Department of Justice

STATEMENT OF

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DEPARTMENT OF JUSTICE

BEFORE THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

CONCERNING

"CIVIL RIGHTS DIVISION OVERSIGHT"

PRESENTED

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Thank you. Mr. Chairman, Ranking Member Specter, Members of the Committee, it is a pleasure to appear before you to represent President Bush, Attorney General Gonzales, and the dedicated professionals of the Civil Rights Division.

I am honored to serve the people of the United States as Assistant Attorney General for the Civil Rights Division. I am pleased to report that the past year has been full of outstanding accomplishments in the Civil Rights Division, where we obtained many record levels of enforcement. I am proud of the professional attorneys and staff in the Division – men and women whose talents, dedication, and hard work made these accomplishments possible.

This year, the Division celebrates its 50th Anniversary. Consequently, I have reflected upon the work of the Division not only during my own time of service but also over the past half-century. Since our inception in 1957, the Division has achieved a great deal, and we have much of which to be proud. While citizens of all colors, from every background, living in all pockets of the country – rural, urban, north, and south – have seen gains made on the civil rights front, one need not look back very far to recall a very different landscape.

This point was made more vivid for me when I traveled with Attorney General Gonzales to Birmingham, Alabama, last year. We attended the dedication of the 16th Street Baptist Church as a National Historic Landmark. In 1963, racists threw a bomb in this historically black church, killing four little girls who were attending Sunday School. Horrific incidents like this sparked the passage of the Civil Rights Act of 1964 – the most comprehensive piece of civil rights legislation passed by Congress since Reconstruction. While much has been achieved under that piece of legislation and other civil rights laws, the Division's daily work demonstrates that discrimination still exists. There is still much work to be done, but we are working toward the goal famously described by Dr. Martin Luther King of a society rid of discrimination, where people are to be judged on the content of their character and not the color of their skin.

NEW INITIATIVE: THE FIRST FREEDOM PROJECT

On February 20, 2007, the Attorney General announced a new initiative, entitled *The First Freedom Project*, and released a *Report on Enforcement of Laws Protecting Religious Freedom: Fiscal Years 2001 to 2006. The First Freedom Project* includes creation of a Department-wide Religious Liberty Task force, a series of regional seminars on Federal Laws Protecting Religious Liberty to educate community, religious, and civil rights leaders on these rights and how to file complaints with the Department of Justice, and a public education campaign that includes a new website, www.FirstFreedom.gov, speeches and other public appearances, and distribution of literature about the Department's jurisdiction in this area.

Most of the civil rights statutes the Division enforces protect against discrimination on the basis of religion along with race, national origin, sex, disability, and other protected classifications. Yet prior to this Administration, no individual at the Department coordinated the protection of religious liberties. In 2002, we established, within the Civil Rights Division, a Special Counsel for Religious Discrimination to coordinate the protection of religious liberties. We have won virtually every religious discrimination case in which we have been involved and have increased the enforcement of religious liberties throughout the areas of our jurisdiction.

The Civil Rights Division reviewed 82 cases of alleged religious discrimination in education from Fiscal Year 2001 to Fiscal Year 2006, resulting in 40 investigations. This is compared to one review and one investigation in the prior six-year period. In Fiscal Year 2006, the Division reviewed 22 cases and investigated 13. The largest category of cases involved harassment of students based on religion. Of the 13 investigations in Fiscal Year 2006, eight involved harassment claims. Seven of these involved Muslim students. In the Division's most recent education case, on May 14, 2007, we reached a settlement with a Texas school district that permits a group of Muslim high school students to gather for midday prayer in an area outside of the cafeteria where other groups of students and clubs had been permitted to gather.

Similarly, we have been active in a broad range of cases involving religious discrimination in employment. We currently have a pattern or practice suit under Title VII against the New York Metropolitan Transit Authority, alleging that it failed to accommodate Muslim and Sikh bus and train operators who wear religious headcoverings and has selectively enforced its uniform policies. In *United States v. Los Angeles County Metropolitan Transportation Authority*, the Division sued the Los Angeles MTA, alleging that it had engaged in a pattern or practice of religious discrimination by failing to reasonably accommodate Sabbath-observant employees and applicants who were unable to comply with MTA's requirement that they be available to work seven days a week. The Division reached a consent decree in October 2005 requiring Sabbath accommodations.

While many of these cases involved straightforward religious discrimination, the Division also has sought to prevent harassment based on religion. For example, in January 2006, we reached a consent decree in a Fair Housing Act case against a Chicago man for harassing his next-door neighbors because of their Jewish religion and their national origin. The Division also has been active in preventing discrimination based on religion in access to public

accommodations and public facilities under Titles II and III of the Civil Rights Act of 1964. Investigations under these two statutes increased from one in 1995-2000 to ten in 2001-2006. For example, in the area of public accommodations, we reached a settlement with a restaurant in Virginia that had denied service to two Sikh men because of their turbans. In the area of access to public facilities, we investigated the city of Balch Springs, Texas, after officials told seniors at a city senior center that they could no longer pray before meals, sing gospel music, or hold Bible studies, all of which were initiated by the seniors themselves without the involvement of any city employees. The city settled and agreed to permit seniors to engage in religious expression to the same extent that they can engage in other forms of expression at the center.

The Civil Rights Division also has been active in enforcing the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). The Division has reviewed more than 130 complaints and has opened more than 30 formal investigations under RLUIPA. The majority of these investigations have been resolved favorably without filing suit. These cases have involved Muslims, Sikhs, Buddhists, Jews, Hindus, and Christians of various denominations.

We also have filed four RLUIPA lawsuits. The most recent, filed in September 2006, involves Suffern, New York's refusal to permit an Orthodox Jewish group to operate a "Shabbos House" next to a hospital where Sabbath-observant Jews who cannot drive on the Sabbath can stay the night if they are discharged from the hospital on the Sabbath or if they are visiting patients on the Sabbath. In July 2006, the Division also reached a consent decree in *United States v. Hollywood, Florida*, which involved allegations of discrimination in denial of a permit to a synagogue to operate in a residential neighborhood.

The Division also has been active in filing amicus briefs in RLUIPA cases and defending RLUIPA's constitutionality. In August 2006, the U.S. Court of Appeals for the Ninth Circuit ruled in favor of the United States in *Guru Nanak Sikh Society v. County of Sutter*. In that case, the Division had intervened to defend the constitutionality of RLUIPA and filed an amicus brief on the merits in a case involving a Sikh congregation that was denied permits to build a Gurdwara in both residential and agricultural neighborhoods.

Of particular note are the Division's efforts to combat "backlash" crimes following the September 11, 2001, terrorist attacks. Under this initiative, the Division investigates and prosecutes backlash crimes involving violence and threats aimed at individuals perceived to be Arab, Muslim, Sikh, or South Asian. This initiative has led to numerous prosecutions involving physical assaults, some involving dangerous weapons and resulting in serious injury or death, as well as threats made over the telephone, on the internet, through the mail, and in person. We also have prosecuted cases involving shootings, bombings, and vandalism directed at homes, businesses, and places of worship. The Department has investigated more than 750 bias-motivated incidents since September 11, 2001, and we have obtained 33 Federal convictions in such cases. We also have assisted local law enforcement in bringing more than 150 such criminal prosecutions.

Two recent examples of our backlash prosecutions are *United States v. Oakley*, in which the defendant pled guilty to emailing a bomb threat to the Council on American Islamic

Relations, and *United States v. Nix*, in which the defendant detonated an explosive device in a Pakistani family's van that was parked outside their home. The defendant set off the explosive with intent to interfere with the family's housing rights. These backlash crimes, and others we have prosecuted since September 11, 2001, are an unfortunate reality of American life today. As President Bush has stated, "those who feel like they can intimidate our fellow citizens to take out their anger don't represent the best of America, they represent the worst of humankind, and they should be ashamed of that kind of behavior."

In recent years, the Division has continued its investigations and prosecution of church-burning cases. In addition, anti-Semitic attacks remain a persistent problem in the United States. We recently obtained guilty pleas from five men in Oregon for conspiring to intimidate Jews at the Temple Beth Israel in Eugene, Oregon. Defendants threw swastika-etched rocks at the synagogue, breaking two stained glass windows, while 80 members of the synagogue were inside attending a religious service. On April 3, 2007, the lead defendant was sentenced to more than 11 years for his role in the attack and his efforts to obstruct the prosecution.

We are proud of the First Freedom Project, as well as other Attorney General initiatives involving the work of the Civil Rights Division. These include the Department's Cold Case Initiative, Operation Home Sweet Home, and Human Trafficking prosecutions, as discussed in greater detail below.

PROTECTING VOTING RIGHTS

The right to vote is the foundation of our democratic system of government. The President and the Attorney General strongly supported the Voting Rights Act Reauthorization and Amendments Act of 2006, named for three heroines of the Civil Rights movement, Fannie Lou Hamer, Rosa Parks, and Coretta Scott King. During the signing ceremony at the White House, President Bush said, "My administration will vigorously enforce the provisions of this law, and we will defend it in court." The Civil Rights Division is committed to carrying out the President's promise. In fact, the Division is already defending the Act against a constitutional challenge in Federal court here in the District of Columbia.

The Civil Rights Division is responsible for enforcing several laws that protect voting rights, and I will discuss the Division's work under each of those laws. First, however, it is worth noting that under our nation's Federal system of government, the primary responsibility for the method and manner of elections lies with the States. Article I, Section 4, of the Constitution states, "The Times, Places and Manner of holding Elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof." Thus, each State holds responsibility for conducting its own elections. However, Article I, Section 4, goes on to provide: "[B]ut the Congress may at any time by Law make or alter such Regulations" with respect to Federal elections. The Fourteenth and Fifteenth Amendments likewise authorize congressional action in the elections sphere. Therefore, except where Congress has expressly decided to legislate otherwise, States maintain responsibility for the conduct of elections.

Congress has passed legislation in certain distinct areas related to voting and elections. These laws include, among others, the Voting Rights Act of 1965 and subsequent amendments thereto, the Uniformed and Overseas Citizen Absentee Voting Act of 1986 (UOCAVA), the National Voter Registration Act of 1993 (Motor Voter or NVRA), and the Help America Vote Act of 2002 (HAVA). The Civil Rights Division enforces the civil provisions of these laws. The vast majority of criminal matters involving possible Federal election offenses are assigned to and supervised by the Criminal Division and are prosecuted by the United States Attorneys' Offices. However, a small percentage of voting-related offenses are principally assigned to the Civil Rights Division to handle or supervise.

