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United States General Accounting Office
Washington, D.C. 20548

General Government Division

B-281670

March 30, 2000

The Honorable Charles T. Canady
Chairman, Subcommittee on the Constitution
Committee on the Judiciary
House of Representatives

Subject: Civil Rights Division: Fiscal Year 2000 Annual Performance Plan Could Be Improved

Dear Mr. Chairman:

The Department of Justice's (Justice) Civil Rights Division (which uses the abbreviation CRT) is the chief civil rights enforcement agency of the federal government. You requested that we examine several issues regarding CRT's management of its responsibilities. Earlier, we reported on CRT's policies and procedures for establishing litigation priorities, tracking and managing casework, and disseminating litigation results.¹ This letter provides information on the extent to which CRT's fiscal year 2000 annual performance plan has provided a clear picture of intended performance across the division. Specifically, we reviewed CRT's fiscal year 2000 annual performance plan to determine the extent to which the plan had met Government Performance and Results Act (GPRA) requirements and related guidance to (1) define expected performance, (2) address the crosscutting nature of its programs, and (3) provide confidence that its performance information was credible.

Results in Brief

CRT's fiscal year 2000 performance plan was the result of CRT's evolving efforts to implement GPRA requirements and meet congressional expectations for information about CRT's performance goals and measures. Specifically, CRT's plan included nine goals that, in some cases, cut across CRT's organizational components (called sections). The plan also included 268 performance measures that were developed by CRT's 10 program-related sections.²

¹ Civil Rights Division: Policies and Procedures for Establishing Litigation Priorities, Tracking and Managing Casework, and Disseminating Litigation Results (GAO/GGD-00-58R, Feb. 17, 2000).

² These sections include the following: (1) Appellate, (2) Coordination and Review, (3) Criminal, (4) Disability Rights, (5) Educational Opportunities, (6) Employment Litigation, (7) Housing and Civil Enforcement, (8) Office of Special Counsel for

However, CRT's plan could be improved to meet the criteria set forth in GPRA and related guidance by using more results-oriented and quantifiable goals and measures to better reflect expected performance. For the most part, the plan addressed whether CRT would complete a set of actions (e.g., the number of pattern or practice cases,³ but not necessarily whether those actions would be expected to affect CRT's desired end results (e.g., the impact of pattern or practice cases on home mortgage lending). In addition, CRT's plan did not establish a clear link between its performance goals and the measures that will be used to show progress toward achieving those goals. According to CRT officials, CRT developed its goals independent of the performance measures for each section. This may have contributed to the unclear linkages between the plan's goals and the performance measures listed for each section.

CRT's plan addressed crosscutting efforts by developing goals that recognized its coordination with other entities that have related strategic or performance goals, such as working with the Federal Bureau of Investigation (FBI) and the Executive Office for U.S. Attorneys to implement a coordinated plan to improve the federal response to hate crimes. However, the usefulness of the plan would be enhanced with a fuller description of how each of these agencies had mutually reinforcing strategies or whether common performance measures had been established.

We also believe that additional details on CRT's efforts to verify and validate performance information would help show Congress and other stakeholders that the data used to measure the intended performance or results are credible. CRT's performance plan did not fully describe the procedures that would be used to verify and validate its performance, noting only that information was supplied by each CRT section and verified and validated by section managers. In addition, the plan identified several sources for its performance data, including its existing case management system and its efforts to implement a new system. CRT expected that the new system would, among other things, help CRT monitor performance measures to meet GPRA requirements. In a recent report to this Subcommittee,⁴ we discussed some of the problems with CRT's current system and its efforts to implement the new system. In the report, we identified some concerns about whether the new system, as designed, would enable CRT to assess performance under GPRA.

Background

GPRA seeks to improve the effectiveness, efficiency, and accountability of federal programs by establishing a system under which agencies set goals for program performance and measure their results in achieving those goals. Congress passed GPRA because it found that a lack of precise goals and performance information on federal program results had hindered

Immigration-Related Unfair Employment Practices, (9) Special Litigation, and (10) Voting. Except for the Coordination and Review section, which provides technical assistance to federal agencies, all nine CRT sections perform litigation responsibilities.

³ According to CRT, a pattern or practice case is generally defined as a lawsuit that attacks a systemic practice of discrimination and not a single act against a person or persons.

⁴ GAO/GGD-00-58R.

federal managers from improving program effectiveness and efficiency. It also found the same lack of clear goals and information on results had hindered congressional policymaking, spending decisions, and oversight.

