

U.S. DEPARTMENT OF JUSTICE
CIVIL RIGHTS DIVISION

SELECTED
ACCOMPLISHMENTS
2013



The 50th Anniversary of the Civil Rights Act: Advancing Equality and Opportunity for All

Fifty years ago, President Lyndon B. Johnson signed into law the Civil Rights Act of 1964. With its landmark protections against discrimination on the basis of race, color, national origin, sex, and religion, the Act ended the era of legal segregation in America, relegating the age of Jim Crow to the history books. As he prepared to sign the bill, President Lyndon B. Johnson announced, “those who are equal before God shall now also be equal in the polling booths, in the classrooms, in the factories, and in hotels, restaurants, movie theaters, and other places that provide service to the public.”

Emerging from the turmoil of the early 1960s, the Civil Rights Act laid the groundwork for other critical federal civil rights statutes, including the Voting Rights Act of 1965, the Fair Housing Act of 1968, and the Americans with Disabilities Act of 1990. In the decades since its passage, there is no doubt that we as a country have come a long way: many of the rights for which civil rights pioneers fought, bled, and gave their lives are now guaranteed by law. Yet the Civil Rights Division’s robust caseload remains a stark reminder that too many in our nation continue to face barriers to equal opportunity.

Five decades after its passage, the Civil Rights Act continues to touch the lives of Americans across the country – and to serve as a potent tool for combating discrimination. As we contemplate a half-century of progress—and look to the work that remains—the Civil Rights Division remains committed to its mission to protect, defend, and advance civil rights in our nation.



U.S. Department of Justice Civil Rights Division Selected Accomplishments, 2013

Fifty years ago, on the steps of the Lincoln Memorial, Dr. Martin Luther King Jr. articulated a vision of equality that animates the work of the Department of Justice to the present day. The March on Washington—highlighted by Dr. King’s iconic “I Have a Dream” speech—inspired Congress to pass critical federal civil rights protections, including the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Over the past five decades, there is no doubt that we as a country have made tremendous strides in answering Dr. King’s call for a more just, more free, and more perfect union. Yet for all that we have accomplished, much work remains. The Civil Rights Division’s robust caseload is a stark reminder that too many in our nation continue to face barriers to equal opportunity.

The Justice Department’s Civil Rights Division enforces the federal laws that prohibit discrimination and uphold the civil and constitutional rights of all who live in America. Through these efforts, the Division works to advance three basic principles:

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

In 2013, the Division advanced these core principles by filing a record number of cases in many enforcement areas; by reaching historic settlements in others; by issuing landmark regulatory and legal guidance; and by championing sound and sorely needed civil rights policy initiatives. This report discusses some of the highlights of this work.

In the words of the late Senator Edward Kennedy, “the business of civil rights remains the unfinished business of America.” As we approach the 50th anniversary of the Civil Rights Act of 1964, the Division takes very seriously our responsibility to address both longstanding and emerging civil rights challenges. In the months and years to come, the Division will continue to do all that it can to realize the promise of liberty, equality and opportunity for all.

Expanding Opportunity

EXPANDING EQUAL OPPORTUNITY IN EDUCATION:

Education is the foundation of the American dream—particularly for students who come from challenging circumstances, education is the gateway to opportunities to climb the economic ladder and build a better life for themselves and their families. In his opinion in *Brown v. Board of Education*, Chief Justice Earl Warren wrote, “it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.” Yet nearly six decades after this landmark decision, considerable work remains to provide equal educational opportunities to all of our nation’s students.

Last year, the Civil Rights Division achieved major victories in its efforts to dismantle the school to prison pipeline, encourage diversity in higher education, expand opportunities for English Language Learner students, and defend the rights of LGBT students and students with disabilities.

Dismantling the School-to-Prison Pipeline: A minor school discipline offense should not land a student in a police precinct. All too often, the adverse effects of early interaction with the juvenile or criminal justice systems are permanent—they deprive those caught up in the system of opportunities for educational advancement, employment, access to housing, and even the right to vote. The Civil Rights Division works to ensure that our schools receive the support they need to keep young people in the classroom and out of the criminal justice system by fostering a learning environment that is safe, fair, and supportive.

Meridian, Mississippi: Last year, an investigation by the Division and the U.S. Attorney’s Office for the Southern District of Mississippi into disciplinary practices in the Meridian, Mississippi public school system found that black students frequently received far harsher disciplinary consequences than white students for comparable misbehavior. For example, one black student was suspended and subsequently arrested for wearing the wrong socks to school. Another black student was sprayed with mace and arrested after refusing to tuck in his shirt.

In response to these systemic problems, the Department entered into a first-of-its-kind settlement with the Meridian school system to prevent and address racial discrimination in school discipline. Under the consent decree, the district will provide students with supports and interventions before excluding them from school; establish clear guidelines for the limited and extremely serious circumstances when law enforcement intervention is appropriate; and ensure that discipline consequences are fair and consistent.

Palm Beach, Florida: The Division also reached an agreement with the school district in Palm Beach County, Florida to ensure that students with limited English proficiency receive translation and interpretation services throughout the discipline process. The agreement requires that ELL students, as well as parents who are limited English proficient, receive

translation services throughout the discipline process, and it also requires school law enforcement officers to communicate with students in a language the student understands, including by securing an interpreter when appropriate. Through agreements like these, the Civil Rights Division attempts to make certain that students are not unlawfully channeled out of their classrooms and into the justice system.

