

**Department of Justice Activities  
Under the  
Civil Rights of Institutionalized Persons Act  
Fiscal Year 2007**

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## I. Introduction and Overview

The Attorney General has authority to investigate conditions in public residential facilities<sup>1</sup> and to take appropriate action if a pattern or practice of unlawful conditions deprives persons confined in the facilities of their constitutional or federal statutory rights, pursuant to the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997.<sup>2</sup> With respect to juvenile justice, the Department has concurrent jurisdiction to conduct investigations pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and CRIPA. The Attorney General has delegated day-to-day responsibility for CRIPA activities to the Civil Rights Division and its Special Litigation Section.

As part of its overall civil rights law enforcement effort, the Department has prioritized vigorously enforcing the laws which protect the right of institutionalized persons. According to former Assistant Attorney General of the Civil Rights Division, Wan J. Kim,<sup>3</sup> "Safeguarding the rights of America's most defenseless citizens -- the elderly, children, victims of abuse, persons with mental illness or developmental disabilities -- is one of the Department's highest civil rights priorities. This Administration is firmly committed to vigorously enforcing CRIPA to protect the vulnerable and rooting out systemic conditions of physical abuse and injury."

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<sup>1</sup> Institutions covered by CRIPA include nursing homes, mental health facilities, facilities for persons with developmental disabilities, residential schools for children with disabilities, jails, prisons, and juvenile justice facilities.

<sup>2</sup> CRIPA does not cover the federal statutory rights of persons in jails and prisons.

<sup>3</sup> Wan J. Kim served as Assistant Attorney General through August 2007.

The Division's commitment to the vigorous enforcement of CRIPA is evidenced by recent activities under that statute: from January 2001 through September 2007, the Division has opened 76 CRIPA investigations, issued 61 findings letters, filed 26 cases, and obtained 58 substantial agreements.<sup>4</sup>

From May 1980, when CRIPA was enacted, through September 2007, the Division investigated conditions in 445 nursing homes, mental health facilities, centers for persons with developmental disabilities, residential schools for children with disabilities, jails, prisons, and juvenile justice facilities.<sup>5</sup> As a result of the Department's CRIPA enforcement, thousands of persons residing in public institutions across our country no longer live in dire, often life-threatening, conditions.

At the end of Fiscal Year 2007, the Division was active in CRIPA matters and cases involving over 191 facilities<sup>6</sup> in 32 states, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the Territories of Guam and the Virgin Islands.<sup>7</sup> The Division continued its investigations of 94 facilities, and monitored the implementation

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<sup>4</sup> These figures are for the period from January 20, 2001 through September 30, 2007.

<sup>5</sup> The Department has been unable to conduct an analysis of the impact of the actions instituted pursuant to CRIPA, including an estimate of the costs incurred by the states and other political subdivisions.

<sup>6</sup> This figure does not include the Division's monitoring of the District of Columbia community system for persons with intellectual and developmental disabilities in Evans and United States v. Williams (D. D.C.) , *rev'd sub nom. United States v. Fenty* (D. D.C.), a pre-CRIPA suit.

<sup>7</sup> Fiscal Year 2007 began on October 1, 2006 and ended on September 30, 2007. This report is submitted to Congress to supplement the Attorney General's report on Fiscal Year 2007 Department activities by providing additional details about CRIPA actions during the Fiscal Year pursuant to 42 U.S.C. § 1997(f).

of consent decrees, settlement agreements, memoranda of understanding, and court orders involving 97 facilities.<sup>8</sup> During the Fiscal Year, the Division, accompanied by expert consultants, conducted 121 tours of facilities to evaluate conditions and monitor compliance.

The Division filed five institutional lawsuits involving five facilities, and closed six cases involving nine facilities and partially closed one case involving 2 facilities during the Fiscal Year. The Division initiated 12 investigations of 37 facilities and issued 11 findings letters regarding investigations of 14 facilities during the Fiscal Year.<sup>9</sup> In addition, during Fiscal Year 2007, the Division closed six investigations of seven facilities.