GPRA also requires executive agencies to prepare annual performance plans that provide decisionmakers with information on the results expected to be achieved within their requested budgets. The purpose is to reinforce the connection between the long-term strategic goals outlined in agencies' strategic plans and the day-to-day activities of their program managers and staff. In doing so, the annual performance plans provide a basis for establishing accountability for results by comparing actual results with performance goals.

Among other things, GPRA requires that annual performance plans define expected performance by (1) establishing performance goals that define the level of performance to be achieved; (2) expressing the performance goals in an objective, quantifiable, and measurable form; and (3) establishing performance measures to be used in assessing progress toward achieving those goals. Thus, goals define a target level of performance against which actual achievement can be compared, while performance measures show how progress toward those targets could be tracked. Such measures may include outputs (e.g., lawsuits filed or arrests made) or outcomes (e.g., ensuring that no eligible voter is denied the right to vote or reducing burglaries by 30 percent).

In addition, GPRA seeks to ensure that goals that crosscut multiple federal programs are consistent; strategies are mutually reinforcing; and, as appropriate, progress is assessed through the use of common performance measures. Further, GPRA calls for agency annual performance plans to describe credible procedures to verify and validate performance information and to identify significant data limitations and their implications for assessing the achievement of performance goals.

As part of its fiscal year 2000 budget justification, CRT submitted to Congress a performance plan for fiscal year 2000. It is the second performance plan that CRT has submitted under GPRA.

Scope and Methodology

To meet our objectives, we focused our analysis on CRT's fiscal year 2000 annual performance plan and compared the plan with GPRA requirements and related guidance for the development of agency annual performance plans. Specifically, we reviewed the provisions of GPRA, Office of Management and Budget (OMB) guidance on preparing strategic and performance plans (OMB Circular A-11, Part 2), and Justice's guidance to its components for preparing their annual performance plans. We reviewed CRT's budget justification for fiscal year 2000, which contained its annual performance plan, and Justice's fiscal years 1997 through 2002 strategic plan. We discussed the development and content of the plan with cognizant officials from CRT and Justice's Management Division in Washington, D.C. In addition, to obtain a more thorough and practical understanding of CRT's performance plan, we discussed the plan with a performance measurement expert from the Urban Institute, who worked as a consultant to assist Justice and its components, including CRT, to develop performance measures. In addition, we used our guidance on assessing

agency performance plans to assess the overall quality and usefulness of CRT's plan.⁵ We performed our work in Washington, D.C., from November 1999 through January 2000 in accordance with generally accepted government auditing standards.

Defining Expected Performance

GPRA requires that the annual performance plan provide a basis for an agency to compare actual results with its performance goals. To do this, the agency is to set goals and develop appropriate performance measures and show how it will use them to assess performance across the agency. CRT developed an annual performance plan for fiscal year 2000 that included performance goals and measures. We believe that the plan could be improved by establishing more results-oriented and quantifiable performance goals and measures and by providing a closer link between CRT's division goals and its organizational component measures.

CRT essentially organized its performance plan into two sections. The first section presented nine broad division-level goal⁶ statements organized around the division's ongoing priorities. Eight of the nine goal statements also included an associated "expected measure of success."⁷ Essentially, each of these expected measures of success was a performance measure for the broad goal with which it was associated. The second section of the plan consisted of performance measures specific to each of CRT's 10 program-related sections. Specifically, the plan contained performance measurement tables for each section that included measures such as inputs, outputs, outcomes, and efficiency and productivity information.⁸ According to Justice GPRA guidance, these tables were to provide (1) information on the major activities of the section that could be supported by empirical data and (2) a way to measure progress toward the division's goals and overall mission along key program dimensions.

Performance Plan Division Goals and Measures

Based on our review, the goals and measures in CRT's plan appeared to be weighted toward measuring the quantity of completed activities, rather than the outcome or results of such activities. Specifically, the plan established goals and measures that addressed the daily activities of CRT's sections (e.g., the number of pattern or practice cases filed), but did not necessarily address the intended results of these efforts. For example, one of CRT's goals was to increase attention to pattern or practice cases in fair housing, lending, employment discrimination, disability, and police misconduct. This goal cut across several CRT sections, including housing, employment, disability rights, and special litigation. The associated expected measure of success for this goal was an increase in the percentage of pattern or

⁵ See Agencies' Annual Performance Plans Under the Results Act: An Assessment Guide to Facilitate Congressional Decisionmaking (GAO/GGD/AIMD-10.1.18, Feb. 1998) and The Results Act: An Evaluator's Guide to Assessing Agency Annual Performance Plans (GAO/GGD-10.1.20, Apr. 1998).

⁶ In the performance plan, CRT classifies these goals as "priorities," while still referring to them as goals.