During my tenure as the Assistant Attorney General, the Voting Section has brought lawsuits under each of the statutes referenced in the previous paragraph. In fact, the 18 new lawsuits we filed in Calendar Year 2006 are double the average number of lawsuits filed annually in the preceding 30 years. Additionally, because 2006 was a Federal election year, the Division worked overtime to meet its responsibilities to protect the voting rights of our citizens.

In 2006, the President signed the Voting Rights Act Reauthorization and Amendments Act of 2006, which renewed for another 25 years certain provisions of the Act that had been set to expire. The Voting Rights Act has proven to be one of the most successful pieces of civil rights legislation ever enacted. However, as long as all citizens do not have equal access to the polls, our work is not finished. As President Bush said, "In four decades since the Voting Rights Act was first passed, we've made progress toward equality, yet the work for a more perfect union is never ending."

The Civil Rights Division is committed to ensuring that all citizens have equal access to the democratic process. During Fiscal Year 2006, the Division's Voting Section continued to aggressively enforce all provisions of the Voting Rights Act, filing eight lawsuits to enforce various provisions of the Act. These cases include a lawsuit that we filed and resolved under Section 2 against Long County, Georgia, for improper challenges to Hispanic-American voters – including at least three United States citizens on active duty with the United States Army – based entirely on their perceived race and ethnicity. We also filed a Section 2 lawsuit in 2006 on behalf of African-American voters that challenges the method of election in Euclid, Ohio. This case is currently in litigation and is scheduled to go to trial on August 6, 2007.

Among our recent successes under Section 2 is the Division's lawsuit against Osceola County, Florida, where we brought a challenge to the county's at-large election system. In October 2006, we prevailed at trial. The court held that the at-large election system violated the rights of Hispanic voters under Section 2 and ordered the county to abandon it. In December, the court adopted the remedial election system proposed by the United States and ordered a special election under that election plan to take place this spring. Our most recent Section 2 accomplishment is the preliminary injunction obtained in our challenge to Port Chester, New York's at-large election system. On March 2, 2007, after an evidentiary hearing, the court enjoined the March 20 elections, holding that the United States was likely to succeed on its claim. Trial concluded on June 5. Also, this January, in Fremont County, Wyoming, the Division successfully defended the constitutionality of Section 2 of the Voting Rights Act, for

the third time in this Administration. Also in 2007, the Division has filed and resolved a claim under Section 2 involving discrimination against Hispanic voters at the polls in Philadelphia, and we have obtained additional relief in an earlier Section 2 suit on behalf of Native American voters in Cibola County, New Mexico.

The actions against Philadelphia and Cibola County are noteworthy because both involve claims not only under the Voting Rights Act, but under HAVA and the NVRA as well. In Cibola County, which initially involved claims under Sections 2 and 203, we brought additional claims after the County failed to process voter registration applications of Laguna Pueblo and other Native American voters, removed Native American voters from the rolls without the notice required by the NVRA, and failed to provide provisional ballots to Native American voters in violation of HAVA. In Philadelphia, we added to our original Section 203 and 208 claims additional counts under Sections 2 and 4(e) of the Act to protect Hispanic voters, a count under the NVRA pursuant to which the City has agreed to remove the names of over 10,000 dead persons from the rolls, and a count under HAVA to assure that accessible machines are available to voters with disabilities.

The Section also continues to litigate a case in Mississippi under Sections 2 and 11(b) of the Voting Rights Act. This case is unusual for several reasons: it is the most extreme case of racial exclusion seen by the Voting Section in decades; the racial discrimination is directed against white citizens; and we are not aware of any other case in which the Voting Section has had to move for a protective order to prevent intimidation of witnesses. This case was tried in January of this year, and we are awaiting a ruling on the liability issue.

We will continue to closely investigate claims of voter discrimination and vigorously pursue actions on behalf of all Americans wherever violations of Federal law are found.

The Division also had a record-breaking year in 2006 with regard to enforcement of Section 208 of the Voting Rights Act. As the Committee knows, Section 208 assures all voters who need assistance in marking their ballots the right to choose a person they trust to provide that assistance. Voters may choose any person other than an agent of their employer or union to assist them in the voting booth. In Calendar Year 2006, the Division's Voting Section brought four out of the nine lawsuits filed under Section 208 since it was enacted twenty-five years ago; during the past six years, we have brought seven of the nine such cases, including the first case ever under the Voting Rights Act to protect the rights of Haitian Americans.

In 2006, the Voting Section processed the largest number of Section 5 submissions in its history. The Division made two objections to submissions pursuant to Section 5, in Georgia and Texas, and filed its first Section 5 enforcement action since 1998. The Division also made an objection pursuant to Section 5 in Alabama in January 2007. Additionally, the Division is vigorously defending the constitutionality of Section 5 of the Voting Rights Act in an action brought by a Texas jurisdiction and recently filed an amicus brief in a Mississippi Section 5 case. We also consented to several actions in Fiscal Year 2006 in jurisdictions that satisfied the statutory requirements for obtaining a release, or "bailout," from Section 5 coverage. The Voting Section has begun a major enhancement of the Section 5 review process to minimize

unnecessary paperwork involved with submissions, make improvements in training, and expand its outreach.

The Division also has made a major technological advance in Section 5 with our new e-Submission program. Now, state and local officials can make Section 5 submissions on-line. This will make it easier for jurisdictions to comply, encourage complete submissions, ease our processing of submissions, and allow the Voting Section staff more time to study the changes and identify those that may be discriminatory.

Our commitment to enforcing the language minority requirements of the Voting Rights Act, reauthorized by Congress last summer, remains strong, with five lawsuits filed in Calendar Year 2006. In April 2007, the Division filed the first lawsuit under Section 203 on behalf of Korean Americans in the City of Walnut, California. During the past 6 years, the Civil Rights Division has litigated more cases under the minority language provisions than in all other years combined since 1965. Specifically, we have successfully litigated approximately 60 percent of all language minority cases in the history of the Voting Rights Act.

Our cases on behalf of language minority voters have made a remarkable difference in the accessibility of the election process to those voters. As a result of our lawsuit, Boston now employs five times more bilingual poll workers than before. As a result of our lawsuit, San Diego added over 1,000 bilingual poll workers, and Hispanic voter registration increased by over 20 percent between our settlement in July 2004 and the November 2004 general election. There was a similar increase among Filipino voters, and Vietnamese voter registration rose 37 percent. Our lawsuits also spur voluntary compliance: after the San Diego lawsuit, Los Angeles County added over 2,200 bilingual poll workers, an increase of over 62 percent. In many cases, violations of Section 203 are accompanied by such overt discrimination by poll workers that Section 2 claims could have been brought as well. However, we have been able to obtain complete and comprehensive relief through our litigation and remedies under Section 203 without the added expense and delay of a Section 2 claim.

During Fiscal Year 2006, the Division continued to work diligently to protect the voting rights of our nation's military and overseas citizens. The Division has enforcement responsibility for UOCAVA, which ensures that overseas citizens and members of the military, and their household dependents, are able to request, receive, and cast a ballot for Federal offices in a timely manner for Federal elections. As a result of our efforts, in Fiscal Year 2006, the Voting Section filed the largest number of cases under UOCAVA in any year since 1992. In Calendar Year 2006, we filed successful UOCAVA suits in Alabama, Connecticut, and North Carolina and reached a voluntary legislative solution without the need for litigation in South Carolina. In Alabama and North Carolina, we obtained relief for military and overseas voters in the form of State legislation. We also obtained permanent relief in the form of legislation in a suit originally filed against Pennsylvania in 2004. All of these accomplishments prompted an award from the Department of Defense to the Deputy who supervised all of these cases. The Civil Rights Division will continue to make every effort to ensure that our citizens abroad and the brave men and women of our military are afforded a full opportunity to participate in Federal elections.

In 2006, the Voting Section also filed the largest number of suits under the National Voter Registration Act since shortly after the Act became effective in 1995. We filed lawsuits in Indiana, Maine, and New Jersey. The Voting Section's suits against New Jersey and Maine also alleged violations of the Help America Vote Act (HAVA). We resolved these two suits with settlement agreements that set up timetables for implementation of a statewide computer database. The suit against Indiana, which admitted that its lists contained more than 300,000 ineligible voters, also was settled by consent decree. We have appealed an adverse ruling in a 2005 suit against Missouri regarding its failure, over the course of many years, to appropriately implement the NVRA's provisions regarding adding and removing voters from its voter rolls. The State's failure in that regard resulted in counties removing voters who should have been kept on the rolls, and keeping voters who should have been removed. These failures caused dozens of jurisdictions to report that voter registrations exceeded the total number of citizens eligible to vote; in one case the voter rolls were 151% of the county's voting age population, and in two counties the number of people registered to vote exceeded the total county population. More recently, as noted above, we filed suit and entered into a consent decree against a New Mexico county where the victims of the NVRA violations were primarily Native-American voters. Finally, we received a favorable decision in our lawsuit against New York for its failure to designate disability services offices that serve disabled students as mandatory voter registration offices. The court largely denied the defendants' motion to dismiss, and the case is currently in litigation.

With January 1, 2006, came the first year of full, nationwide implementation of the database and accessible voting machine requirements of HAVA. Accordingly, we began making these statutory requirements a priority for enforcement. HAVA requires that each State and territory have a statewide computerized voter registration database in place for Federal elections, and that, among other requirements, there be accessible voting for the disabled in each polling place in the nation. Many States, however, did not achieve full compliance and are struggling to catch up. States missed these deadlines for many reasons, including ineffective time lines, difficulty resolving compliance issues, and various problems with vendors.

The Division worked hard to help States prepare for the effective date of January 1, 2006, through speeches and mailings to election officials, responses to requests for our views on various issues, and maintaining a detailed website on HAVA issues. We have been, and remain, in close contact with many States in an effort to help them achieve full compliance at the earliest possible date.

A significant example of the success of the Division's cooperative approach in working with States on HAVA compliance came in our agreement with California on compliance with HAVA's database provisions. Prior to the January 1, 2006, deadline, the Voting Section reached an important memorandum of agreement with California regarding its badly stalled database implementation. California's newly appointed Secretary of State sought the Division's help to work cooperatively on a solution, and the Division put significant time and resources into working with the State to craft a feasible agreement providing for both interim and permanent

solutions. We are very proud of this agreement, which has served as a model for other States in their database compliance efforts.