Encouraging Diversity in Higher Education: This summer, in *Fisher v. University of Texas*, the Supreme Court issued its first decision on affirmative action since 2003. Following this decision, which recognized the compelling governmental interest in ensuring diversity in higher education, the Civil Rights Division and Department of Education Office for Civil Rights released a joint guidance to help universities understand how they can implement their admissions programs consistent with the Supreme Court’s *Fisher* decision and to make clear that prior guidance issued by the Departments remains in effect.

The guidance explains that in *Fisher* the Court preserved the well-established legal principle that colleges have a compelling interest in achieving the educational benefits that flow from a racially and ethnically diverse student body and can lawfully pursue that interest in their admissions programs. These educational benefits—long recognized by the Court and affirmed in research and practice—include cross-racial understanding and dialogue, the reduction of racial isolation and the breaking down of racial stereotypes. The Departments of Justice and Education strongly support diversity in higher education and the inclusive campus communities that are an outgrowth of such diversity.

Expanding Opportunities for English Language Learner Students: Each day, English Language Learner (ELL) students throughout our nation find themselves in schools that are failing to meet their needs. Without direct and effective instruction to help them learn English, these students are at risk of failing their classes and dropping out of school.

Denver, Colorado: In April, the Justice Department reached a comprehensive consent decree requiring the public school system in Denver, Colorado to provide language services to the more than 28,000 ELL students enrolled in the district. This decree will ensure that ELL students, like all district students, have access to qualified teachers, grade-appropriate curriculum, and dedicated resources to meet their particular learning needs.

Defending the Rights of LGBT Students: In recent years, the Justice Department and the Department of Education have resolved a number of cases involving gender-based harassment in public schools. In 2011, the departments entered into an agreement with the Tehachapi Unified School District in California to resolve a complaint of harassment against a gender-nonconforming student. In 2012, the departments entered into a similar consent decree addressing harassment against students who do not conform to gender stereotypes in Anoka-Hennepin, Minnesota.

Arcadia, California: Last year, the Division entered into a first-of-its-kind settlement agreement with the Arcadia Unified School District to resolve allegations of discrimination against a transgender student based on the student’s sex. The student’s gender identity is male, and he has presented as a boy at school and in all other aspects of his life for several years. Yet prior to the agreement, the district prohibited the student from accessing facilities consistent with his

male gender identity, including restrooms and locker rooms at school, as well as sex-specific overnight accommodations at a school-sponsored trip. Under the agreement, the district will take steps to treat the student like other male students in all activities, and it will also adopt policies to ensure nondiscrimination for all students going forward.

Ensuring Equal Educational Opportunities for Students with Disabilities: All too often, students with disabilities face barriers that make it impossible for them to learn, to be in the same classroom as their friends, or to participate in all that today's schools and universities have to offer. Last year, the Division continued to work aggressively to protect the rights of students with disabilities so that all students have equal access to the resources and opportunities they need to learn.

Ruston, Louisiana: In July, the Division reached a settlement agreement with Louisiana Tech University to resolve allegations that the University violated the Americans with Disabilities Act by using a version of an online learning product that was inaccessible to a blind student. The student's lack of access to course materials persisted nearly a month into the University quarter, at which point the student was so far behind in his coursework that he felt compelled to withdraw from the course. Under the settlement agreement, the university will adopt a number of disability-related policies, including a requirement to use learning technology, web pages, and course content that are accessible to students with disabilities.

Tustin, California: In *K.M. v. Tustin Unified School District*, the Division's Appellate Section filed a brief supporting the rights of a deaf high school student. In this case, the Division argued that a public school's obligations to provide a student effective communication under Title II of the ADA can be different than the school's obligations under the Individual with Disabilities in Education Act since each statute has different standards, rights, and protections for individuals with a disability. The Ninth Circuit issued an opinion that largely adopted the Division's position.

EXPANDING EQUAL OPPORTUNITY IN THE WORKPLACE:

The ability to earn a living and climb the economic ladder is at the heart of the American dream. Yet in too many cases, employees are subjected to unequal treatment due to their race, sex, national origin, religion, or disability. Through its enforcement of Title VII of the Civil Rights Act of 1964, the Immigration and Nationality Act, and the Americans with Disabilities Act, in fiscal year 2013, the Division achieved significant victories in its efforts to combat employment discrimination in all forms.

Preventing Employment Discrimination on the Basis of National Origin and Citizenship Status: Our nation has long welcomed immigrants who aspire to live and work in the United States. Yet some employers continue to deny employment opportunities to

PREVENTING NATIONAL ORIGIN DISCRIMINATION: BY THE NUMBERS

- In fiscal year 2013, the Civil Rights Division collected nearly \$900,000 in penalties under the Immigration and Nationality Act—more than in any previous year in the Division's history.
- The Division also collected \$250,000 in back pay for claims of citizenship discrimination, more than in any year in the past 10 years.

immigrants who are legally authorized to work or to subject these men and women to discriminatory employment eligibility verification procedures.

Such unfair employment practices are devastating for workers—and are prohibited by the anti-discrimination provision of the Immigration and Nationality Act (INA). The Division vigorously enforced this provision in fiscal year 2013, maintaining its commitment to protect the right of all work-authorized individuals to work.

In 2013, through its enforcement of the INA, the Civil Rights Division collected nearly \$900,000 in civil penalties—a record for the Division—and collected more in back pay than in any year in the past 10 years. The Division also settled major cases involving discriminatory documentary practices by Macy's and Centerplate, obtaining more than \$400,000 in civil penalties and as well as compensation for victims.

Finally, in fiscal year 2013, the Division expanded its public outreach program on immigration-related employment discrimination through webinar presentations, reaching approximately 3,000 employees and employers nationwide.