⁷ Enclosure I lists the goals along with their expected measures of success as contained in CRT's performance plan.

⁸ See enclosure III for a description of these measures.

practice cases. The number of such cases initiated is useful information, but the plan does not address the desired impact of pattern or practice cases. Similarly, another CRT goal was to devote increased attention to coordinating and strengthening relations with civil rights operations of other federal departments and agencies. The associated expected measure of success was an increase in the number of matters referred to and from the other departments and agencies.⁹ However, the plan did not clearly define how an increase in referrals is a measure of increased coordination and strengthened relations.

In addition, CRT's goals were not always expressed in as measurable a form as they could be. For example, one of CRT's division goals was to devote increased attention to the enforcement of the Voting Rights Act. Its associated expected measure of success was "being able to address the huge influx of Voting Rights Act (section 5) electoral redistricting plans¹⁰ within the 60-day statutory deadlines." However, the plan does not clearly define what it means by "being able to address" these redistricting plans or how CRT proposes to measure whether the reviews are meeting their intended purpose of ensuring that districts are drawn in conformance with applicable statutory and judicial requirements.

Furthermore, it was not clear how CRT's goals and measures related to those stated in Justice's current strategic plan. For example, in support of Justice's overall goal to protect the civil rights of all Americans, the strategic plan contained a strategy to emphasize pattern or practice cases. As a performance indicator for this strategy, the plan pointed to the impact of pattern or practice cases initiated. However, as previously noted, CRT's stated performance goal to increase attention to pattern or practice cases would be measured on the basis of an increased percentage of pattern or practice cases, and not their impact as indicated in Justice's strategic plan.

We recognize that CRT, along with other agencies and components, is in the early years of undertaking the changes brought about under GPRA. We expect that over time, however, CRT will gain experience in being able to refine and expand its outcome-oriented goals and performance measures, providing policymakers with a better basis on which to judge whether CRT is making meaningful progress toward its overall desired outcomes.

Relationship of CRT division goals to CRT section measures

The development of CRT's plan did not allow for an integrated presentation of its performance goals and measures or a clear discussion of how the division goals were linked to each of the sections' measures. As previously noted, CRT's plan included nine goals that, in some cases, crossed organizational lines within CRT. The plan also contained a separate section that included performance measurement information for each of CRT's 10 program-

⁹ A matter is defined as an activity that has been assigned an identification number for tracking and reporting purposes but has not resulted in the filing of a complaint, indictment, or information. A case is defined as an activity that has been assigned an identification number for tracking and reporting purposes that has resulted in the filing of a complaint, indictment, or information.

¹⁰ As one of its functions, the Voting section reviews thousands of voting changes submitted to the Attorney General each year under section 5 of the Voting Rights Act.

related organizational components (i.e., sections)—not each CRT goal. This information provided detailed performance measures for each section’s performance. However, the plan did not clearly relate these organizational performance measures to the plan’s stated goals.

Justice and OMB allow agencies and organizational components some flexibility in how they present performance information. As provided for in Justice’s Results Act guidance, CRT’s sections included a range of measures in their measurement tables, such as inputs, outputs, intermediate and end outcomes, and efficiency and productivity information. For the 10 sections combined, CRT’s plan contained 268 performance measures. Of those, the plan categorized 30 as inputs, 113 as outputs, 114 as outcomes, and 11 as efficiency and productivity measures. We observed that CRT’s outcome measures, which included intermediate and end outcomes, reflected a range of quantifiable program outcomes.¹¹ For example, many outcome measures focused on case dispositions or litigating results, such as the number of pending matters, number of cases defended successfully, number of consent decrees, or other judgments. Some outcome measures reflected measures of timeliness, such as the percentage of “clearinghouse”¹² complaint referrals and citizen correspondence responses completed within 30 days or the percentage of investigations completed within 12 months of referral. Still others measured compliance activity, such as the number of institutions that instituted new policies as a result of enforcing the Civil Rights of Institutionalized Persons Act (CRIPA)¹³ or the numbers of persons at reduced risk of harm in mental institutions or nursing homes as a result of CRIPA enforcement.

However, the plan was not clear in discussing which measures corresponded to which goals. For example, one of CRT’s goals was to substantially increase attention to misconduct by law enforcement officials. The associated measure of success was the number of matters reviewed and the number of matters acted upon. However, it was not clear which sections’ performance measures would support this goal. Without this linkage, it was difficult to determine which of the sections this goal corresponded to; what performance was expected; and how the appropriate sections would determine the progress they had made toward achieving their program goals and, in turn, Justice’s strategic goals.

