in fiscal year 2012 — almost twice as many as in any other year.
- 13** The number of objections to voting practices and procedures interposed by the Division in fiscal year 2012, pursuant to our administrative authority under Section 5 of the Voting Rights Act. The Division also litigated four cases to oppose voting changes filed for judicial review in the D.C. District Court.
- 87** The number of amicus briefs the Division's Appellate Section filed under this Administration, a more than 50% increase over any other four-year period.
- 9** The number of civil lawsuits the Division brought to enforce the Freedom of Access to Clinic Entrances Act, as opposed to one such suit during the previous eight years.

Expanding Opportunity



Expanding Opportunity at Home

The opportunity to move up the economic ladder and live where one chooses is at the heart of the American dream. More than forty years ago, Congress passed the Fair Housing Act to protect and expand that opportunity by broadly prohibiting discrimination in public and private housing markets throughout the United States. The Division has actively enforced that law to provide every person access to housing free from discrimination on the basis of race, color, national origin, religion, sex, disability, or familial status.

Along with its agency partners and U.S. Attorneys' Offices, the Division also vigorously enforces the nation's fair lending laws. While many communities nationwide were devastated during the housing and foreclosure crises, African American and Latino families were hit especially hard. Across the country the Division found cases where qualified African American and Latino families paid more for loans because of their race or national



origin, or were steered to more expensive and risky subprime loans. We also found some lenders who failed to offer credit in African American and Latino communities on an equal basis with white communities.

Fighting Lending Discrimination on the Basis of Race, National Origin, Sex, Disability, and Marital or Family Status

The Division has made ensuring a level playing field for all qualified borrowers a top priority. That is why we created a Fair Lending Unit in 2010; since that time, we have filed or resolved 22 lending matters under the Fair Housing Act, the Equal Credit Opportunity Act, and the Servicemembers Civil Relief Act. The settlements in these matters provide for over \$660 million in monetary relief for impacted communities and more than 300,000 individual borrowers – and make clear that this Administration will hold financial institutions of all sizes accountable for lending discrimination whenever and wherever it occurs.

Countrywide Financial: In the years leading up to the financial crisis, Countrywide Financial Corporation was one of the nation's largest residential mortgage lenders. Its business was built largely on the trust it earned from guiding families through the most important financial transaction of their lives. However, the Division found that Countrywide had abused that trust: a Division investigation revealed that between 2004 and 2008, Countrywide engaged in systemic discrimination against African American and Latino borrowers, at tremendous financial and emotional cost to borrowers across the country.

settled its first lawsuit alleging discrimination against women and families in mortgage insurance. Mortgage Guaranty Insurance Co., a mortgage lender based in Wisconsin, had required women on maternity leave to return to work before the company would insure their mortgages, even for women who had a

guaranteed right to return to work after their leave. Our settlement provides more than \$500,000 in monetary compensation for 70 victims of this discrimination, as well as a civil penalty and an injunction requiring the mortgage lender to adopt new procedures to prevent future discrimination.

BEYOND THE NUMBERS: The Division's lending discrimination cases are not just about numbers. They are about the 80-year-old African American resident of the Baltimore area with a 714 credit score and a rock-solid credit file who received a subprime loan instead of a prime loan and who was not told that she might have qualified for a prime loan with better terms. Like many subprime loans, her loan came with an adjustable interest rate that spiked after two years. Until the interest rate hike, she did not even realize that she had been given a subprime loan. Under the Division's settlement with Wells Fargo, this resident and thousands like her will receive monetary compensation for the damages they suffered.

Ensuring Fair Access to Housing Regardless of Race, National Origin, or Familial Status

Although it has been more than 40 years since the passage of the Fair Housing Act, housing discrimination and segregation continue to taint communities across the country. Far too many homeseekers are shut out by housing providers' prejudice and stereotypes instead of being welcomed into communities that are diverse and thriving. Continuing discrimination affects African Americans, Latinos, Arab-Americans, Asian-Americans, and families with children. The Division has reinvigorated fair housing enforcement in recent years, working to ensure that local governments and private housing providers offer safe and affordable housing on a non-discriminatory basis.

New Berlin, Wisconsin: The Division settled a lawsuit against the City of New Berlin, Wisconsin, in April 2012 for blocking an affordable housing project and changing zoning rules to prevent future affordable housing from being built in the city center. These zoning practices would have helped exclude African Americans from living in the community. As a result of the Division's settlement, the city

agreed to issue building permits to the housing project to change its zoning and land use requirements, to establish a \$75,000 fund to help finance new affordable housing projects, and to take affirmative steps to provide for future affordable housing.

Koreatown, Los Angeles: In November 2009, the Division resolved a case against Los Angeles apartment owners who allegedly discriminated against African Americans, Latinos, and families with children. When the apartment owners realized there was an African American family living in a building they had recently purchased, they tore down the yard where the family's children played, replaced it with a concrete slab, and fenced it off from their unit. When the family complained, the defendants replied that the problem with "you people" was that they complained too much, and served the family with a notice to quit. The Division reached an agreement that required the defendants to pay \$2.724 million in damages and civil penalties – the largest monetary payment ever obtained by the Division in a rental housing discrimination case.

Mount Holly Gardens

Mount Holly Gardens is a community in New Jersey that is home to more minority residents than other neighborhoods in its township. The township planned to buy up the houses in Mount Holly Gardens, tear them down, and build more upscale housing. Residents sued, but the district court ruled for the township and dismissed their case, finding that there were enough African American and Latino homeseekers in the area to buy the new homes, and that both white and nonwhite residents would be forced to leave when the neighborhood was destroyed. As *amicus curiae*, the Division argued that the district court did not properly consider the evidence showing that African American and Latino residents would be disproportionately affected if Mount Holly Gardens was destroyed. The 3rd Circuit Court of Appeals agreed with our argument, holding that the district court should have considered the percentage of local minority households that could afford the planned new homes, analyzed whether the planned development would have a disproportionate effect on nonwhite families, and considered whether the township could find less discriminatory alternatives to its redevelopment plan. The township has sought further review of this case in the Supreme Court, and the Court recently asked the Solicitor General for the Department's views concerning whether the case warrants Supreme Court review.

Fighting Sexual Harassment of Women Seeking Housing

Women seeking or living in rental housing have the right to feel safe in their homes and to live free from sexual harassment. Yet all too often, unscrupulous landlords exploit their power over women who may have few other housing options. The Division aggressively enforces fair housing laws to protect the rights of women who are sexually harassed by their landlords and has brought a series of cases against landlords who engage in a pattern or practice of this type of illegal behavior. We have found that the victims in these cases are typically low-income women with few housing options who are subjected to repeated sexual advances, unwanted sexual touching, and even sexual assault by the landlords, property managers, and maintenance workers who have access to the most private of places – one's home.

Ypsilanti, Michigan: One such victim was an African American single mother of four living in Ypsilanti, Michigan. The mother was desperately trying to raise her family in a safe and secure environment and had moved into what

she thought was going to be her first stable home. But her property manager soon made clear that unless she had sex with him, he would evict her for late rent payments and refuse to respond to her requests for needed repairs.

Feeling intimidated and fearing that her family would lose their home, the victim was coerced into complying with her property manager's demands. At trial she testified that it would



The Division filed a suit against a property manager in Michigan so that the female tenants he sexually harassed could live safely in their own homes. One such home is pictured above.

have been better in hindsight to have lived in a homeless shelter than to have suffered through that year of intimidation and harassment by her property manager. However, as a result of the lawsuit brought by the Division and the local U.S. Attorney's Office, she and five other victims together received nearly \$115,000 in damages and the property owner was held liable for illegal harassment.

Over the last four years, the Department reached the two largest sexual harassment settlements in its history, recovering more than \$4 million for those subject to harassment.

Ensuring Access to Housing for Individuals with Disabilities

Persons with disabilities who seek housing often face discrimination in the form of illegal physical barriers, as well as stereotypes and prejudice. To eliminate barriers and combat discrimination, the Fair Housing Act requires that certain multi-family housing built since 1991 be designed and constructed with basic features that allow access by persons with physical disabilities. The Act also forbids local governments and housing providers from discriminating on the basis of disability, and requires them to make reasonable accommodations to their policies and practices to allow people with disabilities access to housing. The Division vigorously enforces all of these statutory provisions.

JPI Construction, LP: In June 2012, the Division, with help from the U.S. Attorney's Office in the Northern District of Texas, obtained the largest monetary settlement in a fair housing accessibility case, including the largest civil penalty ever in any Fair Housing Act case. The \$10.5 million monetary settlement resolved a case against JPI Construction, LP, the developer of more than 200 multi-family housing complexes nationwide. The Division alleged that JPI committed serious violations of the Fair Housing Act by failing to make many of these complexes accessible to people with disabilities. Ground-floor apartments and common-use areas lacked accessible sidewalks,

and other sidewalks contained stairs, slopes, and abrupt level changes that made it difficult for people who use wheelchairs or walkers to use them. JPI agreed not only to pay into an accessibility fund to provide retrofits at properties it built, but also to take steps to increase the stock of accessible housing in the communities where these properties are located.

Polk County, Florida: The Fair Housing Act also protects individuals with disabilities from zoning practices and other regulations that hinder their housing choices or restrict them from certain parts of a community. In October 2010, the Division resolved a lawsuit alleging that Polk County, Florida violated the Fair Housing Act when it denied New Life Outreach Ministries the right to operate a faith-based transitional residency program in Lakeland, Florida. The residency program was intended to help homeless men with disabilities, including those in recovery from drug and alcohol abuse. Under the consent decree, the county paid \$280,000 to New Life, \$80,000 to individuals who were forced to relocate from New Life's property as a result of the county's conduct, and a \$40,000 civil penalty. The consent decree also prohibits the county from further discrimination and requires county employees who have responsibilities related to zoning and land use to receive fair housing training.

Expanding Opportunity at School



Realizing Equal Opportunity for All Students

Over the last four years the Division has achieved unprecedented success in realizing equal opportunity for all students, including pursuing relief in and through:

43 Desegregation Cases integrating faculties, expanding student access to advanced courses, eliminating race-based extra-curricular activities, halting segregative transfers of students among schools, disrupting the school-to-prison pipeline, opening magnet schools, and ending single-race schools.

16 English Language Learner Agreements providing for fair and equal access to all students, regardless of their English language ability, a four-fold increase over the previous four years.

10 Student Harassment Agreements to end and prevent discrimination against students on the basis of race, color, national origin, religion, sex, or disability.

18 Disability Cases since March 2011 alone, ensuring equal access to education for students with disabilities.

The determination of students targeted for discrimination to stand up for themselves and other students inspires hope and reaffirms our commitment to expand educational opportunities for all students.

In *Brown v. Board of Education*, the Supreme Court recognized that equal access to public education is a basic right, established by the Constitution and now protected by our nation's civil rights laws. In this landmark decision almost 60 years ago, the Supreme Court held that "separate but equal" education on the basis of race has no place in the nation's public schools. Subsequent federal statutes and court decisions bar school officials from discriminating against students on the basis of race, national origin, sex, language, religion, and disability, and from excluding students from school based on their immigration status. Although *Brown* may seem like ancient history to some, the reality is that too many children still face intolerable discrimination at school.

The Division vigorously enforces federal laws to expand opportunity for all students. We maintain a substantial docket of longstanding desegregation cases where we strive to ensure that *Brown's* promise is realized in all aspects of a school district's operations – from its facilities and faculty to its extracurricular activities and discipline practices. We also require state education agencies and school districts to provide English Language Learner (ELL) students with the help they need to become fluent in English and participate equally in instructional programs. To ensure safe learning environments for all students, we aggressively combat student harassment on the basis of race, national origin, sex, religion, and disability. We have also built our docket to address persistent challenges such as the school-to-prison pipeline, harassment on the basis of gender nonconformity, and barriers to education for immigrant students.

Expanding Opportunities for Students Facing Segregation in Education

Since the 1960s, the Division has fought hard to desegregate public schools, and we have secured significant victories in this ongoing effort over the past four years. These recent victories are critical because despite *Brown's* promise, far too many students still attend segregated schools where they frequently are taught by segregated faculties or are housed in unequal facilities. Even those enrolled in racially diverse schools too often are assigned to single-race classes, denied equal access to advanced courses, disciplined unfairly due to their race, or separated by race in prom and homecoming events. Each day, the Division is taking on these persistent challenges as we continue to closely monitor and seek further relief in almost 200 school desegregation cases that remain under court supervision.

Cleveland, Mississippi: Since May 2011, the Division has been actively litigating to ensure that the Cleveland, Mississippi school district meets its long overdue obligation to desegregate its schools. The Division argued that schools on the west side of Cleveland's railroad tracks, which had been segregated white schools, still retain their character and reputation as white schools forty years later — while the formerly legally segregated African American schools on the east side of the tracks remain all African American. Only one mile separates the all African American middle school and high school from the high school and middle school with substantial white enrollments. The Division successfully asked the court to order the district to desegregate its middle school and high school student bodies, as well as the faculty in all its schools. At a recent hearing, the Division objected to the district's proposed plan to comply with the court's order, and the court upheld the Division's objection in a January 2013 decision. The Division continues to urge the court to order the immediate and effective desegregation of Cleveland's middle and high schools.

Monroe City, Louisiana: The Division also strives to ensure equal opportunities *within* schools. In 2010, the Division reached an agreement with a school district in Monroe City, Louisiana, to end severe educational inequities between its two high schools, one which serves only African American students and the other which has the greatest white enrollment in the district. Although the Monroe City School District is under a longstanding court order to desegregate its schools, it offered only five gifted and honors courses and not a single Advanced Placement class at its all African American high school. By contrast, the district offered nearly 70 Advanced Placement, gifted, and honors courses at the high school whose student population is nearly half white. The agreement the Division reached with the district ensures that all students have equal educational opportunities by requiring the district to take specific steps to offer the same courses at every high school.

Other examples: The Division also has challenged the school-to-prison pipeline in its desegregation cases to prevent minority students from being excluded from school through discriminatory suspensions and expulsions. In September 2010, the Division brought national attention to this critical issue by co-hosting a conference on this topic with the Department of Education. The Department of Education also partnered with the Division in December 2011 to issue much needed guidance on the voluntary use of race in K-12 schools and higher education. The guidance is founded on the fundamental premise, recognized by the Supreme Court, that "our strength comes from people of different races, creeds, and cultures uniting in commitment to the freedom of all," and helps to ensure that integration does not end when a desegregation case is dismissed and that the benefits of educational diversity remain achievable for all students.

Expanding Opportunities for Students Targeted for Discrimination and Harassment

For far too many students, getting ready for school means more than studying for an exam or writing a research paper – it means girding for a day marred by bullying and physical and verbal harassment. Harassment is not a rite of passage, and it can have devastating consequences far beyond the classroom. Schools have a legal and ethical obligation to take effective steps to prevent and redress harassment of their students. The Division aggressively enforces laws requiring schools to stop harassment in its tracks and to develop proactive policies and practices to enhance student safety.

Anoka-Hennepin, Minnesota: In 2010, the Division and the Office for Civil Rights (OCR) at the Department of Education began investigating a complaint that students were being harassed by their peers in the Anoka-Hennepin School District in Minnesota. Many students reported being harassed because they did not dress or act in ways that conform to gender stereotypes, and said that the unsafe and unwelcoming school climate inhibited their ability to learn. Some students faced threats, physical violence, derogatory language, or other forms of harassment every day at school. Several of these students stopped attending school; a few even contemplated or attempted suicide.

The Division and the Department of Education reached a landmark settlement with the district to address this harassment in March 2012. The consent decree systemically reforms the district's policies and practices related to harassment and serves as a blueprint for other districts to create safer learning environments for all students. Some of the major provisions of the consent decree require the district to enhance its training on sex-based harassment for faculty, staff, and students; retain an expert consultant in the area of mental health to



Students from the Anoka-Hennepin School District were presented with DOJ's Gerald B. Roemer Community Service Award in 2012 for their efforts to address harassment of middle and high school LGBT students.

address the needs of students who are targeted for harassment; provide sustainable opportunities for student involvement in the district's ongoing anti-harassment efforts; and improve its system for responding to reports of harassment. The Division worked with the brave students of Anoka-Hennepin who spoke out about the harassment they faced or observed to make school a place of equal opportunity for students in their own district and around the country.

Philadelphia, Pennsylvania: The Division also investigated complaints of severe harassment of Asian American students at South Philadelphia High School, including violent physical attacks against the students on school grounds. In one incident, approximately 30 Asian students were attacked by their peers, and 12 students were sent to the emergency room as a result of injuries they suffered. The Division worked with the school district, the Asian American Legal Defense and Education Fund, local advocacy organizations, the

Pennsylvania Human Relations Commission, students, and the community in an extensive investigation of the school district's policies and practices regarding student-on-student harassment. We reached a settlement agreement with the school district in 2010 to address and prevent such harassment and to resolve allegations that the district failed to respond to the complaints of the Asian American students. The settlement agreement required the district to revise its policies and proce-

dures concerning harassment; develop and implement a comprehensive plan for preventing and addressing student-on-student harassment; train faculty, staff, and students on discrimination and harassment; and maintain records of investigations and responses to allegations of harassment. Advocates report that the school climate at South Philadelphia High School has improved since the agreement's implementation.



Public school students watch a screening of the film *BULLY* in San Francisco's Herbst Theater as part of a multi-day Bay Area anti-bullying event in 2012. U.S. Attorney Melinda Haag, Assistant Attorney General Tom Perez, San Francisco Mayor Ed Lee, and Superintendent Richard Carranza joined members of the city government, the Bully Project, the San Francisco Foundation, the Rosenberg Foundation, and the California Endowment for an anti-bullying conference associated with the screening.

Expanding Opportunities for English Language Learner Students

Each day English Language Learner (ELL) students throughout our nation find themselves in schools that are failing to meet their needs. As a result, they cannot understand the lessons of their teachers, the directions of their administrators, or their interactions with fellow students. Without direct and effective instruction to help them learn English, these students are at risk of failing their classes and dropping out of school. Too often, moreover, their parents receive information in English from the school that they cannot understand, limiting not only their own access, but also their children's access to what the school offers English-speaking children and their families.

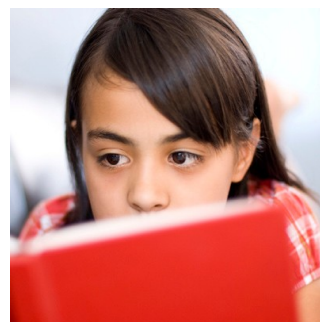
Most of these students were born here; others come from all over the world. Regardless of where they came from, school districts and states have a legal duty to provide their ELL students with the services they need to learn English and participate equally in school. Enforcing this obligation has been a civil rights priority for the Division over the last four years.

Boston, Massachusetts: In October 2010 and April 2012, the Division and OCR secured two major settlements with the Boston Public School District to address allegations of serious violations of the law. We determined that

the school district had denied ELL services to approximately 8,500 ELL students by failing to appropriately test their proficiency in English or incorrectly categorizing them as having “opted out” of services. While the primary goal of the first agreement was to secure immediate relief for the 8,500 ELLs who had no services at all, the second agreement was designed to provide all ELL students with high quality services delivered by qualified teachers. For example, the 2012 agreement ensures that ELL students who face unique challenges, including those with disabilities and those whose formal education has been interrupted, receive assessments and services specially designed to address their needs. The agreement also affords high-performing ELL students greater access to advanced learning opportunities.

Arizona: During the same four-year period, the Division also partnered with OCR to secure relief for tens of thousands of ELL students in Arizona who either were not offered the language support services they need or were prematurely exited from these services before they were proficient in English. The Division determined that the screening device used by the state failed to identify an estimated 10,000 students who needed ELL services. The

Division also found that the test Arizona was using to determine if students were proficient in English identified tens of thousands of ELL students as



proficient even though they lacked sufficient proficiency in reading or writing English.

To remedy this discrimination, the Division’s settlements with the state require that all ELL students be accurately identified and receive services until they are truly proficient. The state must also ensure that Arizona public school districts offer targeted reading and writing intervention services to ELL students who were prematurely exited or misidentified as fluent over the past five school years. Approximately 41,000 students met the eligibility criteria for these services and are still enrolled in Arizona public school districts. Based on reports thus far from over half of these districts, at least 24,800 students accepted and are now receiving such services.

Expanding Opportunities for Students with Disabilities

For students with disabilities, all too frequently the door to education is not fully open. Students with disabilities continue to face barriers that make it impossible for them to learn, to be in the same classroom as their friends, or to participate in all that today’s schools have to offer. In some cases, they confront discrimination that endangers their health and safety, including harassment or dangerous restraint and seclusion practices. The Division has worked aggressively over the past four years to protect the rights of students with disabilities so that all of America’s students have equal access to the resources and opportunities they need to learn.

Nobel Learning Communities: In January 2011, the Division entered into a settlement agreement with Nobel Learning Communities, Inc. (NLC), a private, for-profit company that operates a network of more than 180 pre-schools, elementary schools, and secondary schools throughout the country. Our lawsuit alleged that NLC violated the Americans with Disabilities Act (ADA) by excluding children with disabilities, including children with autism spectrum disorders, Down Syndrome, ADHD, and global developmental delays. Under the agreement, NLC will implement and publicize a policy that prohibits discrimination on the basis of disability and require its

schools to provide reasonable modifications for children with disabilities nationwide; train regional executives, principals, and assistant principals on the policy; appoint an ADA compliance officer to oversee compliance with the policy; and pay a total of \$215,000 in compensatory damages to families who complained of discrimination.

Nashville, Tennessee: Our work under other non-discrimination statutes also benefits students with disabilities. After intervening in a case of a boy with disabilities who was sexually assaulted by another student while riding on a school bus operated by the Nashville Public School District in Tennessee, the Division negotiated a comprehensive consent decree with the district in 2010. The consent decree required the school district to take substantial steps to enhance the security of students with disabilities on its buses. Through the consent decree, the district agreed to staff bus monitors to assist drivers on all buses; implement comprehensive screening procedures to ensure that students with disabilities are not assigned to buses where they will be at risk of harassment; expedite the investigation of suspected acts of sexual harassment involving students with disabilities; and ensure open lines of communication between transportation officials and school-based personnel. The district also agreed to pay the boy's family \$1.475 million as part of the settlement.

Other examples: The Division is working to

ensure that students with disabilities can pursue higher education. For example, we have worked to address barriers posed by inaccessible standardized tests. The ADA requires testing providers to offer tests such as those related to higher education admissions and licensing in ways that "best ensure" that the test measures knowledge or skill, and not disability. In 2012, we intervened in ongoing litigation challenging the Law School Admissions Council's alleged failure to provide testing accommodations where needed so that the Law School Admissions Test meets the ADA standard.

In addition, the Division has filed several statements of interest and amicus briefs in private litigation challenging elementary, secondary, and higher education schools that demand unfettered discretion to decide what accommodations to provide or permit for students. For example, the Division successfully challenged a medical school's refusal to allow a student to use oral interpreters for clinical classes, even at his own expense. The Division also successfully defended the constitutionality of a regulation under the Individuals with Disabilities Education Act that requires school districts to provide parents with an independent education evaluation at public expense under appropriate circumstances. The 11th Circuit Court of Appeals agreed with the Division and upheld the longstanding regulation, thereby preserving one of parents' key rights under the law.