In keeping with the statutory requirements of CRIPA, the Division engaged in negotiations and conciliation efforts to resolve a number of CRIPA matters both before and after filing CRIPA cases. The Division maximized its impact and increased its efficiency by continuing to focus on multi-facility investigations and cases, obtaining widespread relief whenever possible. The Division also consulted with public officials and provided technical assistance to a substantial number of jurisdictions to assist in the correction of deficient conditions.

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<sup>8</sup> In addition, during the Fiscal Year, the Division monitored compliance with court orders that cover persons who previously resided in institutions, but who currently reside in community based residential settings in Hawai'i, Indiana, Iowa, Puerto Rico, Tennessee, and Wisconsin.

<sup>9</sup> The settlement agreements (including consent decrees) and findings letters are available on the Division's website at <http://www.usdoj.gov/crt/split/index.html>.

Lastly, pursuant to Section f(5) of CRIPA, the Division provides information regarding the progress made in each Federal institution (specifically from the Bureau of Prisons and the Department of Veterans Affairs) toward meeting existing promulgated standards for such institutions or constitutionally guaranteed minima. (See attached statements).

## II. Filing of CRIPA Complaints/Resolution of Lawsuits and Investigations

### A. Cases Filed

1. On December 15, 2006, the Division filed a complaint in United States v. Oklahoma, 06-CV-673-FHM (N.D. Okla. 2006)<sup>10</sup> regarding conditions at the L.E. Rader Center, a state-operated juvenile justice facility in Sand Springs, Oklahoma. The complaint alleged that the State engaged in unlawful patterns and practices at Rader, including failure to: adequately protect youth from harm, undue risk of harm, and undue restraint; and failure to provide adequate mental health care to confined youth. In April 2007, the Division successfully defended the suit against the State's motion to dismiss. In August 2007, the Division filed a motion for Preliminary Injunction. Discovery in this case continued through Spring 2008.

2. On May 11, 2007, the Division filed a complaint and settlement in United States v. District of Columbia, 1:07-CV-0089 (D. D.C. 2007) regarding conditions and healthcare practices at St. Elizabeths Hospital in Washington, D.C. The complaint alleged that services and supports at St. Elizabeths failed to meet generally accepted

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<sup>10</sup> The Division initiated the investigation of the Rader juvenile facility pursuant to CRIPA and the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141; court filings were pursuant to 42 U.S.C. § 14141.

professional standards of care, thereby exposing residents to significant risks of harm and actual harm. Specific allegations include the District's failure to provide: adequate assessments, diagnoses, and treatment; adequate psychiatric, psychological, rehabilitative, pharmacy, and medical services; adequate protections from undue or unreasonable seclusion and restraint; adequate protections from harm; and adequate numbers of trained staff to provide needed supports. The consent decree, entered on June 25, 2007, requires the District to provide care and treatment to St. Elizabeths residents that is designed to strengthen and support residents' rehabilitation and recovery through the provision of adequate medical and mental health services and protection from harm. The Division is continuing to monitor compliance with the consent decree in this case.

3. On May 14, 2007, the Division filed a complaint and settlement agreement in United States v. New Mexico (D. N.M. 2007) regarding healthcare and conditions at Ft. Bayard Medical Center and Nursing Home in Bayard, New Mexico. The complaint alleged a pattern or practice of inadequate conditions and services to meet the needs of Ft. Bayard residents. The consent decree, entered by the Court on May 16, 2007, requires the State to make improvements in: assessment and care planning; use of psychotropic medications; pain management; protection from harm, including fall prevention; nutritive and hydration services; day programs; and ensuring that the residents are served in the most integrated setting appropriate to their needs. The Division is continuing to monitor compliance in the case.

4. On May 22, 2007, the Division filed an amended complaint and amended Settlement Agreement in United States v. Maryland (D. Md. 2007), resolving its CRIPA

investigation of the Baltimore City Juvenile Justice Center, a juvenile detention facility in Baltimore, Maryland. The Amended Settlement Agreement, approved by the Court on May 23, 2007, augments the existing Settlement Agreement regarding two other Maryland juvenile justice facilities, and requires the State to implement reforms at all three facilities to ensure that youths are adequately protected from harm and provided adequate mental health care and special education services.

