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ONE HUNDRED TENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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May 1, 2007

The Honorable Wan J. Kim
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Mr. Kim:

Thank you for appearing before the Constitution, Civil Rights, and Civil Liberties Subcommittee on March 22, 2007 to testify on the operations of the Civil Rights Division. During this hearing you indicated that you would be willing to respond to additional and follow-up questions; therefore, I am requesting that you provide responses to the attached questions.

Please comply with the document production portion of the Committee request by May 14th. All written responses should be submitted to David Lachmann, Chief of Staff for the Subcommittee on the Constitution, Civil Rights, and Civil Liberties, B-353 Rayburn House Office Building, on or before June 1, 2007.

Sincerely,



John Conyers, Jr.
Chairman, Committee on the Judiciary



Jerrold Nadler
Chairman, Subcommittee on the
Constitution, Civil Rights and Civil
Liberties

Enclosure

cc: Hon. Lamar S. Smith
Hon. Trent Franks

CIVIL RIGHTS DIVISION OVERSIGHT HEARING
Questions from Chairman Conyers and Chairman Nadler
to Assistant Attorney General Wan Kim

Personnel

1. Please provide a complete list of the names of individuals who received an invitation to interview for the following positions in the employment and voting sections of the Civil Rights Division (CRT): special counsel, section chief, staff/trial attorney, analyst, and paralegal from 2001 - 2007.
2. Please provide a complete list of all individuals for whom an offer for employment was extended to work in the employment and voting sections of the Civil Rights Division from 2001 - 2007. Please also provide the job title, race/ethnicity, and gender for each individual listed.
3. Please provide a staff directory with job titles for the Civil Rights Division for the following years: 2002 - 2007.
4. Please provide a copy of all vacancy announcements publicly posted for employment in the Voting and Employment sections of Civil Rights Division from 2001 - 2007.
5. Please describe in detail the process for recruiting and hiring Honors attorneys in the Civil Rights Division. Has the process been modified in the last three years? If so, how?
6. Please describe in detail the process for recruiting and hiring lateral career attorneys in the Civil Rights Division. Has the process been modified in the last three years? If so, how?
7. Are all section chiefs in the Civil Rights Division given an opportunity to review applicant materials for lateral attorney vacancies in their Sections and to help select attorneys whom the Division will interview? If not, please identify which section chiefs currently participate in the hiring process. Please explain in detail the role, if any, that section chiefs currently have in reviewing applications for lateral attorney positions. If that role has been changed at any point in this Administration (2000 - 2007), please explain how and why it has changed.
8. Did Michael Elston hold a meeting on or about December 5, 2006 to discuss the hiring and interview process for the Attorney General's Honors Program and/or the Summer Law Intern Program? Did anyone from the Civil Rights Division attend this meeting? If so, who? Please describe in detail the issues that were discussed in the meeting. Please also provide any and all documents describing the substance of the meeting.

9. There have been many reports highlighting the significant staff turnover within the Division over the last few years. Please provide the names of the Employment and Voting Section attorneys who have transferred voluntarily or involuntarily, resigned, retired, or left the Department altogether from 2002 -2007; indicate the years of litigation experience for each attorney.
10. Please provide the names of the paralegals or section 5 analysts who left the Voting Section of CRT from 2002 - 2007? Please also provide the years of experience for each analyst. How many Section 5 analysts and attorney reviewers are currently employed by the Voting Section?
11. As you are aware, we are quickly approaching the 2010 Census, which means there will be an upsurge in Section 5 submissions. What specific steps are being taken to ensure that there will be sufficient experienced Section 5 staff to accommodate the increase in Section 5 submissions?