Where cooperative efforts prove unsuccessful, the Division enforces HAVA through litigation. During 2006, the Section filed lawsuits against the States of New York, Alabama, Maine, and New Jersey. In New York and Maine, the States had failed to make significant progress on both the accessible voting equipment and the statewide databases. In Alabama and New Jersey, the States had not yet implemented HAVA-compliant statewide databases for voter registration. The Section ultimately obtained a favorable judgment and order in Alabama, a preliminary injunction and the entry of a remedial order in New York, and favorable consent decrees in Maine and New Jersey. In addition, we filed a local HAVA claim against an Arizona locality for its failure to follow the voter information posting requirements of HAVA, as well as the recent lawsuits in Cibola County, New Mexico, and Philadelphia, Pennsylvania, discussed above, to protect Native American and disabled voters, respectively. The Section also defended three challenges to HAVA in a private suit involving the HAVA accessible machine requirement. A separate Pennsylvania State court judgment barring the use of accessible machines was overturned after the Division gave formal notice of its intent to file a Federal lawsuit.

A major component of the Division's work to protect voting rights is its election monitoring program, which is among the most effective means of ensuring that Federal voting rights are respected on election day. Each year, the Justice Department deploys hundreds of personnel to monitor elections across the country. Last year, the Division deployed a record number of monitors and observers to jurisdictions across the country for a mid-term election. In total, over 800 Federal personnel monitored the polls in 69 political subdivisions in 22 States during the general election on November 7, 2006 – a record level of coverage for a mid-term election. In Calendar Year 2006, we sent over 1,500 Federal personnel to monitor elections, doubling the number sent in 2000, a presidential election year.

Such extensive efforts require substantial planning and resources. Our decisions to deploy observers and monitors are made carefully and purposefully so that our resources are used where they are most needed. To that end, I personally met with representatives of a number of civil rights organizations prior to the 2006 general election, including organizations that advocate on behalf of racial and language minorities, as well as groups who focus on disability rights. During these meetings, I encouraged these groups to share information about their concerns with us so that we could respond appropriately where needed. We made a detailed presentation about the Division's preparations for the general election and our election day activities, distributed information about how to request monitoring for a jurisdiction, and explained how to contact us on election day through our toll free number and internet-based complaint system. I also met with representatives from the National Association of Attorneys General, the National Association of Secretaries of State, and other representatives of similar associations before last year's general election. This meeting provided a forum for discussion of State and local officials' concern, and for the Division to provide information about our election day plans.

On election day, Department personnel here in Washington stood ready. We had numerous phone lines ready to handle calls from citizens with election complaints, as well as an internet-based mechanism for reporting problems. We had personnel at the call center who were fluent in Spanish and the Division's language interpretation service to provide translators in other languages. On election day, the Voting Section received approximately 141 calls and 88 e-mail complaints on its website. These 229 complaints resulted in approximately 332 issues raised, as some complainants had multiple issues. Many of these complaints were subsequently resolved on election day; we continue the process of following-up on the rest.

The improvements to our monitoring program have increasingly resulted in enforcement actions. Lawsuits that benefited from evidence obtained in monitoring include, but are by no means limited to, those against the following jurisdictions: San Diego County, California; Osceola County, Florida; City of Boston, Massachusetts; City of Rosemead, California; Brazos County, Texas; Philadelphia, Pennsylvania; City of Walnut, California; and Cibola County, New Mexico. Our monitoring work has paid off, and we are laying the groundwork for 2008 even today.

CRIMINAL CIVIL RIGHTS PROSECUTIONS

The Civil Rights Division's Criminal Section continues to vigorously enforce Federal criminal civil rights protections, having set prosecution records in several areas in Fiscal Year 2006. Our overall conviction rate rose from 91% in Fiscal Year 2005 to 98% in Fiscal Year 2006 – the highest conviction rate recorded in the past two decades. We also charged 201 defendants with civil rights violations and obtained convictions of 180 defendants in Fiscal Year 2006 – both of which represent the highest totals in over two decades.

Our criminal prosecutions span the full breadth of the Division's jurisdiction. In color of law matters, we filed 44 cases (up from 29 the previous year) and charged 66 defendants (compared to 45 in the previous year) in Fiscal Year 2006. Additionally, we charged 22 defendants in cases of bias crime, including charges of conspiracy, murder, and post-September 11, 2001, "backlash" crimes.

As the Committee is aware, there has been renewed interest in the investigation and prosecution of unsolved civil rights era murder cases. The Criminal Section continues to play a central role in this effort. In January 2007, the Attorney General announced the indictment of James Seale on two counts of kidnapping and one count of conspiracy for his role in the 1964 abduction and murder of Charles Moore and Henry Dee in Franklin County, Mississippi. A federal jury returned guilty verdicts against Seale on all three counts just one week ago, on June 14, 2007. And, in February 2007, the Attorney General and the FBI announced an initiative to identify other unresolved civil rights era murders for possible prosecution to the extent permitted by the available evidence and the limits of Federal law.

Our human trafficking efforts continue at an unprecedented pace. Working with the various United States Attorneys' Offices, the Civil Rights Division charged 111 defendants in 32

cases and obtained 98 convictions in Fiscal Year 2006, a record number that nearly tripled the number of convictions in the previous year. From Fiscal Year 2001 to Fiscal Year 2006, the Division, in conjunction with U.S. Attorney's offices, prosecuted 360 human trafficking defendants, secured almost 240 convictions and guilty pleas, and opened nearly 650 new investigations. That represents a six-fold increase in the number of human trafficking cases filed in court, quadruple the number of defendants charged, and triple the number of defendants convicted in comparison to 1995-2000. On January 31, 2007, the Attorney General and I announced the creation of the new Human Trafficking Prosecution Unit within the Criminal Section. This new Unit is staffed by the Section's most seasoned human trafficking prosecutors who will work with our partners in Federal and State law enforcement to investigate and prosecute the most significant human trafficking crimes, such as multi-jurisdictional sex trafficking cases.

Color of Law Violations

There is no doubt that law enforcement officers are asked to perform dangerous and difficult tasks to serve and protect our citizens. We ask these brave men and women to perform their duties with a professionalism that keeps us all safe from harm and places a great deal of public trust in them. I have no doubt that the overwhelming majority of law enforcement officers and State agents are deeply committed to protecting the private citizens and maintaining the integrity of the public trust. I think we all owe these hard-working men and women a deep sense of gratitude. Unfortunately, there are some who abuse their positions of trust to mistreat those in custody. Such unlawful behavior undermines the tireless efforts of the vast majority of law enforcement officers who perform a tough job with professionalism and courage. When an individual acting under the color of law abuses a position of authority and violates the law, the Civil Rights Division is committed to vigorously pursuing prosecution. The public must be able to trust that no one, including those who wear a badge, is above the law. If that trust is broken, public confidence in the police force is undermined and an already difficult job is made more difficult for those on the force.

In Fiscal Year 2006, nearly 50 percent of the cases brought by the Criminal Section involved such prosecutions. From Fiscal Year 2001 through Fiscal Year 2006, we obtained convictions of nearly 50% more law enforcement officials for color of law violations than in the preceding six fiscal years. In *United States v. Walker and Ramsey*, for example, the Criminal Section successfully prosecuted two men for the politically-motivated assassination of the county sheriff-elect at the direction of the incumbent sheriff. In previous State trials, the sheriff had been convicted of murder and sentenced to life in prison, but the other defendants had been acquitted of murder charges. The Department stepped in and sought, successfully, convictions of two of the men, including a former deputy sheriff.

In *United States v. Marlowe*, a Federal jury convicted defendant Robert Marlowe, a former Wilson County Jail sergeant and night shift supervisor, of assaulting jail detainees. Marlowe participated in the beating of detainee Walter Kuntz and then failed to provide him with the necessary and appropriate medical care as he lay unconscious on the floor of the jail, resulting in his death. The jury also convicted Marlowe and defendant Tommy Conatser, a

former jailor who worked for Marlowe, of conspiracy to assault jail detainees. Marlowe and other officers bragged about the beatings and filed false and misleading reports to cover up the assaults. During the course of this prosecution, six other former Wilson County Correctional Officers pled guilty to felony charges relating to violations of the civil rights of inmates at the Wilson County Jail. This case was prosecuted in partnership with the U.S. Attorney's Office for the Middle District of Tennessee and the FBI. On July 6, 2006, defendant Marlowe was sentenced to life in prison. Other defendants received prison terms of up to 108 months in prison.

In addition to investigation and prosecution of color of law matters, Criminal Section staff conduct a significant amount of training and outreach. These efforts are designed to help law enforcement agencies prevent the occurrence of these violations. In Fiscal Year 2006, for example, we made presentations on the Criminal Section's civil rights enforcement program to local law enforcement officials attending the FBI's National Academy at Quantico, Virginia. We also made presentations to Federal officials such as the FBI and the Department of Homeland Security. Criminal Section staff also played a central role in designing and participating in a civil rights training program for Federal prosecutors at the Department's National Advocacy Center in Columbia, South Carolina.

As I noted earlier, I have tremendous respect for the men and women in police departments who risk their lives around the country each and every day to ensure that America is a safe place to live. To the extent that the Division can both assist further their mission and promote constitutional policing, we are performing a valuable task.

Hate Crimes

The Civil Rights Division is deeply committed to the vigorous enforcement of our nation's civil rights laws and, in recent years, has brought a number of high profile hate crime cases. We continue to aggressively prosecute those within our society who attack others because of the victims' race, color, national origin, or religious beliefs. During Fiscal Years 2006 and 2007, the Division has continued to bring to justice those who commit these terrible crimes. For example, in *United States v. Eye and Sandstrom*, the government is seeking the death penalty against defendants who allegedly shot and killed an African-American man because of his race. The government alleges that as the victim walked down the street, the defendants, whom he did not know, drove by and shot at him. Their shots missed the victim, so the defendants allegedly circled the neighborhood until they found him again. One of the defendants got out of the car, rushed up to the victim, and shot him in the chest, killing him. Trial is currently set for October 15, 2007.

Our other cases involve equally disturbing violations. In *United States v. Saldana*, four members of a violent Latino street gang were convicted of participating in a conspiracy aimed at threatening, assaulting, and even murdering African-Americans in a neighborhood claimed by the defendants' gang. All four defendants received life sentences. As a result of this prosecution, Criminal Section Deputy Chief Barbara Bernstein recently was selected to receive the coveted Helene and Joseph Sherwood Prize for Combating Hate by the Anti-Defamation League. The

ADL said that Deputy Chief Bernstein, as one of the select few in law enforcement to receive the prestigious award, "exemplifies an ongoing commitment, support, and contribution in helping to eliminate hate and prejudice." In *United States v. Coombs*, a man in Florida pled guilty to burning a cross in his yard to intimidate an African-American family that was considering buying the house next door to his residence.