5. On September 12, 2007, the Division filed a complaint in United States v. Dallas County, Texas, 307 CV 1559-N (N.D. Tex. 2007) regarding conditions and practices at the Dallas County Jail in Dallas, Texas. The complaint alleged a pattern or practice of conditions that failed to meet generally accepted professional standards in the areas of medical and mental health services to inmates and environmental concerns. The consent decree, entered by the Court on November 6, 2007, requires the County to improve: medical services, including assessment, treatment, medication administration, and dental care; mental health services, including evaluation and treatment as well as suicide prevention; and upgrade fire and life safety procedures.

B. Settlements in Cases Filed in Prior Fiscal Years

1. On February 15, 2005, the Court in United States v. Tennessee, 92-2062HA (W.D. Tenn. 1992) approved a consent decree regarding services for current and former residents of the Arlington Developmental Center in Arlington, Tennessee. The agreement requires the State to establish a Resource Center to serve both Arlington residents and former residents who are in need of therapeutic services such as: assistive technologies, physical rehabilitation services, speech/language



therapy, dental services, behavioral analyses, and enteral nutrition assistance. The Division is continuing to monitor compliance with the agreement.

2. On September 12, 2007, the Division entered into a stipulation in United States v. Sunflower County, Mississippi, 4:95 CV 122-B-O (S.D. Miss. 1995) to amend particular provisions of the original 1995 Consent Order. Under this agreement, County officials are required to: develop policies regarding the use of force, restraint and pepper spray; provide additional training to the Jail Administrator and other staff; implement appropriate revisions to the inmate classification system based on generally accepted professional standards; implement additional fire safety improvements; and provide medical and mental health services in accordance with generally accepted professional standards. The Division is continuing to monitor compliance with the Consent Order and Stipulation in this case.

C. Out of Court Settlements Addressing Deficiencies Identified by CRIPA Investigations

1. On December 29, 2006, the Division entered into an Agreement with the state of Delaware regarding conditions in four state-operated correctional facilities, including Delaware Correctional Center, Harold R. Young Correctional Institution, Sussex Correctional Institution, and the Delores J. Baylor Womens' Correctional Institution. The agreement provides for an Independent Monitor and requires the State to take substantial remedial measures to improve the quality of medical care and mental health services, including suicide prevention. The Division is monitoring progress toward compliance with the Agreement.

2. On January 16, 2007, the Division entered into an Agreement with the state of Maryland concerning conditions at the Baltimore City Detention Center. The Agreement requires the State to address deficiencies related to medical and mental health care access and treatment, including suicide prevention; security; the protection, detention, and special education of juveniles; fire safety; and environmental health and safety. The Division is monitoring progress toward compliance with the Agreement.

3. On July 2, 2007, the Division signed an Agreement with the state of Washington regarding conditions at Frances Haddon Morgan Developmental Center in Bremerton, Washington. The Agreement requires improvements in protections from harm, mental health services, and quality assurance reviews. The Division continues to monitor compliance with this Agreement.

D. Court Orders

1. On May 15, 2007, the Court in United States v. Territory of the Virgin Islands, 86-265 (D. V.I. 1986) entered a remedial order to implement specific compliance recommendations of the plaintiff and Special Master. The remedial order requires the Territory to address deficiencies in: security; medical services; staffing and staff training; policy development; and fire safety and environmental practices. Previously, in March 2006, the Court found the Territory in contempt of the Court's previous orders to provide and maintain constitutionally adequate conditions of confinement at Golden Grove Adult Correctional Facility and Detention Center.

III. Prison Litigation Reform Act

The Prison Litigation Reform Act (PLRA), 18 U.S.C. § 3626, which was enacted on April 26, 1996, covers prospective relief in prisons, jails, and juvenile justice facilities.