Evaluations

12. Has anyone in the Office of the Assistant Attorney General for Civil Rights or the Voting Section managers (including but not limited to Brad Schlozman, Hans von Spakovsky John Tanner, or Yvette Rivera) ordered anyone to change staff performance evaluations from 2002 - 2007? If so, when were the requests made, why? Please identify the staff members whose performance evaluations were changed as a result of the requests? Please provide copies of all documents regarding performance evaluation communications between the Office of the Assistant Attorney General of CRT and the Voting Section from 2003 - 2007.
13. How long did Hans von Spakovsky work in the front office compared to the amount of time that he worked as a trial attorney for the Voting Section? Please describe Mr. Spakovsky's role in the Office of the Assistant Attorney General? Why was he assigned a position in the Office of the Assistant Attorney General?

Awards

14. How many individuals from the Employment and Voting Sections of the Civil Rights Division received "On the Spot," awards since 2001? What is the criteria for granting "On the Spot" awards?
15. Please provide the names of all the recipients of the "On the Spot" award from the Employment and Voting Sections of CRT from 2001 - 2007. If the awards are monetary, please provide the amount each recipient received, the number of years each recipient has worked for the Civil Rights Division, and a statement explaining why each recipient was nominated? Please also list the name of the nominator for each recipient.

Civil Rights Docket

16. What were the issue priorities for the Civil Rights Division from 2002 -2007 and how were these priorities selected?
17. Please provide a complete list of cases filed by the Employment, Housing, Special Litigation, and Voting Sections from 2000 - 2007. Also, identify the race, ethnicity, religion, and gender of the individuals on whose behalf the Department filed the case. Please also provide a description of the legal and policy issues raised in the cases filed.
18. Please provide a complete list of any “disparate impact” cases filed by the Employment Section from 2000 - 2007?
19. Please provide a complete list of cases filed by CRT that allege racial discrimination in employment on behalf of African and Latino Americans from 2000 - 2007.
20. How many Equal Opportunity Commission (EEOC) referrals did DOJ receive during 2000 - 2007? Please list referrals by year. Also provide a complete list of lawsuits filed based on the EEOC referrals for the years listed above.
21. Please provide a complete list of “pattern and practice” cases filed under § 707 of Title VII of the Civil Rights Act of 1964 from 2000 - 2007.
22. How many “disparate impact” cases has the Housing Section filed from 2000 - 2007. Please also identify the race/ethnicity of the individual on whose behalf the case was filed.
23. The Civil Rights Division filed briefs in the *Lown v. Salvation Army*, 393 F. Supp. 2d (S.D.N.Y. 2005) and *Westfield High School L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2d 98 (D. Mass. 2003). What statutory enforcement authority did the Civil Rights Division rely on as a basis for intervening in these cases?
24. Were justification memoranda prepared for *Lown v. Salvation Army*, 393 F. Supp. 2d (S.D.N.Y. 2005) and *Westfield High School L.I.F.E. Club v. City of Westfield*, 249 F. Supp. 2d 98 (D. Mass. 2003)? If so, please provide a copy of the memoranda.
25. For every justification memorandum submitted to the Assistant Attorney General for the Civil Rights Division for review and approval (2000 - 2007) from the Employment, Housing, and Voting Sections, please provide the following information: (a) description of the issue discussed in the memo (b) date when the memo was submitted; (c) date the AAG made a decision on the matter and (d) the outcome.

Immigration Appeals

26. The Citizens' Commission on Civil Rights (CCCR) report, "The Erosion of Rights" indicates that as much as 40% of attorney time in the Appellate Section was diverted to defending deportations in 2005. Why are Civil Rights Division resources being used for Office of Immigration Litigation (OIL) appeals?
27. How many OIL appeals have been assigned to the Civil Rights Division from 2001 - 2007?
28. List the Divisions within the Department of Justice required to do OIL appeals. Please also provide the number of cases each Division was assigned from 2001 - 2007.
29. List the Sections within the Civil Rights Division required to do OIL appeals from 2002 - 2007. Also provide the number of appeals given to each Section.
30. How many OIL appeals have been filed by the Civil Rights Division from 2002 - 2007?
31. What are the guidelines for assigning OIL briefs within the Employment and Voting Sections? Please list the attorneys who were assigned OIL appeals in the Employment and Voting Sections? Please also provide the number of appeals each individual was assigned from 2002 - 2007.