Keeping the Schoolhouse Door Open to All

Thirty years ago, the U.S. Supreme Court issued a historic decision in *Plyler v. Doe*, making clear that public schools must enroll all children regardless of their immigration status. Since *Plyler*, millions of children across the country have been able to enroll in public school and demonstrate what they can achieve when schoolhouse doors are open to them. Yet undocumented children and children from

immigrant families unfortunately continue to face barriers to enrolling and remaining in school.

Alabama: In 2011, Alabama passed an immigration law, known as H.B. 56, that effectively closed the schoolhouse door to many students. This law, among other things, directly targeted immigrant families by requiring

schools to verify the immigration status of enrolling children and their parents. The Division responded immediately to their provision of the law by going to Alabama to listen to parents, students, teachers, and a diverse group of civil rights, faith, and education leaders who uniformly condemned the effect of H.B. 56 on Alabama's schoolchildren. Some students stayed home or withdrew from school out of fear that they or their parents would be questioned about their immigration status. Other students returned to school, but reported not being able to concentrate and no longer feeling safe at school. The Division also sought data on student enrollment and attendance, which revealed that absences among Alabama's Latino students tripled and withdrawals of Latino children spiked after H.B. 56 went into effect.

Fortunately, a panel of the 11th Circuit Court of Appeals struck down the education provisions of H.B. 56 in March 2012, and the full Court of Appeals denied Alabama's petition for review in November 2012. The Division continues to watch and respond to developments in Alabama and in all states where students' access to education is threatened.

Other examples: Rising hostility to immigrant students also prompted the Division and the Department of Education to issue guidance to remind public schools of their obligation

under *Plyler* to enroll all students regardless of their or their parents' immigration status. The guidance clarified that schools cannot deny enrollment if students or their parents choose not to provide a social security number or provide a foreign birth certificate when a district requires a birth certificate. It further made clear that schools may not adopt enrollment policies that discourage children from enrolling in school based on their race, immigration status, or national origin.

We have since provided technical assistance to schools to help them fulfill these obligations, and investigated reports that schools have engaged in practices that discourage undocumented students from enrolling in school. For example, the Division investigated allegations that the Henry County, Georgia, school district improperly notified parents that their children would be withdrawn from school for not providing a social security number and failed to make enrollment procedures accessible to parents with limited English proficiency. The Division reached a settlement agreement with the district in November 2012 to ensure that all of its students are able to enroll in school, regardless of their national origin or immigration status, and that these students' parents receive enrollment and registration information in a language they can understand.

Education Rights in Appellate Courts

During this Administration, the Division has successfully litigated numerous cases in appellate courts in support of rights guaranteed to students by law:

- The Division played a leading role defending the undergraduate admission program of the University of Texas, which was challenged by two white candidates who had been rejected for undergraduate admission. The program adopts a holistic approach – examining race as one component among many – when selecting among applicants who are not otherwise eligible for automatic admission by virtue of being in the top ten percent of their high school class. The 5th Circuit Court of Appeals accepted many of the arguments presented by the Division when it upheld the university’s limited use of race as justified by a compelling interest in diversity and narrowly tailored to achieve a critical mass of minority students. The Supreme Court heard argument in the case in October 2012. In the Department’s amicus brief to the Court, we argued that, like the university, the U.S. has a compelling interest in the educational benefits of diversity, and that the university’s use of race in freshman class admissions to achieve those benefits is constitutional.
- The Division was successful in appeals arising under Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in any education program or activity offered by a recipient of federal financial assistance. In 2011, for example, the Division filed an amicus brief in a case involving allegations of sex discrimination in Quinnipiac University’s athletics program, which had in 2009 announced plans to cut its women’s volleyball team, men’s golf team, and men’s outdoor track team while creating a new varsity sport – competitive cheerleading. Among other things, we argued that while competitive cheerleading might be found to be a sport for Title IX purposes in some circumstances, Quinnipiac’s team was not sufficiently comparable to other varsity sports at the school for it to be considered a varsity sport. We also argued that the university had a gap between the participation of male and female athletes, in violation of Title IX. The 2nd Circuit Court of Appeals agreed with the Division’s analysis.
- The Division was also successful in a case brought by a student who was subjected to persistent racial harassment by his white peers and alleged that his school district was deliberately indifferent to student-on-student racial harassment. A jury ruled in favor of the student; on appeal, the school district argued that it could not be found deliberately indifferent because it took prompt disciplinary action against each individual student who engaged in harassment. The Division filed an amicus brief in support of plaintiff, and the 2nd Circuit Court of Appeals affirmed, holding that the student had been subjected to actionable harassment and discriminatorily deprived of educational benefits. The Court emphasized that although the school district took prompt disciplinary action against individual harassers, that action did not deter other students from engaging in ongoing racial harassment and was, therefore, inadequate to meet the school’s legal obligations.

Expanding Opportunity in the Workplace

The ability to earn a living and have the opportunity to climb up the economic ladder is at the heart of the American Dream. But all too often, employers use hiring and promotion procedures that keep this dream out of reach for many people. Examinations exclude groups of applicants but do not actually test for the core elements of what it takes to be a good police officer, firefighter, or other public safety officer – or test, instead, for skills that are irrelevant to successful job performance. Too frequently, women are subject to harassment on the job or forced to choose between their jobs and their pregnancies. And in far too many cases, employees are subjected to unequal treatment in pay, benefits, and opportunities for training or assignments – treatment premised on their race, sex, national origin, religion, or disability.

The Division has reinvigorated enforcement of Title VII of the Civil Rights Act of 1964, which makes it unlawful to discriminate against employees on the basis of race, color, national origin, sex, or religion, or to retaliate against individuals who make or assist others in making discrimination claims or protest discrimination. Through robust enforcement of Title VII, the Division has triggered changes to the



employment practices of public employers nationwide to ensure that applicants and employees are able to pursue their jobs free of discrimination. We filed 32 lawsuits under Title VII during this Administration to address cases of employment discrimination, and we have obtained substantial relief for victims, including in dozens of individual charges of discrimination that were referred by our partner agency, the Equal Employment Opportunity Commission.

The Division also enforces the Americans with Disabilities Act, which bars employment discrimination on the basis of disability, and the Immigration and Nationality Act, which protects U.S. citizens and certain work authorized individuals from employment discrimination based upon citizenship or immigration status.

Expanding Opportunities for Workers by Challenging Unlawful and Ineffective Employment Tests

The Division has obtained substantial relief for victims of employment discrimination, filing 32 lawsuits under Title VII during this Administration.

New York City: Firefighters perform indispensable work to protect communities across the country. The Division has played a critical role in providing African Americans and Latinos with equal employment opportunities with the Fire Department of New York City, or FDNY. Both African Americans and Latinos have been severely underrepresented in

Minority firefighter representation in other cities, 1999

Los Angeles	14% African American 30% Latino
Chicago	20% African American 8.6% Latino
Houston	17% African American 14% Latino
New York	2.9% African American 2.8% Latino

When litigation started in 2007, the percentages of African American and Latino firefighters in New York had increased to just 3.4% and 6.7%, respectively.

FDNY's firefighter workforce for decades, due in large part to selection and screening devices that do not adequately test a person's ability to perform the requirements of the job. This underrepresentation is particularly striking when the FDNY workforce is compared to similar workforces both in New York and around the country. For example, while African Americans and Latinos, combined, make up about 50 percent of the population of New York City, they make up only about 10 percent of the FDNY's 9,000 firefighters. By comparison, in the NYPD, African Americans and Latinos comprise roughly 16.5 percent and 18 percent of police officers, respectively.

The Employment Litigation Section successfully challenged FDNY's use of written firefighter examinations, which disproportionately screened out qualified African American and Latino applicants without enabling FDNY to predict job performance. In July 2009, citing the "overwhelming" evidence presented by

the Division, a federal court ruled that New York City's use of the examinations constituted a pattern or practice of discrimination. After three more years of litigation, the court ordered New York City to pay up to \$128 million in back pay to those unfairly rejected from jobs, as well as to provide priority job offers for 293 victims of the city's discrimination. The court also ordered the city to develop and implement a new written examination, which, unlike the challenged exams, actually tests for the skills and abilities that are important to the firefighter position. Today, for the first time in roughly 40 years, New York City is poised to hire firefighters based on job qualifications and tests that are administered in a fair, nondiscriminatory way.

New Jersey: The promotional process can also create barriers to opportunities for qualified workers to move up in rank. In January 2010, the Division filed a lawsuit against the State of New Jersey, challenging the state's use of a written examination to decide who to promote to police sergeant. We found that the test disproportionately excluded African American and Latino police officers from promotions and did not test for the skills necessary to do the job. We reached an agreement with New Jersey in June 2012 that requires the state to use a new, lawful procedure that allows police officers to be promoted based on merit, not race or national origin. The agreement also requires New Jersey to provide up to \$1 million in back pay and priority promotions to qualified officers who were denied a promotion to police sergeant on a discriminatory basis. The case is currently on appeal.

Employment Rights in the Supreme Court

During this Administration, the Department made arguments that prevailed in the Supreme Court in two employment discrimination cases arising under Title VII of the Civil Rights Act of 1964. *(continues on next page)*

- In January 2011, the Supreme Court issued a unanimous decision in favor of Eric Thompson, who had sued his employer for violating Title VII's anti-retaliation provision. Thompson and his fiancée both worked at a stainless steel manufacturing plant operated by North American Stainless, and his fiancée had filed a charge with the EEOC alleging that the company had discriminated against her based on her sex. Shortly after the EEOC informed the company of the charge, Thompson was fired, and alleged that he was terminated solely because his fiancée filed a complaint. Lower courts dismissed Thompson's claim on the grounds that Title VII does not permit a retaliation claim by a third party. The Department filed an amicus brief in support of Thompson, and the Supreme Court issued a unanimous decision in Thompson's favor. In accord with our arguments, the Supreme Court held that North American Stainless violated Title VII if it fired Thompson in retaliation for his fiancée's complaint, and that Thompson had standing to sue under Title VII.

- The Supreme Court also issued a unanimous decision in a Title VII case involving a 1995 written examination that the City of Chicago administered as part of its hiring process for entry-level firefighters. Minority candidates who took the test challenged its use on the grounds that it had a discriminatory impact on them. In May 2010, the Court held that a plaintiff who does not file a timely charge of discrimination challenging the *adoption* of an unlawful employment practice may nevertheless assert a timely disparate-impact claim based on the employer's subsequent *application* of that practice. Agreeing with the arguments in the Department's amicus brief, the Court ruled that a timely disparate-impact discrimination claim can be made each time the employer uses the results of an invalid employment examination.



In addition, in September 2012, the Division filed another amicus brief in the Supreme Court, in a case brought against Ball State University. Maetta Vance, a catering worker, sued the university under Title VII, alleging that she was harassed on account of her race and that her employer was vicariously liable because the harasser was her supervisor. The 7th Circuit Court of Appeals found that the alleged harasser was Vance's coworker rather than her supervisor because she did not have the authority to hire, fire, promote, demote, transfer, or discipline Vance. Accordingly, the court held that the employer could not be vicariously liable for harassment. Other circuits and the EEOC's enforcement guidance apply a more inclusive definition of supervisory status for purposes of an employer's vicarious liability, providing that anyone who directs the employee's daily activities can qualify. The Department's brief argued that the Court should adopt the EEOC's broader standards even though, on the current record, Vance did not meet those standards for showing the harasser was her supervisor.

Ensuring Equal Employment Opportunities for Women in the Workplace

The Division has vigorously enforced federal laws prohibiting sex discrimination in the workplace. Sex discrimination can manifest in many forms, from denying employment opportunities to women based on their sex, to treating women unfavorably because they are pregnant, to sexual harassment, to employment tests that disproportionately exclude women from certain jobs while failing to test for the skills necessary to perform the job. The Division enforces civil rights laws to combat this discrimination in all its forms.

Massachusetts: In 2009, the Division filed a lawsuit against the Commonwealth of Massachusetts and its Department of Corrections, alleging that the state engaged in a pattern or practice of employment discrimination against women. The State had used a physical abilities test to hire correctional officers that disproportionately screened out female applicants, and there was no evidence that the test accurately predicted an applicant's ability to perform the job. The Division ultimately reached an agreement with the state, barring it from using the test to prescreen and select applicants for correctional officer positions. The agreement also requires Massachusetts to pay \$736,000 in back pay and to give priority job offers to female applicants who were harmed by these hiring practices.

Davie, Florida: In Florida, the Division reached an agreement to protect the rights of female firefighters in the town of Davie. The Division had found that the fire department engaged in a pattern or practice of pregnancy discrimination against female firefighters, denying pregnant firefighters' requests for light duty assignments during their first trimesters while granting the same requests from similarly situated firefighters with off-duty injuries. We also found that the fire department required all pregnant firefighters to leave

active duty at the start of their second trimester even if they could still perform the essential functions of their jobs. The agreement, approved by a federal court in September 2012, requires Davie to amend its light duty policies and complaint procedures, as well as to conduct training of its employees on the new policies and procedures, to ensure that women are not subjected to discrimination as a result of pregnancy.

Texas: In January 2012, we filed a Title VII complaint against the Texas Department of Agriculture and the Texas General Land Office to ensure that women are paid equal wages for equal work. Our complaint alleged that the two agencies, as successors in liability to the now defunct Texas Department of Rural Affairs ("TDRA"), were responsible for discrimination against three female former TDRA employees who were paid significantly less than their male counterparts for performing the same work. The complaint also alleged that the women were terminated from their employment because they opposed the pay disparities, amounting to unlawful retaliation. The Equal Employment Opportunity Commission filed a complaint contending that these same actions by the agencies violated the Equal Pay Act.

In November 2012, we reached a settlement agreement resolving both lawsuits. Under the settlement, the two Texas agencies will pay a total of \$175,000 in back pay to the three female employees, as well as maintain employment policies, practices, and procedures that comply with Title VII and the Equal Pay Act. The agencies will also educate and train their employees on these laws and provisions, and provide their anti-discrimination policies to the Division and EEOC for review and comment.

Preventing Religious Discrimination in the Workplace

The Division is committed to ensuring that workers are treated non-discriminatorily on the job. For example, the Division has acted to protect employees from having to choose between employment and their religious obligations. In December 2010, the Division filed a Title VII complaint against the Berkeley School District in Berkeley, Illinois – the first lawsuit brought by the Division under a program designed to enhance collaboration and resource sharing between the Division and the Equal Employment Opportunity Commission. Our complaint alleged that the district failed to reasonably accommodate the religious practices of a Muslim teacher who requested an unpaid leave of absence to perform *Hajj*, a pilgrimage required by her religion, Islam. We

argued that the school district denied a reasonable accommodation of her religious practice, forcing her discharge.

In January 2012, we resolved the suit with a consent decree requiring the Berkeley School District to pay \$55,000 to the Muslim teacher for lost back pay and emotional distress damages. The consent decree also requires the school district to develop and distribute a religious accommodation policy, and provide mandatory training on religious accommodation to all Board of Education members, supervisors, managers, administrators, and human resources officials who participate in decisions on religious accommodation requests made by its employees.

Protecting the Rights of People Applying for Work From Discrimination on the Basis of National Origin and Citizenship Status

Our nation has long welcomed immigrants from throughout the world who aspire to live and work in the United States. Generations of immigrants have contributed to the growing diversity of our communities and the strength of our economy. Yet some employers continue to deny employment opportunities to immigrants who are in fact authorized to work or subject them to discriminatory employment eligibility verification procedures. Other employers erroneously believe they may lawfully choose workers with a particular citizenship status or that only limited categories of individuals have the right to work in the United States.

“It makes no sense to admit immigrants and refugees to this country, require them to work, and then allow employers to refuse to hire them because of their immigration status,” the House Judiciary Committee reported upon passing the anti-discrimination provision of the INA in 1986.

Such unfair employment practices are devastating for workers – and are prohibited by the anti-discrimination provision of the Immigration and Nationality Act (INA). The Division is committed to protecting the right of all work-authorized individuals to work and vigorously enforces this provision. We not only investigate hundreds of charges brought by injured parties under the INA, but also accept referrals from a wide network of partner agencies and open independent investigations. In the last fiscal year alone, we received 83 referrals and opened 44 independent investigations, more than the prior four years combined. And over the last three years, we filed 12 complaints to address immigration-related unfair employment practices, compared with a total of two complaints filed over the previous six years. During the same three-year period, our enforcement efforts have resulted in over \$1 million in penalties imposed on wrongdoers, compared with \$120,000 over the previous six years.

Onward Healthcare: In March 2012, the Division reached a settlement with Onward Healthcare, a Connecticut healthcare staffing company, after an investigation revealed that thousands of job advertisements posted on its home page and third-party websites invited only U.S. citizens to apply. Non-U.S. citizens, such as lawful permanent residents, asylees, and refugees, are legally work authorized and should have been allowed to apply as well. The settlement required the company to correct its hiring practices and pay \$100,000 in civil penalties.

Catholic Healthcare West: The law also prohibits employers from imposing more or different requirements on employees in the employment eligibility verification process based on their citizenship status or national origin. In October 2010, the Division entered into a settlement agreement with Catholic Healthcare West, one of the largest hospital providers in the nation. The employer rejected a lawful permanent resident’s work eligibility documents and denied her a transfer to a facility where she and her young child would be

closer to family members. As part of the settlement, the hospital system agreed to compensate the victim, to pay \$257,000 in civil penalties, and to review practices at all of its 41 facilities in order to identify and compensate any victims who had lost wages as a result of its discriminatory documentation practices.



875 JOBS SAVED



\$707,000 IN BACK-PAY RECOVERED



2700 OUTREACH PRESENTATIONS LED



25,000 HOTLINE CALLS HANDLED

Through robust enforcement of the Immigration and Nationality Act (INA), the Division’s Office of Special Counsel has helped hundreds of workers across the country over the past three years. INA enforcement is one of several tools the Office uses to support the rights of immigrant workers. (Data from Fiscal Year 2009 to Fiscal Year 2012.)

CASE STUDY: The complications faced by immigrant workers can be overwhelming when an employer fails to abide by the law. For one long-term lawful permanent resident with limited English skills, his nightmare began when his employer ran his information incorrectly through E-Verify, an electronic employment eligibility program administered by the Department of Homeland Security and the Social Security Administration. Because of the errors, the worker received a “tentative nonconfirmation,” or TNC, from the Department of Homeland Security (DHS). The worker had presented more than sufficient valid documentation, but he was not allowed to work while challenging his TNC. The employer then failed to follow the appropriate E-Verify procedures or instructions, and improperly instructed the worker to visit the local DHS office to get written authorization stating that he was authorized to work. Although there was no legal obligation on the worker to obtain additional documentation, the worker traveled three hours to a DHS office and returned to the employer with a stamp in his passport showing work authorization. The employer failed to accept this proof, again insisting on a written letter from DHS. All this time, the lawful permanent resident was denied his right to work. Under a formal settlement, the Division secured \$25,000 in civil penalties, \$10,000 in back pay compensation, and will be monitoring the employer for 3 years.



Intervention Tools: The OSC Worker Hotline

The Division operates several different hotlines to serve the public. One hotline handles calls from workers about their rights under the INA’s antidiscrimination provision. If a caller indicates a potential violation of the INA’s antidiscrimination provision, the Division will attempt to educate the employer and facilitate an informal dispute resolution. In the last four fiscal years, this innovative use of a hotline as an alternative dispute resolution procedure has resulted in 800 successful “interventions,” getting workers back to work often within hours or days and recovering hundreds of thousands of dollars in lost wages without requiring formal investigations.

“Usted es un angel.” In 2010, a Salvadoran caller with Temporary Protected Status called the Division after being terminated from her position at a major grocery chain due to her inability to produce a new Employment Authorization Document, even though her work authorization had been automatically extended by virtue of a Federal Register notice. The Division intervened, informing her employer that she was entitled to work. The worker was reinstated to her job and received over \$8,000 in lost wages.

“Thank you for the work you do; it is because of you that I have the job.” In 2012, a U.S. citizen called after her employer rescinded her job offer. The caller, along with her two children, had moved from New York to South Carolina to accept a job at a hospital facility; she had declined another job offer to take this position. During the employment eligibility verification process, her employer demanded that she change the name on her Social Security card, which contained only one of her two last names. She provided a U.S. passport instead, but the facility rejected it and rescinded the job offer. She was in the process of a divorce, and the loss of the position was of extreme concern to her. With the Division’s intervention, the facility agreed to allow the caller to begin work immediately.

Ensuring Equal Opportunities for Workers and Applicants with Disabilities

More students with disabilities are earning high school and college diplomas than ever before. Like everyone else, these students wish to find a job in the field they worked so hard to master. But for workers with disabilities, barriers to becoming employed, staying employed, and earning the same benefits and privileges offered to all employees persist. Vestiges of long outdated attitudes and stereotypes still keep qualified people with disabilities unemployed, as do inaccessible workplaces or failure to provide reasonable accommodations. Over the last four years, the Division has continued to work to break down legal and attitudinal barriers to ensure that applicants and employees with disabilities are treated fairly and provided equal opportunity to succeed in the workplace.

Ventura County, California: In July 2010, the Division entered into an agreement with Ventura County, California, resolving our lawsuit alleging that the county had discriminated against a woman who applied for a position as a children's social service worker. Because the woman is deaf, Ventura County did not believe that she was qualified for this position, even though she had been successfully working as a children's social worker in Los Angeles County for 10 years. Under the terms of the agreement, the county adopted an employment policy prohibiting discrimination and explicitly

acknowledging that reasonable accommodations for an employee may include providing a qualified sign language interpreter. The county also paid the victim \$45,000 in compensatory damages.

Baltimore County, Maryland: In August, 2012, the Division reached an agreement with Baltimore County, Maryland to address a different kind of employment discrimination. The Division found that Baltimore County required its employees to submit to unnecessary, intrusive, and non-job-related medical examinations that did not test their ability to do their jobs, and automatically disqualified applicants with Type 1 diabetes from Emergency Medical Technician (EMT) positions. As a result of the county's discriminatory policies and practices, its employees — including veteran police officers, firefighters, and EMTs who were qualified and able to work — were denied employment and were forced into career-ending, involuntary retirement. Our agreement required Baltimore County to pay \$475,000 to the victims, adopt new policies and procedures regarding the administration of medical examinations and inquiries to its employees, and stop automatically excluding job applicants with Type 1 Diabetes from EMT jobs. As a result of this agreement, public service employees with disabilities who are able to work will be allowed to do so.

Expanding Opportunity in the Community for People with Disabilities



Individuals with disabilities have long faced great barriers to full participation in civic life. The Division has made protecting the rights of people with disabilities a top priority by enforcing the Americans with Disabilities Act (ADA), the historic law prohibiting discrimination on the basis of disability in more than seven million places of public accommodation nationwide – including hotels, restaurants, retail stores, theaters, health care facilities, and parks and places of recreation – as well in all operations of state and local governments. Our aggressive enforcement of the ADA touches the lives of individuals with disabilities and their families in a wide variety of ways.

ENFORCING THE LAW: In the past four years, the Division has achieved results for people with disabilities in over 1,600 actions under the ADA, including lawsuits, settlement agreements, and successful mediations.