In another hate crimes case, *United States v. Fredericy and Kuzlik*, two men pled guilty for their roles in pouring mercury, a highly toxic substance, on the front porch and driveway of a bi-racial couple in an attempt to force them out of their home. In April 2007, in *U.S. v. Walker*, we convicted three members of the National Alliance, a notorious white supremacist organization, with assaulting a Mexican-American bartender in Salt Lake City at his place of employment. These same defendants allegedly assaulted an individual of Native-American heritage outside another bar in Salt Lake City. Of particular note, the Anti-Defamation League praised the Division's efforts in successfully prosecuting this important hate crimes case.

And, as noted earlier, the Criminal Section is working closely with the FBI to identify unresolved civil rights era murders. Our commitment to this effort is illustrated in our track record of aggressively prosecuting civil rights era cases when we have been able to overcome jurisdictional and statute of limitations hurdles. As a result of these efforts, the Criminal Section, along with the United States Attorney's Office for the Southern District of Mississippi, last Thursday, June 14, 2007, secured the conviction of James Seale on two counts of kidnapping and one count of conspiracy for his role in the 1964 abduction and murder of Charles Moore and Henry Dee in Franklin County, Mississippi. And, in 2003, the Civil Rights Division successfully prosecuted Ernest Avants, a Mississippi Klansman who murdered an African-American man in 1966.

Human Trafficking

The prosecution of the despicable crime of human trafficking, a modern day form of slavery, continues to be a major element of our Criminal Section's work. The victims of human trafficking in the United States are often minority women and children, who are poor, are frequently unemployed or underemployed, and lack access to social safety nets. These victims have been exploited in the commercial sex industry or have been compelled into manual or domestic labor. The Attorney General's initiative on human trafficking has made the prosecution of these crimes a top priority. The Division continues to enhance our human trafficking prosecution program through vigorous prosecution of these cases, outreach to State and local law enforcement officers and non-governmental organizations who will find the victims of this terrible crime, and most recently through the creation of the Human Trafficking Prosecution Unit described above. Our work is complemented by the Criminal Division's Child Exploitation and Obscenity Section (CEOS), which is responsible for the prosecution of child sex trafficking and child sex tourism crimes in partnership with U.S. Attorney's offices around the country. Regarding child sex trafficking, the Department has initiated 87 cases since the beginning of this year as part of the Innocence Lost Initiative, which is a national effort to combat child prostitution conducted in partnership between CEOS, the FBI, and the National

Center for Missing and Exploited Children. Regarding child sex tourism, U.S. Immigration and Customs Enforcement has opened 124 investigations since the beginning of this year alone.

In Fiscal Year 2006, the Division continued to aggressively pursue those who commit human trafficking crimes, obtaining a record 98 convictions of human trafficking defendants. Working with the various United States Attorneys' Offices, we charged a record number of sex trafficking defendants (85) and 26 labor trafficking defendants. In addition to prosecuting the perpetrators of these horrible crimes, the Criminal Section also aids their victims. Under the 2000 Trafficking Victims Protection Act, 1166 trafficking victims from 75 countries have obtained eligibility for refugee-type benefits from HHS with the aid of the Civil Rights Division and other law enforcement agencies.

In Fiscal Year 2006, the Section obtained two of the longest sentences ever imposed in a sex trafficking case in *United States v. Carreto.* Defendants organized and operated a trafficking ring that smuggled Mexican women and girls into the United States and then forced them into prostitution in Queens and Brooklyn, New York. On April 27, 2006, two defendants were sentenced to 50 years in prison and a third defendant was sentenced to 25 years in prison for their crimes. On March 2, 2007, Consuelo Carreto-Valencia, the mother of the Carreto brothers who participated in their sex trafficking scheme, was arraigned in Federal court on a 27-count indictment charging her with multiple counts of sex trafficking and related crimes. She was extradited to the United States from Mexico in January 2007.

In *United States v. Arlan and Linda Kaufman*, the defendants, who operated a residential treatment facility for mentally ill adults, forced their severely ill residents to labor on the Kaufmans' farm and to participate as subjects in pornographic videos. The defendants committed fraud when they billed Medicare for this "treatment" they provided the victims. In November 2005, the defendants were convicted on all 35 counts of the indictment, including conspiracy, forced labor, involuntary servitude, and fraud. On January 23, 2006, Arlan Kaufman was sentenced to serve 30 years in prison and Linda Kaufman was sentenced to serve seven years.

In *United States v. Evelyn and Joseph Djoumessi,* the defendants held a young Cameroonian woman as an involuntary domestic servant for four and a half years. They smuggled the 14-year-old victim into the United States with the false promise of an American education and then held her in their home, forced her to work, beat her, and sexually assaulted her. In March 2006, the defendants were convicted of conspiracy and involuntary servitude. Evelyn Djoumessi was sentenced to 218 months and Joseph Djoumessi was sentenced to 60 months.

On May 26, 2006, in *United States v. Calimlim*, husband and wife Milwaukee medical doctors were convicted by a Federal jury for using threats of serious harm and physical restraint against a Filipino woman to coerce her labor as a domestic servant. The couple recruited and brought the victim from the Philippines to the U.S. in 1985 when she was 19 years old. For the next 19 years of her life, these defendants hid the victim in their home, forbade her from going outside, and told her that she would be arrested, imprisoned and deported if she were discovered.

On November 19, 2006, the defendants were sentenced to 4 years imprisonment, and on February 14, 2007, the Federal court awarded the victim over $900,000 in restitution.

In addition to our work in enforcement, the Criminal Section also actively reaches out to educate law enforcement agencies about human trafficking. For example, our human trafficking staff designed and launched a series of interactive human trafficking training sessions broadcast live on the Justice Television Network in which nearly 80% of the U.S. Attorneys' Offices participated. The Division is also supporting the 42 task forces funded by the Bureau of Justice Assistance and Office for Victims of Crime by providing training and technical assistance. We are supporting the President's Initiative Against Trafficking and Child Sex Tourism by performing assessments of anti-trafficking activities in targeted countries and making recommendations on program development.

Additionally, a national conference on human trafficking was held in October 2006 in New Orleans, Louisiana. Division staff played a central role in developing the program, moderated panels, gave speeches, and led interactive breakout sessions during the conference. Over six hundred practitioners from law enforcement, non-governmental organizations, and academia attended this very successful conference. At the conference, Attorney General Gonzales announced additional funding totaling nearly $8 million for law enforcement agencies and service organizations for the purpose of identifying and assisting victims of human trafficking and apprehending and prosecuting those engaged in trafficking offenses. The funding is being used to create new trafficking task forces in 10 cities around the country, bringing the total number of funded task forces to 42.

While we have made tremendous strides in the fight against human trafficking, there is still a great deal of work to be done. The Attorney General's initiative to eradicate this form of slavery will remain a top priority of the Division.

HOUSING AND CIVIL ENFORCEMENT

The Housing and Civil Enforcement Section is charged with ensuring non-discriminatory access to housing, credit, and public accommodations. We understand the importance of these opportunities to American families, and we have worked hard to meet this weighty responsibility. During Fiscal Years 2006 and 2007, the Division's Housing and Civil Enforcement Section has continued its strong commitment to enforcing the Fair Housing Act (FHA), the Equal Credit Opportunity Act (ECOA), Title II of the Civil Rights Act of 1964, and the land use provisions of the Religious Land Use and Institutionalized Persons Act (RLUIPA). In addition, in Fiscal Year 2006, the Section assumed enforcement jurisdiction over the Servicemembers Civil Relief Act (SCRA).

On February 15, 2006, the Attorney General launched Operation Home Sweet Home – a concentrated initiative to expose and eliminate housing discrimination in America. In announcing the program the Attorney General stated, "We will help open doors for people as they search for housing. We will not allow discrimination to serve as a deadbolt on the dream of

safe accommodations for their family." I am committed to making the Attorney General's pledge a reality, and the Civil Rights Division will continue to dedicate renewed energy, resources, and manpower to the testing program through investigations and visits designed to expose discriminatory practices. Under Operation Home Sweet Home, the Civil Rights Division conducted substantially more fair housing tests in Fiscal Year 2006 than in Fiscal Year 2005 and is testing at record-high levels in Fiscal Year 2007. In addition to increasing the number of tests, Operation Home Sweet Home also strives to conduct more focused testing by concentrating on areas to which Hurricane Katrina victims have relocated and on areas that, based on federal data, have experienced a significant volume of bias-related crimes.

Throughout this year, and in particular under Operation Home Sweet Home, the Division will continue to aggressively combat housing discrimination. The Division has expanded our outreach significantly by creating a new fair housing website (http://www.usdoj.gov/fairhousing), establishing a telephone tip line and a new e-mail address specifically to receive fair housing complaints, and sending outreach letters to over 400 public and private fair housing organizations. In Fiscal Year 2006, we filed two cases developed through our testing program that allege a pattern or practice of discrimination. We have filed one testing case so far in Fiscal Year 2007 and expect to see more in the future as a result of our enhanced testing program.

Race and national origin discrimination in housing clearly are continuing problems. Just a couple of months ago, we secured the second largest damage award ever obtained by the Department in a Fair Housing Act case against a former landlord in the Dayton, Ohio, area for discriminating against African Americans and families with children. The court ordered the defendant to pay a total of $535,000 in compensatory and punitive damages to 26 victims. Currently, we are litigating several other pattern or practice cases involving race and national origin discrimination.

We continue to enforce the anti-discrimination requirements of Title II. During Fiscal Year 2007, we resolved a Title II lawsuit against the owner and operator of Eve, a Milwaukee nightclub. We alleged that the nightclub discriminated against African-American patrons by denying them admission for false reasons, such as that the nightclub was too full or that it was being reserved for a private party. Our settlement agreement requires the nightclub to implement changes to its policies and practices in order to prevent such discrimination. We also continue to monitor compliance with our 2004 consent decree in *United States v. Cracker Barrel Old Country Stores* as the company makes progress toward compliance with the comprehensive reforms mandated by that consent decree.