Investigations

32. How many vote dilution investigations have been initiated under Section 2 of the Voting Rights Act on behalf of: (a) African-Americans, (b) Latino Americans, (c) Native Americans (d) Asian Americans from 2000 - 2007. Please provide the location of the investigation and the date the investigation commenced and concluded. Also provide the reasons the investigations were closed.

Voting Rights Issues

33. Please describe in detail the review process for section 5 submissions.
34. The Citizens' Commission Report raises concerns about the Division's role in preclearing a mid-decade Congressional redistricting plan enacted by the State of Texas. The plan targeted several areas of minority voting strength. The career staff of the Voting Section concluded that the plan violated Section 5 because it resulted in a retrogression of minority electoral opportunity. The Department's political appointees rejected the staff's recommendations and pre-cleared the plan.
 - a. Please describe in detail how the decision was made to reject the recommendations of the career staff concerning the Texas redistricting plan?

- b. What was the rationale and legal basis for the rejection?
35. In 2005, the Justice Department precleared a Georgia law requiring voters to present a government issued picture identification in order to vote. According to a Washington Post article, “Criticism of Voting Law Was Overruled,” a detailed memorandum was prepared by career staff in the Voting Section recommending an objection.¹ The memo included information about explicit racial statements made by a sponsor of the legislation that “if there are fewer black voters because of this bill, it will only be because there is less opportunity for fraud,” and dismissing the black voters in her district as only voting when paid to do so. Despite the staff recommendation, the AAG precleared the Georgia plan.
- a. Please describe in detail how the decision was made to reject the recommendations of the career staff concerning the Georgia ID plan? What was the rationale and legal basis for the decision?
- b. According to the CCCR report, the memorandum recommending an objection was not forwarded to the Assistant Attorney General for Civil Rights for consideration prior to the final decision to pre-clear the Georgia submission. Did the Assistant Attorney General review the memorandum written by staff recommending an objection?
- c. Additional information was submitted by the state of Georgia prior to pre-clearance. Please describe the content of the materials submitted to the Department. Was the Georgia reviewing team given an opportunity to analyze this data? If so, who, specifically? When did Georgia submit additional information and how much time was given to staff to review the information prior to the AAG’s decision to preclear the Georgia plan?
- d. What role did Hans von Spakovsky have in preclearing the Georgia voter identification submission?
- e. Was Hans von Spakovsky cleared by the Department to write a law review article endorsing the practice at question in the Georgia ID plan? Publius, *Securing the Integrity of American Elections: The Need for Change*, 9 Texas Review of Law and Politics 277 (2005). If so, by whom? What was the rationale for clearance?
- f. Was the Office of Professional Responsibility ever notified that Mr. Von Spakovsky used a pseudonym to conceal his legal writings on an issue that was before him in his professional capacity? If not, why?

¹ Dan Eggen, *Criticism of Voting Law Was Overruled: Justice Dept. Backed Georgia Measure Despite Fears of Discrimination*, THE WASH. POST, November 17, 2005, at A01.

- g. Please provide the names of all individuals in the Department of Justice who were in any respect involved in reviewing the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission. Please also provide the number of years each person has worked for the Voting Section, if applicable.
- h. Please provide the names of all individuals outside the Department of Justice who were in any respect involved with the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission.

Recommendation Memoranda

- 36. According to a 2005 Washington Post article, "Staff Opinions Banned In Voting Rights Cases," the Justice Department barred staff attorneys from offering recommendations in major Voting Rights Acts cases.² Were the guidelines for the structure of recommendation memoranda changed? If so, explain how the policy changed, who changed it and why?
- 37. If there was a new policy prohibiting staff recommendations, was it applied Division-wide, or only to the Voting Section? If only for the Voting Section, why?
- 38. How was the new policy communicated to the Voting Section? If communicated in writing, please provide copies of documents.