Expanding Equal Employment Opportunity for Women: The Civil Rights Division enforces federal laws prohibiting sex discrimination in the workplace. This discrimination can take many forms, from sexual harassment to denying employment opportunities to women based on their sex. Over the course of fiscal year 2013, the Division obtained more than \$875,000 in monetary relief and damages for victims of workplace sex discrimination. Examples of the Division's sex discrimination work include:

Millbrook, Alabama: In January 2008, Kristen Spraggins was the only female police officer in the Millbrook Police Department (MPD). She received excellent performance evaluations until she rejected unwanted sexual advances by a co-worker and reported those advances to her superiors. Rather than disciplining her harasser, MPD instead subjected Ms. Spraggins to unwarranted disciplinary actions and eventually to termination. The Division reached a consent decree that required Millbrook to pay compensatory damages to Ms. Spraggins, to overhaul its workplace discrimination policy and reporting and enforcement procedures, and to provide training to its workforce to ensure a safe and nondiscriminatory workplace in the future.

Summit County, Ohio: In this case, the Division argued that the County and the Sheriff discriminated against 20 female Deputy Sheriffs and other similarly-situated female deputies by implementing a sex-segregated job assignment system at the Summit County Jail in Akron, Ohio. Originally, female deputies at the jail were permitted to hold job assignments supervising the intake and security of both male and female inmates. In January 2012, however, the jail switched to a new job assignment system that allowed female deputies to supervise the intake and security of only female inmates. With this change, female deputies lost job assignments and shifts they had earned based on their seniority as well as opportunities to bid on overtime postings. To resolve this matter, Summit County agreed to provide monetary relief to the female deputies and to use sex-based assignments only to the limited extent that they are truly necessary for the operation of the jail.

Protecting Religious Freedom in the Workplace: Freedom of religion is among the most cherished of our nation's rights. Employees should not have to choose between employment and fulfilling their religious obligations. Title VII of the Civil Rights Act of 1964 requires employers to reasonably accommodate the religious beliefs, practices and observances of all employees, unless the employer can prove that doing so would impose an "undue hardship." Last year, the Division's efforts to protect the employment rights of an Alabama woman were a highlight of our Title VII enforcement work.

Birmingham, Alabama: Renee Gunn worked as a public safety dispatcher for the Birmingham Police Department for three years until her resignation in August 2011. A practicing member of the Messianic Jewish faith, Ms. Gunn is prohibited by her religion from working during the Jewish Sabbath—from sunset on Fridays until sunset on Saturdays. In 2011, Ms. Gunn received a work schedule requiring her to work on the Jewish Sabbath. She requested a change to accommodate her Sabbath observance, but police department officials denied this request, citing a policy of not changing off days for any religious faith. This schedule ultimately forced Ms. Gunn to resign from the police department.

The Division argued that the police department could have accommodated Ms. Gunn's religious beliefs without undue hardship. In September 2013, the Division reached a settlement agreement with the City of Birmingham requiring the city to provide Ms. Gunn with back pay and compensatory damages, to reinstate her as a dispatcher with a modified work schedule, and to develop and implement a religious accommodation policy for the department that is consistent with protections afforded by Title VII.

Ensuring Opportunity for Integrated Employment for Individuals with Disabilities:

In 2009, the Civil Rights Division launched an aggressive effort to enforce the Supreme Court's decision in *Olmstead v. L.C.*, a ruling that requires states to eliminate unnecessary segregation of persons with disabilities and to ensure that persons with disabilities receive services in the most integrated setting appropriate to their needs. In 2013, the Division continued its strong track on this issue, participating in 18 *Olmstead* matters across the country. Since 2009, the Division's *Olmstead* enforcement work has helped protect the rights of more than 46,000 people with disabilities, ensuring they receive the opportunity to participate fully in their communities.

Providence, Rhode Island: In 2013, the Civil Rights Division completed its investigation of the State of Rhode Island and City of Providence regarding Training Thru Placement (TTP)—one of the largest facility-based employment service providers in the state—and the Birch Vocational School, a sheltered workshop in a Providence high school.

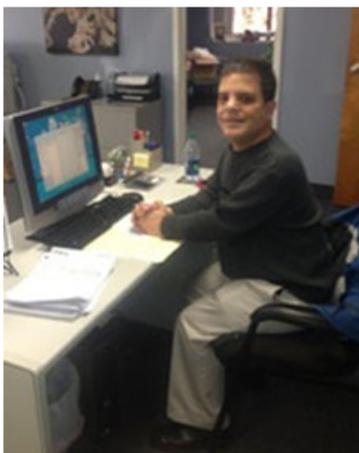
At TTP, workers with intellectual and developmental disabilities were paid an average hourly wage of just \$1.57, with one individual making as little as 14¢ per hour. Workers also typically remained at TTP for decades and had little or no contact with persons without disabilities. Similarly, students with intellectual and developmental disabilities at the Birch School were given no training or employment opportunities other than the school-based sheltered workshop. Students remained in the workshop from age 14 until graduation and were paid between 50¢ and \$2 per hour; some were not paid at all.

The Justice Department's investigation found that the workers with disabilities at TTP were not in the most integrated setting appropriate for them; rather, they were capable of working in real jobs

with supports and participating in activities in the community. Our investigation also found that the workshop at Birch was a direct pipeline to TTP. The Division's first-of-its-kind interim agreement with the state and the Providence Public School District addresses the rights of people with disabilities to receive state- and city-funded employment and daytime services in the broader community, rather than in segregated sheltered workshops and facility-based day programs.