Notably during Fiscal Year 2006, the Civil Rights Division filed more sexual harassment cases than in any year in its history. We continue to bring these cases, with the most recent being filed in February against a landlord in Ohio. Sexual harassment by a landlord is particularly disturbing because the perpetrator holds both the lease and a key to the apartment. For example, one suit alleges that the owner of numerous rental properties in Minnesota has subjected female tenants to severe and pervasive sexual harassment, including making unwelcome sexual advances; touching female tenants without their consent; entering the

apartments of female tenants without permission or notice; and threatening to or taking steps to evict female tenants when they refused or objected to his sexual advances. In another case, the Housing and Civil Enforcement Section obtained a consent decree requiring the defendants, who were the property managers, owner, and a maintenance man, to pay $352,500 in damages to 20 identified aggrieved persons, as well as a $35,000 civil penalty.

Although most sexual harassment cases are filed under the Fair Housing Act, in Fiscal Year 2006 the Division filed its first-ever sexual harassment case under the Equal Credit Opportunity Act. The complaint alleges that a former vice president of the First National Bank of Pontotoc in Pontotoc, Mississippi, used his position to sexually harass female borrowers and applicants for credit. This case is currently in litigation.

Our lawsuits also protect the rights of Americans to purchase houses as well as rent them. Our fair lending enforcement efforts are another component of our fight against housing discrimination. While a lender may legitimately consider a range of factors in determining whether to provide a candidate a loan, race has no place in this determination. "Redlining" is the term used to describe a lender's refusal to give loans in certain areas based on the racial makeup of the area's residents. The Division is working hard to eliminate this form of discrimination, which places a barrier between Americans and the dream of owning their own home.

We recently filed and resolved a lawsuit against Centier Bank in Indiana, alleging violations of the Equal Credit Opportunity Act and the Fair Housing Act. In this case, we alleged Centier unlawfully refused to provide its lending products and services on an equal basis to residents of minority neighborhoods, thereby denying hundreds of loans to prospective African-American and Hispanic residents. Under the settlement agreement, the bank will open new offices and expand existing operations in the previously excluded areas, as well as invest $3.5 million in a special financing program and spend at least $875,000 on outreach, marketing, and consumer financial education in these previously excluded areas.

Also in Fiscal Year 2007, we filed and resolved a case against Compass Bank of Alabama for violating the Equal Credit Opportunity Act by engaging in a pattern of discrimination on the basis of marital status in thousands of automobile loans it made through hundreds of different car dealerships in the South and Southwest. Specifically, we alleged that the bank charged non-spousal co-applicants higher interest rates than similarly-situated married co-applicants. Under the consent decree, the bank will pay up to $1.75 million to compensate several thousand non-spousal co-applicants whom we alleged were charged higher rates as a result of their marital status.

A vital element of the President's New Freedom Initiative is the Division's enforcement of the accessibility provisions of the FHA. The FHA requires that multi-family housing constructed after 1991 include certain provisions to make it usable by people with disabilities. In 2005, we launched our Multi-Family Housing Access Forum, intended to assist developers, architects, and others understand the FHA's accessibility requirements and to promote a dialogue between the developers of multi-family housing and persons with disabilities and their advocates. Our most recent Access Forum event, held in Minneapolis on May 22, 2007,

attracted over 100 persons, and we will hold another Access Forum in November at a location to be announced this summer.

In addition to these proactive outreach efforts, the Division continues to actively litigate cases involving housing that is not designed and constructed in accordance with the Fair Housing Act and the Americans with Disabilities Act. We resolved five cases in Fiscal Year 2006 through consent decrees and have resolved five cases already in Fiscal Year 2007. We also filed three new design and construction cases in Fiscal Year 2006, which are currently in litigation. Our litigation in this area continues to be very successful. In April 2007, we obtained favorable summary judgment rulings from the courts in two of these cases – rejecting legal arguments made by the defendants and finding key defendants in each case liable for violations of the FHA – without even having to go to trial.

In the first half of Fiscal Year 2007, we also settled two group home cases against municipalities. Our settlement with the City of Saraland, Alabama, requires the city to allow a foster-care home for adults with mental disabilities to operate in a single-family residential zone. The city also must pay $65,000 in damages and fees to the complainants and a $7,000 civil penalty to the United States. Our settlement with the Village of South Elgin, Illinois, requires the village to grant a permit for up to seven residents to a "sober home" providing a supportive environment for recovering alcoholics and drug users; to pay $25,000 in monetary damages to the owner of the home; to pay $7,500 to each of two residents who were forced to leave the home; and to pay a $15,000 civil penalty.

We also have begun our efforts to enforce the SCRA. We have recently opened our first investigations and have several matters under review.

DISABILITY RIGHTS

Since the January 2001 announcement of the President's New Freedom Initiative, the Division's Disability Rights Section has achieved results for people with disabilities in over 2,000 actions under the Americans with Disabilities Act of 1990 (ADA), including formal settlement agreements, informal resolution of complaints, successful mediations, consent decrees, and favorable court decisions. In Fiscal Year 2006 alone, the Division achieved favorable results for persons with disabilities in 305 cases and matters, which provided injunctive relief and compensatory damages for people with disabilities across the country and set major ADA precedents in a number of important areas. The Division also continued its important work under Project Civic Access. Many Americans with disabilities are able to enjoy life in a much fuller capacity as a result of our enforcement activities, and the Division will continue to make our efforts in this area a priority.

Our work under the ADA during my tenure as Assistant Attorney General involved cases across the country and in a variety of settings, including hospitals, public transportation, restaurants, movie theaters, college campuses, and retail stores.

An example of our work in a hospital setting is an agreement we reached with Laurel Regional Hospital in Maryland on behalf of persons with speech or hearing impairments. The hospital agreed to assess the communication needs of individuals with speech or hearing disabilities and provide qualified interpreters (on-site or video interpreting) as soon as possible when necessary for effective communication.

In the area of public transportation, the City of Detroit agreed to take steps to ensure that public bus wheelchair lifts are operable and in good repair and to provide alternate transportation promptly when there are breakdowns in accessible bus service.

The Division also has entered into agreements with major movie theater companies to make the experience of going to the movies more accessible to all Americans. Two of the largest movie theater chains in the country, Cinemark USA, Inc. and the Regal Entertainment Group, agreed to dramatically improve the movie going experience for persons who use wheelchairs and their companions at stadium-style movie theaters across the United States. Both chains have agreed that all future construction at both theater chains will be designed in accordance with plans approved by the Department and barriers will be removed at certain existing theaters.

Project Civic Access (PCA) is a wide-ranging initiative to ensure that towns and cities across America comply with the ADA. The goal of Project Civic Access is to ensure that people with disabilities have an equal opportunity to participate in civic life. To date, we have reached 153 agreements with 143 communities to make public programs and facilities accessible. Each of these communities has agreed to take specific steps, depending on local circumstances, to make core government functions more accessible to people with disabilities. These agreements quite literally open civic life up to participation by individuals with all sorts of disabilities. The agreements have improved access to many aspects of civic life, including courthouses, libraries, parks, sidewalks, and other facilities, and address a wide range of accessibility issues, such as employment, voting, law enforcement activities, domestic violence shelters, and emergency preparedness and response. During the past 6 years, we have obtained more than 80% of the agreements reached under Project Civic Access since it began in 1999, improving the lives of more than 3 million Americans with disabilities.

On December 5, 2006, the Division entered its 150th Project Civic Access agreement with Kanawha County, a region of West Virginia where almost 22% of the population has disabilities. Under this agreement, the county will ensure access for people with disabilities to county programs and facilities, including administrative buildings, courts, emergency management programs and facilities, law enforcement programs and facilities, the website, and polling places. The agreement was signed at a ceremony along with two other agreements: the first, an agreement with Kanawha County Parks and Recreation, ensuring access for people with disabilities to the county's parks and recreation programs, services, activities, and facilities, and the second, an agreement with Metro 9-1-1 of Kanawha County, ensuring access to 9-1-1 emergency communication services for people in the county and the City of Charleston who are deaf, are hard-of-hearing, or have speech impairments. Since then, the Division has entered into three additional agreements with Hernando, Mississippi; the Pike County, Kentucky, Health Department; and the Pike County, Kentucky, Library District.

We have expanded our PCA focus to include emergency preparedness for people with disabilities. Our activities related to recovery from the hurricanes in the Gulf region in 2005 have included reviewing draft specifications and sample floor plans for accessible travel trailers and mobile homes. We also provided guidance to FEMA on constructing accessible ramps, trained FEMA's equal rights staff on best practices in addressing the emergency-related needs of people with disabilities, and began working with certain local governments to ensure that their emergency management plans appropriately address the needs of individuals with disabilities. Under Executive Order 13347, Individuals with Disabilities in Emergency Preparedness, the Division is collaborating with the Department of Homeland Security's Office for Civil Rights and Civil Liberties in its emergency management activities.

In October 2006, the Attorney General directed the Civil Rights Division to use the knowledge and experience the Division has gained in its work with State and local governments under Project Civic Access to begin a technical assistance initiative. As a result, the Division is publishing the "ADA Best Practices Tool Kit for State and Local Governments," a document to help State and local governments improve their compliance with ADA requirements. This Tool Kit is being released in several installments. In the Tool Kit, the Division will provide commonsense explanations of how the requirements of Title II of the ADA apply to State and local government programs, services, activities, and facilities. The Tool Kit will include checklists that State and local officials can use to conduct assessments of their own agencies to determine if their programs, services, activities, and facilities are in compliance with key ADA requirements.

The first installment, released on December 5, 2006, covered "ADA Basics: Statute and Regulations" and "ADA Coordinator, Notice and Grievance Procedure: Administrative Requirements Under Title II of the ADA." The second installment, issued on February 27, 2007, covered "General Effective Communication Requirements Under Title II of the ADA" and "9-1-1 and Emergency Communications Services." The third installment, issued on May 7, 2007, covered "Website Accessibility Under Title II of the ADA" and "Curb Ramps and Pedestrian Crossings." These installments, and all subsequent installments, will be available on the Department's ADA Website (www.ada.gov). State and local officials are not required to use these technical assistance materials, but they are strongly encouraged to do so. The Tool Kit checklists will help them to identify the types of ADA noncompliance that the Civil Rights Division has commonly identified during Project Civic Access compliance reviews as well as the specific steps that State and local officials can take to resolve these common compliance problems.

The Division continues to have great success with the Disability Rights Section's innovative ADA Mediation Program. Using more than 400 professional ADA-trained mediators throughout the United States, the ADA Mediation Program continues to expand the reach of the ADA at minimum expense to the government. It allows the Section quickly to respond to and resolve ADA complaints effectively, efficiently, and voluntarily, resulting in the elimination of barriers for people with disabilities throughout the United States. Since FY 1998, more than 2,800 complaints filed with the Department alleging violations of Title II and Title III have been

referred to the program. Of the more than 2,100 mediations completed, 78% have been successful. Last fiscal year's success rate climbed to 82%, our highest ever.