Eliminating Barriers to Places of Public Accommodation for People with Disabilities

Discrimination by public accommodations against people with disabilities remains far too prevalent. Inaccessible facilities, discriminatory policies, and prejudicial attitudes can prevent a person with a disability from taking a bus, shopping for groceries or clothing, getting medical care or exercise, seeing a movie or exhibit, having dinner at a restaurant, or getting a hotel room. Every day, the Division challenges the unnecessary barriers thrown in the way of people with disabilities who are just trying to live their lives.

Wells Fargo: In 2011 the Division entered into a comprehensive settlement agreement with Wells Fargo & Company, which owns or operates almost 10,000 retail stores and 12,000 ATMs throughout the United States. The complaint alleged that Wells Fargo would not do business with people with hearing and speech

disabilities over the phone using a telecommunications relay service. Instead, the individuals were directed to call a TTY/TDD line that asked them to leave a message, which frequently went unanswered. The Division also found that Wells Fargo failed to provide financial documents in alternate formats, such as Braille or large print, to people who are blind or have low vision; failed to provide appropriate auxiliary aids and services for in-person meetings with individuals who are deaf; and failed to remove barriers to access for individuals with mobility disabilities. Under the agreement, Wells Fargo will pay up to \$16 million to compensate individuals who experienced discrimination, as well as \$1 million in charitable donations to non-profit organizations that will assist veterans with disabilities.

Hilton Hotels: The Division has also challenged unlawful barriers in places of public accommodation that restrict people with disabilities' freedom to travel. For travelers with disabilities, finding a suitable hotel can be extremely difficult because of the lack of accessible guest rooms. Inaccessible bathrooms and showers can render a hotel useless for potential guests who use wheelchairs or other mobility devices. In November 2010, the Division reached an agreement to resolve multiple

complaints of discrimination by Hilton Worldwide, Inc., one of the world's largest hotel chains. This comprehensive agreement covers 2,200 hotels that Hilton owns, manages, or franchises nationwide. It requires Hilton to train employees on the ADA, designate an ADA contact person at each hotel, and modify its reservations system to ensure that individuals with disabilities can get accessibility information when reserving by telephone or online.

DEVELOPING THE LAW: In July 2010, the Division published four Advance Notices of Proposed Rulemaking addressing potential new rules under the ADA. The potential new rules address websites of public accommodations and public entities; captioning and audio description of movies in theaters; furniture and equipment (such as hotel beds, kiosks, and medical equipment); and next generation 9-1-1 systems.

In September 2010, the Division published revised final regulations implementing the ADA for Title II, covering state and local government services, and Title III, covering public accommodations and commercial facilities. The regulations were the culmination of a six-year process to address needs that have arisen over the 20-year history of the ADA, and contain new and updated requirements, including the 2010 Standards for Accessible Design. As part of this regulatory process, the Division sought extensive public comment and held a public hearing. During the comment period, we received and reviewed over 4,435 written public comments.

Expanding Opportunities for People with Disabilities to Live and Participate in Their Own Communities

The Division has enforced 44 Olmstead matters in 23 states on behalf of children and adults with physical, mental, and developmental disabilities who are in or at-risk of entering segregated settings, including state-run and private institutions, nursing homes, board and care homes, and sheltered workshops. We have reached statewide settlement agreements, filed litigation, and had an active statement of interest practice in private litigation.

Ensuring that people with disabilities have the opportunity to live and participate in their communities is at the heart of the Division's disability enforcement mission. In 2009, the Division launched an aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling recognizing that people's civil rights are violated under the ADA when they are unnecessarily segregated from the rest of society. Under *Olmstead*, states are required to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs.

The goal of the Division's *Olmstead* enforcement work is to offer people with disabilities opportunities to live life to their fullest potential. Through this work, we have provided people with disabilities opportunities for true integration, independence, choice, and self-determination in all aspects of life, including where they live, spend their days, work, or participate in their communities. We have also ensured that individuals have access to the quality support and services that they need to lead successful lives in the community. As a result of our efforts, tens of thousands of people with disabilities across the country have the opportunity to live and participate in their communities.

Collaboration with a range of stakeholders and federal partners has been critical to the success of our *Olmstead* enforcement. Engagement with people with disabilities and their families, disability advocates, and other community stakeholders has informed all aspects of our work and has helped us develop sustainable remedies that address the concerns and priorities of each individual community. Public education about *Olmstead* has also been important. In 2011, we issued the Division's first *Olmstead* guidance and launched a website dedicated to the Division's *Olmstead* work (www.ada.gov/olmstead). In addition, we have worked closely with federal partners in the United States Departments of Health and Human Services, Housing, Education, and Labor, recognizing that access to healthcare services, housing, education, and employment are critical to making *Olmstead* a reality for people with disabilities.

Virginia: The Division has reached a number of settlement agreements that transform states' disability service systems from ones overly-reliant on institutional care to ones focused on providing quality community services and supports. In 2012, for example, we reached an agreement with the Commonwealth of Virginia to provide a range of critical



COMMUNICATING THE LAW: An Accessibility Specialist on the Division's ADA Information Line. In the past four years, Division staff helped more than 200,000 people who called our ADA Information Line to learn how the ADA applies to them. In Fiscal Year 2012, the Division answered more than 60,000 calls, the highest volume of calls since the Information Line was created in 1993. The ADA website received almost 12 million hits the same year.

community services – including Medicaid-funded healthcare services, crisis services, housing, and employment supports – to more than 5,000 individuals with intellectual and developmental disabilities in institutional settings or languishing on long waitlists for community services.

Other examples: The same year, the Division reached an agreement with North Carolina to provide integrated community housing and community supports to 3,000 people with mental illness in or at-risk of entering large, congregate adult homes. We also reached an agreement with Delaware in 2011 to provide essential community services and integrated housing to more than 3,000 people in or at-risk of entering the state's public and private psychiatric hospitals.

Stefon's Story

Stefon is an 18-year-old with a profound intellectual disability and visual, orthopedic, and language disabilities. Although his support needs are serious, they are all being addressed well in the community. Stefon graduated from his local high school, attended his senior prom, and has won national praise for his participation in Special Olympics. He lives at home with those who love and support him. As his mother said, "Stefon is living a meaningful and rich life even though he has profound and multiple disabilities. Receiving [community services] literally changed our lives. . . My son's life is significant; he has affected the lives of many people that he has encountered in the community."



Nothing in the ADA or the integration mandate is limited to residential settings. The Division has expanded its *Olmstead* work to look beyond just *where* people live to examine *how* people live. Simply moving someone from an institution to a community-based residence does not achieve community integration if that person is still denied meaningful integrated ways to spend his days and is denied the opportunity to work in his community. In 2012,

the Division issued a letter finding that Oregon violated the ADA by its overreliance on segregated "sheltered workshops" to provide employment services to people with intellectual and developmental disabilities who could, and want to, work in integrated employment. The Division also filed two statements of interest in private litigation in Oregon challenging segregated employment.

Expanding Opportunities for Civic Access

Citizen participation in all aspects of government – from accessing services, to volunteering in programs, to serving on boards and commissions, to running for elected office – not only enhances our communities, but defines who we are as a country. Ensuring that people with disabilities can participate in all aspects of community life remains a priority for the Division's ADA work. Project Civic Access is a wide-ranging Department effort to ensure that counties, cities, towns, and villages comply with the ADA by eliminating physical and communication barriers that prevent people with disabilities from participating fully in community life. Most importantly, these communities have indicated a willingness to effect changes to make their programs and services accessible to persons with disabilities.

In the last four years, the Division has reached Project Civic Access agreements with 42 communities of all sizes throughout the country.

Kansas City, Missouri: In July 2012, the Division entered into an agreement with Kansas City, Missouri, to improve access to all aspects of civic life for people with disabilities. Approximately 85,000 residents of the city have a disability. And now, as a result of the agreement we reached, people with disabilities living in or visiting Kansas City will be able to participate more fully in all aspects of community life. Our agreement requires Kansas City to make physical modifications to facilities so that parking, routes into buildings, entrances, assembly areas, restrooms, service counters, and drinking fountains are

accessible to people with disabilities. Other provisions address effective telephone and web communication, grievance procedures, polling places, emergency management

policies, sidewalks, and domestic violence programs. The Kansas City agreement marked the 200th settlement reached under Project Civic Access since 1999.

"We are committed to helping every resident fully participate in all Kansas City has to offer. Our city has historically been a leader on issues of inclusion and equal access, and I am proud we are once again demonstrating that commitment. This agreement will ensure that the city of Kansas City can be explored and enjoyed, traversed and traveled by everyone."

-Kansas City Mayor Sly James

Ensuring Equal Access to New and Emerging Technology

The explosion of new technology has dramatically changed the way America communicates, learns, and conducts business. But for too many people with disabilities, the benefits of this technology revolution remain beyond their reach. Many websites of public accommodations and public entities are inaccessible to people with vision or hearing disabilities. Because websites are a primary means of accessing all types of goods, entertainment, and government services, this lack of access threatens to exclude people with disabilities from modern society. Similarly, devices like electronic book (e-book) readers, whether used as textbooks in a classroom or to take out books from a local library, can be completely unusable by someone who is blind because accessible features they need, such as text-to-speech functions or menus and controls accessible by audio or tactile means, are not available on the device.

Websites and digital technologies can be built or modified to be accessible, much like including ramps on buildings, but too few entities are including available accessibility features in their technology. The Division is working to ensure that people with disabilities are not left behind as new technology continues to emerge. For example, in January 2010, we reached a settlement with Arizona State University, which distributed e-readers through a pilot program that were inaccessible to many

students with vision disabilities. The agreement required the University to deploy only e-reader devices that allow blind individuals to acquire the same information and enjoy the same services that the e-book reading device offers sighted individuals with substantially equivalent ease of use.

In August 2012, the Division and the National Federation of the Blind entered into a settlement agreement with the Sacramento Public Library to resolve a complaint that the library's use of Barnes & Noble NOOK e-readers in its e-reader lending program discriminated against individuals who are blind or have other vision disabilities. In addition to print books, the library offers an e-reader lending program that allows library patrons to check out a NOOK and take it home with them. However, NOOKs do not have accessible features such as text-to-speech functions or the ability to access menus through audio or tactile options. Under the terms of the settlement, the Library will not acquire any inaccessible additional e-book readers for patron use. The library also agreed to acquire several additional e-readers that are accessible to persons with disabilities, and to train its staff on the requirements of the ADA. As a result of this settlement, the Library's e-book lending program is accessible to patrons who are blind or have other vision disabilities.

Mediation Tools: The ADA Mediation Program

The Division uses many problem-solving tools beyond litigation. For example, in addition to the Division's ADA Information Line, the Division offers a unique mediation program to help resolve complaints under the Americans with Disabilities Act. Through this program, specially trained private mediators help parties resolve complaints referred by the Division. The program successfully resolves all types of cases – from service animals to sign language interpreters to transportation to physical access – and address barriers in facilities ranging from homeless shelters to hospitals to hotels and retail stores. In the last four years, the ADA Mediation Program has completed over 1200 mediations, 36% more than in the previous four years. Each year, 74%-81% of the mediations are successful at resolving the dispute.

Ensuring Religious Freedom

The freedom to practice the religion of one's choice is among our nation's most cherished rights. It is one of our founding principles, written into our Constitution and protected by federal laws.

Congress unanimously enacted the Religious Land Use and Institutionalized Persons Act (RLUIPA) in 2000 to address two important facets of religious freedom. First, Congress was concerned that one of the most basic aspects of religious freedom—the ability of people to come together for collective worship—was being thwarted by the discriminatory and burdensome application of local zoning laws, at times preventing houses of worship from opening their doors. Second, Congress was concerned that people confined to institutions were being denied the right to practice their religion. The Division enforces RLUIPA to combat discrimination and ensure religious freedom for all individuals.



Protecting People of All Faiths from Discrimination and Arbitrary Action by Local Zoning Boards

The land-use provisions of RLUIPA seek to ensure that people of all faiths can enjoy the simple right to rent or build places of worship, as well as engage in other religious activities. Permits to build or rent places of worship have been denied because zoning officials or members of their communities do not like a particular religion. Other times, zoning laws allow for nonreligious assemblies like conference centers or lodge halls, but, at the same time, impermissibly ban religious assemblies. All of these state actions violate RLUIPA, and the Division has opened 26 investigations and filed four lawsuits and eight amicus briefs to enforce RLUIPA over the last four years.

Murfreesboro, Tennessee: The Islamic Center of Murfreesboro, Tennessee, had been operating for more than 20 years in converted office space that was overcrowded and inadequate to its needs. Its members raised funds and bought land in a zone that permitted churches as of right. Although Rutherford County unanimously approved their project to construct a mosque, a group of county residents, citing unfounded fears of terrorism and claiming that this mosque was the first step in imposing Islamic law in the United States, filed suit in state chancery court in 2010. In June 2012, as the mosque was near completion, the state court issued an order declaring the

building permit and site use plan for the mosque void, and then ordered the county not to issue a certificate of occupancy. The Division, with the personal assistance of the local U.S. Attorney, took action by filing suit in U.S. District Court against the county under RLUIPA and seeking a temporary restraining order to require the county to process the mosque's certificate of occupancy application. The same day, the court granted the restraining order, directing the county, notwithstanding the conflicting state court order, to process the application. The congregation moved into the mosque shortly after, in time for the conclusion of Ramadan.



Imam Ossama Bahloul of the Islamic Center of Murfreesboro, above, described the federal court ruling that allowed the mosque to get its certificate of occupancy. "We set an example to people everywhere. We can look to the people in the Middle or Far East or in the middle of Africa saying to them 'America is the role model. Try to learn from us in America.'"

Yuma, Arizona: Centro Familiar is a Southern Baptist church that purchased a long-vacant retail property to use as a church in downtown Yuma, Arizona. The local zoning laws allowed auditoriums, performing arts centers, and "membership organizations" to operate in that area, but specifically excluded religious organizations. The Division filed a brief and argued as amicus in the 9th Circuit Court of Appeals that this violated RLUIPA's requirement that religious assemblies be treated on equal terms with nonreligious assemblies. The court of appeals agreed in an opinion issued in July 2011.

Suffern, New York: Bikur Cholim is an Orthodox Jewish organization that has operated a *Shabbos* house near Good Samaritan Hospital in the village of Suffern, New York, since 1988. At the *Shabbos* house, Bikur Colim, which means "visiting the sick" in Hebrew, provides meals and lodging to observant Jews on the Sabbath and on holy days, which allows them to visit sick relatives in the hospital. It also allows Sabbath-observant patients who are discharged on Friday afternoons or Saturday to have somewhere to stay and keep Sabbath before going home. Those using the *Shabbos* house are forbidden by their faith from driving or engaging in any work on the Sabbath. The nearest hotel to the hospital is a 1.8 mile walk along a major commercial road with only intermittent sidewalks. Originally, the *Shabbos* house was on the grounds of the Good Samaritan Hospital, but the hospital's expansion required it to move to a house across from the hospital's parking lot, in a residential district. The village, however, denied a zoning variance required to operate. The Division and U.S. Attorney's Office filed suit, contending that the denial imposed a substantial burden on the group's religious exercise in violation of RLUIPA. The case was resolved by consent decree in June 2010.

Protecting the Right to Worship in State and Local Institutions

The institutionalized-persons provisions of RLUIPA recognize the crucial role religion plays in the rehabilitation of prisoners and the central role that it can play in the lives of people in mental health and other institutions. The protections in the statute seek to ensure that state and local institutions do not place arbitrary or unnecessary restrictions on prisoners' religious practice. Over the past four years, the Division has opened six investigations – as many investigations as had previously been opened since the statute was enacted in 2000 – and conducted numerous other informal investigations to enforce these provisions of the law. For the first time since the statute's enactment, the Division filed suit to enforce the institutionalized-persons provisions of RLUIPA, and has now filed three lawsuits under these provisions. The Division has also filed amicus briefs in 10 other such RLUIPA cases.

Religious Texts: The Berkeley County, South Carolina, Detention Center prohibited prisoners from receiving a wide array of books, publications, and religious and educational materials, including the Koran, the *Washington Post*, *USA Today*, and *Our Daily Bread*, a widely-used Christian devotional. The Division intervened in a lawsuit against the sheriff's office, arguing that these prohibitions violated the First Amendment and RLUIPA. In January 2012, the Division entered into a consent injunction with the county, and the prisoners in the detention center now have access to an extensive variety of publications and religious materials.

Diet: The Division has received allegations in several cases that an individual has been denied a diet that is consistent with his or her religious practices. When the person refuses to eat food that violates his or her religious beliefs, there can be serious health conse-

quences. The Division is often able to address restrictions on religious exercise informally by collaborating with state or local officials. However, in other instances, we must open an investigation or file a lawsuit to achieve a remedy allowing inmates to exercise their religious beliefs.

For example, after we opened an investigation into a prison in Utah, the prison began providing vegan meals to an inmate to accommodate his Hindu faith. Similarly, a nursing home in New York agreed to provide new training for its staff members to ensure that Sikh residents' religious practices, including an appropriate diet, are honored. However, even after an investigation, some jurisdictions refuse to provide an appropriate diet. In one such case, the Division is currently engaged in litigation with the state of Florida because it refuses to accommodate the request of the majority of its Jewish prisoners for a kosher diet.

Hair Length: Sukhjinder Basra is a lifelong practitioner of the Sikh faith. As an observant Sikh, he is religiously mandated to maintain unshorn hair, including facial hair. Adherents to the Sikh faith believe that cutting one's hair is a grievous sin. Pursuant to these beliefs, Mr. Basra always has maintained his hair and beard uncut and unshaved, including during his incarceration. While Mr. Basra was a prisoner at a medium-security facility, he was allowed to maintain his beard without any restriction on its length. After he was transferred to a minimum-security facility, however, he suffered repeated disciplinary actions because of his religiously-based refusal to trim his beard to one-half inch in length. The Division intervened in Mr. Basra's lawsuit, and the State ultimately repealed the regulation requiring Mr. Basra to trim his beard.

Preserving the Infrastructure
of Democracy



Preserving the Infrastructure of Democracy: At the Ballot Box

The ability of every American citizen to vote for their elected officials is the bedrock of our democracy. A number of federal laws seek to ensure equal access to the voter registration and voting process. The Division enforces these important federal laws, including the Voting Rights Act, the Uniformed and Overseas Citizens Absentee Voting Act, the National Voter Registration Act, the Help America Vote Act, and the voting provisions of the Civil Rights Acts of 1957 and 1960. The Division's commitment to enforcing federal voting rights laws has never been stronger and our voting rights docket is busier than at any time in the Division's history.



The Division began participation in a record 43 new voting cases in Fiscal Year 2012.

Preserving Effective Access to the Electoral Process

The Voting Rights Act of 1965 has been described as the most effective civil rights legislation ever enacted. One of the most important parts of the Act is the preclearance requirement of Section 5. Section 5 is a critical tool in preventing the implementation of discriminatory voting changes in areas of the country which have the most significant history of discrimination. Under Section 5, any jurisdiction in all or parts of 16 states that implements any change affecting voting — be it relocating a polling place or redrawing election districts — must show that the change was not enacted with a discriminatory

Although the population in Section 5 covered jurisdictions is approximately 25 percent of the nation's total, over 40 percent of all African Americans and American Indians or Native Alaskans live in them, as do nearly a third of the country's Latino population and over 20 percent of its Asian residents.

purpose and will not have a discriminatory effect. Covered jurisdictions can satisfy Section 5 by making an administrative submission to the Department of Justice or by filing a lawsuit in the federal district court in Washington, D.C. Under Section 5, the Attorney General receives approximately 4-5,000 administrative submissions annually, consisting of over 18,000 voting changes, and also defends declaratory judgment actions in federal court.

The last two years have encompassed what is traditionally the busiest time in each decade for our Section 5 process. In early 2011, the Census Bureau began releasing the data from the 2010 Census, which jurisdictions use to draw new redistricting plans for election districts. This causes a dramatic increase in the Division's Section 5 workload each decade. The Division put significant work into preparing for redistricting and issued the first significant updates to our Section 5 procedures since 1987.

In addition to the usual number of Section 5 submissions that the Division receives, we have received submissions of some 2,300 re-districting plans under Section 5 since early 2011. In the past two years alone, the Division has blocked 16 voting changes under Section 5 because the jurisdiction had failed to show that the change complied with the Section 5 standards. These voting changes include 12 re-districting plans and two new photo identification requirements for voting. In that same time period, covered jurisdictions also filed a record 21 new lawsuits seeking judicial review of re-districting plans and other complex voting changes under Section 5. The Division litigated four cases during this period opposing voting changes filed for judicial review.

Texas: The Division opposed preclearance of re-districting plans for the Texas state house and congressional delegation, which the state had submitted to the court for approval. The court ultimately found that the state's legislative and congressional re-districting plans were discriminatory in violation of Section 5. We also objected to a new photo identification law for voting in Texas. In that case, the court found that the state failed to establish that its photo identification requirement would not have a discriminatory effect, noting that "it

imposes strict, unforgiving burdens on the poor, and racial minorities in Texas are disproportionately likely to live in poverty."

South Carolina: The Division objected to a new photo identification law for voting in South Carolina, and the case went to trial in 2012. During the trial, the state significantly altered the application of this statute in an effort to obtain judicial preclearance. The district court panel unanimously blocked the law from taking effect for the 2012 elections. And the court ultimately approved the law for later elections only because South Carolina effectively rewrote it during litigation to lessen its effects – in what two of the judges labeled an "evolutionary process" that would not have occurred in the absence of "the vital function that Section 5 of the Voting Rights Act has played."

Florida: When Florida passed a law to reduce the minimum number of early voting hours in advance of the 2012 election, a federal court agreed with our argument that this change could disproportionately impact African American voters in parts of the state. The court ultimately required those counties in Florida to maintain early voting hours at prior levels.

Ensuring Access to Democratic Participation for Language Minority Citizens

When Congress enacted and amended the Voting Rights Act, it recognized that citizens who have limited English proficiency face significant barriers to effective participation in our nation's elections when the ballot and other election materials and information are only in English. The Voting Rights Act includes specific protections designed to ensure that citizens who are members of language minority groups are not excluded from the voting process and can receive the language assistance they need to cast an effective vote. The Division works vigorously through ongoing

guidance and outreach efforts, and litigation when needed, to ensure that election officials afford these protections to voters in language minority communities across the country.

Since 2009, the Division has filed seven lawsuits to enforce the minority language protections of the Act. Each of these lawsuits was resolved with a consent decree or memorandum of agreement to provide bilingual ballots, polling place notices, and other election materials in the applicable languages. One significant example of the Division's



Successful minority language work was our 2010 settlement in Cuyahoga County, Ohio, which, according to the 2000 Census, was the county with the largest population of Puerto Rican voters without access to a bilingual ballot in the United States. We have also obtained significant out of court agreements, including a settlement in South Dakota involving the provision of language assistance to Lakota-speaking voters — the first new enforcement action the Division has initiated to protect Native American voters with limited English proficiency since 1998.

In October 2011, the Census Bureau updated the list of jurisdictions that are required to provide minority language assistance under

Section 203 of the Voting Rights Act. The list included 248 counties and other jurisdictions in 25 states, including 35 jurisdictions that are required to meet minority language obligations for the first time, and 19 other jurisdictions that were already covered but are now required to provide assistance in additional languages. The Division undertook a nationwide outreach program to advise these newly covered jurisdictions of their obligations and to offer information and assistance. The minority languages in newly covered jurisdictions include Spanish; Asian Indian and Bangladeshi; Filipino; Chinese; Vietnamese; Alaskan Native languages such as Inupiat and Yupik; and American Indian languages such as Choctaw, Yuma, and Hopi.