Faces of Olmstead

Here are personal stories of a few of the thousands of people whose lives have been improved by the *Olmstead* decision and the Civil Rights Division's *Olmstead* enforcement work.



STEVEN

The fact that Steven has an intellectual disability has never stopped him from seeking to earn a living. For 30 years, Steven worked at the sheltered workshop and day program provider Training Through Placement, Inc. (TTP). At TTP, Steven, along with 90 other individuals with intellectual and developmental disabilities, was assigned tasks such as assembling, sorting, packing, and labeling various products like medical supplies and jewelry.

When Steven first entered TTP, he thought it would be a short stay – just long enough to gain the skills necessary to secure long-term employment in the community. After all, as Steven points out, "the name of the provider is Training Thru Placement." Yet year after year, no effort was made to assist him in finding a job at a competitive wage, despite his repeated requests for the services necessary to help him secure integrated employment.

When he began working at TTP, Steven earned approximately \$2 an hour. Because TTP held a "special minimum wage" certificate, it was permitted to pay individuals with disabilities sub-minimum wages. In spite of his three decades of experience, Steven was never promoted and never received a meaningful raise in wage.

As a result of the Division's interim settlement, all of that is changing for Steven and the service recipients at TTP. Over the course of a year, the State will provide supported employment services and placements to help the individuals at TTP find, earn, keep, and succeed in real jobs. The services will be designed to help people access jobs in typical work settings where they can interact with non-disabled peers and earn at least minimum wage.

Steven is now flourishing in his new job at a local small business headquartered in Warwick, Rhode Island. His employer is also providing him with computer training, which will allow him to expand his skill set and advance his career. The president of the company initially did not know what to expect from Steven, but quickly realized he had made a prudent investment. Reflecting on Steven's dedication, abilities, and successes thus far, he says, "I can't help but think if Steve had this opportunity twenty-five years ago, where he'd be today—we are very lucky to have Steve on board."

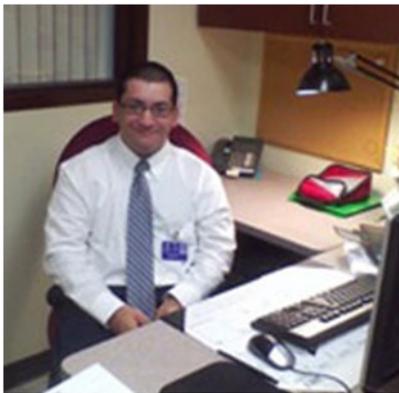


ORQUIDEO "Q"

After graduating from the Birch Vocational High School at the age of 21, Orquideo "Q" went straight into a sheltered workshop, where he earned \$2.85 an hour performing piece rate work. He stayed there for eight years.

When the sheltered workshop closed last summer after a settlement agreement between the U.S. Department of Justice and the State of Rhode Island, the State brought on an outside non-profit group to better help individuals with intellectual and developmental disabilities identify job opportunities in competitive industry. Q shared that he had a passion for working with cars, which led to his current employment at a local auto-repair shop. Q now works in the community for at least thirty hours per week.

Q takes great pride in his work, including car details, oil changes, tire rotations, and work site maintenance. He catches two buses and is the first to arrive at work every morning. His supervisor describes Q's enthusiasm to learn and his willingness to try new things as some of his most valuable assets. After seeing Q work and interact with colleagues and customers, he strongly affirmed that there is "no question that Q should be working in the community" rather than a sheltered workshop—"he is a great employee and has continued to grow every single day."



LOUIS

In 2008, Louis graduated high school with a diploma, but because of a developmental disability that restricts his verbal-motor functions, he was unable to secure long-term integrated employment. Louis worked at the sheltered workshop Training Thru Placement (TTP) for two and a half years, earning well below minimum wage.

Following the Division's agreement with the State of Rhode Island, Louis started a new job at a state hospital, where he utilizes his strong computer skills and passion for mathematics to generate Excel reports, record timesheets, and complete other office-related duties. Louis works at the hospital for forty hours per week. He drives himself to and from work and especially enjoys having his own office, which he has decorated with Red Sox paraphernalia.

EXPANDING EQUAL OPPORTUNITY IN HOUSING AND LENDING:

A family's access to housing determines far more than whether they have a roof over their heads—it affects their access to good schools, to transportation, and to jobs. Ensuring that local governments and private housing providers offer safe and affordable housing on a non-discriminatory basis has been a priority of the Civil Rights Division for decades. But in 2014, a family's access to housing is almost always linked to their access to credit. That's why the Division has maintained its robust fair housing enforcement efforts while also reinvigorating its efforts to ensure that all qualified borrowers have equal access to fair and responsible lending.

Ensuring Fair Access to Housing Regardless of Race, National Origin, or Familial Status: Four decades after the passage of the Fair Housing Act, housing discrimination and segregation continue to taint communities across the country. Far too many homeseekers are shut out by housing providers' prejudice and stereotypes. Continuing discrimination affects African Americans, Latinos, Arab-Americans, Asian-Americans, people with disabilities, and families with children. Highlights of the Division's FY13 enforcement include:

- *St. Bernard Parish, Louisiana:* In this case, St. Bernard Parish agreed to a more than \$2.5 million settlement to resolve lawsuits alleging that it engaged in a multi-year campaign to limit or deny rental housing opportunities to African-Americans in the parish in the aftermath of Hurricane Katrina. This campaign included the establishment of an onerous permit-approval process for single-family rentals, the elimination of multi-family housing in large portions of the parish, and repeated attempts to block the development of multi-family affordable-housing. The Division's complaint alleged that the parish's actions both were intended to and had the effect of disproportionately disadvantaging African-Americans seeking to rent housing in St. Bernard Parish. The parish had been sued previously over housing and land-use decisions since Hurricane Katrina and found in contempt of court orders repeatedly.
- *Sussex County, Delaware:* This lawsuit alleged that the county's planning and zoning commission denied land use approval for an affordable housing development based partly on the assumption that the subdivision's residents would be Latino and African-American. The settlement agreement required the defendants to reconsider the affordable housing proposal using nondiscriminatory criteria. It also required the county to pay \$750,000 to Diamond State Community Land Trust, which proposed the development, in compensation for its damages.
- *Minneapolis, Minnesota:* In this case in Minneapolis, Minnesota, a rental agent repeatedly made Somali prospective renters go through additional procedures before they were allowed to see apartments. White applicants did not have to take these extra steps. The Division's investigation also found that the agent failed to tell Somali applicants about certain apartments becoming available that she mentioned to white applicants. Under the settlement, Highland Management Group will pay a civil penalty, implement a nondiscrimination policy, provide employees with training on the requirements of the Fair Housing Act, and provide periodic reports to the government.
- *Mt. Washington, Kentucky:* In this case, a landlord agreed to pay \$22,000 to resolve allegations that he discriminated against African-American apartment seekers and made statements indicating a preference for families without children for certain available apartments.

The Division's lawsuit alleged that the landlord misrepresented the availability of, and refused to negotiate for the rental of, apartments based on an applicant's race or color.

Ensuring Equal Access to Responsible Lending: Since its creation in 2010, the Division's Fair Lending Unit has obtained more than \$800 million in monetary relief for impacted communities—sending a clear message that the Obama administration will hold financial institutions of all sizes accountable for lending discrimination whenever and wherever it occurs. Much of this work has focused on mortgage lending. In 2013, however, the Civil Rights Division expanded these efforts into the auto lending market, working with the Consumer Finance Protection Bureau (CFPB) and the U.S. Attorney for the Eastern District of Michigan to reach a \$98 million settlement with Ally Bank and Financial for pricing discrimination in its automobile lending practices.

All qualified borrowers deserve equal access to fair and responsible lending. In fact, the Equal Credit Opportunity Act bars creditors from discriminating against applicants on the basis of their race, color, religion, national origin, sex, marital status, or age. Yet between 2011 and 2013, African-American, Hispanic, and Asian/Pacific Islander borrowers who obtained loans from Ally Bank and Financial were too often forced to pay higher interest rates than similarly qualified white borrowers—a penalty based not on their creditworthiness or other objective criteria related to borrower risk, but on their race or national origin.

This complaint was the Division's first against a national auto lender as well as its first joint fair lending enforcement action with the CFPB. The settlement provided \$80 million in relief to the more than 200,000 minority borrowers who received higher interest rates due to their national origin or the color of their skin. Ally also agreed to pay an \$18 million civil penalty to the CFPB and to institute safeguards to ensure that these discriminatory lending practices come to an end.

POLICY, PARTNERSHIPS, AND OUTREACH

The Civil Rights Division also works to develop policy and legislative proposals to close the gaps in our nation's civil rights protections. This year, the Division provided technical assistance on numerous legislative initiatives, including the reauthorization of the Violence Against Women Act (VAWA), the Employment Non-Discrimination Act (ENDA), the Elementary and Secondary Education Act (ESEA), the Student Non-Discrimination Act, and legislation relating to Comprehensive Immigration Reform and the protection of servicemembers' rights.

Outreach to stakeholders is also critical to the Division's goals of planning, executing, and improving its work. The Division held regular convenings with representatives from civil rights organizations such as the Leadership Conference on Civil and Human Rights and its task forces, the LGBTI community, the women's community, and the disability rights community. The Division also continued its strong partnerships with U.S. Attorneys offices throughout the country.



Preserving the Infrastructure of Democracy

PROTECTING VOTING RIGHTS:

When he signed the Voting Rights Act in 1965, President Lyndon Johnson announced, “Millions of Americans are denied the right to vote because of their color. This law will ensure them the right to vote. The wrong is one which no American, in his heart, can justify. The right is one which no American, true to our principles, can deny.”

The right to vote is the bedrock of our democracy. In June 2013, however, the Supreme Court invalidated a core provision of the Voting Rights Act in a case called *Shelby County v. Holder*. Prior to that ruling, certain states and localities with a history of voting discrimination were required to obtain federal review, or “preclearance,” before implementing any changes to their voting rules. As a result of the Court’s ruling, those states and localities are no longer required to seek preclearance before changing their voting rules and practices.

This disappointing decision eliminated one of the Justice Department’s most effective tools to combat discrimination in voting. But this setback has not tempered our resolve to ensure that every eligible citizen has access to the ballot box. In the words of Attorney General Eric Holder, the Justice Department “will not allow the Supreme Court’s recent decision to be interpreted as open season for states to pursue measures that suppress voting rights.”

The Department is committed to using the tools still available in the Voting Rights Act to prevent additional discrimination in voting laws. This includes Section 2 of the law, which allows the Justice Department to challenge practices that limit voting rights on the basis of race either intentionally or in effect. In the months after the *Shelby County* decision, the Civil Rights Division filed three Section 2 challenges, asking the courts in each case to subject the state to preclearance going forward:

Texas: In August, the Justice Department filed a lawsuit against the State of Texas to block the implementation of its highly restrictive photographic identification law for voting in person. At the same time, the Department also asked the court for permission to join another pending lawsuit in Texas to challenge the State’s 2011 redistricting plans for its Congressional delegation and its State House of Representatives. The Department’s complaints allege that the Voter ID law and the two redistricting plans are intentionally discriminatory and would deny Hispanics and African Americans an equal opportunity to vote.