According to CRT officials, CRT developed its goals independent of the sections’ measures. This may have contributed to the unclear linkages between the plan’s goals and the performance measures listed for each section. We believe that CRT’s future plans could be enhanced by more clearly integrating CRT’s division-level goals and objectives with the sections’ performance measures.

¹¹ Enclosure II provides detailed information on each of these outcome measures by section.

¹² Clearinghouse refers to the complaints that the Coordination and Review section receives and refers to other federal agencies that have jurisdiction to investigate the allegations.

¹³ Among other things, the Special Litigation section is responsible for enforcing CRIPA, which authorizes the Attorney General to investigate conditions of confinement at certain state and local institutions and, where the Attorney General has reason to believe that persons confined at these facilities are being deprived of their constitutional or federal statutory rights, to initiate civil suits to ensure the protection and full enjoyment of those rights. The act covers jails, prisons, and juvenile facilities, as well as institutions for the mentally ill, disabled, retarded, chronically ill, or handicapped.

Addressing Crosscutting Efforts

GPRA seeks to ensure that crosscutting goals of federal programs are consistent; strategies are mutually reinforcing; and, as appropriate, progress is assessed through the use of common performance measures. By accomplishing these goals, agencies could avoid wasting scarce resources and maximize the overall effectiveness of federal efforts. OMB guidance requires that performance plans identify those performance goals that are being mutually undertaken with other federal agencies in support of programs or activities of a crosscutting nature.¹⁴ It encourages agencies to go beyond coordination and develop common performance goals and measures for related programs. CRT's plan recognized the need to address crosscutting efforts consistent with GPRA. However, the plan would be enhanced with a fuller discussion of how CRT's and other agencies' and components' strategies were mutually reinforcing or whether common performance measures would be established.

As a major litigating component, CRT must work with other federal agencies that have civil rights enforcement responsibilities to enforce federal discrimination statutes.¹⁵ CRT also works with other components of Justice, such as the FBI and U.S. Attorney Offices, as well as state attorneys general offices, in investigating and litigating civil rights cases. As such, CRT's plan included several goals that addressed crosscutting efforts with other agencies having related strategic or performance goals. For example, CRT's stated goal of increasing attention to hate crime cases had included working with the FBI and the Executive Office for U.S. Attorneys to implement a coordinated plan to improve the federal response to such crimes. The associated expected measure of success for this goal was an increase in the number of investigations and prosecutions of hate crimes and cooperative efforts made with U.S. Attorney offices, state attorneys general, and local prosecutors. However, the plan did not describe how the strategies of these components and agencies were mutually reinforcing or whether common measures would be established.

Similarly, CRT's plan included a goal to continue to pursue alleged violations and defend against challenges to existing civil rights laws and programs. The expected measure of success for this goal was the number of challenged laws and programs defended successfully. In relation to this goal, the plan noted that CRT would continue to work with the U.S. Attorneys in the prosecution of police misconduct cases and with state attorneys general in the enforcement of the Freedom of Access to Clinic Entrances Act (FACE). However, while the plan addressed coordination, it did not clearly explain how the strategies of these components and agencies were mutually reinforcing or whether common measures would be established.

¹⁴ OMB Circular A-11 guidance states that, at a minimum, the performance plan should indicate those programs or activities that are being undertaken with other agencies to achieve a common purpose or objective. An agency should also review the performance goals of other agencies participating with it in a crosscutting program or activity to ensure that those goals and measures are consistent with and harmonious.

¹⁵ Federal agencies with civil rights enforcement responsibilities include the Equal Employment Opportunity Commission (EEOC), the Department of Housing and Urban Development (HUD), the Department of Education (DOE), the Department of Labor, and the Department of Health and Human Services (HHS).

CRT's plan provided a more explicit discussion of its intended coordination with DOE and HHS. For example, the plan contained a goal to promote coordination with these agencies to avoid duplication and overlap. The expected measure of success associated with this goal would be an increase in the number of interagency cooperative agreements obtained and the number of training sessions provided to other agencies. The plan provided several means to achieve this goal, such as developing delegation agreements, holding meetings of advisory groups, operating a governmentwide clearinghouse to refer discrimination complaints to the appropriate funding agencies, and referring matters of a criminal nature to the Criminal section for possible prosecution. However, the plan did not clearly indicate that CRT coordinated with DOE and HHS in setting its goal or associated measures.

Credibility of Performance Information

GPRA requires performance plans to describe the procedures an agency will use to verify and validate its performance measures. These descriptions should also identify any significant data limitations and discuss the impact they may have on the credibility of performance information. CRT's performance plan did not fully describe the procedures for verifying and validating performance data or discuss the ramifications of known data limitations.