The Division promotes voluntary compliance with the ADA through a wide range of technical assistance and outreach efforts. I have personally attended meetings of our ADA Business Connection, a multifaceted initiative for businesses started by the Department in 2002. This initiative includes conducting a series of meetings between disability and business communities around the country and producing publications on topics related to the ADA that are of particular interest to small businesses. In Fiscal Year 2006, a series of dynamic ADA Business Connection Leadership meetings were held in four cities with more than 150 participants from small and mid-sized businesses, large corporations, and organizations of people with disabilities.

In addition to the Business Connection meetings, we also operate an ADA Information Line as well as an informative website. Our ADA Information Line receives over 100,000 calls annually from people seeking to discuss specific issues with ADA Specialists or order technical assistance publications through the automated system. In Fiscal Year 2006, over 46,000 calls to the ADA Information Line were answered by ADA Specialists. Also, the Section's popular ADA Website, www.ada.gov, continues to be active. In Fiscal Year 2006, it served more than 3.1 million visitors who viewed the pages and images more than 49 million times, an increase in hits of over 30% over the prior year.

In addition to these outreach efforts, in Fiscal Year 2006, the Disability Rights Section sent a mailing to 25,000 State and local law enforcement agencies offering free ADA publications and videotapes developed specifically for law enforcement audiences. We also issued a revised and expanded guide for local governments on making emergency preparedness and response accessible for people with disabilities. Additionally, the Section participated in more than 70 speaking and outreach events in Fiscal Year 2006.

The Disability Rights Section publishes regulations to implement Title II and Title III of the ADA and serves as the Attorney General's liaison to the U.S. Architectural and Transportation Barriers Compliance Board (Access Board). During 2006 and 2007, the Section continued to develop revised ADA regulations that will adopt updated design standards consistent with the revised ADA Accessibility Guidelines published by the Access Board in July 2004. The revised guidelines are the result of a multi-year effort to promote consistency among the many Federal and State accessibility requirements. We are now drafting a proposed rule and developing the required regulatory impact analysis.

SPECIAL LITIGATION

The Division’s Special Litigation Section has two core missions: protecting the civil rights of institutionalized persons and promoting constitutional law enforcement.

The Civil Rights of Institutionalized Persons Act (CRIPA) authorizes the Attorney General to investigate patterns or practices of violations of the federally protected rights of individuals in State-owned or -operated institutions. These include nursing homes, facilities for those with mental illness and developmental disabilities, prisons, jails, and juvenile justice facilities. Our investigations focus on a myriad of issues, including abuse, medical and mental health care, fire safety, security, adequacy of treatment, and training and education for juveniles.

In Fiscal Year 2006 alone, the Civil Rights Division conducted over 123 investigatory and compliance tours. Thus far in Fiscal Year 2007, the Division has conducted over 80 investigatory and compliance tours, and is handling CRIPA matters and cases involving over 192 facilities in 34 States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the Territories of Guam and the Virgin Islands. The Division also continues its investigations of 92 facilities and monitoring the implementation of consent decrees, settlement agreements, memoranda of understanding, and court orders involving 100 facilities. Finally, in Fiscal Year 2007, the Division has opened ten investigations of 35 facilities, obtained five settlement agreements, and issued eight findings letters.

Since January 20, 2001, this Administration has authorized 74 CRIPA investigations, as compared to the 70 investigations opened during the preceding six-year period. With regard to juvenile justice facilities, this Administration has increased the number of settlement agreements by more than 60%, has more than doubled the number of investigations (21 vs. 9), and has more than doubled the number of findings letters (17 vs. 6) issued. One recent example of the Division's work regarding juvenile justice facilities is the successful resolution of the Division's investigation of conditions at the Baltimore City Juvenile Justice Center, a juvenile detention facility in Baltimore, Maryland, operated by the State of Maryland. In August 2006, the Division reported its investigative findings to the State, identifying constitutional deficiencies such as the failure to adequately protect juveniles from violence, inadequate mental health care, and deficient special education services. Last month, the Division reached a court-filed settlement with the State requiring it to remedy the identified deficiencies. This settlement was incorporated into the Division's pre-existing settlement involving two other Maryland juvenile facilities.

Another example of the Division's juvenile justice work includes its ongoing efforts to ensure that conditions of confinement at the Oakley and Columbia Training Schools, operated by the State of Mississippi, comply with Federal law. The Division filed suit in December 2003 following an investigation that uncovered shockingly abusive practices, including hogtying, pole-shackling, and placing suicidal youth for extended periods of time in a "dark room," naked. In June 2005, the case settled through a consent decree requiring the State to adopt measures designed to protect juveniles from harm and to provide guidelines for use of force, and a separate agreement regarding mental health care and special education services. Since the settlement, we have repeatedly visited these facilities to assess the State's compliance and continue vigorously to enforce the agreements to ensure that youth are protected from harm and that mandated reforms are timely implemented.

The Division's important health care work is illustrated by a court-enforceable settlement agreement reached last month with the State of New Mexico regarding conditions of resident care and treatment at the Ft. Bayard Medical Center, a state-owned nursing home in Ft. Bayard, New Mexico. This nursing home serves approximately 150 residents and maintains a unit dedicated to veterans. The agreement followed an investigation, which the Division commenced in April 2005, that found numerous life-threatening conditions. The agreement requires improvements in several areas, including care planning, medication practices, protection from harm, environmental conditions, and ensuring that residents are served in the most integrated setting appropriate to their needs. The Division will monitor the agreement's implementation through site visits and other mechanisms.

Another example is an historic settlement with California involving four State mental health care facilities that provide inpatient psychiatric care to nearly 5,000 people committed civilly or in connection with criminal proceedings. The Division's investigation, which commenced in March 2002, initially involved one facility but ultimately expanded to include three others. Among other violations, we found a pattern and practice of preventable suicides and serious, life-threatening assaults by staff and other patients. In two instances, patients were murdered by other patients. The extensive reforms required by the consent decree, which was filed in court last summer, mandate that individuals in the hospitals are adequately protected from harm, are provided adequate services to support their recovery and mental health, and are served in the most integrated setting appropriate for their needs, consistent with the terms of any court-ordered confinement. To date, the State has been cooperative with the Division's efforts to implement the comprehensive settlements.

In Fiscal Year 2006, the Division aggressively pursued contempt actions against several recalcitrant jurisdictions to address their long-term failure to achieve compliance with agreed-upon settlement remedies. For example, in *United States v. Virgin Islands*, our inspections of an adult detention center revealed unsupervised housing units, inadequate medical and mental health care, and deplorable environmental conditions. As a result, the court granted the Division's motion to find the Virgin Islands in contempt of the court's previous orders and our consent decree addressing conditions at the detention center. Specifically, the court ordered the appointment of a special master to address ongoing violations of the constitutional rights of persons incarcerated at the facility. Although violence at the facility has been an ongoing issue, we have been working closely with the Special Master and the jurisdiction to address the long-term systemic failures at the facility.

Also illustrative is a contempt action that the Division filed in May 2006 against the District of Columbia, in *Evans and United States v. Fenty*, a case about community services for persons with developmental disabilities discharged from the District's now-closed Forest Haven Center. In March 2007, the court found that the District was not in compliance with several court orders and ordered the parties to negotiate relief with two Special Masters.

In addition to its CRIPA work, the Special Litigation Section investigates patterns or practices of violations of Federally protected rights by law enforcement agencies under Section 14141 of the 1994 Violent Crime Control and Law Enforcement Act.

The Division has ensured the integrity of law enforcement by more than tripling the number of settlements negotiated with police departments across the country from 2001 to 2006. During this timeframe, the Administration has successfully resolved fourteen pattern or practice police misconduct investigations involving eleven law enforcement agencies, compared to only four investigations resolved by settlement during a comparable time period of the previous Administration. From 2001 to 2006, the Division filed more consent decrees (4 vs. 3) than in the preceding 6 years. We have issued, moreover, more than six times the numbers of technical assistance letters to police departments (19 vs. 3).

Additionally, during the current fiscal year, the Division is focusing its resources on vigorously monitoring the enforcement of its eight existing settlement agreements to ensure timely compliance with the terms of those agreements. Similarly, the Division continues to place a great deal of emphasis on providing on-going technical assistance to law enforcement agencies regarding best practices and how to conform their policies and practices to constitutional standards.

EMPLOYMENT DISCRIMINATION

The Civil Rights Division remains diligent in combating employment discrimination, one of the Division's most long-standing obligations. Title VII of the Civil Rights Act of 1964, as amended, prohibits employment discrimination on the basis of race, color, religion, sex, or national origin. Most allegations of employment discrimination are made against private employers. Those claims are investigated and potentially litigated by the Equal Employment Opportunity Commission (EEOC). However, the Civil Rights Division's Employment Litigation Section is responsible for one vital aspect of Title VII enforcement: discrimination by public employers.

Pursuant to Section 707 of Title VII, the Attorney General has authority to bring suit against a State or local government employer where there is reason to believe that a "pattern or practice" of discrimination exists. These cases are factually and legally complex, as well as time-consuming and resource-intensive.

One recent case highlights our efforts. In *United States v. City of New York*, filed on May 21, 2007, the Division alleged that since 1999, the City of New York has engaged in a pattern or practice of discrimination against black and Hispanic applicants for the position of entry-level firefighter in the Fire Department of the City of New York in violation of Title VII. Specifically, the complaint alleges that the City's use of two written examinations as pass/fail screening devices and the City's rank-order processing of applicants from its firefighter eligibility lists based on applicants' scores on the written examinations (in combination with scores on a physical performance test) have resulted in a disparate impact against black and Hispanic applicants and are not job-related and consistent with business necessity. The complaint was filed pursuant to Sections 706 and 707 of Title VII, and was expanded to include discrimination against Hispanics as a result of the Division's investigation.

In Fiscal Year 2006, we filed three complaints alleging a pattern or practice of employment discrimination. In *United States v. City of Virginia Beach* and *United States v. City of Chesapeake*, the Division alleged that the cities had violated Section 707 by screening applicants for entry-level police officer positions in a manner that had an unlawful disparate impact on African-American and Hispanic applicants. In *Virginia Beach*, the parties reached a consent decree providing that the city will use the test as one component of its written examination and not as a separate pass/fail screening mechanism with its own cutoff score. On June 15, 2007, the court provisionally entered a consent decree in the City of Chesapeake litigation.