Outreach to Community Groups

- 39. Has the Civil Rights Division engaged in outreach efforts to communities affected by the laws enforced by CRT? Please describe these efforts. List outreach efforts to the (a) African-American; (b) Latino; (c) Native-American; (d) Asian; (e) Jewish; (f) Muslim; (g) Catholic; (h) Protestant; and (i) Evangelical community from 2000 - 2007.

² Dan Eggen, *Staff Opinions Banned In Voting Rights Cases: Criticism of Justice Dept.'s Rights Division Grows*, THE WASH. POST, December 10, 2005, at A03.

Document Production

We request that you supply the following documents and information in accordance with the definitions enclosed with this letter:

1. copies of all resumes and other related employment application materials submitted from 2001 - 2007 for the following positions in the Employment and Voting Sections of the Civil Rights Division (CRT): special counsel, section chief, staff/trial attorney, intern, analyst, and paralegal;
2. copies of all documents relating to the review of employment application materials on behalf of CRT for special counsel, section chief, staff/trial attorney, intern, analyst, and paralegal positions in the Employment and Voting Sections from 2001 - 2007, including but not limited to hand-written notes, high-lighting, underscoring, comments or other similar notations by reviewers regarding application materials;
3. copies of all Equal Employment Opportunity (EEO) complaints filed from 2001- 2007 regarding staff and management in the Employment and Voting Sections of CRT; please also provide copies of the disposition of these complaints;
4. copies of all Merit Systems Protection Board (MSPB) complaints filed from 2001 - 2007 regarding anyone in the Office of the Assistant Attorney General for CRT and the Employment and Voting Sections of CRT; please also provide copies of the disposition of these complaints;
5. copies of all complaints filed with the Office of Professional Responsibility (OPR) from 2001 - 2007 regarding anyone in the Office of the Assistant Attorney General for CRT and the Employment and Voting Sections of CRT; please also provide copies of the disposition of these complaints;
6. copies of all versions of section 5 training materials used by the Voting Section;
7. copies of all investigation and justification memoranda submitted from 2001- 2007 to the Assistant Attorney General's Office from the Employment and Voting Sections of CRT;
8. copies of all documents relating to communications between anyone in the Office of the Assistant Attorney General (AAG) of CRT and the Voting Section regarding the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission;
9. copies of all documents relating to communications between the Justice Department and Members of Congress (including congressional staff) concerning the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission;

10. copies of all documents relating to communications between the Justice Department and the White House concerning the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission;
11. copies of all documents relating to communications between the Justice Department and anyone outside of the Department (excluding the White House and Members of Congress) concerning the 2001-2002 Mississippi redistricting submission, 2003 Texas redistricting submission, and 2005 Georgia photo identification submission;
12. copies of all documents including but not limited to section 5 recommendation memoranda (drafts and final), telephone memoranda, and any dissenting view documents (drafts and final) prepared when the Voting Section reviewed the following submissions: 2001-2002 Mississippi redistricting, 2003 Texas redistricting, 1981 Georgia identification requirements for voter registration, 1994 Louisiana photo identification requirement for voting, 1997 Georgia identification, 1997 Texas voter registration cards, and 2005 Georgia photo identification;
13. copies of all investigation and justification memoranda submitted from 2001 - 2007 to the Office of the Assistant Attorney General for CRT for review from the Employment and Voting Sections.

Definitions

1. The term “document” means any written, recorded or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone calls, meetings or other communications, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records of any kind (including without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotape, recordings and motion pictures), and electronic and mechanical records or representations of any kind (including without limitation, tapes, cassettes, disks, computer files, computer hard drive files, CDs, DVDs, memory sticks, and recordings) and other written, printed, typed or other graphic or recorded matter of any kind of nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, telexes, discussions, releases, personal delivery, or otherwise.