We have previously reported that the usefulness of performance data ultimately depends on the degree of confidence that users have in that data. We reported that more informative plans provide decisionmakers with confidence in the agency's ability to report on its performance goals and measures by identifying existing internal and external data sources.¹⁶ While CRT's plan indicated data sources for its performance measures, the plan did not provide confidence that its performance information would be credible. For example, the plan indicated its sources for the performance measures, which included case management and correspondence tracking systems, section docket records, and section files, noting only that the information supplied by each section was verified and validated by section managers. However, in a February 2000 report to this Subcommittee,¹⁷ we discussed some of the limitations of CRT's current case management system, including its instability and unreliability. Furthermore, CRT has indicated that the system's lack of flexibility and user friendliness has hindered CRT's ability to consistently check the accuracy and completeness of data in the system.

Recognizing that it has some current data limitations, CRT's performance plan briefly noted that CRT is in the process of implementing a new case management system to replace its current case management and related auxiliary systems. In our February 2000 report to this Subcommittee,¹⁸ we discussed CRT's plans to replace its current case management system with a new interactive case management system (ICM). We stated in that report that CRT expected the new system, not yet fully operational, to help CRT monitor performance

¹⁶ See *Agency Performance Plans: Examples of Practices That Can Improve Usefulness to Decisionmakers* (GAO/GGD/AIMD-99-69, Feb. 26, 1999).

¹⁷ See GAO/GGD-00-58R.

¹⁸ See GAO/GGD-00-58R.

measures to meet the requirements of GPRA. We also stated, however, that we had some concerns about whether the ICM, as designed, would enable CRT to report cost-based performance measures. Thus, it remains to be seen whether CRT's new ICM system will have the capability to capture information needed to measure performance under GPRA.

Agency Comments and Our Evaluation

In a letter dated March 9, 2000, signed by the Acting Assistant Attorney General for the Civil Rights Division, CRT provided comments on the contents of this letter. These comments are included in enclosure IV. In general, CRT agreed with our observations, stating that its performance plan could be enhanced by including more results-oriented and quantifiable performance goals and measures, and that it will seek to achieve greater progress in this area. CRT also stated that, as part of its fiscal year 2002 budget development, it will take steps to better integrate the divisionwide goals and measures with the sections' measures and provide a fuller description of CRT's crosscutting activities with other agencies.

With respect to the credibility of its performance measures, CRT stated that it is in the process of implementing adjustments to its data verification and validation procedures and expects that the fiscal year 2002 performance plan will include a more detailed discussion of these data issues. CRT also stated that it is confident that the new ICM will enable CRT to meet GPRA requirements by producing reliable statistics and that CRT will have the capability to provide estimates for cost-based performance measures using a combination of the ICM, Justice's accounting system, and CRT databases.

However, as we noted in our February 2000 report to this Subcommittee, the ICM is not yet fully operational and the design of one of its features—the time-reporting module—could limit the collection of certain information needed to assess performance under GPRA. Specifically, we stated that the module, as designed, would not capture information on subcategories of case-related hours, such as the hours spent on settlement negotiations. In that report, we noted that agency officials told us that the time-reporting module had not been finalized and that they would consider the issues we raised. From our perspective, the final design of the time-reporting module will affect CRT's ability to measure performance and estimate costs. Thus, it remains to be seen whether the ICM will have the capability of capturing information needed to measure performance under GPRA.

B-281670

As arranged with the Subcommittee, we plan no further distribution of this letter until 15 days after the date of this letter. We will then send copies to Representative Melvin L. Watt, Ranking Minority Member, Subcommittee on the Constitution; and Senator John Ashcraft, Chairman, and Senator Russell D. Feingold, Ranking Minority Member, Senate Subcommittee on the Constitution, Federalism, and Property Rights. We will also send copies to the Honorable Janet Reno, Attorney General; and to Mr. Bill Lann Lee, Acting Assistant Attorney General, Civil Rights Division. We will also make copies available to others on request.

Please contact Mr. William Jenkins or me on 512-8777 if you or your staff have any questions.

Sincerely yours,

A handwritten signature in black ink that reads "Laurie E. Ekstrand". The signature is written in a cursive style with a large, sweeping initial "L".

Laurie E. Ekstrand
Director, Administration of Justice Issues
General Government Division

Enclosures - 4

CRT Fiscal Year 2000 Annual Performance Plan Goals and Expected Measures of Success

Goal:

Increase attention to hate crime cases, working with the FBI and the Executive Office for U.S. Attorneys to implement a coordinated plan to improve the federal response to hate crimes.