Prior to the Supreme Court’s decision in *Shelby County v. Holder*, a federal court blocked the implementation of Texas’s voter ID law and the 2011 redistricting maps, concluding that they would have a discriminatory effect on Hispanic and African-American voters. But after the *Shelby County* decision, the Voting Rights Act no longer requires Texas to seek federal review before implementing changes to its voting laws, including the discriminatory photographic ID law and

redistricting maps, and the lower court, therefore, vacated its previous decisions. Because we believe the threat to the rights of minority voters in Texas remains, the Attorney General felt compelled to act.

North Carolina: In September, the Justice Department also filed a lawsuit against the State of North Carolina over voting changes made by House Bill 589, which was signed into law in August 2013. The North Carolina law includes troubling new restrictions, such as provisions that will significantly reduce early voting days; eliminate same-day registration during early voting; impose a restrictive photo identification requirement for in-person voting; and prohibit the counting of otherwise legitimate provisional ballots that are mistakenly cast in the right county but in the wrong precinct. The Justice Department expects to show that the clear and intended effects of these changes would contract the electorate and result in unequal access to participation in the political process on account of race. Allowing limits on voting rights that disproportionately exclude minority voters would be inconsistent with our ideals as a nation. And it would not be in keeping with the proud tradition of democracy that North Carolinians have built in recent years.

Existing statutes cannot completely replace the protections afforded by the portion of the Voting Rights Act that the Supreme Court struck down. As President Obama has noted repeatedly, it is the responsibility of Congress to pass legislation to fill the void left by the Supreme Court's ruling. But the Civil Rights Division remains committed to using all available tools to ensure that Americans across the country can cast a ballot free from discrimination.

PROTECTING THOSE WHO PROTECT US:

Servicemembers make tremendous sacrifices for our nation. When their duties call them far away from home, the Division stands ready to protect their rights. Over the past five years, the Division has done more civil rights work in more areas on behalf of servicemembers than ever before. Last year, the Civil Rights Division achieved significant victories in its efforts to ensure that our men and women in uniform have access to meaningful employment as they come home from war.

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

Forsyth County, North Carolina: In March 2013, the Division reached an agreement to vindicate the employment rights of an Army National Guard soldier. The soldier had worked as a deputy and sergeant deputy sheriff in Forsyth County since 1989 but was discharged without cause in 2010—less than a year after completing a one-year deployment to Iraq with the North Carolina Army National Guard. Under the agreement, the soldier was paid \$96,000 in lost wages and received an employment reference letter that accurately reflected the content of his

performance evaluations prior to his termination.

Jerome County, Idaho: In September 2013, the Division collaborated with the U.S. Attorney's Office for the District of Idaho to resolve the Department's lawsuit over the USERRA reemployment rights of an Army National Guard soldier. The soldier had worked as a deputy and corporal in the Jerome County Sheriff's office for years, but in 2009—while the soldier was recuperating from multiple knee injuries suffered while on active duty—the Sheriff's Office denied him his USERRA guaranteed right to reemployment accommodations and time to recuperate and eventually terminated his employment. Under the agreement, the soldier was paid \$150,000 which included \$75,000 in lost wages, and he received an employment reference letter that requested his return to the Idaho employment eligibility register.

EXPANDING ACCESS TO COURTS:

Access to state courts is critically important. Whether cases involve child custody, domestic violence, foreclosure, wage claims, or criminal prosecution, the stakes are too high in the courtroom context for parties or witnesses to be effectively excluded from participation because of their language ability, national origin, race, color, disability, or religion.

For People with Limited English Proficiency: Under Title VI of the Civil Rights Act, recipients of federal financial assistance—including state courts that receive funds from the Department of Justice—have an obligation to ensure that people with limited English skills can access the programs or services the recipients offer. From opening investigations to offering technical assistance, the Civil Rights Division's Courts Language Access Initiative works to ensure that those who cannot speak or understand English have access to justice. During fiscal year 2013, the Courts Language Access Initiative worked with the court systems in 17 states to ensure that individuals are not denied access to important court proceedings because of their national origin. In several instances, the Division was able to achieve voluntary compliance without resorting to a full investigation or enforcement action.

For Individuals Who Wear Religious Head Coverings: In 2013, the Division successfully resolved two complaints alleging that individuals who are Sikh were denied access to county court systems because of their religious headwear. Among other remedies, these counties now have nondiscrimination policies that prohibit religious discrimination, including discrimination against an individual because of religious head coverings.

ENSURING EFFECTIVE, ACCOUNTABLE POLICING:

In the Civil Rights Division, we have profound respect for officers who put their lives on the line every day to protect their communities. We know that the vast majority of police officers are law abiding and that effective, accountable policing is a core part of the fundamental infrastructure of democracy.

But we also know that if a law enforcement agency lacks the appropriate internal and external mechanisms of accountability, it cannot protect and serve effectively. The Division attempts to empower and assist law abiding officers by ensuring that those officers who abuse their authority are held accountable.

Puerto Rico Police Department: In 2011, after a three-year investigation, the Division found that the Puerto Rico Police Department (PRPD) engaged in a pattern or practice of using excessive force, unreasonable force designed to suppress protected speech, and unconstitutional searches and seizures. In 2013, the Division entered into a sweeping agreement with the Commonwealth of Puerto Rico and Governor Luis Fortuño to address these claims. This agreement outlines reforms intended to ensure that police services are delivered to the people of Puerto Rico in a manner that is effective, complies with the Constitution, and promotes the community's trust in PRPD.