Expanding Opportunities for Eligible Citizens to Register to Vote

Among the matters that the Division has prioritized is vigorous enforcement of the National Voter Registration Act (“NVRA”) – the “Motor Voter” law. Congress passed the NVRA to “establish procedures that will increase the number of eligible citizens who register to vote” and to ensure accurate and current registration rolls in federal elections. States covered by the NVRA must follow its requirements to make voter registration available to applicants at all driver’s license offices, at all public assistance offices and disability offices, and through the mail.

States must also follow the requirements of the NVRA to ensure that eligible voters who submit a timely application are timely added to the voter registration list, to conduct a general program of list maintenance that removes voters who are ineligible, and to ensure that voters who move to a new place of residence are not removed from the list without following all of the protections in the NVRA, including notice and timing requirements.

The NVRA made a dramatic difference in the way voter registration is conducted in this

Colfax County, Nebraska

Colfax County, Nebraska, has a rapidly growing Latino population that accounts for more than 40 percent of the county's 10,000 residents. A significant portion of the county's Latino citizens are limited English proficient, and would not be able to participate meaningfully in elections without bilingual ballots, polling place notices, and poll workers. Though Colfax County is required to provide election materials and assistance in Spanish under the Voting Rights Act, a Division investigation revealed that the county had failed to meet its obligations – Colfax County had not appointed and trained bilingual poll workers sufficiently fluent in Spanish to assist Spanish-speaking voters at certain polling locations, and had not provided all election-related materials in Spanish as required.

After the Division notified the county that a lawsuit was authorized, Colfax County officials worked cooperatively with the Division to devise a plan for addressing the violations, and the Division reached a settlement with the county. The consent decree, which was approved by the court in March 2012, puts in place a comprehensive language assistance program and provides for federal observers to monitor Election Day activities. The agreement will ensure that limited English proficient voters have meaningful access to all phases of the voting process, and many of its objectives were met almost immediately.

Colfax County now employs a bilingual elections coordinator who implements the language program, under which the county is required to disseminate all election-related materials and information in Spanish and appoint trained bilingual election officials at polling places where Latino voters require assistance. Prior to recent elections, the bilingual coordinator organized and held meetings of an advisory group of interested community members to discuss the most effective ways to disseminate information to the Spanish-speaking residents of the county. For the first time in its history, the county had at least one fluent, bilingual poll official available for the entire day to help voters at each of the polling places in the City of Schuyler during both the 2012 May primary and November general elections. Federal observers who monitored the elections noted that bilingual poll officials provided language assistance to voters who needed it.

country by establishing several uniform rules for all states to follow in elections for federal office for offering voter registration, for voter registration deadlines and adding voters to the rolls, and for removing voters from the rolls. Where states fail to follow these rules, voters are deprived, for example, of the benefits of easier voter registration and greater protections from wrongful removal from registration lists. Congress has tasked the Justice Department with the critical responsibility of ensuring that these mandates are met, and we will

continue to devote significant resources to promoting access to voter registration and the accuracy of the rolls through comprehensive enforcement of the NVRA.

In the last four years, the Division has brought its first two new lawsuits under section 7 of the NVRA in many years. Section 7 requires that voter registration opportunities be made available at state offices providing public assistance or disability services, among other places. Congress specifically designed this

provision to increase the registration of the poor and persons with disabilities who do not have driver's licenses and therefore will not come into contact with the other principal places where voter registration is made available.

Rhode Island: In 2011, we reached a settlement with the state of Rhode Island so that it is now offering registration opportunities to all applicants for public assistance and disability services, and is also implementing a range of training, auditing, monitoring, and reporting requirements. The impact of these changes has been tremendous. More voters were registered in social service agencies in Rhode Island in the first month after the settlement than in the entire previous two-year reporting period. In the two-year reporting period before the lawsuit, 457 voter registration forms were submitted by the four affected Rhode Island social services agencies. In the four months after the agreement, 4,171 forms were received, a nine-fold increase.

Defending the Constitutionality of the Voting Rights Act

The Division continues to defend an unprecedented number of challenges to the constitutionality of the preclearance provisions of Section 5 of the Voting Rights Act. Defending the constitutionality of Section 5 is a top priority for the Division and for the Department of Justice as a whole. The preclearance requirements of Section 5 have consistently enjoyed broad, bipartisan support – including as recently as 2006, when an overwhelming Congressional majority joined with the President to reauthorize its protections. And Section 5 has repeatedly been upheld as constitutional – including four times by the U.S. Supreme Court – between its passage in 1965 and its reauthorization in 2006. Since 2006, however, more lawsuits have been filed challenging the constitutionality of Section 5 than in all the prior four decades of its existence combined. These challenges argue that Section 5 is no longer constitutional, and that our nation has moved beyond the challenges that prompted its passage.

Voting Enforcement in FY 2012:

Protected the rights of military and overseas voters

6 lawsuits filed — against Alabama, Wisconsin, California, Georgia, Michigan and the Virgin Islands — to enforce laws protecting military and overseas voters.

Protected the rights of language minorities

3 lawsuits filed — against Lorain County, Ohio; Colfax County, Nebraska; and Orange County, New York — to ensure that members of language minorities can participate fully in the electoral process.

Challenged discriminatory changes to voting practices and procedures

13 objections interposed by the Division to changes submitted for administrative review by the Division under Section 5 of the Voting Rights Act, out of **6,737 submissions received**.

4 cases litigated opposing voting changes filed for judicial preclearance in the D.C. District Court.

Defended the constitutionality of the Voting Rights Act

6 cases filed by jurisdictions challenging Section 5 of the Voting Rights Act. There have been more challenges filed to the constitutionality of Section 5 since the law was reauthorized in 2006 than in all preceding years of the Act's existence combined.

Handled a record number of cases overall

Participated in 43 new cases, the largest number of new matters handled in any single year. The previous record, 27 cases, was met in 2011.

The unfortunate reality is that, even today, too many citizens have reason to fear that their right to vote, their access to the ballot, and their ability to have their votes counted is under threat. In too many places, troubling divisions and disparities remain. And, despite the remarkable, once-unimaginable progress that we've seen over the last half century, Section 5 remains an indispensable tool for eradicating racial discrimination.

The Division has vigorously fought all of these constitutional challenges. Many of the challenges have been dismissed, while others remain pending, including a case from Shelby County, Alabama. The county challenged the constitutionality of Section 5, and the Division obtained favorable decisions upholding Congress' authority to reauthorize Section 5 in both the D.C. District Court and the Court of Appeals for the D.C. Circuit. In November, the U.S. Supreme Court accepted Shelby County's petition to hear the case. There will be further briefing and oral argument held during the Supreme Court's current term, with a decision expected by the end of June.

The record amassed in these cases, as well as the recent history of Section 5 stopping discriminatory practices in covered states and jurisdictions, amply demonstrates why Section 5 is a critical tool in ensuring that elections in our country are conducted in a fair and non-discriminatory way. In fact, Shelby County itself provides a good example of why Section 5 is still needed. In recent years, two local jurisdictions in Shelby County enacted new election plans that would have completely eliminated the opportunity for African American voters to elect a candidate of choice to the city councils in those cities. The Department of Justice, acting under its Section 5 preclearance authority, prevented these changes from going into effect. In the absence of Section 5, these detrimental changes would have gone into immediate effect and the burden would have been on minority voters to bring expensive and lengthy litigation to seek to reverse the changes.

Preserving the Infrastructure of Democracy: At the Courthouse

Access to state courts is critically important. From child custody proceedings and criminal prosecutions to foreclosure actions and domestic violence cases, state courts play a central role in our society by protecting individuals, resolving disputes, securing justice for victims of crime, and ensuring justice for the accused. For these reasons, it is essential that state courts be fully accessible to everyone, no matter their language ability, national origin, race, color, disability, or religion.

The Division's Courts Language Access Initiative combines enforcement tools with policy, technical assistance, and collaboration in an effort to ensure that limited English proficient parties receive interpretation and language services in court proceedings and operations. In August 2010, Assistant Attorney General Perez issued a letter to all chief justices and administrators of state courts, clarifying the obligation, under Title VI of the Civil Rights Act of 1964, of courts that receive federal financial assistance to provide oral interpretation, written translation, and other language assistance services to people with limited English language ability.

Colorado: In June 2011, the Division reached an agreement with officials of the Colorado Judicial Department to ensure that limited English proficient individuals have access to timely and competent language assistance throughout Colorado's state court system. As part of the agreement, Colorado's Chief Justice issued a comprehensive directive providing for free and competent interpreter services in all criminal and civil proceedings and operations. Colorado state court officials worked with judges, administrators, and community experts to make the directive an example for



The Division has engaged in more than a dozen states and with advocates nationwide to improve access to courts for limited English proficient individuals.

other state court systems to follow. In addition, the Colorado Judicial Department has worked with the Division to develop a state language access plan addressing both oral interpretation and the translation of vital written documents to people with limited English language ability.

North Carolina: In March 2012, the Division issued findings of our investigation of the North Carolina state courts. Through our investigation, we found that the North Carolina Administrative Office of the Courts (NCAOC) discriminated against national origin minorities by failing to provide meaningful language access services in state court proceedings and operations. In some cases, we found that the state court system's policies and practices resulted in longer periods of incarceration for people with limited English language ability, and had delayed several critical cases involving domestic violence, child custody, and housing eviction. We also found that the state's practice of allowing prosecutors to interpret for defendants in criminal proceedings caused serious conflicts of interest. Since the Division issued the letter, NCAOC has lifted income limits on the provision of court

interpreting in all criminal, juvenile, and domestic violence proceedings, created a stakeholder committee, and assigned additional staff. It has also agreed to expand full coverage of all proceedings and operations by January 1, 2015 and is continuing to work with DOJ on a language access plan and other improvements.

Rhode Island: In June 2012, the Rhode Island Supreme Court took an important step toward full and equal access in its state courts by issuing an Executive Order that ensures that limited English proficient individuals seeking access to court proceedings and services throughout the state court system will have access to timely and competent language assistance services. The Executive Order was issued in response to the Division’s investigation of the Rhode Island Judiciary’s language access practices, which was opened due to a complaint of alleged national origin discrimination in violation of Title VI.

The Rhode Island Judiciary and the Division worked together for over a year to reach an agreement on key provisions of the Executive

Order, which provides for free and competent interpreter services in all criminal and civil proceedings, as well as in court operations. To ensure public participation and transparency, the order also involves court staff and external stakeholders in the planning and implementation process, requires detailed monitoring reports to be posted on the Rhode Island Judiciary website, and creates a language access complaint procedure. The Division continues to work with the Rhode Island Judiciary to develop a language access plan to manage implementation of the Executive Order.

Georgia: In January 2009, the Division opened a compliance review of the Georgia court system based on allegations that people were prevented from wearing religiously-mandated head scarves, hijabs, or other headwear or clothing in the state’s courtrooms. In July 2009, we learned that the Judicial Council of Georgia had adopted a new policy specifically permitting head coverings “worn for medical or religious reasons.” We informed the state that we had closed our review of the matter but would monitor application of the policy for three years.

Title VI

Title VI was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance – including state courts. As President John F. Kennedy said in 1963:

“Direct discrimination by Federal, State, or local governments is prohibited by the Constitution. But indirect discrimination, through the use of Federal funds, is just as invidious.”

Under an Executive Order, the Division coordinates enforcement of Title VI by thirty federal agencies that administer federally assisted programs and are thereby subject to the law.

Preserving the Infrastructure of Democracy: In the Community

Effective, accountable police departments are a fundamental part of the infrastructure of democracy. The vast majority of police departments work tirelessly to protect the civil and constitutional rights of the communities they serve. But when systemic problems emerge in a police department or sheriff's office, or officers abuse their power, the Division uses its statutory authority to catalyze and institutionalize meaningful reform and to hold specific individuals accountable under appropriate criminal provisions.



Ensuring Effective, Accountable Policing

The Division has opened 15 investigations of police departments since the beginning of the Administration, and currently has over two dozen open investigations – the largest number at any one time in history, involving larger police departments than ever before. In 2012 alone, the Division entered into far reaching, court enforceable agreements with six jurisdictions to address serious policing challenges, the most agreements to be reached in a single year.

Every investigation involves a thorough examination of the challenges facing the police department, which may include the excessive use of force; unlawful stops, searches, or arrests; or policing that unlawfully discriminates against protected minority groups or women. We meet with law enforcement officers and local officials, and work with police practice experts to review incident reports and assess agency policies and practices. We also meet extensively with community members, both to help direct our investigation and to solicit input on potential reforms.

The Division opened **15** policing investigations, issued **8** findings letters of misconduct, and reached **10** agreements for comprehensive reform of police departments over the past four years.

As a result of these efforts, over the last four years the Division has obtained groundbreaking reform agreements with police departments that will serve as models for effective and constitutional policing nationwide. Each of these agreements is closely tailored to the problems identified during our investigation. Our agreements increasingly include outcome measures to help determine whether the agreements result in constitutional policing in the law enforcement agency, as well as measures to ensure transparency, community

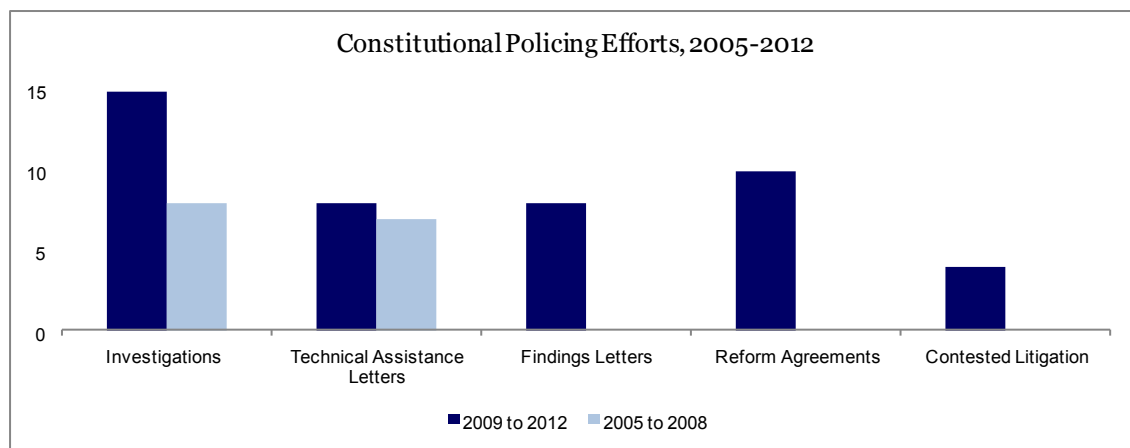
engagement, and independent oversight of police departments. This helps ensure that the reforms brought about by these agreements are meaningful and long outlive the agreements themselves.

New Orleans: In 2010, New Orleans Mayor Mitch Landrieu invited the Division to open an investigation of the New Orleans Police Department (NOPD), in order to achieve the “complete transformation” of the department. We conducted a year-long investigation and found that NOPD had engaged in patterns or practices of excessive uses of force, gender biased policing, racial and ethnic profiling, and failures to provide effective policing services to persons with limited English proficiency. At the conclusion of the process, we reached one of the most comprehensive reform agreements in the Division’s history to address our findings. The agreement is a road map to ensure respect for the Constitution, increased public confidence in NOPD, and more effective crime prevention in New Orleans.

Seattle: The Division, together with the U.S. Attorney’s Office, initiated an investigation of the Seattle Police Department (SPD) in 2011. Our investigation determined that SPD engaged in an unlawful pattern or practice of

excessive force. It also raised concerns that some of the police department’s policies and practices, particularly those related to pedestrian encounters, could result in discriminatory policing going forward. We negotiated an agreement with Seattle that requires reforms designed to ensure that the police department’s use of force meets constitutional standards, and to reduce the potential for SPD to engage in discriminatory policing. The Court approved the settlement in September 2012.

Puerto Rico: The Puerto Rico Police Department (PRPD) is the second largest local law enforcement agency in the country, employing 17,000 sworn police officers. In 2011, the Division released investigative findings that PRPD officers engaged in a pattern or practice of excessive uses of force, unreasonable force against individuals exercising their First Amendment rights, and unconstitutional searches and seizures. In addition, we uncovered troubling evidence that PRPD frequently failed to investigate sex-related crimes and incidents of domestic violence, and engaged in discriminatory policing practices that target individuals of Dominican descent. After extensive negotiations, we signed an agreement in December 2012 that provides a comprehensive blueprint for meaningful and sustainable reform.



Ensuring effective, constitutional policing has been a Division priority over the last four years. Because of unprecedented enforcement efforts, the Division secured 10 agreements to address serious policing issues, including seven consent decrees (three are pending court approval) and three Memoranda of Agreement.



Law enforcement officers attend an outreach meeting with the Arab and Muslim community in Detroit. The Division's police reform work ensures that communities are served by effective, accountable police departments that control crime, respect the Constitution, and earn the trust of the public they protect.

East Haven: In November 2012, the Division reached an agreement to address systemic misconduct by the East Haven Police Department in Connecticut. The Division found that the police department engages in a pattern or practice of discriminatory policing against Latinos, targeting Latinos for discriminatory traffic enforcement, treating Latinos more harshly after traffic stops, and intentionally failing to design and implement internal systems that would identify and prevent this discriminatory conduct. After our investigation, the police department announced that it had hired its first Latino officer, a highly qualified bilingual woman who will assist in building bonds with the immigrant community in East Haven.

The Division strongly prefers to work in a cooperative fashion with police departments to address unconstitutional policing. And in almost every case, we are able to work with police departments and local governments to spur reform. Increasingly, police departments are approaching the Division to seek assistance in affirmatively addressing civil rights challenges within the department. However, we do not hesitate to use litigation to combat racial profiling or other unlawful policing when cooperation proves elusive.

Maricopa County: From 2009 to 2012, the Division undertook a comprehensive investigation of potential anti-Latino bias in the

policing and jail practices of the Maricopa County Sheriff's Office (MCSO). During the investigation, the Division overcame MCSO's refusal to cooperate, successfully suing MCSO in federal court to obtain access to important information. Ultimately, we found that MCSO engaged in a pattern or practice of unconstitutional conduct. We attempted to reach a resolution with MCSO to provide for reform, but when negotiations proved unsuccessful, we filed a lawsuit to ensure that MCSO implements policies and procedures that address the problems we found. In December, a federal court denied MCSO's and Maricopa County's motion to dismiss the case. Litigation over this matter will continue in 2013.

Alamance: Following a two-year investigation, the Division found in September 2012 that the Alamance County, North Carolina, Sheriff's Office (ACSO) engages in a pattern or practice of unlawfully targeting, stopping, detaining, and arresting Latinos in violation of the Constitution and federal law. On December 19, 2012, we filed a lawsuit against ACSO. The suit alleges Fourth and Fourteenth Amendment violations under the Violent Crime Control and Law Enforcement Act, as well as a claim under the non-discrimination provision of the Omnibus Crime Control and Safe Streets Act. In the suit, the Department seeks a court enforceable, written agreement that will ensure long term structural, cultural, and institutional change in ACSO.

Prosecuting Individual Law Enforcement Misconduct

The Division also prosecutes individual acts of misconduct by law enforcement officers. These cases are given careful attention both to ensure that no officer uses his or her badge to intentionally violate rights with impunity, and also to ensure that no dedicated law enforcement officer is prosecuted for making an honest mistake in a dangerous situation. The Division seeks to proactively prevent such crimes by participating in training of federal, state, and local law enforcement officers across the country.

New Orleans: Over the course of the last several years, the Division successfully prosecuted a number of New Orleans Police Department (NOPD) officers for violating the civil rights of civilians in the wake of Hurricane Katrina. In one case, Division prosecutors, working closely with partners in the U.S. Attorney's Office, successfully convicted 10 NOPD officers who participated in the shooting of six innocent civilians on the Danziger Bridge in the days following the hurricane, or who participated in the elaborate cover-up of the shooting that followed. Two victims of the

Between Fiscal Year 2009 and Fiscal Year 2012 the Division and U.S. Attorneys' Offices criminally charged 254 law enforcement officials in 177 cases for violating individuals' constitutional rights – a 9% increase in cases charged over the previous four years.

shooting died, and four others were seriously wounded.

Other examples: Working with federal prosecutors in the Northern District of Illinois, the Division investigated decades-old allegations that a Chicago police detective abused and tortured suspects in custody to obtain confessions. When the detective denied committing any misconduct in interrogatories in a civil case, he was charged with perjury and obstruction of justice. At trial, the government presented evidence of abusive acts perpetrated by the defendant between 1973 and 1985, and he was convicted on all counts for lying about these acts.

Maricopa County Sheriff's Office & Title VI

Recipients of taxpayer funds, including law enforcement offices, must cooperate with investigations of discrimination by providing access to documents, facilities, and staff. In March 2009, the Division opened an investigation of the Maricopa County Sheriff's Office (MCSO) for alleged national origin discrimination in police practices and jail operations. We tried to work cooperatively with the sheriff's office to gain access to their documents and facilities, which the sheriff's office was contractually obligated to provide. However, MCSO refused to cooperate – the first time a police department or sheriff's office has refused to do so in 30 years. After exhausting all other options, in September 2010 the Division brought a lawsuit to ensure that the sheriff's office complied with our investigation and provided us with the documents and other information we needed. As a result, MCSO ultimately allowed Justice Department officials to conduct more than 200 interviews and to review hundreds of thousands of pages of documents. This thorough and independent investigation ultimately led the Division to file a lawsuit in May 2012 to address a pattern or practice of unconstitutional and unlawful policing by MCSO.

A Case Study: Community Engagement as an Essential Enforcement Tool

Community engagement is an integral part of the Division's enforcement efforts. The Division reviews the hundreds of reports of potential civil rights violations we receive each week, informing the cases we choose to investigate. Once an investigation is initiated, the community is critical to the success and sustainability of any reform efforts that result from our investigations.

The Division's investigation of the New Orleans Police Department (NOPD) underscored the importance of community input. From day one of our investigation, the Division relied heavily on information received from community members to understand the scope of misconduct by NOPD. We worked with community members to propose reforms to address that misconduct. We also called on community members to testify before a federal judge about the efficacy of the reform agreement we reached with NOPD.

Many community members testified, and some of the most powerful testimony came from two Spanish-speaking immigrants. Both witnesses gave riveting accounts of why provisions of the reform agreement designed to help non-English speaking immigrants are so important to their communities. One witness testified about an encounter with NOPD following a domestic dispute with her husband. She had locked her husband out of their home, and he called the police to request to be let back in. None of NOPD officers who arrived spoke Spanish or summoned a translator, and they could not understand the nature of the dispute or the witness and her husband's requests. Eventually, the officers arrested the witness over her husband's protests. Although the witness never faced charges, she spent 45 days in jail, away from her 3-month-old baby. She explained to the court that, like many in her community, she is now afraid of NOPD. But, she testified, the reform agreement gave her reason to hope that there would be change in the community and in the police department. These two witnesses marked the first time that Spanish-speakers testified in federal court through an interpreter to support a Civil Rights Division police reform agreement.