CIVIL RIGHTS DIVISION OVERSIGHT HEARING:
QUESTIONS FOR THE RECORD SUBMITTED BY MR. FRANKS
TO AAG WAN KIM

Proposed Questions for Assistant Attorney General Wan Kim

Performance of the Division

1. In February of last year, then Chairman Sensenbrenner sent a letter to the Attorney General asking him about instances in which the objectivity and investigative practices of the Civil Rights Division had been questioned. The Chairman specifically asked for instances in which the Division's legal work was either admonished in a court opinion or where the Division paid attorneys fees or settlement fees over its involvement in a lawsuit.

I would like to submit for the record a copy of Mr. Sensenbrenner's letter and the Justice Department's reply. Let me tell you about two cases detailed in the reply:

- In the 1994 decision *Johnson v. Miller*, the court described the level of communications between Division attorneys overseeing preclearance of Georgia's redistricting efforts as "disturbing" and continued: "It is obvious from a review of the materials that [the ACLU attorney's] relationship with the DOJ Voting Section was informal and familiar; the dynamics were that of peers working together, not of an advocate submitting proposals to higher authorities." The court found the Voting Section attorneys' "professed amnesia" about their relationship with the ACLU attorney "less than credible."
- In 2000, the Ninth Circuit affirmed the district court's award for directing the Department to pay more than \$1.7 million in attorney's fees in *United States v. City of Torrance*, a Title VII case alleging a pattern or practice of discrimination in employment. The court stated, "in this case, the record amply supports the district court's determination that... 'the Government had an **insufficient factual basis for bringing the adverse impact claim**' and 'that the Government continued to pursue the claim...long after it became apparent that the case **lacked merit**.'"

There are many more such examples detailed in the Department's response. I find this pattern very disturbing. What steps have you taken to ensure that the Division does not repeat these costly, embarrassing, and egregious mistakes?

Allocation of Resources and Selection of Priorities

2. Are positions added to a Section or eliminated based on changes in the CRT's priorities or based on a demonstrated need (such as an increase in the number of complaints from the public or other Federal agencies)?

5. Does the CRT monitor trends in the number of complaints filed by members of the public, complaints referred by other Federal agencies, phone calls, and questions or information received through other outreach mechanisms in the areas under the CRT's jurisdiction?
6. Do the annual priorities established by the CRT, the priorities of the ten Sections, the budget allocations, and the Section staffing decisions reflect these trends?
7. How flexible are the priorities such that the CRT is able to shift resources to adequately respond to emerging issues?

Leaks of Internal Memoranda and Deliberative Discussions to the Public

8. There have been several reported leaks of internal DOJ memoranda in high-profile matters in the Civil Rights Division, including materials protected by attorney-client privilege. Anyone found to violate the attorney client privilege, of course, should be sanctioned and could be subject to disbarment. I also think that the motivation of the leaker calls into question his or her impartiality, since the leak is often done for the purpose of advancing the leaker's own agenda. Do you share my concern about leaks of internal and privileged information?

Enforcement Activities Related to Religious Liberty

10. Most of the laws enforced by the Civil Rights Division, including the 1964 Civil Rights Act, prevent discrimination based on religion. I am concerned that past Administrations have done little to enforce these important protections. Congress unanimously passed the Religious Land Use and Institutionalized Persons Act (RLUIPA) nearly 7 years ago in response to the massive evidence we found of discrimination against houses of worship in zoning decisions. RLUIPA created a private cause of action, but also gave authority to the Attorney General to enforce it. In light of all of these laws preventing religious discrimination, I am heartened to see more enforcement of these protections in the past 6 years. Will this continue to be a priority for you?