Expected measure of success

Increased number of investigations and prosecutions of hate crimes and cooperative efforts made with U.S. Attorney offices, state attorneys general, and local prosecutors.

Goal:

Request of additional resources to substantially increase attention to misconduct by law enforcement officials. CRT will coordinate efforts to use its legal authority to prosecute criminal violations, take action against patterns or practices of misconduct, and use the laws that prohibit discrimination by recipients of federal financial assistance.

Expected measure of success

Number of matters reviewed and number of matters acted upon.

Goal:

Increase attention to pattern or practice cases in fair housing, lending, employment discrimination, disability, and police misconduct matters.

Expected measure of success

Increased percentage of pattern or practice cases.

Goal:

Continue to pursue alleged violations and defend against challenges to existing civil rights laws and programs.

Expected measure of success

Number of challenged laws and programs defended successfully.

Goal:

Increase attention to coordinating and strengthening relations with civil rights operations of other federal agencies and departments.

Expected measure of success

Increased number of matters referred to and from the other departments and agencies.

Goal:

Increase attention to enforcement of the Voting Rights Act during fiscal year 2000 and continuing through fiscal year 2003. This will further the goals of the Attorney General's Strategic Plan, under which increased compliance with civil rights laws in the area of voting is a priority.

Expected measure of success

Be able to address the huge influx of Voting Rights Act electoral redistricting plans within the 60-day deadline. Pursuant to Section 5, CRT will conduct administrative reviews of approximately 3,000 redistricting plans expected to be received from fiscal years 2000 through 2003.

Goal:

Increase attention to fair housing cases, involving actively the U.S. Attorneys and state attorneys general.

Expected measure of success

Increased percentage of joint or cooperative investigations undertaken.

Goal:

Provide and expand activities aimed at providing public education, outreach, and technical assistance to the public.

Expected measure of success

None noted.

Goal:

Increase attention to promoting cooperation with the Departments of Education and Health and Human Services to avoid duplication and overlap.

Expected measure of success

Increased number of interagency cooperative agreements obtained and the number of training sessions provided to other agencies.

CRT Fiscal Year 2000 Annual Performance Plan Measures by CRT Section

The following table provides a summary, by CRT section, of annual performance plan outcome measures, including intermediate and end outcomes, as indicated in CRT's performance plan.

Table II: Annual Performance Plan Outcome Measures by CRT Section

| CRT section | Intermediate outcomes | End outcomes |
|--------------------|--|---|
| Appellate | <ul style="list-style-type: none"> • Supreme Court certiorari granted^a • Supreme Court stay granted^b • Court of Appeals rehearing granted^c • Court of Appeals stay granted | <ul style="list-style-type: none"> • Number of Supreme Court merits decisions • Number of cases won (full or partial success) • Success rate (percentage) • Number of Court of Appeals merits decisions • Number of cases won (full or partial success) • Success rate (percentage) • Number of Supreme Court nonmerits decisions • Number of Court of Appeals nonmerits decisions • Number of HUD judgments enforced |
| Criminal | <ul style="list-style-type: none"> • Number of pending matters • Number of pending grand juries | <ul style="list-style-type: none"> • No end outcomes provided |
| Special Litigation | <ul style="list-style-type: none"> • Number of Civil Rights of Institutionalized Persons Act (CRIPA) consent decrees/settlement agreements entered • Percentage of facilities under CRIPA suit for which consent decrees, settlement agreements, court orders, or preliminary injunctions have been achieved • Number of Freedom of Access to Clinic Entrances Act of 1994 (FACE) preliminary injunctions won • Number of institutions that instituted new policies as a result of CRIPA enforcement • Number of new facilities constructed as a result of CRIPA enforcement • Number of facilities that increased staff resources due to opening of CRIPA investigations or filing of a complaint • Percentage of total active consent decrees, settlement agreements, and court orders achieving partial compliance | <ul style="list-style-type: none"> • Number of consent decrees, settlement agreements, permanent injunctions or court orders obtained for: <ul style="list-style-type: none"> -- CRIPA -- FACE -- police misconduct • Percentage of cases favorably resolved in whole or in substantial part by consent decree, settlement agreement, preliminary injunction, or court order • Number of persons at reduced risk of harm as a result of CRIPA enforcement for: <ul style="list-style-type: none"> -- prisons -- jails -- mental health -- mental retardation -- juvenile detention -- nursing/chronic care • Number of consent decrees/settlement agreements terminated • Number of investigated facilities closed • Number of cases/investigations closures due to voluntary compliance |