Preserving the Infrastructure of Democracy: Protecting Those Who Protect Us

The Division enforces several laws designed to protect the rights of members of the military and their families – so that their brave and selfless service does not put them at risk of losing their jobs at home; so that they and their family members do not have to forfeit their right to vote; and so that they are not penalized in the consumer context for their courageous decision to serve our nation.



Expanding Access to Financial Protections for Servicemembers

Men and women who are serving their country on active duty military service must be able to focus on those duties rather than worrying about whether their family back home is going to lose their home to foreclosure, or their car to repossession. The Servicemembers Civil Relief Act (SCRA) postpones, suspends, terminates, or reduces the amount of certain civil obligations – rental agreements, security deposits, credit card and mortgage interest rates, automobile leases, and civil judicial proceedings – so that members of the armed forces can focus their full attention on their military or professional responsibilities without facing adverse consequences for themselves or their families.

Global Servicing Agreement: In April 2012, the Division obtained SCRA settlements with the nation's five largest mortgage loan servicers: Bank of America, JPMorgan Chase & Co., Wells Fargo & Co., Citigroup Inc., and Ally Financial, Inc. (formerly GMAC). As part of the agreements, all five servicers are conducting reviews to determine whether any servicemembers have been foreclosed on in violation of the SCRA since 2006, and whether servicemembers have been unlawfully charged interest in excess of 6 percent on their

mortgages since 2008. Most servicemembers foreclosed on in violation of the SCRA will receive a minimum of \$125,000, plus compensation for lost equity. Servicemembers charged excess interest in violation of the SCRA will receive the amount of the overcharge plus \$500 or four times the amount wrongfully charged, whichever is greater. Together with three other wrongful foreclosure agreements reached by the Division, the vast majority of foreclosures against servicemembers will be now subject to court-ordered review as a result of these major agreements.

These agreements have had a real impact on servicemembers' lives. For example, a servicemember was sent to Germany within six months of enlisting in the Army, and was subsequently deployed to Iraq. He rented his home to a friend who was supposed to pay the mortgage directly in his absence, but the

As a result of settlements the Division reached with mortgage servicers over the last four years, the vast majority of all foreclosures against servicemembers since 2006 will now be subject to court-ordered review.



Assistant Attorney General Tom Perez and U.S. Attorney David Hale meet with soldiers from the 101st Airborne Division at Fort Campbell, Kentucky.

friend failed to do so. Countrywide foreclosed on the house, refusing to talk to the servicemember's father, despite the fact that he had a written power of attorney. After the foreclosure, creditors continued to pursue the servicemember, who eventually filed for bankruptcy. As a result of an agreement the Division made with BAC Home Loan Servicing in 2011, this servicemember had his credit repaired and received almost \$140,000 in financial compensation.

Protecting the Employment Rights of Servicemembers

The Division has aggressively enforced the Uniformed Services Employment and Reemployment Rights Act (USERRA), ensuring that servicemembers returning from active duty are not penalized by their civilian employers. Our USERRA program is critically important because USERRA cases typically involve small dollar amounts of back pay; without the Division's help, many servicemembers would not be able to find or afford private attorneys to take their cases.

Our robust USERRA enforcement program has resolved allegations against private and state and local government employers through

Key Court Victories for Servicemembers

In 2011, the Division won important victories for the rights of men and women in uniform in two cases before the 4th Circuit Court of Appeals. In both cases, servicemembers' vehicles were taken and sold at auction without a court order while they were on active duty. In one case, the Division argued in an amicus brief that servicemembers are allowed to sue for damages under the SCRA. In the other case, we argued that the Department has the inherent right to enforce the SCRA and to sue on behalf of injured servicemembers.

While the appeals were pending, the Division successfully worked to amend the SCRA, to make clear that servicemembers can enforce their own SCRA rights in court under the law and that the Division can file suits to protect servicemembers' SCRA rights as well. In both cases, we successfully argued that these new SCRA enforcement provisions should be applied to cases brought before they were enacted, and that such an application does not constitute an impermissible retroactive application of the SCRA.

litigation, facilitated settlements, outreach, and advocacy. Forty-six of the 79 USERRA lawsuits the Civil Rights Division has filed since 2004 — when we obtained USERRA jurisdiction — were filed in the past four years. The Division also partnered with U.S. Attorneys' Offices to strengthen USERRA enforcement. Since mid-2010, we have focused on these partnerships as a potential force multiplier, and the results show: at least 28 U.S. Attorneys' Offices have worked with the Division to evaluate 49 USERRA complaints, resulting in 19 of the 46 USERRA lawsuits this Administration has filed.

Nevada: In May 2012, a federal court approved a settlement addressing the Division's claims that the State of Nevada and its Office of the State Controller willfully violated USERRA by refusing to reemploy a Colonel in the U.S. Army Reserves in his pre-service position of Chief Deputy Controller. The Division also alleged that the State terminated the servicemember's employment in retaliation for filing his USERRA complaint. After lengthy pre-litigation proceedings, the State agreed to pay the servicemember \$473,000 in monetary damages – the largest recovery the Division has obtained on behalf of a returning servicemember since gaining jurisdiction over USERRA enforcement in 2004.

Other examples in the appellate courts: The Division has also enforced USERRA to protect servicemembers from discrimination in the workplace based on their military service or

affiliation. In one case before the Supreme Court, we worked with the Solicitor General's Office to file an amicus brief in support of a U.S. Army reservist who was fired by his employer because of his supervisors' anti-military bias. The Department successfully argued to the Court that an employer is liable under USERRA, even if the supervisor who fires and demotes a worker does so not based on his or her own bias, but because of the bias of another supervisor who influenced the decision. We also successfully argued to the 2nd Circuit Court of Appeals that USERRA requires employers to offer a servicemember returning to a commissioned position, rather than a salaried position, the commission rate and commission earning opportunities that he *would have earned* if he had been continuously employed – *not* the same commission rate that the servicemember earned pre-deployment.

Ensuring that All Servicemembers Have an Equal Opportunity to Vote and Have Their Vote Counted

When their duties require overseas or state-side deployments to locations away from their homes, servicemembers must vote by absentee ballot in order to participate in our nation's elections. Federal law requires states and territories to afford servicemembers and their families a meaningful opportunity to register and vote absentee, and the Division has been steadfast in ensuring that states send absentee ballots in time for servicemembers to vote and have their votes counted.

The Division has continued its extensive enforcement of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which, as amended in 2009 by the Military and Overseas Voter Empowerment Act (MOVE Act), requires states to enfranchise military and overseas voters. Among other things, states are required to mail or electronically send servicemembers their absentee ballots at least 45 days before any federal election.

New York: In January 2012, the Division won a significant victory in its 2010 lawsuit against New York. The district court granted the Division's request to require that New York hold its federal primary election early enough to allow absentee ballots to be transmitted for the general election in compliance with the MOVE Act. Pursuant to the court's order, New York now has a June primary for federal elections and must maintain a federal primary date that is sufficiently early to ensure MOVE Act compliance for future federal elections.

Other examples: The Division also filed seven additional lawsuits in 2012 against states and territories to enforce UOCAVA for the 2012 federal primary, special, and general election cycle, including lawsuits against Alabama, Wisconsin, California, Georgia, Michigan, the Virgin Islands, and Vermont.

Protecting Individuals from
Exploitation, Discrimination & Violence



Protecting Individuals from Hate Crimes

The ability to live safely in one's community is one of the most basic civil rights. The Division works aggressively to prevent, investigate, and prosecute hate crimes. One of our most important enforcement tools in this area is the Matthew Shepard and James Byrd Jr. Hate Crime Prevention Act, which President Obama signed into law on October 28, 2009. During the last four years, the Division has vigorously prosecuted hate crime cases nationwide, using the Shepard-Byrd Act and pre-existing federal hate crime laws.

The Division's hate crime prosecutions include crimes of murder, assault, threats, and acts of arson and desecration of religious property. We have also worked with religious communities across the country to ensure that such communities feel safe from force and threats directed at their free exercise of their religious beliefs. Through our 9-11 backlash initiative, we have investigated cases in which defendants targeted those they perceived to be



Muslim, Sikh, or of Arab or South Asian descent. The Division has also devoted enormous resources to the investigation and prosecutorial assessment of unsolved murders committed during the Civil Rights Era to determine whether any perpetrators could be brought to justice in either the federal or state system, and to bring closure to victims' family members even where no prosecution is possible.

Reducing Hate Crimes by Implementing the Shepard-Byrd Act

Enforcement of the Shepard-Byrd Act continues to be a priority for Attorney General Holder, who testified in support of the law shortly after assuming his position as Attorney General. Under the Act, federal law for the first time criminalizes violence motivated by sexual orientation, gender, gender identity,

and disability. The new law also removes unnecessary jurisdictional obstacles that had made the prosecution of racial and religious violence cases unduly difficult.

Subsequent to passage of the Shepard-Byrd Act, the Division worked with U.S. Attorneys' Offices, the Federal Bureau of Investigation, and the Department's Community Relations Service across the country to ensure that federal prosecutors, federal law enforcement agents, state and local law enforcement officers, non-governmental organizations, and interested members of the public were trained on the Act's requirements. Such training is

The Division convicted 141 defendants on federal hate crimes charges between Fiscal Year 2009 and Fiscal Year 2012 — a 74% increase over the prior four years.

critical to the Division’s mission of investigating and successfully prosecuting hate crimes. Of particular importance, we have trained law enforcement officers who are the “first responders” to an assault or other act of violence so that they know what questions to ask and what evidence to gather at the scene to allow prosecutors to make an informed assessment of whether a case should be prosecuted as a hate crime. Thousands of law enforcement

officials – federal, state, and local – have received training.

The Division has brought 15 cases, charging 39 defendants under the Shepard-Byrd Act since its enactment. We have prosecuted cases under the Act in Arkansas, Kentucky, Michigan, Minnesota, Mississippi, New Mexico, New York, Ohio, South Carolina, Texas, and Washington.

Examples of Shepard-Byrd Hate Crimes Prosecutions

Alpena, Arkansas: In 2011, the Division secured the conviction of two Arkansas men for violating the Shepard-Byrd Act after following a group of Latino men from a gas station. The victims ignored the anti-Mexican slurs the defendants shouted at them and got into their car and drove away. But the defendants pursued them, shouting more threats and slurs, brandishing a tire wrench out a window, and intentionally and repeatedly ramming their truck into the victims’ car. The car flipped over and burst into flames, injuring all of the passengers. One of the defendants was sentenced to more than 11 years in prison for his role in the assault.

Fruitland, New Mexico: The Division also secured guilty pleas in 2010 under the Shepard-Byrd Act against three men for assaulting a 22-year-old Native American man with a developmental disability in New Mexico. After taking advantage of the victim’s disability to get him to “consent” to their actions, one of the defendants heated a wire hanger on a stove and used it to brand a swastika into the victim’s arm. The men also defaced the victim’s body with white supremacist symbols, shaving the victim’s head to create a swastika and writing “KKK” and “White Power” in marker on his scalp, and drawing obscene pictures on the victim’s back while telling him that they were his “native pride feathers.” One of the defendants was sentenced to eight and a half years in prison for his role in the attack.



The Division successfully convicted three men in 2012 for a racially-motivated assault of an African American man at a bus stop in Houston. The defendants displayed tattoos known to reflect white supremacist beliefs (defendant pictured above).

West Jackson, Mississippi: In 2012, the Division secured guilty pleas from a group of individuals involved in the fatal assault of an African American man in Mississippi. The defendants admitted that on numerous occasions leading up to the assault, they and other co-conspirators assaulted African Americans with beer bottles, sling shots, and other weapons. One early morning in June 2011, after an evening spent contemplating another attack, the defendants drove around West Jackson, Mississippi, until they found an African American man in a motel parking lot and decided to make him a target. One of the defendants punched the victim in the face, knocking him to the ground, where another defendant continued to attack him. Another then deliberately ran over the victim with his truck, leaving him dead. The defendants got into their car, yelling “White Power,” and drove away.

Defending the Shepard-Byrd Act

The Division's Appellate Section has successfully defended the constitutionality of the Shepard-Byrd Act. In *Glenn v. Holder*, several individuals challenged the new statute on constitutional grounds, alleging that the Act violated their First Amendment rights to express and practice their anti-homosexual religious beliefs. The 6th Circuit Court of Appeals affirmed the dismissal of the case, concluding that the individuals lacked standing to bring the case because they did not demonstrate that the acts that they described would constitute a violation of the Act, as the Act only addresses violent hate crimes targeting people on the basis of race, color, national origin, gender, gender identity, sexual orientation, religion, or disability. The 8th Circuit Court of Appeals also recently upheld the constitutionality of the Act. Other cases addressing the constitutionality of the Act are pending in the 5th and 10th Circuits.

Using Additional Tools to Prosecute Hate Crimes

The Division continues to prosecute hate crimes under other federal laws when these crimes interfere with federally protected activities by damaging religious property, obstructing the free exercise of religious beliefs, or interfering with housing rights.

Shenandoah, Pennsylvania: In June 2012, the 3rd Circuit Court of Appeals affirmed a hate crimes conviction secured by Division attorneys in Shenandoah, Pennsylvania. The defendants in this case assaulted a Latino man after making racially charged comments to him like: "This is Shenandoah. This is America. Go back to Mexico." The encounter escalated into a physical altercation in which the defendants brutally assaulted the victim, even after the victim lay helpless on the ground. The victim died two days later as a result of the injuries.

Other examples: As technology changes, so do the means and methods of hate crimes. In 2010, the Division secured the guilty plea of a defendant who – under the Internet pseudonym "Devilfish" – sent a series of threatening email communications to employees of five civil rights organizations that work to improve opportunities for, and challenge discrimination against, Latinos in the United States. The defendant sent messages such as, "Do you have a last will and testament? If not, better

get one real soon." Or, "I am giving you fair warning that your presence and position is being tracked...you are dead meat...along with anyone else in your organization." The defendant was sentenced to 50 months in prison and three years supervised release, as well as a \$10,000 fine.



The Division prosecutes hate crimes that interfere with individuals' housing rights. For example, the Division and U.S. Attorney's Office secured the convictions of three defendants in 2012 for their roles in vandalizing and setting fire to a bi-racial man's home in Independence, Missouri (pictured above).

Protecting Religious Freedom and Preventing Backlash

Attorney General Holder has made engaging American Arab, Muslim, Sikh, Middle Eastern, and South Asian communities a Justice Department priority. Too many members of these communities are targeted by people who use the fear spread by terrorists as an excuse to engage in their own acts of violence. Over the past four years, the Division, together with U.S. Attorneys' Offices around the country, has investigated and prosecuted 14 defendants in such cases, which have included multiple cases of arson against places of worship, a mosque bombing, and various assaults and threats against members of these communities.

Columbia, Tennessee: The Division prosecuted three men who attacked a mosque in Columbia, Tennessee, spray-painting swastikas and "white power" on the walls before starting a fire that completely destroyed it. In 2009, two of the defendants were sentenced to more than 14 years in prison each, and the third was sentenced to more than six years for his role in the crime.

Odessa, Texas: The Division also prosecuted a Texas man who assaulted a Sikh college student who was delivering pizzas. The defendant hurled epithets at the student, assaulted him and threw him in a swimming pool, then repeatedly forced him back into the pool as he tried to escape. The defendant pleaded guilty and was sentenced to ten months incarceration.



The Division prosecuted a man who set fire to the Islamic Center of Greater Toledo, and three men who destroyed a mosque in Columbia, Tennessee. Mosques pictured above.

Prosecuting Crimes from the Civil Rights Era

For more than 50 years, the Department of Justice has been instrumental in securing justice in some of the nation's most horrific civil rights era crimes, including the legendary "Mississippi Burning" case from the 1960s, in which the Department prosecuted 19 subjects

(convicting seven) for the 1964 murders of three civil rights workers in Philadelphia, Mississippi. These crimes occurred during a difficult time in our nation's history, when all too often hate crimes were not fully investigated or prosecuted.

In 2008, the “The Emmett Till Unsolved Civil Rights Crime Act of 2007” was enacted into law, requiring the Department to investigate, and, when possible, prosecute, civil rights era “cold cases.” Pursuant to this mandate, the Division has spearheaded a cold case initiative designed to identify unsolved cases, to federally prosecute — or assist in the state prosecution of — any viable cases, and to close cases in which no viable prosecution can be identified. Trial attorneys from the Division have traveled throughout the country investigating these unsolved cases. As a result of this effort, in November 2010, James Bonard Fowler pled guilty in state court to one count of manslaughter for the 1965 shooting death of Jimmie Lee Jackson in Marion, Alabama — an incident that led to the first Selma-to-Montgomery march days later.

The Division’s cold case initiative has identified 114 cases overall, involving 127 victims. Of those, over three-quarters were reviewed and a determination was made that the case was not prosecutable. As part of our efforts to bring closure to family members of the victims, the Division has delivered detailed notification letters to families of victims informing them of our investigative steps and conclusions.

Franklin County, Mississippi: The Division also successfully defended on appeal the conviction and sentence it obtained in the

Mississippi cold case of James Ford Seale. Seale, a member of the White Knights of the Ku Klux Klan of Mississippi, was indicted and tried by a jury in 2007 for kidnapping and killing two young African American men in Franklin County, Mississippi, on May 2, 1964. Almost 50 years ago, Seale, along with several other Klansmen, including his father and brother, abducted the two young men, Charles Moore and Henry Dee, from a road. The Klansmen took Moore and Dee to the Homochitto National Forest, where they took turns beating them mercilessly. The Klansmen then covered Moore and Dee’s mouths with duct tape, placed them in the truck of a car, and drove them to Palmyra Island. There, Seale and the other Klansmen tied Moore and Dee to heavy objects, took them out on a boat, and rolled them overboard into the river while they were still alive. The young men’s badly decomposed bodies were found months later. Seale lived as a free man for 43 years, until his arrest in 2007. As a result of the Division’s successful prosecution in 2007, Seale was convicted of two counts of kidnapping and conspiracy to kidnap and sentenced to three life terms in prison. The Division spent the next three years engaged in extensive appellate litigation to ensure that Seale’s conviction was not overturned, and in March 2010, the 5th Circuit Court of Appeals issued a final decision affirming Seale’s conviction and sentence.

Protecting Individuals from Human Trafficking

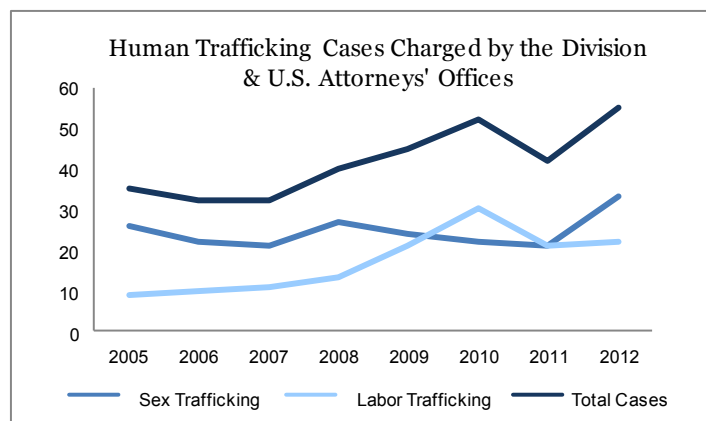
Combating human trafficking by prosecuting traffickers, dismantling and deterring trafficking networks, and protecting and serving the needs of victims are among the highest priorities for the Department of Justice. Human trafficking is a form of exploitation in which men, women, and children are coerced into providing labor, services, or commercial sex acts. The type of coercion varies, and may be subtle or overt, physical or psychological. Prohibitions on human trafficking are rooted in the prohibition against slavery and involuntary servitude guaranteed by the Thirteenth Amendment to the U.S. Constitution.

The Division, working with our U.S. Attorney partners, has participated in the prosecution of a record number of forced labor and adult sex trafficking cases in the past four years and has also expanded its coordination and outreach to ensure that cases are identified more quickly and prosecuted more efficiently. Through this work, the Division has partnered with extraordinary state, local, and federal law enforcement officers who share a commitment to combating trafficking. We have also worked with courageous survivors who choose to cooperate with the government to seek justice not only for themselves, but for all men, women, and children who may be vulnerable to this modern form of slavery.

Atlanta: In one successful prosecution, the Division and the local U.S. Attorney's Office secured the convictions of a group of six violent traffickers from Mexico for transporting 10 victims,

including four minors, from Mexico to Atlanta. Once in Georgia, the traffickers forced the victims – often through severe physical abuse – to engage in prostitution. The lead defendant in this case received a sentence of 40 years in prison.

Philadelphia: Working with federal, state, local, and international law enforcement agencies, the Department also recently secured the longest sentence ever imposed in a forced labor case. In this prosecution, the lead defendant was sentenced to life in prison plus 20 years, and his co-conspirator was sentenced to 20 years, for their respective roles in an organized human trafficking scheme that held its victims in forced labor on cleaning crews in and around Philadelphia, Pennsylvania. The defendants lured the victims from Ukraine with false promises of lucrative jobs in the United States. Once the victims arrived, the defendants confiscated the workers' documents and used violence, sexual assault, and threats against the victims' families to hold



In the past four fiscal years, the Division, along with our U.S. Attorney partners, has charged 194 trafficking cases, an increase of over 39% from the 139 cases charged in the previous four fiscal years (FY 2005-2008). We brought 55 cases in fiscal year 2012 alone, a record number.

the workers in fear, housing them in overcrowded, substandard conditions, and forcing them to work without pay.

Chicago: In Illinois, we also secured the conviction of a suburban massage parlor owner for various federal crimes including sex-trafficking, forced labor, harboring illegal immigrants, and extortion for crimes he

committed against four foreign women. The defendant psychologically and physically abused the women while forcing them to work for him between July 2008 and January 2010, confiscating their passports and threatening them with force to prevent them from leaving. In November, the defendant was sentenced to life in federal prison.

Partnering with Communities and Law Enforcement Agencies to Prevent Human Trafficking

In order to further enhance its prosecution efforts, the Division has worked to improve coordination on issues related to human trafficking among U.S. Attorneys' Offices, the Division's Human Trafficking Prosecution Unit, the Department's Criminal Division, and the Office of Justice Programs. In 2011, the Department of Justice announced the formation of the Anti-Trafficking Coordination Team (ACTeam) Initiative, an interagency collaboration among the Departments of Justice, Homeland Security, and Labor to streamline federal criminal investigations and prosecutions of human trafficking offenses. Since initiating the ACTeam program, we have launched six Phase I Pilot ACTeams around the country.

Outreach and training also continue to be key components of the Department's effort to combat trafficking. The Division works extensively with the NGO community to combat trafficking and support its victims. We have also worked with other components in the Department of Justice and the Departments of Homeland Security, Labor, and State to create an Advanced Human Trafficking Investigator course at the FBI Training Academy at Quantico for Central American law enforcement officers from El Salvador, Guatemala, Nicaragua, and Panama; as well as an Advanced

Human Trafficking Course at the Federal Law Enforcement Training Center.