PROTECTING WOMEN FROM SEXUAL ASSAULT AND HARASSMENT

Title IX of the Education Amendments of 1972 and Title IV of the Civil Rights Act of 1964 each prohibit sex discrimination—including sexual assault and sexual harassment—in education programs. Yet despite these legal protections, about one in five women is a survivor of attempted or completed sexual violence while in college.

Missoula, Montana: Last year, the Division and the U.S. Attorney's Office for the District of Montana completed a series of investigations stemming from allegations of sexual assault and sexual harassment at the University of Montana and in the greater Missoula community. These investigations included a review of the University's policies for handling sexual assault and harassment complaints as well as an investigation of allegations that two local police forces—the University Of Montana Office Of Public Safety and the Missoula Police Department—were systematically failing to protect women victims of sexual assault.

In May 2013, working with the Department of Education's Office for Civil Rights, the Division entered into a comprehensive agreement with the university to ensure that it responds swiftly and effectively to allegations of sexual assault and harassment by students. The Division also entered into agreements with both police forces to achieve reforms to ensure that police services are delivered in a nondiscriminatory fashion, that sex crimes are investigated, and that victims are treated fairly and with respect. These agreements quickly resulted in important improvements in the way sexual assault reports are handled and victims are treated. In light of its crucial role in the protection of sexual assault victims, an investigation against the Missoula County Attorney is continuing.



Protecting Individuals from Exploitation, Discrimination, and Violence

COMBATING HATE CRIMES:

The ability to live safely in one's community is the most basic civil right. Throughout a diverse nation like ours, we all must be able to live and work without fear of being attacked because of how we look, what we believe, where we come from, or who we love.

Enforcing the Shepard-Byrd Act: More than four years ago, President Barack Obama signed the Matthew Shepard and James Byrd Jr. Hate Crime Prevention Act. This landmark legislation, championed by the late Senator Edward Kennedy, greatly expanded the federal government's ability to prosecute hate crimes. The law expands the Justice Department's ability to prosecute crimes motivated by race, color, religion and national origin; it also empowers the department to prosecute crimes committed because of a person's sexual orientation, gender identity, gender or disability as hate crimes.

The Criminal Section of the Division and U.S. Attorney's Offices around the country have used this law to address the most serious hate crimes: last year, they brought 22 cases, convicting 23 defendants of federal hate crimes charges.

Los Angeles, California: For example, in fall of 2013, the Division and the U.S. Attorney's Office for the Central District of California brought federal hate crimes charges against two men associated with the Compton 155 street gang in California. These men attacked a 17-year-old African-American man who was walking down a street in the city of Compton—striking him in the head with a metal pipe—and pointed a gun at another African-American juvenile who was present. Both attackers admitted their actions were substantially motivated by race and color.

Atlanta, Georgia: Similarly, earlier last year, a Justice Department investigation and prosecution in response to the beating of an Atlanta man resulted in the first conviction in Georgia under the sexual orientation provision of the Shepard-Byrd Act. In this case, two men pleaded guilty to assaulting a 20-year-old gay man as he left a grocery store in Atlanta's Pittsburgh neighborhood. Video footage of the incident showed not only physical violence but also the use of anti-gay epithets. The defendants repeatedly punched and kicked the victim and hit him with a tire.

Improving Our Ability to Track Hate Crimes: In August 2012, a gunman opened fire at the Sikh Temple of Wisconsin in Oak Creek during worship, killing six congregants and wounding others, including a police officer responding to the shooting. At the time of the attack, the FBI's data collection system did not allow for the effective tracking of hate crimes committed against Sikhs or Hindus. Rather, the religion section of the FBI's Hate Crime Incident Report only contained the categories "anti-Jewish," "anti-Catholic," "anti-Protestant," "anti-Islamic," "anti-multiple religions, groups," "anti-atheism/agnosticism," and "anti-other religion, and there was no category for anti-Arab hate crimes.

In the wake of the attack, the Civil Rights Division and the Community Relations Service (CRS) brought together representatives from 22 religious and interfaith organizations to discuss data collection relating to religion-based attacks on individuals and places of worship. Following this meeting, the Division and CRS recommended that the Justice Department add anti-Sikh, anti-Hindu, and anti-Arab categories both to the coding sheets filled out by police following an attack and to the hate crime reports the FBI produces each year.

In summer 2013, one year after the attack in Oak Creek, the Justice Department announced it would expand the Hate Crime Incident Report to begin tracking crimes against Sikhs, Hindus, Arabs, Buddhists, Mormons, Jehovah's Witnesses, and Orthodox Christians, and to track hate crimes against Arab-Americans.

DEFENDING THE CONSTITUTIONALITY OF THE SHEPARD-BYRD ACT

In 2010, the Division secured guilty pleas from the first defendants ever charged under the Shepard-Byrd Act. This case involved the assault of a 22-year-old Native American man with a developmental disability. After taking advantage of the victim's developmental disability to get him to "consent" to their actions, the defendants defaced the victim's body with white supremacist symbols, shaving the victim's head to create a swastika and writing "KKK" and "White Power" in marker on his scalp and drawing obscene pictures on the victim's back while telling him that they were his "native pride feathers." One of the defendants also heated a wire hanger on a stove and used it to brand a swastika into the victim's arm. One of the attackers was sentenced to eight and half years in prison for his role in the attack; the other defendants were sentenced to 5 years and 14 months imprisonment.