Enclosure II
CRT Fiscal Year 2000 Annual Performance Plan Measures by CRT Section

| CRT section | Intermediate outcomes | End outcomes |
|-------------------------------|--|---|
| Voting | No intermediate outcomes provided | <ul style="list-style-type: none"> • Number of complex cases successfully litigated^d • Number of complex cases unsuccessfully litigated • Percent successfully litigated • Number of standard cases successfully litigated • Number of standard cases unsuccessfully litigated • Percent successfully litigated • Number of Section 5 submissions objected to • Number of voting changes blocked • Number of Section 5 submissions precleared • Number of voting changes legalized |
| Employment Litigation | <ul style="list-style-type: none"> • Percentage of pattern or practice investigations that led to lawsuits • Percentage of right to sue letters issued within 30 days of receipt of charge from the EEOC. • Percentage of EEOC referrals for which a supplemental investigation was conducted • Percentage of investigations based on EEOC referrals completed within 12 months of referral • Percentage of EEOC investigated referrals that led to a lawsuit | <ul style="list-style-type: none"> • Number of consent decrees and out of court settlements obtained • Number of court orders (other than consent decrees) obtained • Monetary relief obtained for victims of discrimination • Number of court orders dissolved • Number of victims receiving monetary relief • Number of victims receiving job relief • Percentage of lawsuits resolved by entry of a favorable court order • Percentage of authorized suits settled without trial |
| Coordination and Review | <ul style="list-style-type: none"> • Percentage of technical assistance and legal and policy requests fulfilled • Percentage of "clearinghouse" complaint referrals and responses to citizen correspondence completed within 30 days • Percentage of open complaint investigations closed | <ul style="list-style-type: none"> • Number of federal agency personnel trained to more effectively enforce civil rights statutes • Number of beneficiaries, recipients, etc., informed of their rights |
| Housing and Civil Enforcement | No intermediate outcomes provided | <ul style="list-style-type: none"> • Number of case resolutions • Total number of HUD nondiscretionary case resolutions: <ul style="list-style-type: none"> -- number of consent decrees and other settlements in election cases -- number of trials in election cases -- number of other litigated judgments • Total number of pattern or practice case resolutions: <ul style="list-style-type: none"> -- number of consent decrees or other settlements -- number of trials -- number of other litigated judgments • Total number of Amicus Curiae case resolutions • Total monetary relief (in millions) <ul style="list-style-type: none"> -- HUD election cases -- pattern or practice/zoning cases |

Enclosure II
CRT Fiscal Year 2000 Annual Performance Plan Measures by CRT Section

| CRT section | Intermediate outcomes | End outcomes |
|--------------------------------------|--|---|
| Educational Opportunities Litigation | <ul style="list-style-type: none"> • Number of Compliance Review Project enforcement activities initiated • Number of Compliance Review Project administratively closed • Number of favorable court-ordered decisions in district court • Number of consent decrees entered • Number of trials/evidentiary hearings • Number of matters closed • Number of cases pending at the end of year | <ul style="list-style-type: none"> • Number of cases declared unitary and/or dismissed <ul style="list-style-type: none"> -- number of school districts involved -- number of universities/colleges involved • Number of cases (partial unitary obtained) <ul style="list-style-type: none"> -- number of school districts involved • Number of school districts affected by favorable judgments/consent decrees/agreements • Number of outreach activities (workshops, conferences conducted and/or participated in to educate the public on the work of the section and school desegregation laws) |
| Disability Rights | <ul style="list-style-type: none"> • No intermediate outcomes provided | <ul style="list-style-type: none"> • Number of favorable court rulings • Number of consent decrees • Number of formal settlements • Number of informal settlements • Number of successful mediations • Title III civil penalties (in dollars) • Money paid to individuals and entities • Number of facilities or programs affected • Number of final certification decisions • Number of final regulations issued • Number of people receiving technical assistance |
| Office of Special Counsel | <ul style="list-style-type: none"> • Number of settlements of charges • Number of settlements of independent investigations • Number of cases litigated • Number of charges resolved within 120 days | <ul style="list-style-type: none"> • Amount of back pay obtained from workers (in thousands of dollars) • Number of workers who received back pay • Amount of civil penalties assessed (in thousands of dollars) • Number of employers fined • Number of workers hired/reinstated • Number of telephone interventions - individual • Number of telephone interventions - pattern or practice • Number of favorable decisions - Administrative Law Judge • Number of favorable decisions - Appeal |

^aAccording to CRT, certiorari refers to a means of obtaining review by the Supreme Court.