These partnerships also extend across borders. For example, through the U.S./Mexico Human Trafficking Bilateral Enforcement Initiative, the Division works with the Department of Homeland Security's Homeland Security Investigations and Mexican law enforcement officials to identify and prosecute sex trafficking cases with operations in both countries. This inter-agency and international collaboration has established enduring partnerships, bringing together law enforcement agencies and non-governmental organizations across international lines. To advance this interdisciplinary initiative, we have coordinated in both the U.S. and Mexico among dozens of agencies to ensure that simultaneous investigations and prosecutions enhance, rather than impede, one another. These efforts have already resulted in three cross-border collaborative prosecutions, involving defendants who have been sentenced in Mexico and the United States to terms of imprisonment ranging up to 37.5 years, resulting in the vindication of the rights of dozens of sex trafficking victims, the rescue of additional victims, and the reunification of families whose children were held by traffickers.

Protecting Individuals within the Criminal Justice System

The Division works aggressively to protect the rights of individuals within the criminal justice system. Using a number of enforcement tools, the Division investigates conditions at certain state and local institutions, including facilities for individuals with psychiatric or developmental disabilities, nursing homes, juvenile justice facilities, and adult jails and prisons. When the evidence indicates systemic problems in these institutions we may act, either by filing a lawsuit to protect the rights

of individuals confined in the institutions, or, as in the vast majority of cases, by trying to reach an agreement to fix the problem. Through this work, we have successfully addressed a wide variety of violations, including physical and sexual abuse, inadequate medical and mental health care, and environmental health and safety problems, as well as civil rights violations that exist in the juvenile justice system.

Preventing Discrimination and Promoting Safety within the Adult Corrections System

The Civil Rights of Institutionalized Persons Act (CRIPA) gives the Division the authority to investigate and address systemic problems at state or local prisons and jails. Over the last four years, the Division has opened seven new investigations using our CRIPA authority; issued 12 findings letters detailing the results of investigations of adult correctional institutions, including some investigations opened before 2009; and settled at least 10 investigations. As a result, the Division currently has matters related to adult correctional institutions in over 25 states, the Virgin Islands, Guam, and the Northern Mariana Islands. Through this work, tens of thousands of institutionalized persons who were confined in dangerous and often life-threatening conditions now receive adequate care and services.

Cook County, Illinois: In 2010, the Division reached a comprehensive agreement with Cook County and the Cook County Sheriff to address unconstitutional conditions discovered at the Cook County Jail in 2007 and 2008. The jail is the nation's largest single-site county jail, with a population of more than 8,500 prisoners spread over 96 acres on

Chicago's West Side. Staff at the jail systematically used excessive force, failed to protect inmates from harm by fellow inmates, provided inadequate mental and health care, and did not address the lack of adequate fire safety and sanitation at the facility. Under the agreement we reached in 2010, Cook County and the Sheriff will adopt comprehensive measures to keep jail inmates safe, including hiring more than 600 additional correction officers, conducting better investigations of reports of excessive force, and overhauling jail practices, policies, and procedures.

Other examples: The Division also intervenes in private cases in order to protect prisoners' rights. In one case, we joined Ohio Legal Rights Services to challenge the Franklin County Sheriff's Office's excessive and unnecessary use of tasers against detainees and inmates in Columbus, Ohio. The agreement we helped reach establishes significant safeguards against the excessive use of tasers, while also ensuring that those who disobey deputies' orders in a non-violent manner will not be stunned by electrically charged weapons.

Prison Rape Elimination Act Rule: Setting Standards

The Civil Rights Division joined the Deputy Attorney General and other Department of Justice components in working on the Attorney General's Prison Rape Elimination Act Working Group. In May 2012, the working group released a rule that sets national standards to prevent, detect, and respond to sexual abuse in confinement facilities. The rule is the first-ever federal effort to set standards that protect inmates in all correctional facilities at the federal, state, and local levels. It is also binding for the Federal Bureau of Prisons. In addition, states that do not comply with the standards are subject to a five-percent reduction in federal funds they would otherwise receive for prison operations.

Preventing Discrimination and Promoting Safety within the Juvenile Justice System

The Division's juvenile justice work has traditionally protected youth confined in juvenile detention and correctional facilities run by state or local governments. In these cases, we investigate allegations that juveniles are at risk of harm due to inadequate or unlawful conditions. If the Division finds that state or local governments systemically deprive youth of their rights – by, for example, providing inadequate medical or mental health care or failing to protect youth from physical or sexual abuse – we have statutory authority to act.

Many of our juvenile confinement cases affect large numbers of youth. For example, we have agreements concerning four facilities in New York, seven facilities in Puerto Rico, seven facilities in Ohio, and 14 facilities in Los Angeles County, California.

Los Angeles: In 2012, when Los Angeles was unable to meet the requirements of a 2008 agreement, we reached a new agreement with the city that will not only ensure adequate conditions of confinement, but will also result in better outcomes for youth and provide them with more opportunities to receive rehabilitation services closer to home. For example, Los Angeles committed to expand youth access to

The Violent Crime Control & Law Enforcement Act of 1994

Almost 20 years ago, with the passage of the Violent Crime Control and Law Enforcement Act of 1994, Congress gave the Division the authority to investigate governmental agencies responsible for the administration of juvenile justice to ensure that they comply with the Constitution and laws of the United States. In 2012, for the first time since the passage of the Act, the Division issued findings that juvenile courts were depriving juveniles of their constitutional rights and reached a comprehensive agreement to ensure fair and equal treatment of juveniles.

community-based alternatives to incarceration, consistent with public safety and the best interests of the youth. These innovative measures, designed to prevent unnecessary detention of youth, are among the most expansive the Department has obtained in a juvenile justice system as part of its enforcement efforts.

In addition to our traditional corrections work, the Division used its authority – for the first time – under a section of the Violent Crime Control and Law Enforcement Act of 1994 to address civil rights violations that occur in the juvenile justice process. Under this law, the Division can determine whether youths' civil rights are being violated not only in detention facilities, but in juvenile arrests, juvenile courts, and juvenile probation systems. During the last four years, we have used our authority under this law to investigate the conduct of police in needlessly arresting children for school-based offenses. We have also examined whether juvenile courts and juvenile probation systems comply with children's due process rights, with the constitutional guarantee of equal protection, and with federal laws prohibiting racial discrimination.

Shelby County, Tennessee: Using our authority under the Violent Crime Control and Law Enforcement Act, the Division found that the juvenile court in Shelby County, Tennessee systemically violates the due process rights of all children who appear for delinquency proceedings and the equal protection rights of

African American children. We released these findings in 2012, after an extensive investigation of court policies and procedures, detention material and statistical data, and analysis of over 50,000 youth case files. Several months later, the Division and the juvenile court entered into a comprehensive agreement to ensure that the juvenile justice system in Shelby County operates in an effective, constitutional fashion.

Meridian, Mississippi: The Division also used this authority in Meridian, Mississippi, where we found a school-to-prison pipeline in which the rights of children are repeatedly and routinely violated. As a result, children have been systemically incarcerated for allegedly committing minor offenses, including school disciplinary infractions, and are punished disproportionately without due process of law. The students most affected by this system are African American children and children with disabilities. When the local and state governments administering juvenile justice failed to enter into meaningful settlement negotiations, the Division filed a lawsuit to vindicate the children's rights.

Protecting Access to Reproductive Health Care Services

Federal law protects the right of people to safely obtain and provide reproductive health care. Under the Freedom of Access to Clinic Entrances (FACE) Act, patients have the right to access reproductive health care free from force, threats of force, or physical obstruction. The law also bars the use or threat of force to intimidate or interfere with those seeking to obtain or provide reproductive care, as well as intentional damage to facilities that provide reproductive health services. The FACE Act contains both criminal and civil provisions.

The Division plays a pivotal role enforcing FACE. On the criminal front, the Division

brought 11 cases, convicting nine defendants. One of these criminal prosecutions is still pending. In addition, the Division significantly increased its enforcement of the civil provisions of the FACE Act. Over the past four years, the Division brought nine civil FACE cases, as opposed to one such case during the previous eight years. The nine cases resulted in the entry of five consent decrees to protect the rights and safety of patients and health care providers, including by establishing protections against threats, use of force, and physical obstruction.

Expanding the Tools Used to Protect Civil Rights



Policy, Partnerships & Outreach

While litigation has been and remains a key tool for the Division, we employ a wide array of strategies to advance civil rights. By developing legislative and regulatory policies, the Division can address emerging challenges and help to shape the future of civil rights enforcement. By partnering with U.S. Attorneys' Offices, we are able to leverage our combined resources to expand opportunity in ways that suit individual communities' needs. By collaborating with other federal agencies, we ensure that we seek to solve pressing civil rights problems that cannot be solved by one federal agency alone, so that together we have the greatest possible impact on people's lives. And by reaching out to communities directly, we mediate disputes, provide trainings, engage individuals knowledgeable about specific problems in their communities, and prevent civil rights violations from occurring.

The Division has expanded our use of all these tools over the last four years. As a result, we are reaching more people around the country who need our help, and are doing so in new and creative ways. We are also taking

significant steps to make sure that our work results in meaningful reform and that the remedies are lasting. Just as we seek to protect the civil rights legacy we inherited, today the Division must work to ensure that generations to come will benefit from the protections we put in place.

Below are examples of the ways in which the Division has expanded and strengthened the infrastructure for protecting civil rights during the past four years.



Assistant Attorney General Perez meets with leaders of the Islamic Center of Murfreesboro, Tennessee at the mosque's grand opening ceremony in November 2012.

Creating the Policy and Strategy Section

One of the Division's major accomplishments under this Administration is the creation of a new Policy and Strategy Section to advance, support, and coordinate the important and varied policy work of the Division. The Policy and Strategy Section now provides a focal point for proactive policy development and legislative proposals, represents the Division on various working groups within and outside the Department, and fulfills a critical public education role.

Proactive Policy Development and Legislative Proposals: The Policy and Strategy Section uses a variety of tools to advance civil rights, including strategic planning, cultivating creative solutions to emerging issues, and developing comprehensive legislative and regulatory proposals that cut across multiple civil rights areas. The Section is actively working to develop an inventory of these types of legislative proposals and will work

with others in the Justice Department to advance these initiatives. For example, one of the Section's first actions was to collaborate with several of the Division's other sections to develop and promote a comprehensive legislative package that would strengthen enforcement of laws that protect the rights of servicemembers and their families. The legislative package covers a range of important issues that impact servicemembers, including fair lending, employment, and voting. Known as the Servicemembers Protection Act, legislation was introduced in the Senate by Senator Sherrod Brown on June 20, 2012. The Department has continued to work with the Congress to secure passage of these improved civil rights protections for servicemembers.

The Policy and Strategy Section also works to ensure that civil rights issues are considered as legislative and regulatory policy proposals are developed, including by other federal agencies.

Public Education, Dialogue and Discussion:

The Policy and Strategy Section engages in ongoing dialogue – both internally and externally – to reflect upon the impact of the Division's work and address emerging issues in civil rights law. By developing a sustained

relationship with community stakeholders, other federal agencies, and within the Department of Justice, the Policy and Strategy Section aims to tap into a broad range of ideas and expertise to advance civil rights. This approach is collaborative and requires thoughtful outreach and meaningful community engagement. The Section's partnerships take many forms, including inter-agency working groups, community convenings, and intradepartmental collaboration.

In October 2011, the Section played an integral role in proposing, planning, and convening the Post 9-11 Civil Rights Summit at George Washington University (GWU). The Division partnered with GWU to create a platform to increase awareness of the Division's work among advocates, experts, and community leaders across the nation, and to educate the Division on these diverse perspectives. After the conference, the Section worked with Harvard University's Kennedy School of Government to develop a report on the Summit and how the Division confronted discrimination in the wake of September 11, 2001. This report includes substantive recommendations for how the Department of Justice can address continuing challenges.

Expanding Partnerships with U.S. Attorneys' Offices

Effective civil rights enforcement is a joint venture between the Civil Rights Division and our partners in U.S. Attorneys' Offices. While the Division is the hub of the Justice Department's enforcement program, we also rely on committed partners in the 94 U.S. Attorneys' Offices around the country to help enforce our nation's civil rights laws. Over the last four years, the Division and the U.S. Attorneys' Offices have embarked on unprecedented collaborations. These partnerships have been central to some of the Department's most significant civil rights accomplishments in fair lending, disability rights, fair housing,

servicemembers employment, law enforcement accountability, and education.

The Division and U.S. Attorneys' Offices have long partnered to enforce criminal civil rights laws, such as the hate crimes statutes and laws that protect against unconstitutional conduct by police officers. In fact, most federal criminal civil rights cases are prosecuted by a Division attorney working side-by-side with an Assistant U.S. Attorney from the district where the crime occurred. Using a similar model, the Division forged successful partnerships with several U.S. Attorneys' Offices

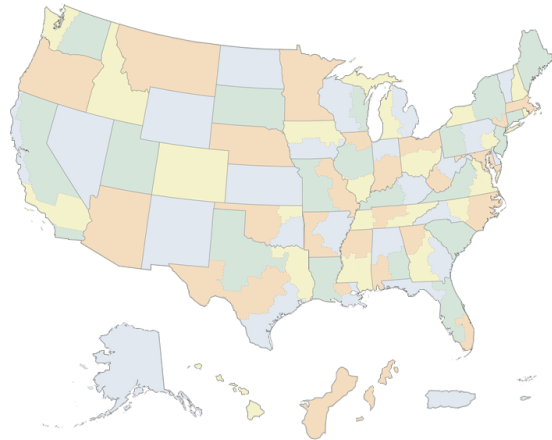
that have long collaborated with us on Americans with Disability Act (ADA) and Fair Housing Act matters in their districts. Along with the Civil Rights Subcommittee of the Attorney General's Advisory Committee, we have expanded these programs to include more than 85 offices that work with the Division on a broader range of ADA, fair housing, and/or fair lending matters. The Division and U.S. Attorneys' Offices are also working together to more aggressively enforce laws protecting the employment and financial rights of service-members. Since mid-2010, at least 29 U.S. Attorneys' Offices have worked with the Division to evaluate 49 USERRA complaints, resulting in 17 of the 45 USERRA lawsuits this Administration has filed.

Many U.S. Attorneys have formalized their commitment to ongoing civil rights enforcement by establishing civil rights units or designating civil rights coordinators in their districts. Today, at least 10 offices have formal civil rights units, including six new offices that have opened since 2009 — in Michigan, Massachusetts, Tennessee, Pennsylvania, Ohio, and Alabama. Many other offices, including those in Connecticut, Los Angeles, Oregon, Washington, Georgia, and New Mexico, have designated civil rights coordinators to ensure

Expanding Partnerships with Federal Agencies and Local Governments

The Division shares enforcement responsibility with other federal agencies that also enforce laws designed to ensure equality of opportunity in lending, in employment, housing, education, and numerous other areas. Together we have greatly expanded collaboration over the last four years in order to better coordinate our work and to ensure that the whole of our enforcement program is greater than the sum of its parts.

Housing: In the wake of the nationwide housing and foreclosure crisis, the Division realized



The Division increasingly relies on the 94 U.S. Attorneys' Offices across the country to fully enforce our nation's civil rights laws (districts shown above). Over the past four years Assistant Attorney General Perez has visited 67 districts, or more than 70% of all U.S. Attorneys' Offices.

that they maximize the impact of both their enforcement and their outreach to the community. These partnerships have enabled us to expand the breadth and reach of our enforcement efforts. We are also enhancing our training and internal communications so that we can more effectively collaborate and develop the talents of all of the Department attorneys working on civil rights enforcement.

the critical need for increased enforcement of the nation's fair lending laws. However, at the start of the Administration, the Division's capacity to enforce those laws was limited. Under federal law, other agencies make lending discrimination referrals to the Division, and the resolution of these referrals would often be delayed for months, if not longer, because of insufficient staff and resources focused on lending discrimination. Justice delayed is all too frequently justice denied. (*continues on page 86*)

U.S. Attorney Partnerships: the Eastern District of Michigan

In the last four years, the Eastern District of Michigan has dramatically increased its civil rights enforcement. Under the leadership of U.S. Attorney Barbara McQuade, the office created a civil rights unit and assigned two Assistant U.S. Attorneys and support staff to develop and litigate civil rights cases. The office has also conducted extensive outreach and established a civil rights hotline and email address for receiving complaints. Their goal is to sustain their civil rights work in order to ensure that everyone who lives in their district has equal access to all that our nation promises.

The Eastern District of Michigan is one of the 67 districts Assistant Attorney General Perez has visited across the country to build our partnerships and conduct outreach. In Michigan, Assistant Attorney General Perez joined the U.S. Attorney's Office in meetings with Latino, Native American, and Arab and Muslim community leaders, culminating



in a Civil Rights Summit. Other Division staff spent a full day visiting schools, community groups, and public libraries to discuss efforts to combat bullying and unlawful harassment in public K-12 schools. The U.S. Attorney's Office works with these and many other communities every day.



This outreach has led to meaningful relief for residents in the Eastern District of Michigan. The office's civil rights unit currently has 32 significant matters on its docket, ranging from a large police misconduct pattern or practice case, to fair housing and fair lending cases and investigations, to a Title VI investigation of the State Courts of Michigan, to a wide variety of ADA matters. The office has also worked to expand partnerships, conducting trainings with the FBI on the Shepard-Byrd Act for law enforcement officers and members of the LGBT community.

Assistant Attorney General Perez and U.S. Attorney Barbara McQuade meet with the Detroit Hispanic Development Corporation, as well as urban Native American leaders, during a visit to the Eastern District of Michigan.

The creation of the Division's Fair Lending Unit in early 2010 bolstered the Division's collaboration with federal agencies that regulate banks and the housing market. Unit staff built stronger relationships with federal bank regulators, the Department of Housing and Urban Development (HUD), the newly created Consumer Financial Protection Bureau, and the Federal Trade Commission, and took on the growing number of fair lending cases these agencies referred. These agencies referred 109 matters to DOJ between 2009 and 2011. Nearly half of those referrals (53) involved race or national origin discrimination – almost double the 30 referrals we received in the previous eight years combined. The Division's ability to bring a record number of enforcement actions under this Administration is a direct result of this cooperation. Almost all of the Division's lending discrimination cases now involve collaboration with other government agencies, U.S. Attorneys' Offices, or other offices within the Department.

Over the past four years, the Division's collaborations with HUD have expanded significantly. HUD refers numerous individual, pattern or practice, and land use and zoning cases to the Division under the Fair Housing Act and a Memorandum of Understanding between HUD and the Division. As a result, more cases are being brought and more people are receiving assistance.

Education: The past four years have been marked by an unprecedented number of joint initiatives between the Division and the Department of Education to promote equal opportunity for all students. These collaborations have included numerous joint investigations with the Department of Education's Office for Civil Rights (OCR) to combat discrimination against students of color, immigrant students, English Language Learners, gender-nonconforming youth, students with disabilities, and survivors of sexual assault. Together, the Division and OCR have sent a resounding

message that discrimination in education will not be tolerated, and that we will use our collective tools to eradicate it and remedy its effects. To help schools meet their civil rights obligations, the Division and the Department of Education also have issued joint guidance on both the voluntary use of race in K-12 schools and higher education, and the obligation of schools to enroll students regardless of their or their parents' immigration status. We will continue to partner to issue guidance and defend the civil rights laws that we each enforce through amicus briefs and statements of interests.

Employment: Growing federal partnerships have similarly enhanced the Division's ability to protect the rights of workers. For example, over the past four years, the Division has worked closely with the Equal Employment Opportunity Commission (EEOC). Although the Division is the only federal agency with the authority to bring lawsuits against state and local government employers under Title VII of the Civil Rights Act, the EEOC receives and investigates all allegations of employment discrimination first, passing along cases to the Division that merit litigation. In 2010, the Division launched a pilot program with EEOC to streamline and improve this process. Through the program, the Division has filed a number of important lawsuits, including a case to protect the rights of a fire control dispatcher who was fired by the state of Nevada because of her pregnancy.

The Division also serves on President Obama's National Equal Pay Enforcement Task Force, and is collaborating with the EEOC and the Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), on how to implement of the Lilly Ledbetter Fair Pay Act of 2009 and other federal prohibitions on pay discrimination. Through the Task Force, the Division and its partner agencies have shared information, training and enforcement strategies, and have

increased their focus on ensuring that women receive equal pay for equal work. The Division is also working with OFCCP to strengthen enforcement of Executive Order 11246.

Title VI: Numerous federal agencies provide grants and other financial assistance to programs and activities across the country. Under Title VI of the Civil Rights Act, recipients of federal funds are prohibited from discriminating on the basis of race, color, and national origin. The Division coordinates the enforcement of Title VI by all federal agencies to ensure that this critical law is implemented consistently and effectively across the federal government. Over the last four years, the Division has provided training, technical assistance, and counsel to civil rights offices in various federal government agencies, and has reviewed their Title VI implementing regulations and guidance documents. In addition, we created a Title VI Interagency Working Group and issued two interagency memoranda calling for more vigorous enforcement of Title VI.

Partnerships with State and Local Governments: The Division has also expanded our

partnerships with state and local governments. For example, our Fair Lending Unit has worked closely with state human rights agencies and state attorneys general in the investigation and prosecution of cases. The Illinois Attorney General was a key partner in the landmark fair lending cases against Countrywide Financial and Wells Fargo. Our state and local partners have also been central to the implementation of many of our settlements. A redlining settlement in Detroit involved a partnership between the City and the bank to reach underserved communities. The Wells Fargo settlement's requirement that the bank provide \$50 million in homebuyer assistance to residents of hard hit communities has galvanized partnerships between the bank and cities to ensure that the qualified families can achieve the dream of homeownership. And, in a case involving violations of the guarantee of equal access to public accommodations, the Division partnered with the Pennsylvania Human Relations Commission to resolve allegations that a Huntingdon Valley swim club in Northeast Philadelphia discriminated on the basis of race.

Language Access and Federal Agencies

Pursuant to an Executive Order issued in 2000, all federal agencies are required to give limited English proficient individuals meaningful access to the services they provide. In 2010 and 2011, the Attorney General directed all parts of the Justice Department and every federal agency to recommit themselves to providing this access. The Attorney General asked the Division, through the Federal Coordination and Compliance Section, to lead the way in making the Department accessible to those with limited English language ability and then to help other federal agencies do the same. As a result, federal agencies across government have implemented plans to communicate with the limited English proficient public they serve.

One area where language access is especially important is in disaster relief. Over the last four years, the Division has worked to make sure that individuals who are victims of disasters do not also find themselves to be victims of discrimination. Everyone, no matter their English language ability, must be able to access disaster recovery information, and the Division has worked with the Department of Homeland Security and the Department of Health and Human Services to expand this access. For example, the Federal Emergency Management Administration (FEMA) now offers its "Help After Disaster Guide" in 19 languages, and released disaster assistance information in 10 languages in the aftermath of Superstorm Sandy in November 2012.

Expanding Outreach

Over the last four years, the Division has expanded and improved our outreach efforts to more effectively enforce the laws that give meaning to our nation's promise of equal opportunity and equal justice under law. This essential work requires the Division to engage with communities around the country. The Division uses outreach as one of our many tools to educate people and communities about their rights; to deter discriminatory conduct; to inform our enforcement efforts, particularly as emerging civil rights challenges arise; to shape the remedies we pursue; and to create new civil rights policy initiatives.

Outreach to specific communities and constituencies, as well as to the public at large, is critical to proactively deterring and combating discrimination, rather than just reacting to discriminatory acts that have already occurred. The Division, often working alongside the Community Relations Service, continues to incorporate what we have learned from community members into our approach to investigations and litigation and into shaping remedies that reflect the needs of unique communities across the country.