In 2013, the Division's Appellate Section defended an appeal in this case which challenged the constitutionality of Section 249(a)(1) the Shepard-Byrd Act. The Division argued that Section 249(a)(1) is a valid exercise of Congress's power under Section 2 of the Thirteenth Amendment to enact legislation abolishing badges and incidents of slavery, and that race-based violence is an badge and incident of slavery. The court of appeals agreed, and affirmed the defendant's conviction.

PROSECUTING AND PREVENTING HUMAN TRAFFICKING:

Combating human trafficking is among the highest priorities for the Justice Department. Last year, the Division and U.S. Attorney's Offices brought 71 human trafficking cases, the most in their history. Fifty-three of these cases—a 55 percent increase over the previous year—involved sex trafficking. In cases such as *United States v. Fields* and *United States v. Alaboudi*, the Division convicted traffickers who preyed on vulnerable young women, using addictive drugs to manipulate and compel the victims to engage in sex for money. Over the course of the year, 90 individuals were convicted for crimes involving trafficking, the most in more than five years.

DEFENDING THE RIGHTS OF YOUTH IN THE JUVENILE JUSTICE SYSTEM:

The Division is acutely aware of the impact that the criminal justice system has on communities of color. It remains an inescapable fact that disparities at nearly every stage of the criminal process keep too many African Americans, Latinos and other minorities in poverty and deny them the opportunities that so many in the civil rights movement fought to achieve.

Shelby County, Tennessee: In Shelby County, a Division investigation found that the juvenile court systemically violated the Due Process rights of youth in delinquency proceedings, as well as the Equal Protection rights of African-American youth. At every critical inflection point, we found that African-American youth were statistically more likely than similarly situated whites to be driven deeper into the juvenile justice system. And there was a significantly higher risk for young black men to be removed to the adult system than their white peers.

In response to these findings, the Division entered into a comprehensive settlement to ensure that children in Shelby County will receive the full protections provided under our Constitution. This agreement has already led to significant improvements, including the hiring of a juvenile defender, and will help make Shelby County a model for juvenile courts across the country. Moreover, data collected from this settlement will help us better understand what interventions work to keep children in the community and out of detention.

PROTECTING THE RIGHTS OF INDIVIDUALS IN THE CRIMINAL JUSTICE SYSTEM:

Individuals confined in institutions are often among the most vulnerable in our society. The Division has long enforced laws protecting the civil rights of people who are incarcerated. This year, the Division completed two significant investigations to protect the rights of inmates with HIV and inmates with serious mental illness.

South Carolina: Science and longstanding experience have demonstrated that HIV alone is not a basis for segregation of prison inmates from the general prison population. Yet under policies implemented in the late 1990s, the South Carolina Department of Corrections (SCDC) segregated all inmates with HIV in two of SCDC's highest security prisons, regardless of the individual's security classification. As of September 2013, there were approximately 350 male and female inmates with HIV who were segregated in SCDC's highest security prisons solely on the basis of their HIV-positive status.

Even worse, inmates were required to wear clothing and badges that identified their dorms and thus effectively disclosed their HIV status to other inmates, correctional staff, and visitors. Further, because certain programs were not provided at the two highest security prisons, inmates with HIV were unable to participate in a variety of SCDC's programs, such as drug treatment, work release, pre-release preparation, intermediate psychiatric care and SCDC jobs that are available to other inmates without HIV.

The Division reached a consent decree requiring SCDC to revoke all policies that separate or segregate inmates with HIV, solely on the basis of HIV and regardless of security classification

status. Additionally, inmates with HIV who are currently housed in SCDC's two high security prisons will have an opportunity to choose new housing options based on the SCDC's classification system and without regard to HIV. The previously-segregated inmates will also be given priority access to the prison programs they had been denied.

Pennsylvania: Last year, the Civil Rights Division and the U.S. Attorney's Office for the Western District of Pennsylvania completed an investigation into the Pennsylvania State Correctional Institution at Cresson's use of solitary confinement on prisoners with serious mental illness. The findings: Cresson staff resorted to locking prisoners with serious mental illness in their cells for 22 to 23 hours a day for months or even years at a time. Prisoners with mental illness were disproportionately placed in solitary confinement, often because of their mental illness. The prison often denied these prisoners basic necessities and subjected them to harsh and punitive conditions, including excessive uses of force. And this misuse of solitary confinement on prisoners with serious mental illness led to serious harms, including mental decompensation, clinical depression, psychosis, self-mutilation, and suicide.

The Division found that this use of long-term and extreme forms of solitary confinement on prisoners with serious mental illness—many of whom also have intellectual disabilities—violates their rights under the Eighth Amendment to the U.S. Constitution and under the Americans with Disabilities Act.

While Cresson is now closed, many of the prison's problematic policies and practices may be indicative of what is occurring statewide. As a result, the Division expanded its investigation to include all prisons in the Pennsylvania Department of Corrections and intends to release a report on its findings in 2014.



Civil Rights: The Unfinished Business of America

Fifty years have passed since the height of the American Civil Rights Movement: 50 years since the March on Washington, since Dr. King’s “I Have a Dream” speech, since the passage of the Civil Rights Act of 1964, and nearly 50 years since the passage of the Voting Rights Act. As a nation, we have undeniably come a long way—many of the rights for which so many civil rights pioneers fought, bled, and even gave their lives are now guaranteed by law. And we have seen tremendous movement not only legally but also in public attitudes and acceptance.

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

As we contemplate a half-century of progress—and look to the work that remains— the Civil Rights Division continues to play a critical role in combating discrimination. Over the past five years, we have worked vigilantly to restore and transform the Division to carry out this critical task. Going forward, we will continue to ensure that the Division stands ready to protect, defend, and advance civil rights in our nation.