The Division's Hiring Practices

11. I've heard some allegations of partisan hiring at the Civil Rights Division. Some are suggesting that any applicant who worked for a Republican member of Congress or was a member of the Federalist Society should not be hired to work at the Civil Rights Division. I've heard some suggest that only people who've worked with certain advocacy groups should be hired by the Civil Rights Division. This kind of rank stereotyping is problematic, and I could not disagree more. I also wonder whether, during the Clinton administration, the Division hired people of all backgrounds and political ideologies. Would you agree with

me that applicants of all backgrounds and political persuasions should have an equal shot at working at the Department of Justice and the Civil Rights Division?

Voting Rights Act Enforcement Activities

12. I've heard many criticisms of the decision to preclear the Georgia law that required voters to show identification at the polls. This sounds to me like a pretty minor and obvious way to prevent voter fraud. I am also aware that similar laws were passed in Missouri, Indiana, and Arizona, and are being considered throughout the country. In fact, the House of Representatives passed a federal voter identification law last year.

The Justice Department reviewed the Georgia law because Georgia is a state that remains covered under the Voting Rights Act. Indiana and Missouri, of course, passed their voter identification laws without the necessity of undergoing federal review. Indiana's voter identification law was recently upheld by the Seventh Circuit in *Crawford v. Marion County Election Board* in the face of allegations similar to those made against the Georgia law.

Does that mean those voter identification laws are less problematic? Why should the federal government be telling certain states what they can do while others are not subject to the same scrutiny?

13. I've heard many criticisms of the decision to preclear the 2002 redistricting plan in Texas under Section 5 of the Voting Rights Act because it harmed minority voters. I also understand that the number of minority legislators elected under the new redistricting plan actually increased, and that the entire plan was affirmed by a 3-judge panel in federal court. The Supreme Court affirmed the validity of 31 out of the 32 districts drawn, and by a 5-4 majority, found that 1 district was drawn in a way that violated Section 2. Did that decision call into question the Department's decision to preclear this plan under Section 5?

14. In December 2005, the *Washington Post* reported, based on a leaked internal DOJ memorandum, that career lawyers in the Civil Rights Division had unanimously recommended that the Department interpose an objection to the Texas congressional redistricting plan, and that the Division's political leadership had overruled this recommendation. Critics cite this leaked memorandum as evidence of the politicization of the Civil Rights Division – a view they say is vindicated by the U.S. Supreme Court's decision last term in *LULAC v. Perry*, which determined that a single redrawn district violated the Voting Rights Act.

- What was the standard for review of redistricting plans at the time the redistricting plan was submitted to the Department? Was it followed by the Department?

- The Supreme Court appeared to create a new standard regarding “compactness” in its opinion. Is that standard something that the Department knew that it had to consider, or something that the Voting Rights Act lays out as a relevant factor?
 - As I understand it, the redistricting plan in Texas that was the benchmark against which the new Texas congressional redistricting plan was to be measured for retrogression had 8 of the 32 congressional districts allocated to Texas as minority districts protected by the Voting Rights Act – six districts for Hispanic voters and two districts for African-American voters. Did the new Texas Congressional Redistricting plan pre-cleared by the Department preserve the eight minority districts?
 - Did the Supreme Court decision on the Texas Congressional Redistricting plan indicate that the Department had erroneously pre-cleared the plan?
15. This past July, certain sections of the Voting Rights Act of 1965 were extended for an additional 25 years. In addition, amendments were made to these provisions that will require the Department of Justice to revisit its responsibilities under the Act.
- When does the Department of Justice anticipate reviewing its regulations in that regard?
 - Can you please describe your recent enforcement efforts under Sections 5 of the Voting Rights Act, as recently amended by the VRA reauthorization legislation Congress passed last year?

Bilingual/English Only Issues

16. Can you please describe your recent enforcement efforts under Section 203 of the Voting Rights Act, which requires bilingual ballots in certain covered jurisdictions?
- Are you aware of any concerns expressed by localities regarding unreasonable costs they must incur under Section 203?
 - If so, do you share those concerns? If not, why not?
17. Can you please describe your recent efforts to enforce Executive Order 13166, which requires facilitating access to federal programs by people who are of only limited proficiency in English? Are you aware of any concerns regarding unreasonable costs entailed by such efforts?