^bAccording to CRT, stay refers to a postponement by the court of the right of the winning party to enforce its judgment.

^cAccording to CRT, a rehearing refers to a reconsideration of the issues by the same court.

^dAccording to CRT, cases are classified complex by supervising attorneys based on the legal and factual issues involved. Cases are classified as successfully litigated by supervising attorneys when a consent decree is filed with the complaint, when a court grants the relief that CRT sought, or when CRT accomplishes the objectives of the litigation.

Source: CRT fiscal year 2000 performance plan.

Comments From the Civil Rights Division



U. S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

MAR 9 2000

Ms. Laurie E. Ekstrand
Issue Area Director
Administration of Justice Issues
General Government Division
United States General Accounting Office
Washington, DC 20548

Dear Ms. Ekstrand:

Thank you for your February 24, 2000 letter to us in which you enclosed a draft letter regarding the General Accounting Office's (GAO) review of the Civil Rights Division's FY 2000 Annual Performance Plan. We herein provide the comments you invited from us.

As suggested on page 10 of your draft memorandum, GPRA implementation has truly been an iterative process. Developing more outcome-oriented goals has not only been a challenge for the Civil Rights Division, but for the Department of Justice as a whole. Effectively measuring performance in law enforcement is particularly complex as the nature of law enforcement does not easily lend itself to the development of such measures. We agree that our plan could be enhanced by including more results-oriented and quantifiable performance goals and measures and, as indicated in your draft memorandum, over time we will seek to achieve greater progress in this area.

As part of our FY 2002 budget development process we will take steps to better integrate our performance plan documents (the division-wide goals and measures and the CRT section performance indicators) and to enhance the discussion of crosscutting activities. While the two pieces of our plan are currently mutually supportive, we will more clearly state the direct connection between the division-wide goals and measures

Now on p. 5.

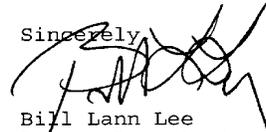
Enclosure III
Comments From the Civil Rights Division

and the section performance indicators. In addition, we will provide a fuller description of the Division's crosscutting activities with other agencies.

Finally, with regard to the Division's data verification and validation procedures and its data limitations we are in the process of implementing adjustments. To this end, CRT's FY 2001 plan has begun to address these issues and we anticipate that the FY 2002 plan will include an even more detailed discussion of the Division's data issues. We are confident that the implementation of our new Interactive Case Management (ICM) system will allow the Division to produce reliable statistics thereby enabling us to meet the requirements of GPRA. However, as you know, the ICM¹ is not designed to capture cost-based² performance information. It is designed to report data about our law enforcement activities across all Division levels. Given the functionality of ICM, the Department's accounting system, and our databases, we believe that we will have the ability to provide estimates for cost-based performance measures.

If you have any questions, please call Mr. Jim Angus at (202) 305-1119.

Sincerely,



Bill Lann Lee
Acting Assistant
Attorney General
Civil Rights Division

¹ ICM will have three key components: access to case and matter information, correspondence tracking, and a time reporting module.

² Our accounting system is maintained by the Department's Justice Management Division for use by several DOJ components, including the Department's Offices, Boards, Divisions, United States Attorneys Offices, and the Federal Bureau of Prisons.

Glossary of Performance Measurement Terms

| | |
|------------------------------------|--|
| Efficiency and Productivity | These terms, as defined by Justice for purposes of guidance on GPRA, describe ratios of inputs and outputs or outcomes. They are essentially equivalent, differing only in the way in which the ratio is expressed. |
| Input | Inputs, as defined by Justice for purposes of guidance on GPRA, means the resources used in producing an output or outcome. Inputs are usually expressed as an amount of dollars or staff, such as hours or Full Time Equivalents. |
| Outcome | Outcomes, as defined by Justice for purposes of GPRA, means an event, occurrence, or condition that indicates progress toward achievement of the mission of the program. Outcomes can be measured in terms of the extent to which they are achieved, or they can reflect the quality of service or customer satisfaction. Intermediate outcomes are expected to lead to the desired ends but are not in themselves ends. In many programs, a progression or sequence of outcomes occurs. End outcomes are the desired end or ultimate results that the agency hopes to achieve through its program's activities. These results are directly related to the agency's mission, such as clients whose status improved or reduced crime. |
| Output | Outputs, as defined by Justice for purposes of GPRA, means the products and services produced by a program or process and delivered to customers, whether internal or external. Outputs result from internal activity or effort. Outputs are important for measuring internal work performance, but they do not in themselves indicate the extent to which progress has occurred toward the program's mission or what impact a program has had on a particular goal or objective. |

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