In *United States v. Southern Illinois University*, the Division challenged under Title VII three paid graduate fellowship programs that were open only to students who were either of a specified race or national origin or who were female. While denying that it violated Title VII, the University admitted that it limited eligibility for and participation in the paid fellowship programs on the basis of race and sex. The case was resolved by a consent decree approved by the court on February 9, 2006.

In Fiscal Year 2006, the Employment Litigation Section obtained settlement agreements or consent decrees in six cases alleging a pattern or practice of discrimination. One example is a pattern or practice case the Division brought against the State of Ohio and the Ohio Environmental Protection Agency. We reached a consent decree on September 5, 2006, that accommodated employees with religious objections to supporting the public employees' union. The consent decree permits objecting employees to direct their union fees to charity.

The Division also has enforcement responsibility for the Uniformed Service Employment and Reemployment Rights Act of 1994 (USERRA). USERRA was enacted to protect veterans of the armed services when they seek to resume the job they left to serve their country. USERRA enables those who serve their country to return to their civilian positions with the seniority, status, rate of pay, health benefits, and pension benefits they would have received if they had worked continuously for their employer. In Fiscal Year 2006, the Division filed four USERRA complaints in Federal district court and resolved six cases.

During Fiscal Year 2006, we filed the first USERRA class action complaint ever filed by the United States. The original class action complaint, which was filed on behalf of the individual plaintiffs we represent, charges that American Airlines (AA) violated USERRA by denying three pilots and a putative class of other pilots employment benefits during their military service. Specifically, the complaint alleges that AA conducted an audit of the leave taken for military service by AA pilots in 2001 and, based on the results of the audit, reduced the employment benefits of its pilots who had taken military leave, while not reducing the same benefits of its pilots who had taken similar types of non-military leave. Other examples of recent USERRA suits include *Richard White v. S.O.G. Specialty Knives*, in which a reservist's employer terminated him on the very day that the reservist gave notice of being called to active duty. We resolved this case through a consent decree that resulted in a monetary payment to the reservist. In *McCullough v. City of Independence, Missouri*, the Division filed suit on behalf of

Wesley McCullough, whose employer allegedly disciplined him for failing to submit "written" orders to obtain military leave. We entered into a consent decree in which the employer agreed to rescind the discipline and provide Mr. McCullough payment for the time he was suspended. The employer also agreed to amend its policies to allow for verbal notice of military service.

In Fiscal Year 2007 thus far, we have filed 4 USERRA complaints in district court and resolved 5 cases. Additionally, the United States Attorney's offices have resolved three cases this fiscal year. One of these cases we have resolved in the current fiscal year is *McKeage v. Town of Stewartstown, NH*. In that case, the town sent Staff Sergeant Brendon McKeage a letter while he was on active duty in Iraq telling him he no longer had his job with the town. McKeage had been employed as the Chief of Police for the Town of Stewartstown. When the citizens of Stewartstown learned that their Chief of Police had been terminated while serving his country, they voted to censure the Town for its "outrageous and illegal" conduct. Despite this public censure, the Town still refused to reemploy SSG McKeage in his former position. Once we notified Stewartstown that we intended to sue, the employer decided to settle the case. The settlement terms include a payment to SSG McKeage of $25,000 in back wages.

The Division has proactively sought to provide information to members of the military about their rights under USERRA and other laws. We recently launched a website for service members (www.servicemembers.gov) explaining their rights under USERRA, the Uniformed and Overseas Citizen Absentee Voting Act (UOCAVA), and the Servicemembers' Civil Relief Act (SCRA).

EQUAL EDUCATIONAL OPPORTUNITIES

The Division continues its important work of ensuring that equal educational opportunities are available on a non-discriminatory basis. The Division currently has hundreds of open desegregation matters, some of which are many decades old. The majority of these cases had been inactive for years, yet each represents an unfulfilled mandate to root out the vestiges of de jure segregation to the extent practicable and to return control of constitutionally compliant public school systems to responsible local officials.

To ensure that districts comply with their obligations, the Division actively reviews open desegregation cases to monitor issues such as student assignment, faculty assignment and hiring, transportation policies, extracurricular activities, the availability of equitable facilities, and the distribution of resources. In Fiscal Year 2006, the Educational Opportunities Section initiated 38 new case reviews to determine whether districts have met their desegregation obligations, our second highest total to date for any fiscal year. So far, in Fiscal Year 2007, the Section has initiated 37 new case reviews. For those districts that have achieved unitary status, we join in the school districts' motions to dismiss the case. For those districts that have not met their obligations, the Section works with the district to put it on the path to unitary status. In Fiscal Year 2006, we identified 14 cases in which additional relief was needed; to date, in Fiscal Year 2007, 12 cases were identified.

Based upon these efforts, in Fiscal Year 2006, the Division resolved *United States v. Covington County, Mississippi*. This is a district that operated under desegregation orders entered by a court in 1970 and 1975. The case review process revealed that although the majority of students district wide are African American, the largest school maintained in the district was nearly all white. The consent decree desegregated the schools, which resulted in reduced transportation times for many students and provided enrichment programs for one school that could not be easily desegregated.

We also are actively seeking relief in districts such as McComb, Mississippi, where we are opposing segregated classroom assignments. The Division worked to address other issues in education during Fiscal Year 2006, including inter-district student transfers. In Alabama, the Division entered into a statewide consent decree which addresses desegregation with respect to the construction of school facilities.

In Fiscal Year 2007, we filed a successful motion for summary judgment in West Carroll Parish, Louisiana. The court determined that the school board had failed to eliminate vestiges of discrimination in school assignments and required further student desegregation relief.

The Educational Opportunities Section also is achieving results for persons with disabilities in the education setting. In Fiscal Year 2006, the Section successfully defended the Department of Education's regulation interpreting the "stay put" provision of the Individuals with Disabilities Education Act in a case involving the Commonwealth of Virginia and a local school district. The Section also successfully defended the Equal Educational Opportunities Act of 1974's provision regarding the obligation to take action to overcome language barriers for English Language Learners from an attack by the State of Texas, which alleged that Congress did not properly abrogate the State's immunity from suit. In Fiscal Year 2007, we have continued our work in this area by opening several new investigations. The Section also continued its work in investigating allegations of religious discrimination.

PROTECTING CIVIL RIGHTS AT THE APPELLATE LEVEL

During my tenure as Assistant Attorney General, the Division's Appellate Section has been very productive. From November 9, 2005, to June 12, 2007, the Appellate Section filed 167 briefs and substantive papers in the United States Supreme Court, the courts of appeals, and the district courts. Ninety-three of these filings were appellate briefs for the Office of Immigration Litigation (OIL). Excluding OIL decisions, 88% of the decisions reaching the merits were in full or substantial accord with the Division's contentions. The courts of appeals rendered 40 merits decisions, 90% of which were in full or substantial accord with the Division's contentions. The district courts rendered six decisions in cases briefed by the Appellate Section, four of which were in full or substantial accord with the Division's contentions. During this period, the Division filed 22 amicus briefs, bringing the total number of amicus briefs filed during this Administration to 98. I would like to highlight two cases that the Appellate Section has handled during my tenure as Assistant Attorney General.

In the United States Court of Appeals for Fifth Circuit, the Appellate Section filed a brief defending the conviction the Division obtained in *United States v. Simmons*. While on duty as a police officer, the defendant took a 19-year-old woman into custody, drove her to a remote wooded area in the middle of the night, and raped her as another police officer served as a lookout. He was acquitted of sexual battery and conspiracy charges in State court. After the State court verdict, the Division conducted its own investigation and located a number of witnesses who had not testified at the State trial. The defendant was then indicted by a Federal grand jury for sexual assault while acting under color of law, in violation of 18 U.S.C. § 242. He was convicted of this charge, with the jury finding that the offense involved aggravated sexual abuse resulting in bodily injury to the victim. The district court sentenced him to 20 years in prison. The defendant appealed his conviction, and the United States cross-appealed his sentence. The Fifth Circuit issued a decision affirming the defendant's conviction, vacating his sentence, and remanding for resentencing.

In *United States v. Lee*, the Appellate Section successfully argued in the United States Court of Appeals for the Ninth Circuit in support of the conviction and sentence obtained by the Division. The defendant, who owned and operated a garment factory in American Samoa, recruited workers from Vietnam, China, and American Samoa. Once the workers arrived at his factory, the defendant abused them in various ways, including imprisonment, starvation, and threats of deportation. The defendant was convicted of extortion, money laundering, conspiracy to violate civil rights, and holding workers to a condition of involuntary servitude. He was sentenced to 40 years' imprisonment. In affirming the defendant's convictions and sentence, the Ninth Circuit held, among other things, that a person arrested in American Samoa for allegedly committing crimes in America Samoa may properly be tried and convicted in the United States District Court for the District of Hawaii.

PROTECTION OF IMMIGRANTS' EMPLOYMENT RIGHTS

From our country's inception, we have been a nation built by immigrants who have continually come to America seeking new and better opportunities. This is still the case today, as new and recent immigrants make up a significant portion of the labor pool. Yet often, individuals who are work-authorized immigrants, naturalized U.S. citizens, or native-born U.S. citizens face workplace discrimination because they might look or sound "foreign."

This is where the Civil Rights Division's Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) takes action. OSC enforces the anti-discrimination provisions of the Immigration and Nationality Act as amended by the Immigration Reform and Control Act of 1986 (IRCA), which protects lawful workers from intentional employment discrimination based upon citizenship, immigration status, or national origin, unfair documentary practices relating to the employment eligibility verification process, and retaliation.

OSC accomplishes its mission to protect lawful workers from discrimination through both enforcement and outreach. Our enforcement efforts include investigations of charges, settlements and resolutions, informal telephone interventions, and litigation. OSC pursues both

individual violations and patterns or practices of discrimination. A few examples of these actions include unlawful citizen-only hiring policies; preferences for undocumented workers; and refusal to employ lawful workers because employers did not follow proper employment eligibility verification procedures. The victims in these cases include native-born U.S. citizens, naturalized U.S. citizens, lawful permanent residents, asylees, refugees, and other work-authorized immigrants from around the world. The employers in these cases include some of the nation's largest companies as well as smaller businesses.