The Division employs a number of tools to communicate with the communities we serve. But we also want to hear from you. Stay connected and share your ideas for improving our work:

Follow us on Twitter.

www.twitter.com/civilrights

Visit our website. www.justice.gov/crt

Sign up for email updates.

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Assistant Attorney General Tom Perez meets with the congregation of the Sikh Temple of Wisconsin in Oak Creek, Wisconsin.

For example, community members were critical at every stage of our work addressing discrimination against people with developmental disabilities in Virginia. During our investigation and subsequent negotiation with the state, we met regularly throughout the Commonwealth with groups of people with disabilities, both on waitlists for community services and in institutions, and with their families, disability advocates, service providers, and local agencies. These stakeholders suggested solutions and described their priorities and vision for the state's system; their input is reflected in the settlement agreement. When the court held a hearing to review the agreement, over 800 people wrote personal letters to the court about its importance. Hundreds of people attended the hearing to show support for the agreement, demonstrating an ongoing commitment by the community to hold officials accountable for implementation of the agreement's provisions. Continued involvement of stakeholders is key to the sustainability of the reforms, which is why the agreement provides mechanisms for stakeholder input in implementation. We also continue to meet with community groups, develop new relationships, and receive information regarding the Commonwealth's compliance with the agreement.

Civil Rights: The Unfinished Business of America

More than 50 years after its creation, the Civil Rights Division continues to play a critical role in combating discrimination. As a nation, we have undeniably come a long way – the rights for which so many civil rights pioneers fought, bled, and sometimes gave their lives are now guaranteed by law. We have seen tremendous movement not only legally but in public attitudes and acceptance.

However, the Division's robust caseload is a stark reminder that too many in our nation continue to face barriers to meaningful opportunity. Whether those barriers are overt in the form of blatant discrimination and violence, or subtle in the form of policies that are neutral on their face but discriminatory in practice, they stand in the way of our nation's ability to fulfill its greatest promise. Today, the Civil Rights Division continues to play a critical role as the conscience of the nation. Over the past four years, we have worked vigilantly to restore and transform the Division to carry out this critical task. Going forward, we will continue to ensure the Division stands ready to protect, defend, and advance civil rights in our nation.



Government Agencies That Can Help

Access to Reproductive Health Clinics

For more information about the Freedom of Access to Clinic Entrances (FACE) Act and the Division's work to enforce the Act, contact the Division at (202) 514-6255, or toll free at (877) 218-5228.

Amicus Practice and Appeals

The Division's Appellate Section can be reached at (202) 514-2195.

Civil Rights of Institutionalized Persons

For more information about the Division's work under the Civil Rights of Institutionalized Persons Act, contact the Special Litigation Section at (202) 514-6255, or toll free at (877) 218-5228.

Coordination of Federal Agency Civil Rights Enforcement

For more information about the Division's work to ensure coordinated enforcement and compliance with Title VI of the Civil Rights Act of 1964, contact the Federal Coordination and Compliance Section at (202) 307-2222 or toll free at: (888) 848-5306.

Disability Rights

For more information about the Civil Rights Division's Disability Rights work and the Americans with Disabilities Act, call (800) 514-0301 [Voice] or (800) 514-0383 [TTY], or visit www.ada.gov.

Discrimination by Recipients of Department of Justice Financial Assistance

For more information about the Division's work to investigate allegations of discrimination by recipients of Department of Justice grants and other assistance, contact the Federal Coordination and Compliance Section at (202) 307-2222 or toll free at: (888) 848-5306.

Education

If you believe you have been discriminated against in the educational context, please contact the Educational Opportunities Section at (202) 514-4092 or (877) 292-3804.

Employment

For more information about the Division's work to investigate employment discrimination, call (202) 514-3831 [Voice] or (202) 514-6780 [TTY].

For information about filing a charge of employment discrimination, visit the Equal Employment Opportunity Commission online at www.eeoc.gov, or call the EEOC at (800) 669-4000.

For discrimination because of citizenship or national origin status, the Office of Special Counsel for Immigration Related Unfair Employment Practices operates a hotline for workers at (800) 255-7688 [Voice] or (800) 237-2515 [TTY], and one for employers at (800) 255-8155 [Voice] or (800) 362-2735 [TTY].

Hate Crimes

To report a hate crime, visit the FBI online at www.fbi.gov/contact/fo/fo.htm to find your local field office. If you are unable to locate your local office, a complaint can be submitted in writing directly at the following address: U.S. Department of Justice Civil Rights Division, 950 Pennsylvania Avenue, N.W., Criminal Section, PHB Washington, D.C. 20530

Housing and Lending

If you believe you have been the victim of housing discrimination, you can file a complaint with the Department of Housing and Urban Development. Call (800) 669-9777 or visit www.HUD.gov.

If you have information about a pattern or practice of housing discrimination, you can call the Housing Discrimination tip line at (800) 896-7743, or e-mail fairhousing@usdoj.gov.

If you believe you have been the victim of lending discrimination in a credit transaction, you can file a complaint with the Consumer Financial Protection Bureau at <http://www.consumerfinance.gov/complaint/>.

Human Trafficking

The Division's Criminal Section oversees a national, toll-free telephone complaint line to enable victims and others to report possible trafficking and worker exploitation abuses: (888) 428-7581.

Language Access

For more information about the Division's work to ensure access for limited English proficient individuals, contact the Federal Coordination and Compliance Section at (202) 307-2222 or toll free at (888) 848-5306. See also www.lep.gov.

Legislative and Policy Issues

The Division's Policy and Strategy Section can be reached at (202) 307-6211.

Police Misconduct

For more information about the Division's work to investigate patterns or practices of law enforcement misconduct, contact the Special Litigation Section at (202) 514-6255, or toll free at (877) 218-5228.

Religious Land Use

For more information about RLUIPA, you can contact the Division's Housing and Civil Enforcement Section at (800) 896-7743.

Religious Discrimination in Institutions

For more information about the Division's work to protect against religious discrimination in institutions, contact the Special Litigation Section at (202) 514-6255, or toll free at (877) 218-5228.

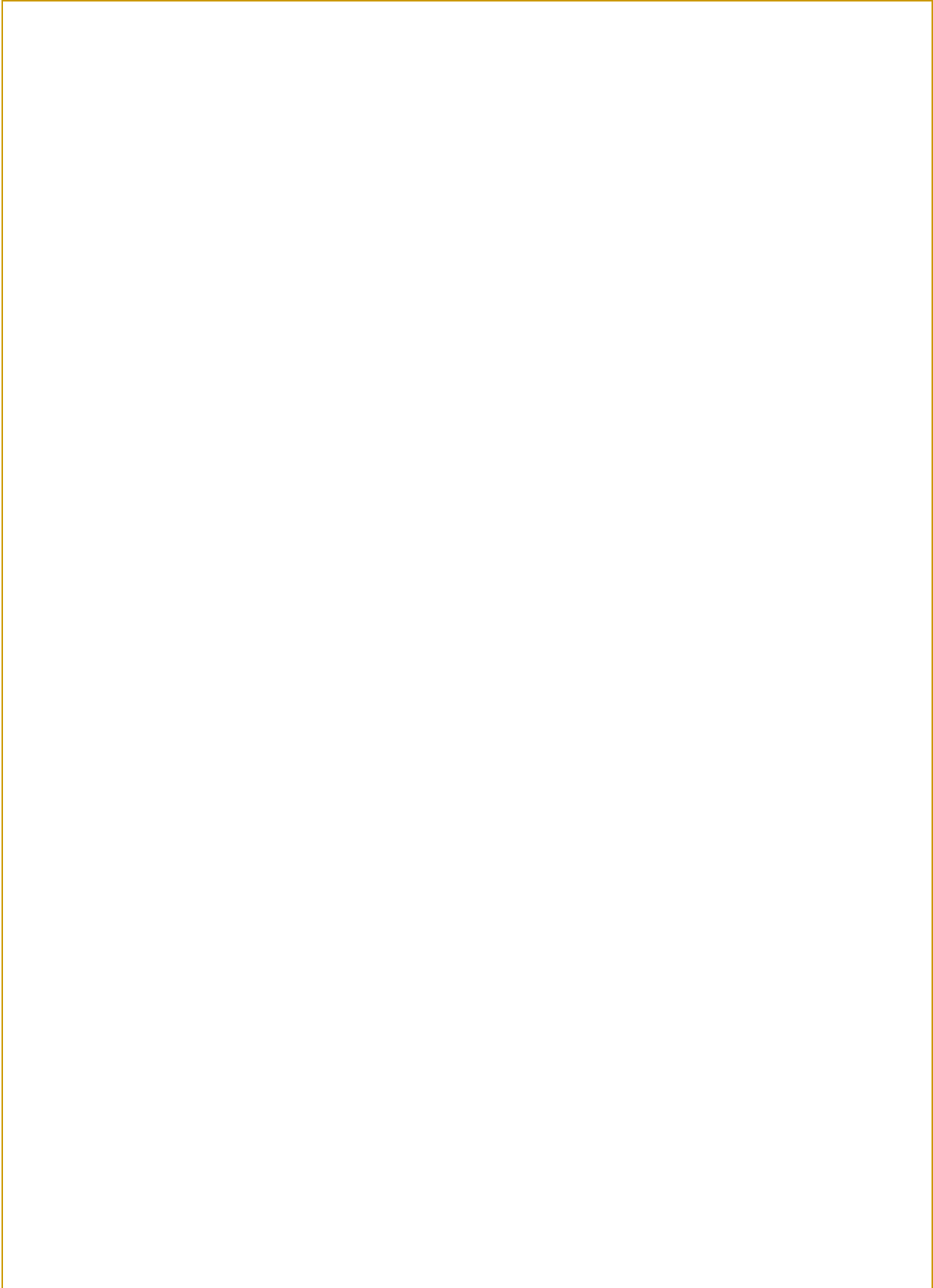
Servicemembers

To file a complaint under USERRA, contact your nearest Veterans' Employment and Training Service (VETS) office, which you can locate by visiting www.dol.gov/vets/aboutvets/contacts/main.htm.

For concerns related to the Servicemembers Civil Relief Act, servicemembers can find the nearest Armed Forces Legal Assistance Program Office at <http://legalassistance.law.af.mil/content/locator.php>.

Voting

For more information about the Civil Rights Division's voting rights work, call (800) 253-3931.



Appendix

Appendix of Selected Additional Cases & Matters 2009– 2012

Expanding Opportunity at Home

■ Fighting Lending Discrimination

Settlement Agreements and Consent Decrees

United States v. Bank of America (W.D.N.C. 2012) Challenge to policy of requiring mortgage applicants with disabilities to provide a letter from a doctor as a condition of credit; resolved by consent order requiring Bank of America to maintain revised policies, conduct employee training, and pay between \$1,000 and \$50,000 to eligible mortgage loan applicants who were asked to provide a letter from their doctor to document the income they received from Social Security Disability Insurance.

United States v. Luther Burbank Savings (C.D. Cal. 2012) Challenge to \$400,000 minimum loan amount policy for wholesale mortgage lending that had an unjustified disparate impact on African American and Latino borrowers; resolved by consent order requiring \$2 million investment in impacted majority-minority California neighborhoods.

United States v. GFI Mortgage (S.D.N.Y. 2012) Challenge to pattern or practice of charging African American and Latino borrowers discriminatory mortgage prices; resolved by \$3.55 million settlement.

United States v. SunTrust Mortgage, Inc. (E.D. Va. 2012) Nationwide challenge to pattern or practice of charging African American and Latino borrowers discriminatory mortgage prices; resolved by \$21 million settlement.

United States v. Mortgage Guaranty Insurance Company (W.D. Pa. 2012) Challenge to pattern or practice of requiring women currently employed and on maternity leave to return physically to work before being approved for mortgage insurance; resolved by consent decree requiring payment of \$511,250 in damages and \$38,750 in civil penalties.

United States v. Midwest Bankcentre (E.D. Mo. 2011) Challenge to failure to provide lending services on equal basis in majority African American areas as in majority white areas; settlement provides for \$1.2 million investment in predominantly African American St. Louis neighborhoods.

United States v. AIG (D. Del. 2010) Nationwide challenge to pattern or practice of charging African American and Latino borrowers discriminatory broker fees on mortgage loans; resolved by \$6.1 million settlement.

Active Litigation

United States v. Union Auto Sales (9th Cir. 2012) Challenge to bank and auto dealerships' practice of charging higher prices to non-Asian car loan customers. In litigation against dealerships, 9th Circuit Court of Appeals reversed the District Court's dismissal of the case.

■ Ensuring Fair Access to Housing

Settlement Agreements and Consent Decrees

United States v. Sussex County (D. Del. 2012) Challenge alleging that the County attempted to block an affordable housing development due to concerns that the residents would be African American and Latino; resolved with a \$750,000 consent decree.

United States v. Sturdevant (D. Kan. 2010) Challenge to pattern or practice of harassment and intimidation of African American elderly and disabled tenants by apartment building manager; resolved by settlement that provides for monetary relief of \$2.13 million.

United States v. Sterling (C.D. Cal. 2009) Challenge to pattern or practice of race, national origin, and familial status discrimination by large Los Angeles landlord; settlement provides for \$2.725 million in monetary relief.

Active Litigation

Mount Holly Gardens Citizens in Action, Inc. v. Township of Mount Holly (3d Cir. 2011) Agreeing with the Division's position as amicus curiae, the court of appeals reversed the grant of summary judgment against minority plaintiffs, on the ground that defendants' razing and redevelopment of their neighborhood constituted a prima facie case of disparate impact discrimination under the Fair Housing Act. Petition for cert. pending, No. 11-1507 (filed June 11, 2012); Solicitor General invited to express the views of the United States, Oct. 29, 2012.

Joliet v. New West (N.D. Ill.) Challenge to city's effort to condemn predominantly African American HUD subsidized complex as racially discriminatory; trial is ongoing.

United States v. St. Bernard Parish (E.D. La.) Challenge to alleged multi-year campaign by the Parish to limit rental housing opportunities for African Americans; litigation is ongoing.

United States v. Colorado City (D. Az.) Challenge under 1st, 4th, and 14th Amendments, and Fair Housing Act, to a wide variety of illegal actions by cities and utility companies on Arizona/Utah border against non-members of Fundamental Church of Jesus Christ of Latter-Day Saints based on religion; litigation is ongoing.

■ Fighting Sexual Harassment of Women Seeking Housing *Settlement Agreements and Consent Decrees*

United States v. Sorensen (E.D. Cal. 2012) Challenge to pattern or practice of sexual harassment by rental property owner and manager; resolved by record \$2.13 million settlement in monetary damages for more than 25 women victims.

United States v. Barnason (S.D. NY 2012) Challenge brought by U.S. Attorney's Office to pattern or practice of sexual harassment against owner, manager, and former superintendent (and registered sex offender) of apartment complex; settled for \$2 million in damages to victims.

■ Ensuring Access to Housing for Individuals with Disabilities *Settlement Agreements and Consent Decrees*

United States v. Cogan (W.D. Ky. 2011) Accessibility case involving 276-unit complex in Kentucky; settlement of accessibility retrofits and \$275,000 in monetary compensation to 29 victims.

United States v. Warren Properties (S.D. Ala. 2010) Challenge brought by U.S. Attorney's Office to management company's refusal to move a tenant who used crutches and leg braces to the first-floor; settlement for \$1.25 million in monetary relief and new reasonable accommodations policy for 11,000 housing units at 85 properties. This is the largest award ever obtained by the Department in an individual housing discrimination case.

United States v. CVP I, LLC (S.D. NY 2010) Challenge brought by U.S. Attorney's Office for unlawfully discriminating against people with disabilities in the design and construction of apartment building; settlement included retrofits to seven properties in New York City with 2,557 apartment units, monetary compensation for victims, a civil penalty, and a fund for accessibility improvements totaling more than \$2.2 million.

United States v. Rathbone Retirement Community (S.D. Ind. 2009) Pattern or practice case alleging discrimination on the basis of disability against residents who use motorized wheelchairs and scooters; settlement provides for \$95,000 in damages and \$21,000 in civil penalties.

Active Litigation

United States v. City of New Orleans (E.D. La.) Challenge alleging that the City and State Bond Commission improperly interfered with the conversion of a former nursing home into permanent supportive housing for persons with disabilities; litigation is ongoing.

United States v. University of Nebraska (D. Neb.) Challenge to implementation of no-pets policy to limit assistance animals in university housing; litigation is ongoing.

United States v. Post (N.D. Ga.) Pattern or practice case alleging developer of multifamily apartment complexes in six states designed and constructed numerous properties without accessible features; litigation is ongoing.

Expanding Opportunity at School

■ Expanding Opportunities for Students Facing Segregation

Settlement Agreements and Consent Decrees

United States v. Board of Education of Valdosta City (M.D. Ga. 2012) Division obtained and is monitoring a consent decree requiring the district to ensure desegregation of its faculty and staff.

United States v. Board of Education of the City of Milan (W.D. Tenn. 2009) Division obtained and is monitoring a consent decree to address racial disparities in discipline and gifted programs.

Active Litigation

Cowan and United States v. Bolivar County Board of Education (Cleveland City School District) (N.D. Miss. 2012) Division obtained court order requiring the district to develop and implement a plan to meet its long overdue obligation to desegregate closely situated “white” and “black” schools; litigation continues to ensure the district satisfies this obligation.

United States v. Richardson Independent School District (N.D. Tex.) Division participated in a multi-day trial in which it convinced the court not to dismiss the case against the district because it had yet to desegregate its elementary schools, faculty, and staff.

Amicus Briefs/Statements of Interest

Doe v. Lower Merion School District (3d Cir. 2011) Court of appeals held, as the Division argued as amicus curiae, that strict scrutiny does not apply to a school district’s zone-based assignment plan that considers neighborhood racial demographics in order to promote diversity and avoid racial isolation, and that the plan is appropriate under rational basis review. Cert. denied, 132 S. Ct. 2773 (2012).

Fisher v. Tucson Unified School District (9th Cir. 2011) Court of appeals held, as the Division argued as amicus curiae, that district court erred in terminating its jurisdiction over two consolidated school desegregation cases, without first finding that the school district had demonstrated good faith compliance with the desegregation decrees and eliminated the vestiges of past discrimination to the extent practicable.

■ Expanding Opportunities for Students Targeted for Harassment

Settlement Agreements and Consent Decrees

Doe and United States v. School District of Allentown City (E.D. PA 2012) Challenge to repeated incidents of harassment of first grade students by an older student; resolved by a consent decree requiring systemic changes to the district’s sexual harassment policies, practices, and training.

Tehachapi Unified School District (E.D. Cal. 2011) Challenge to harassment of middle school student based on his nonconformity with gender stereotypes; resolved by out-of-court settlement agreement addressing district's harassment policies and procedures.

Owatonna Public School District (D. Minn. 2011) Challenge to student-on-student harassment and disproportionate discipline of Somali-American students based on their race and national origin; resolved by out-of-court settlement agreement to improve district harassment and discipline policies and procedures.

■ **Expanding Opportunities for English Language Learner Students (ELLs)**
Settlement Agreements and Consent Decrees

Congress of Hispanic Educators & United States v. School District No. 1 (Denver) (D. Colo.) Negotiated comprehensive consent decree benefitting more than 20,000 ELLs in the Denver Public Schools; court preliminarily approved the decree in November 2012 and held a fairness hearing on January 25, 2013; the parties are scheduled to appear before the court to address potential conditions on the approval of the decree on April 15, 2013.

Massachusetts Department of Elementary and Secondary Education (D. Ma. 2011) Challenge under Equal Educational Opportunities Act to state's failure to mandate adequate training for its Sheltered English Immersion (SEI) teachers of ELL students and the administrators who evaluate these teachers. In June 2012, the state responded by issuing regulations that, among other things, require approximately 26,000 SEI teachers and administrators to receive SEI training within the next four years.

■ **Expanding Opportunities for Students with Disabilities**
Settlement Agreements and Consent Decrees

Milton Hershey School (E.D. Penn. 2012) Challenge to Milton Hershey School's refusal to fully consider application of 13-year old boy because he has HIV; resolved by settlement agreement requiring the school to pay \$700,000 to the student and adopt and enforce an anti-discrimination policy.

Boston Public Schools (D. Ma. 2010, 2012) Division's 2010 and 2012 agreements include relief to ensure that thousands of ELLs with disabilities receive appropriate dual services and that ELLs are properly evaluated for disabilities given their language barriers. See also: <http://www.justice.gov/opa/pr/2010/October/10-crt-1109.html>.

United States v. Nobel Learning Communities, Inc. (E.D. Penn. 2011) Reached consent decree ensuring nondiscrimination against children with autism and other disabilities by a nationwide network of more than 180 private preschools, elementary schools, and secondary schools.

Lopez and United States v. Metropolitan Government of Nashville and Davidson County (M.D. Tenn. 2010) Intervened in case involving sexual assault of student on special education bus; resolved by consent decree requiring the district to take substantial steps to enhance the security of students with disabilities on its buses.

Amicus Briefs/Statements of Interest

Argenyi v. Creighton (8th Cir. 2013) Court of appeals held, as the Division argued in brief, that the district court erred in holding that a medical student needed to show that he would be effectively excluded from medical school without the assistance of the auxiliary aids and services he requested in order to establish a violation of the ADA.

K.M. v. Tustin Unified School District (9th Cir. 2012) Brief argued that the Individuals with Disabilities Education Act and the ADA have different statutory elements and purposes; district court erred when it concluded that the school district's compliance with IDEA automatically satisfied Title II of the ADA. Litigation ongoing.

R.K. v. Board of Education of Scott County, et al. (6th Cir. 2012) Brief argued that state regulations denying students with diabetes placement at neighborhood school are preempted by federal protections for students with disabilities. Litigation ongoing; remanded to District Court.

C.C. v. Cypress School District (C.D. Cal. 2011) Statement of Interest in support of a seven-year old boy with autism who was denied the right to bring his service dog to his school. Court ordered that student has a right to have his service animal in the classroom.

Forest Grove School District v. T.A. (S.Ct. 2009) Department's brief argued and the Supreme Court held that, when a public school fails to provide special education services, the Individuals with Disabilities Education Act authorizes reimbursement for private special education services regardless of whether the child had previously received special education services through the public school.

■ Other Cases to Protect Equal Educational Opportunity

Amicus Briefs/Statements of Interest

Doe v. Vermilion Parish School Board (5th Cir. 2011) Division filed amicus brief in a case challenging a discriminatory single-sex education program. In June 2011, following a decision by the court of appeals, the school board decided not to continue its challenged single sex program for the 2011-2012 school year.

Pratt v. Indian River Central School District (N.D. N.Y. 2011) Agreeing with Division's position in 2010 amicus brief, the district court held that: harassment based on nonconformity to sex stereotypes can be challenged under Title IX; complaints of harassment based on sexual orientation do not preclude a sex stereotyping harassment claim; and a hostile environment claim may span transitions between classes, grades, and schools.

Cook v. Florida High School Athletic Association (FHSAA), (M.D. Fla. 2009) Brief argued that the FHSAA policy reducing the maximum number of competitions that a school could schedule while exempting 36,000 male football players and only 4,300 girls and 201 boys who participated in competitive cheerleading violated Title IX and the Equal Protection Clause. After the court accepted our brief, FHSAA voted unanimously to rescind its policy.