Reverse Discrimination Cases

18. Many have complained about the lawsuits you have filed to protect people who have been discriminated against because they are white. It's very clear that the civil rights laws protect all Americans from discrimination based on the color of their skin, including Americans who are white. I have not seen anyone seek to amend the civil rights laws to remove protection for certain races. I would expect you to continue to bring cases when there is racial discrimination against all groups of Americans. Will you commit to do so?
19. On February 17, 2006, the Civil Rights Division filed the first ever reverse discrimination case under Section 2 of the Voting Rights Act on behalf of white voters in Noxubee County, Mississippi. Critics claim that it is an inappropriate use of the scarce resources of the Civil Rights Division to pursue voting rights cases on behalf of white voters while virtually ignoring the plight of black voters.
 - I know that you can't get into the specifics of the litigation, but can you describe some of the allegations as set forth in the complaint?
 - Shouldn't the protections of the Voting Rights Act apply to all Americans, non-minority and minority alike? Is there anything in the language of the Act, or in any court decision, that suggests otherwise?
 - What actions has the Division brought in the past six years on behalf of minority voters?

Enforcement of the Americans with Disabilities Act

20. Could you please describe your efforts to enforce the Americans with Disabilities Act?
21. Please describe the outreach conducted by the Disability Rights Section (DRS) to the small business community with respect to Title III's requirements.
 - How does the CRT respond to criticism that the guidance provided by the Department of Justice is unclear, especially as it relates to the "readily achievable" requirement set forth under Title III?
 - How often does the DRS review the guidance and technical assistance provided to small businesses?
 - Does the DRS work with small businesses and employers to make the Department's guidance and assistance more useful?
 - Are there ways to provide more clarity and protection for small businesses as they seek to comply with the ADA? Will this issue be part of your regulatory review?
22. Please describe how the Department of Justice carries out its certification responsibilities as required under the ADA.
 - What outreach does the DRS conduct to make States and localities aware of the certification process?

- In your estimation, how effective is certification, once granted by the Department of Justice, in preempting litigation?

Enforcement of the Help America Vote Act of 2002

23. This coming November was the first general election under which all of the provisions of the Help American Vote Act were enforceable.
- What did the Department of Justice and the Voting Section doing to ensure that States were in compliance?
 - If States are not yet in full compliance, what are the barriers keeping States from meeting HAVA's requirements?
 - Approximately how many States are not yet in full compliance?
 - Does the Voting Section intend to send Department attorneys to those States that are not in full compliance? If so, how many?
24. In 2006, the Civil Rights Division sued the state of Alabama as a result of its failure to create a computerized database of voters as required by the Help America Vote Act of 2002. Last summer, Division attorneys successfully argued that control of the database should be shifted from the Democratic secretary of state to a special master, namely, Republican governor Bob Riley, who had committed to delegating his authority to a bipartisan committee. Critics allege that the Division's stance in this instance was unusually aggressive, and the *New York Times* editorial page characterized this as a case in which "party politics seems to have been a driving force."
- Is it unusual for *The New York Times* to accuse the Department of Justice of partisanship? Did the Alabama papers accuse the Department of partisanship?
 - In Alabama, the local election officials are called probate judges, and about three-quarters are Democrats. Did the probate judges support the appointment of a special master?

Enforcement Related to Law Enforcement "Use of Force" Cases

25. What are your recent enforcement efforts regarding Section 14141 of the 1994 Violent Crime and Law Enforcement Act, which deals with investigating the patterns and practices of violations of federally protected rights by law enforcement officers?

Employment Discrimination

26. Can you please describe recent enforcement efforts regarding Title VII of the 1964 Civil Rights Act?

Public School Desegregation Consent Decree Cases

27. Can you please describe recent efforts regarding the Division's examination of existing school desegregation consent decrees and court orders?