In Fiscal Year 2006, OSC settled 72 charges through either formal settlement agreements or letters of resolution and has settled 75 charges thus far in Fiscal Year 2007. For example, in *Luis A. Lopez v. GALA Construction, Inc.*, a lawful permanent resident from Mexico was refused hire because a construction company rejected his unrestricted Social Security card and Resident Alien card for employment eligibility verification. OSC settled the charge. As a result, the charging party received over $11,000 in back pay and front pay, and the company agreed to train its managers in proper employment eligibility verification procedures and non-discriminatory hiring practices. In addition, over the past year, OSC has investigated 85 charges of citizenship status discrimination filed by the Programmers Guild, a professional society that advances the interests of computer programmers. The Programmers Guild filed charges against software and information technology (IT) companies that placed internet ads stating an explicit hiring preference for temporary visa holders, such as H-1B visa holders, over U.S. citizens and other authorized workers. OSC has resolved 49 of these charges (inclusive of the 75 settled charges noted above). Consequently, IT companies across the nation have agreed to end hiring preferences for temporary visa holders over other U.S. workers and will no longer post discriminatory job advertisements. They also have agreed to post equal employment opportunity notices on their websites.

Informal interventions are another species of enforcement activity. Through its hotlines, OSC often is able to bring early, cost-effective resolutions to employment disputes that might otherwise result in the filing of charges and litigation expenses. In Fiscal Year 2006, OSC successfully completed 189 telephone interventions and has completed 124 telephone interventions thus far in Fiscal Year 2007.

OSC also engages in educational and outreach activities to workers, employers, the bar, unions, legal services, and advocacy organizations to deter potential immigration-related employment discrimination. Our outreach program is multi-faceted and includes employer and worker toll-free hotlines, public service announcements, outreach and training materials designed to reach both English speakers and those with limited English proficiency, presentations, a website, and a periodic newsletter. OSC distributed approximately 65,400 individual pieces of educational materials in FY 2006, 39 percent of which were in Spanish. Thus far in Fiscal Year 2007, OSC has distributed approximately 65,750 educational materials. Over the past eighteen months, its public service announcements have aired nearly 21,000 times on television and radio in English and Spanish, reaching an estimated audience of approximately 76 million. Thus far in Fiscal Year 2007, over 650 television public service announcements have been aired, reaching an estimated audience of more than 6 million English- and Spanish-speaking viewers. OSC also administers a grant program that awards funds to organizations for the purpose of conducting

public education programs under the anti-discrimination provisions of the Immigration and Nationality Act. OSC's grantees have included State and local fair employment practices agencies, business organizations, and non-profit and faith-based immigrant service organizations. This year's grants include, among other things, coordination of legal and social services for immigrant communities in the post-Katrina Gulf Coast region.

LIMITED ENGLISH PROFICIENCY

In addition to the Division's major efforts for those who are limited-English proficient in the areas of voting and education, we also are making strides on behalf of those who need language assistance in other areas. This Administration has made a priority of ensuring implementation and enforcement of civil rights laws affecting persons with limited English proficiency (LEP). The Division's Coordination and Review Section plays a central role in this effort, and during my tenure as Assistant Attorney General, it has continued its work to ensure that LEP individuals are able to effectively participate in or benefit from Federally assisted and Federally conducted programs and activities.

The Division works on behalf of LEP individuals in its role in implementing Executive Order 13166 and Title VI of the Civil Rights Act of 1964. The Division's Coordination and Review Section works to provide information and coordinate activities to ensure that Federal agencies are providing meaningful access to LEP persons in its Federally conducted programs and that recipients of Federal funds are providing meaningful access in their programs and activities. Executive Order 13166 requires that all Federal funding agencies use the Department's LEP Recipient Guidance Document, published on June 13, 2002, as a model in drafting and publishing guidance documents for their recipients, following approval by the Department.

In Fiscal Year 2006, the Coordination and Review Section continued its outreach and interagency efforts designed to provide information on the needs of persons who are limited English proficient. Among other things, these efforts included completing the development and release of the interagency video entitled "Breaking Down the Language Barrier: Translating Limited English Proficiency Policy into Practice" in English, Spanish, and Vietnamese, and subtitled in Chinese and Korean. The Section also issued a new brochure for Federal agencies and the agencies' recipients explaining the requirements and steps to ensure that LEP individuals have meaningful access to programs and services. The Division developed a survey form, which it distributed to all of the more than 80 Federal agencies about efforts to ensure access to LEP individuals in their own programs, and I personally sent a memorandum to all agencies asking that they respond to the survey form. Many did, and our Coordination and Review Section is analyzing the results and is working on a report that will outline promising practices of Federal agencies. I was the featured presenter at the fourth anniversary meeting of the Federal Interagency Working Group on LEP on February 2, 2006, a meeting that was attended by almost 150 people from 40 different Federal agencies. The Section is also responsible for maintaining LEP.gov, a website clearinghouse of guidance, model plans, links, tools, and other resources on the LEP initiative.

Another area of focus by the Coordination and Review Section during my tenure as Assistant Attorney General has been emergency preparedness. The Division continues to work with agencies to assist them in ensuring that the needs of national origin minorities (including LEP individuals) are effectively included in emergency preparedness activities and planning. As part of this effort, the Section recently began participating in activities of the Department of Homeland Security's Special Needs Work Group, which is providing comments on the National Response Plan. The Division also has begun work on creating a LEP emergency tool that can be used by responders in emergencies. In addition, I gave the keynote speech at the December 6, 2006, meeting of the Federal Interagency Working Group on LEP, a meeting entitled "The Importance of Language Access in Emergency Preparedness."

Probably the most significant event related to LEP access occurred on March 15-16. The Coordination and Review Section coordinated the 2007 Federal Interagency Conference on Limited English Proficiency, which was held in Bethesda, Maryland, with over ten Federal agencies participating by either contributing funds or hosting sessions. Along with a personal letter from me, invitations were mailed to various entities including governors of each State as well as many local county and city executives and mayors. Other invitees included individuals with responsibility for implementing language access programs across State and local agencies; private entities that fund language access programs; language service providers; Federal officials with authority to focus Federal funding on cross-cutting language access projects; and a wide variety of community advocates and groups. The Conference represented a unique opportunity for invitees to share with and learn from the leaders in the field of LEP access. Over 350 people attended the Conference.

As part of its responsibility to ensure consistent and effective implementation by Federal funding agencies of Title VI and of Title IX of the Education Amendments of 1972, and to ensure implementation of Executive Order 13166 which requires access for LEP individuals, the Coordination and Review Section provided 52 separate training sessions for agencies during Fiscal Year 2006, up from 28 such sessions in 2005. So far in Fiscal Year 2007, the Section has provided 17 sessions. In a section of only seven attorneys and seven coordinator/investigators, this is quite remarkable.

In addition to coordination, outreach, and technical assistance activities for recipients, federal agencies, and the public, the Coordination and Review Section continues to investigate and resolve administrative complaints alleging race, color, national origin (including access for LEP individuals), sex, and religious discrimination. During Fiscal Year 2006, the Section initiated six investigations and completed five investigations that resulted in no violation letters of finding. So far this fiscal year, the Section has initiated nine investigations and has completed seven investigations. At this time, Coordination and Review has a caseload of 55 active investigations, 30 of which involve LEP allegations.

On March 13, 2007, the Division entered into its first LEP settlement agreement. The agreement addresses the needs of a growing LEP population and includes a comprehensive Language Assistance Plan for law enforcement. The Plan covers everything from the 9-1-1 call

center to training for bilingual officers. The Division is monitoring implementation and providing extensive training.

PROFESSIONAL DEVELOPMENT OPPORTUNITIES

One of my highest priorities since taking my oath of office in 2005 has been ensuring that the Division's staff, particularly its attorneys, are afforded every opportunity to improve their professional development. To that end, I established a Professional Development Office within a week of beginning my tenure and detailed two career supervisory attorneys with extensive civil rights litigation experience, one in civil and the other in criminal enforcement, to it. Because of the importance that I attach to this endeavor, I recently appointed a permanent Director of Professional Development who reports directly to my principal deputy.

In its first year, the office took great strides to fulfill its important mandate. Through interviews of the Division's career leadership, a survey of the entire attorney staff, and a series of focus groups with newer attorneys, it devised a week-long orientation program for new Division attorneys. The program presents a mix of basic skills training, including writing, discovery, and evidence, with information on such topics as professional responsibility, ethics, administrative policies, and the importance of promptly responding to congressional correspondence.

The program's inaugural session, conducted in June of 2006, was an unqualified success. We have already held three additional sessions of the program, with the next offering scheduled for October. We plan to continue conducting these programs three or four times a year, as dictated by the pace of attorney hiring.

The office's responsibility also extends to providing advanced training opportunities for more experienced attorneys. In that regard, it has worked closely with the Department's Office of Legal Education, located at the National Advocacy Center (NAC) in Columbia, South Carolina, to provide two programs during 2006 – one on criminal civil rights enforcement and another focused on human trafficking. A seminar on civil enforcement of civil rights statutes was conducted in January 2007 – the first civil program on civil rights enforcement sponsored by the Office of Legal Education since 1996, and we hosted the largest human trafficking training program at the NAC in May, which included participants from Federal and local law enforcement agencies, as well as attorneys in the Division and in U.S. Attorneys' Offices.

In addition, the office has spearheaded the use of the Department's television network to broadcast training on civil rights issues live to departmental offices throughout the country. We created a training series addressing the Division's enforcement responsibility to stem the flow of human trafficking. Two programs have been held, in September 2006 and March 2007, and were widely viewed by Assistant U.S. Attorneys and members of human trafficking task forces around the country. The first installment of a series aimed at enforcement of the Americans With Disabilities Act in May 2007 was very well received.

Several amendments to the Federal Rules of Civil Procedure became effective at the end of 2006. The most significant of these affects the discovery of electronically-stored information.

The office coordinated a series of mandatory training sessions for the Division's civil litigating attorneys on the rights and responsibilities resulting from these revisions.

Finally, the Professional Development Office coordinates the Division's participation in the Department's pro bono program, in which all attorneys are encouraged to take part. The office also coordinates the Mentor Program, which pairs attorneys new to the Division, most of whom are recent law school graduates or judicial clerks, with a more experienced attorney who serves as an informal resource and guide during the new lawyer's first year in the Department.

CONCLUSION

As the Division celebrates its 50 year anniversary, we are reflecting upon the achievements and successes in the struggle for civil rights over the last half century. However, we can not be satisfied. The work of the Civil Rights Division in recent years reflects the need for continued vigilance in the prosecution and enforcement of our nation's civil rights laws. As President Bush has said, "America can be proud of the progress we have made toward equality, but we all must recognize we have more to do." I am committed to build upon our successes and accomplishments and continue to create a record that reflects the profound significance of all Americans.