Expanding Opportunity in the Workplace

■ Challenging Unlawful and Ineffective Employment Tests

Settlement Agreements and Consent Decrees

United States v. City of Portsmouth (E.D. Va. 2009) Challenge under Title VII to written examinations used in the selection process for entry-level firefighters; case settled for \$145,000 and 10 priority hires.

United States v. City of Dayton (S.D. Oh. 2009) Challenge under Title VII to written examination used in the selection process for entry-level police officers and the use of heightened minimum requirements for entry-level firefighters. Both selection procedures resulted in an adverse impact on African American applicants, and were not proven to be job-related or consistent with business necessity; case settled for \$450,000 and 14 priority hires.

Active Litigation

United States v. City of Jacksonville (M.D. Fla.) Challenge under Title VII alleging written examinations for the promotion of firefighters have an adverse impact on African American candidates; the case is in discovery.

■ Ensuring Equal Opportunities for Women in the Workplace

Settlement Agreements and Consent Decrees

United States v. Corpus Christi (S.D. Tex. 2012) Settlement includes implementation of lawful examination, 18 priority hires with retroactive seniority, and \$700,000 in back pay in Title VII case alleging physical abilities test disproportionately screened out female applicants for entry-level police officer positions. The consent decree is pending with the district court.

Hawkins, et al. v. Summit County (N.D. Ohio) Intervened in private lawsuit to challenge a sex-segregated job assignment system at a jail. After months of contested litigation, settlement in principle reached that includes \$400,000 in damages and attorneys fees to be distributed among approximately 28 female deputies harmed by the sex-segregated assignment system. The County also has agreed to develop and implement a new lawful job assignment system and conduct comprehensive training on discrimination in the workplace. The agreement is still subject to court approval.

United States v. Waupaca County (E.D. Wisc. 2012) The complaint alleged that the county violated Title VII when it failed to promote a female patrol officer in its sheriff's department to sergeant because of her sex. Under the terms of settlement, the county is required to promote the female patrol officer to the position of detective sergeant within three years, increase her current pay rate to that of a detective sergeant, and pay her \$141,641.10 in monetary relief and attorneys fees.

United States v. Town of Rome (W.D. Wisc. 2011) Settlement includes \$351,891 in monetary relief based on allegations of retaliation against a female police officer who complained about sex discrimination.

United States v. Dona Ana County (D.N.M. 2010) Settlement, including \$150,000 in monetary damages to five similarly situated female employees who were subjected to egregious sexual harassment by a supervisor.

■ Ensuring Fair Treatment on the Job

Settlement Agreements and Consent Decrees

United States v. New York City Transit Authority (E.D.N.Y. 2012) Settlement includes \$184,500 in monetary relief, implementation of new policies, and training in Title VII case alleging a pattern or practice of religious discrimination and failure to accommodate religious practices of eight current and former Muslim and Sikh employees.

United States v. Texas Department of Family and Protective Services (S.D. Tex. 2011) Settlement includes \$60,000 in monetary relief, as well as training, in Title VII case alleging discrimination against an intersex employee where the employee was harassed and ultimately terminated because of his race and sex.

United States v. Township of Green Brook (D.N.J. 2010) Allegations of a racially hostile work environment and retaliation resulted in an award of \$35,000 in compensatory damages to a Township employee under the terms of settlement.

■ Protecting the Rights of People Applying for Work from Discrimination on the Basis of National Origin and Citizenship Status

Amicus Briefs/Statements of Interest

Gallo v. Diversified Maintenance Sys., LLC (OCAHO 2012) Challenge to employer's misuse of E-Verify and retaliation against employee because of complaint made to the Division; employer agreed to civil penalties and significant back pay.

Lopez v. Farmland Foods, Inc. (OCAHO 2011) Challenge to document abuse; employer agreed to a \$290,400 civil penalty, the highest negotiated amount obtained.

Active Litigation

Morales v. Mar-Jac Poultry, Inc. (OCAHO 2012) Decision denying Mar-Jac's Motion to Dismiss recognized broad scope of the Office of Special Counsel for Immigration-Related Unfair Employment Practices' investigative authority and OSC's jurisdiction over E-Verify; litigation is ongoing.

Expanding Opportunity in the Community for People with Disabilities

■ Eliminating Barriers to Places of Public Accommodation

Settlement Agreements and Consent Decrees

United States v. QuikTrip Corporation (D. Neb. 2010) Reached agreement for the removal of existing barriers to access at more than 550 gas stations, convenience stores, travel centers, and truck stops nationwide. QuikTrip will also design and construct all future stores in compliance with the ADA, and established a \$1.5 million compensatory damages fund for aggrieved individuals.

United States v. City of Jackson and City of Jackson Public Transportation System (S.D. Miss. 2010) Reached landmark consent decree ensuring that the City's fixed route and paratransit bus systems are accessible to individuals with disabilities.

City of Philadelphia, PA (E.D. Penn. 2009) Reached agreement requiring the City to make temporary remedies to ensure that its polling places are accessible to people who use wheelchairs or to relocate inaccessible polling places to accessible sites.

Amicus Briefs/Statements of Interest

Frame v. City of Arlington (5th Cir. 2011) (en banc) Brief argued that a public entity that newly constructs or alters sidewalks without complying with accessibility requirements denies individuals with disabilities the benefit of its services, in violation of Title II of ADA. Court accepted the Division's arguments. Cert. denied, 132 S. Ct. 1561 (2012).

Communities Actively Living Independently and Free (CALIF) v. City of Los Angeles (C.D. Cal. 2011) Division filed a Statement of Interest in support of plaintiffs' summary judgment motion; the court's ruling is the first of its kind, holding a local government broadly liable for failing to ensure equal access and integrated emergency management planning for people with disabilities under Title II of the ADA and Section 504 of the Rehabilitation Act.

■ Expanding Opportunities for People with Disabilities to Receive Care in their Own Communities

Settlement Agreements and Consent Decrees

United States v. Delaware (D. Del. 2011) Reached agreement with the State to provide community services and supported housing to prevent the unnecessary institutionalization of people at the Delaware Psychiatric Center or other inpatient psychiatric facilities and ensure that people with mental illness living in the community are not forced to enter institutions because of the lack of stable housing or intensive treatment services in the community.

United States v. Georgia (N.D. Ga. 2010) Reached agreement with State to expand community services and housing so that individuals with mental illness and developmental disabilities confined in State hospitals are not unnecessarily institutionalized and subject to unconstitutional harm to their lives, health, and safety in violation of the Americans with Disabilities Act and U.S. Constitution. For persons with developmental disabilities, the agreement requires the State to cease admissions to State-operated institutions and provide home and community-based waivers to 1150 individuals; for persons with mental illness, the agreement provides that the State will provide community services and supported housing to 9,000 individuals who were unnecessarily in or at risk of entering institutions.

Active Litigation

Steward et. al. v. Perry et. al. (W.D. Tex.) Intervened in private lawsuit against the State of Texas alleging that the State violates Title II of the ADA by unnecessarily segregating thousands of individuals with developmental disabilities in nursing facilities and placing thousands more at risk of entry into nursing facilities; litigation is ongoing.

Lynn E. v. Lynch (D.N.H.) Intervened in private lawsuit alleging that the State of New Hampshire fails to provide mental health services to people with disabilities in community settings in violation of Title II of the ADA; litigation is ongoing.

Amicus Briefs/Statements of Interest

Lane v. Kitzhaber (D. Or. 2012) The district court held, as the Division argued in our Statement of Interest, that the integration mandate of the Americans with Disabilities Act applies to all services, programs, and activities of a public entity, including segregated, non-residential employment settings such as sheltered workshops.

Hiltibran v. Levy (W.D. Mo. 2010) The district court held, as the Division argued in our Statement of Interest, that Missouri's policy of refusing to provide medically necessary supplies to Medicaid-eligible persons in the community and only providing them if the person resides in a nursing facility violates the integration mandate of the Americans with Disabilities Act.

■ Ensuring Equal Access to New and Emerging Technology

Amicus Briefs/Statements of Interest

National Association of the Deaf v. Netflix (D. Mass. 2012) Division filed two Statements of Interest upon which the Court relied in issuing an unprecedented ruling that the ADA applies to services provided exclusively over the internet. See also: http://www.ada.gov/briefs/netflix_interest_br_10-3-11.pdf.

Ensuring Religious Freedom

■ Protecting People of All Faiths from Discrimination and Arbitrary Action by Local Zoning Boards

Settlement Agreements and Consent Decrees

United States v. City of Lilburn (N.D. Ga. 2011) Challenge to city's denial of mosque's zoning application, alleging that it was based on anti-Muslim bias; resolved by consent decree requiring the city not to impose different zoning requirements on religious groups.

United States v. City of Walnut (C.D. Cal. 2011) Challenge to city's denial of approval for construction of Buddhist worship center, claiming that the center was treated differently from similarly situated religious and nonreligious assemblies; resolved by consent decree requiring the city not to impose discriminatory zoning requirements.

Preserving the Infrastructure of Democracy: At the Ballot Box

■ Preserving Effective Access to the Electoral Process

Contested Litigation

Chisom v. Jindal (E.D. La. 2012) Court held that an earlier consent decree entered into by the Department, private plaintiffs, and the State of Louisiana in a case under Section 2 of the Voting Rights Act determined the process for who would become the next chief justice of the state supreme court; decision resulted in the ascension of the first black chief justice of Louisiana's highest court.

Amicus Briefs/Statements of Interest

Perez v. Perry (W.D. Tex. 2011) In case concerning Texas' legislative and congressional redistricting plans and its election schedule, the Department filed amicus briefs in the district court and Supreme Court on a range of issues under Section 5 and Section 2 of the Voting Rights Act as well as the Uniformed and Overseas Citizens Absentee Voting Act.

Lepak v. City of Irving (5th Cir. 2011) Court adopted the position the Division advocated in amicus briefs, upholding against a collateral attack a single-member district remedy obtained in a vote dilution case under Section 2 of the Voting Rights Act. Cert petition pending.

■ Ensuring Access to Democratic Participation for Language Minority Citizens
Settlement Agreements and Consent Decrees

United States v. Orange County (S.D.N.Y. 2012) Challenge under Section 4(e) of the Voting Rights Act; resolved by consent decree requiring implementation of a comprehensive Spanish language election program to provide bilingual materials and assistance to Puerto Rican voters with limited English proficiency.

United States v. Alameda County (N.D. Cal. 2011) Challenge under Section 203 of the Voting Rights Act; resolved by consent decree requiring implementation of a comprehensive minority language election program (Spanish, Chinese, Vietnamese and Tagalog) to provide bilingual materials and assistance to voters with limited English proficiency.

United States and Shannon County (2010) Challenge under Sections 203 and 4(f)(4) of the Voting Rights Act and the Help America Vote Act (HAVA); resolved by memorandum of agreement requiring implementation of comprehensive Lakota-language election program to provide bilingual materials and assistance to American Indian voters with limited English proficiency.

■ Expanding Opportunities for Eligible Citizens to Register to Vote
Contested Litigation

United States v. State of Florida (N.D. Fla. 2012) Challenge alleging Florida violated Section 8 of the National Voter Registration Act by continuing to conduct a systemic purge of registered voters within 90 days of the 2012 federal elections and use of inaccurate and unreliable voter verification procedures. Court denied motion for temporary restraining order.

United States v. State of Louisiana (M.D. La. 2011) Challenge alleging Louisiana and its public assistance and disability agencies violated Section 7 of the National Voter Registration Act by failing to offer voter registration opportunities at public assistance agencies and offices providing state-funded disability programs for persons with disabilities throughout the state.

Amicus Briefs/Statements of Interest

Gonzalez v. Arizona (9th Cir. 2012) (en banc) The court concluded, as the Division contended as amicus curiae, that Arizona's requirement that voter applicants submit proof of United States citizenship to register to vote is preempted by the National Voter Registration Act. Cert. granted *sub nom. Arizona v. Inter Tribal Council of Arizona, Inc.*, No. 12-71 (Oct. 15, 2012).

Georgia State Conference of NAACP v. Kemp (N.D. Ga. 2012) The court denied the State's motion to dismiss concluding, as the Division contended as amicus curiae, that Section 7 of the National Voter Registration Act requires state agencies to offer voter registration to persons who apply for public assistance by remote means such as by phone, internet, or mail.

■ Defending the Constitutionality of the Voting Rights Act

LaRoque v. Holder (D.C. Cir. 2012) The court agreeing with the Division's argument as appellee, dismissed as moot this appeal challenging the constitutionality of Section 5 of the Voting Rights Act and the 2006 amendments to its substantive preclearance standard. Cert. denied, No. 12-81 (Nov. 13, 2012).

Shelby County v. Holder (D.C. Cir. 2012) The court, agreeing with the Division's arguments as appellee, upheld the constitutionality of the 2006 Reauthorization of Sections 4(b) and 5 of the Voting Rights Act, as appropriate legislation to enforce the Fourteenth and Fifteenth Amendments. Cert. granted, No. 12-96 (Nov. 9, 2012).

Preserving the Infrastructure of Democracy: At the Courthouse

■ Expanding Access to Justice for Limited English Proficient Individuals

Colorado Agreement (2011) In response to a Division investigation for failures to provide meaningful access to limited English proficient parties, the Colorado Judicial Department (CJD) signed an agreement to provide timely and competent language assistance service. The Chief Justice issued a [directive](#) and added eight new members to the court interpreter's oversight committee; and the CJD created a language access plan and reports to the Division as we actively monitor implementation.

AAG Courts Letter (2010) Assistant Attorney General Perez sent a letter to all State Chief Justices and State Court Administrators advising them of their duty to provide meaningful access to limited English proficient individuals in their state courts in all proceedings and court operations, and without charging parties.

Preserving the Infrastructure of Democracy: In the Community

■ Prosecuting Individual Law Enforcement Misconduct

United States v. Wilson (8th Cir. 2012) Upheld the conviction of defendant who was found guilty of beating two jail inmates, arranging for the beatings of two other inmates, and lying to the FBI about his role in two of the attacks. Cert. denied (2013).

United States v. Cates (E.D. Wis. 2012) Successful prosecution of police officer for the sexual assault of a woman who called 9-1-1 for assistance; defendant was sentenced to 24 years imprisonment.

United States v. Thompson (E.D. Wash. 2011) Successful prosecution of police officer for the brutal beating of an unarmed man and extensive cover-up that followed; the victim died two days later though the officer denied using deadly force. Defendant was sentenced to four years and three months imprisonment.

Preserving the Infrastructure of Democracy: Protecting Those Who Protect Us

■ Expanding Access to Financial Protections for Servicemembers

Settlement Agreements and Consent Decrees

United States v. Capital One (E.D. Va. 2012) Consent order provides approximately \$7 million in damages to servicemembers whose homes were unlawfully foreclosed; \$5 million to servicemembers who did not receive the appropriate amount of Servicemember Civil Relief Act benefits in credit, auto, and other loans; and enterprise-wide rate reduction relief for all servicemembers impacted.

United States v. BAC Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP (C.D. Cal. 2011) Consent decree provides over \$37 million for servicemembers whose non-judicial foreclosures violated the Servicemembers Civil Relief Act.

■ Protecting the Employment Rights of Servicemembers

Settlement Agreements and Consent Decrees

United States v. Alabama Department of Mental Health (N.D. Ala. 2010), *affd.* (11th Cir. 2012) Following a 4-day trial, judgment entered for the U.S., including full damages for service member Roy Hamilton, based on Alabama's violation of USERRA by failing to promptly reemploy Mr. Hamilton upon his return from deployment. The Eleventh Circuit affirmed the judgment, and further held that States such as Alabama, have no sovereign immunity from lawsuits filed by the U.S. seeking to enforce USERRA on behalf of servicemembers.

Goodwin v. Air Methods and LifeMed Alaska (D. Alaska 2012) Court approved settlement providing for immediate reinstatement of Chief Warrant Officer Third Class Jonathon L. Goodwin, along with monetary damages, based on defendants' alleged USERRA violations when they rejected Goodwin for a contract helicopter pilot position in Alaska following his deployment to Iraq.

■ Ensuring that All Servicemembers Have Equal Opportunity to Vote
Settlement Agreements and Consent Decrees

United States v. Vermont (D. Vt. 2012) Challenge to Vermont's failure to transmit UOCAVA ballots by the 45th day before the 2012 Federal general election; resolved by consent decree extending the ballot receipt deadline and other procedures to ensure military and overseas voters would be provided sufficient time to receive, mark, and return their ballots in time to be counted.

United States v. Wisconsin (W.D. Wis. 2012) Challenge to Wisconsin's failure to transmit UOCAVA ballots by the 45th day before the 2012 Federal primary election; resolved by consent decree extending the ballot receipt deadline and providing for other procedures.

United States v. Michigan (W.D. Mich. 2012) Challenge to Michigan's failure to transmit UOCAVA ballots by the 45th day before 2012 Federal primary and a special primary election; resolved by consent decree extending the ballot receipt deadline and providing for other procedures.

United States v. California (E.D. Cal. 2012) Challenge to California's failure to transmit UOCAVA ballots by the 45th day before the 2012 Federal primary election and ensure ballots were sent by the voters' preferred method; resolved by consent decree expediting ballot transmission procedures and providing for other measures.

United States v. Territory of the Virgin Islands (D.V.I. 2012) Challenge to Virgin Islands' failure to transmit UOCAVA ballots by the 45th day before the 2012 Federal primary and general elections; resolved by consent decree setting specific deadlines for sending ballots, an extension of the ballot receipt deadline in the primary, and providing for other procedures.

Contested Litigation

United States v. Alabama (M.D. Ala.) Court ordered preliminary injunction to remedy Alabama's widespread failure to timely transmit ballots to UOCAVA voters for the 2012 Federal primary election and to ensure they would not be disenfranchised in a run-off election if one was held.

United States v. Georgia (N.D. Ga.) Court granted preliminary injunction to remedy Georgia's failure to comply with UOCAVA in runoff elections, providing additional time for receipt of ballots and other procedures to ensure military and overseas voters could have their votes counted in any Federal runoff elections held in 2012.

Protecting Individuals from Exploitation, Discrimination & Violence: Prosecuting Violent Hate Crimes

■ Implementing the Shepard-Byrd Act
Appeals

Glenn v. Holder (6th Cir. 2012) Agreeing with the Department's arguments as appellee, the court of appeals concluded that plaintiffs lacked standing to challenge the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act because they failed to demonstrate an intent to violate it, or to offer sufficient evidence that they would nonetheless face adverse law enforcement action. Petition for cert. pending, No. 12-553 (filed Oct. 31, 2012).

United States v. Maybee (8th Cir. 2012) Accepting the Division's arguments as appellee, the court of appeals upheld the constitutionality of the Mathew Shepard and James Byrd, Jr. Hate Crimes Prevention Act. Cert. denied, No. 12-6385, 2012 WL 4373442 (Oct. 29, 2012).

Prosecutions

United States v. Mullet (N.D. Ohio 2012) Jury convicted 16 Ohio men in the first Shepard-Byrd prosecution to go to trial for religiously-motivated assaults in which they removed the beard and head hair from practitioners of the Amish religion; sentencing scheduled January 24, 2013.

■ Using Additional Tools to Prosecute Hate Crimes

Prosecutions

United States v. Sandstrom and Eye (8th Cir. 2010) Agreeing with the Division's contentions as appellee, the court of appeals upheld the defendants' hate crime convictions in connection with the shooting death of an African American man. Cert. denied, 131 S. Ct. 192 and 131 S. Ct. 202 (2010).

Protecting Individuals from Exploitation, Discrimination & Violence: Combating Human Trafficking

■ Prosecuting Human Trafficking

United States v. Rivera (E.D. NY 2011) Defendants convicted of conspiracy, sex trafficking, forced labor, and harboring and transporting immigrants for compelling undocumented Latin Americans to work and engage in commercial sex acts in two bars they operated in New York.

United States v. Askarkhodjaev, et al. (W.D. Kan. 2011) First case to prosecute human trafficking by employing the RICO and the Fraud in Foreign Labor Contracting statutes to dismantle an international organized crime ring whose members abused U.S. visa regulations to coerce labor.

Protecting Individuals from Exploitation, Discrimination & Violence: Protecting Individuals within the Criminal Justice System

■ Preventing Discrimination and Promoting Safety within the Adult Corrections System

United States v. Lake County (N.D. Ind. 2011) Reached agreement to remedy unconstitutional conditions at jail, including problems with suicide prevention, use of force, medical care, mental health care, fire and life safety, sanitation, and training.

United States v. Erie County, (W.D. NY 2010) Reached two agreements to remedy unconstitutional conditions at correctional facilities in Buffalo, New York, including systemic violations in suicide prevention, mental health and medical care, excessive force and protection from harm, and environmental safety.

■ Preventing Discrimination and Promoting Safety within the Juvenile Justice System

Walnut Grove Youth Correctional Facility (S.D. Miss.) Issued findings that the state violated constitutional rights of youth detained at the facility through unsafe detention conditions, a lack of accountability and controls, and systemic sexual abuse.

Terrebonne Parish Juvenile Detention Center, Louisiana (E.D. La. 2011) Reached agreement to address suicide prevention, youth discipline, youth safety, and staff accountability.

Protecting Individuals from Exploitation, Discrimination & Violence: Protecting Access to Reproductive Health Care Services

■ Enforcing the Freedom of Access to Clinic Entrances Act

Settlement Agreements and Consent Decrees

United States v. Retta (D.D.C. 2013) Reached consent decree prohibiting an anti-abortion protester who physically obstructed a patient's access to a clinic from coming within an 18.5-by-6 foot zone outside the clinic's gate.

United States v. Hamilton (W.D. Ky. 2013) Reached settlement agreement requiring a protester who used force against a volunteer who was escorting a patient to a clinic to pay \$2,500 in compensatory damages to the victim.

United States v. Parente (W.D. Pa. 2012) Reached consent decree prohibiting the defendant, who intentionally shoved two escorts from behind and towards a patient, from coming within 25 feet of the existing 15-foot buffer zone established by city ordinance around a clinic.

United States v. Kroack (W.D. Wash. 2011) Reached consent decree requiring defendant who had interfered with clinic activities by use of force and physical obstruction to adhere to a 25-foot buffer zone around the clinic, and to pay \$5,000 with \$4,000 suspended.

United States v. Gaona (W.D. Texas 2011) Reached consent decree imposing a 25-foot buffer zone at a San Antonio clinic after a man blocked the entrance with his body and refused to leave.

United States v. Ken and JoAnn Scott (D. Colo. 2011) Filed complaint alleging physical obstruction to interfere with clinic access and the use of force to intimidate and injure persons as they sought reproductive health services. Defendant Jo Scott signed a consent decree agreeing not to violate FACE, to be bound by any injunctive relief that co-defendant Ken Scott agrees to, and to pay \$750 to each of the two victims of her uses of force; the U.S. subsequently dismissed the case against Ken Scott.

Holder v. Branca (E.D. Pa. 2009) Reached consent decree prohibiting defendant from publishing personal information and threats directed at reproductive health staff on website.

Active Litigation

United States v. Dillard (D. Kan) Filed complaint and Motion for a Preliminary injunction to address the FACE violation of an anti-abortion activist who mailed a threatening letter to a physician who is training to provide abortion services; trial is currently set for October 2013.