The Division has defended the constitutionality of the PLRA and has incorporated the PLRA's requirements in the remedies it seeks regarding improvements in correctional facilities. For example, the consent decree filed in United States v. Mississippi, 4:95 CV 122-B-O (S.D. Miss. 1995) on June 9, 2005, is PLRA compliant in that it contains the requisite admission of liability and requires only the minimum remedial measures needed to correct constitutional violations in the areas of medical, mental health and dental care, security and sanitation.

#### **IV. Compliance Evaluations**

During Fiscal Year 2007, the Division monitored defendants' compliance with CRIPA consent decrees, settlement agreements, and court orders designed to remedy unlawful conditions in publicly operated facilities throughout the United States. These facilities are:

A. Facilities for persons with intellectual and developmental disabilities:  
Southbury Training School (United States v. Connecticut, N-86-252 (D. Conn. 1986));  
Arlington Developmental Center (United States v. Tennessee, 92-2026HA (W.D. Tenn. 1992)); Clover Bottom Developmental Center, Greene Valley Developmental Center, and Harold Jordan Center (United States v. Tennessee, 3:96-1056 (M.D. Tenn. 1996));  
Centro de Servicios Múltiples Rosario Bellber (United States v. Commonwealth of Puerto Rico (D. P.R. 1994)); Ft. Wayne Developmental Center and Muscatatuck Developmental Center (United States v. Indiana, 1 P00-1991 CB/S (S.D. Ind. 2000));  
Pinecrest Developmental Center and Hammond Developmental Center (United States v. Louisiana, 04-15-D-M2 (E.D. La. 2004)); New Lisbon Developmental Center (United States v. New Jersey (D. N.J. 2004)); Oakwood Community Center (United States v.

Commonwealth of Kentucky (E.D. Ky. 2002)); Glenwood Resource Center and Woodward Resource Center (United States v. Iowa (S.D. Ia. 2004)); Woodbridge Developmental Center (United States v. New Jersey (D. N.J. 2005)); and Frances Haddon Morgan Developmental Center, Washington (2007 Settlement)

B. Facilities for persons with mental illness: United States v. Hawai'i, 91-00137 (D. Haw. 1991) (community mental health); Guam Adult Mental Health Unit (United States v. Territory of Guam, 91-00-20 (D. Guam 1991)); John Umsted Hospital, Dorothea Dix Hospital, Cherry Hospital, and Broughton Hospital, North Carolina (2005 Settlement); Metropolitan State Hospital, Napa State Hospital, Atascadero State Hospital and Patton State Hospital (United States v. California (M.D. Cal.)); Vermont State Hospital (United States v. Vermont (D.Vt. 2005)); and St. Elizabeths Hospital, (United States v. District of Columbia, 1:07-CV-0089 (D. D.C. 2007))

C. Nursing Homes: Nim Henson Geriatric Center (United States v. Breathitt County, Kentucky (E.D. Ky. 2004)); Banks-Jackson-Commerce Medical Center, Georgia (2004 Settlement); Reginald P. White Nursing Facility (United States v. Mississippi, 3:04-CV933BN (S.D. Miss. 2004)); Mercer County Geriatric Center (United States v. Mercer County, New Jersey (D. N.J. 2005)); A. Holly Patterson Geriatric Center, New York (2006 Settlement); and Ft. Bayard Medical Center and Nursing Home (United States v. New Mexico (D. N.M. 2007))

D. Juvenile justice facilities: 30 juvenile justice facilities in Georgia (United States v. Georgia, 1-98-CV-836 (N.D. Ga. 1998)); Essex County Juvenile Detention Center (United States v. Essex County, 87-4829 (D. N.J. 1987)); 13 juvenile justice facilities in Puerto Rico (United States v. Commonwealth of Puerto Rico (D. P.R. 1994));

Kagman Youth Facility (United States v. Commonwealth of the Northern Mariana Islands, CV-99-0017 (D. N. Mar. I. 1999)); Alexander Youth Services Center (United States v. Arkansas, 03CV00162 (E.D. Ark. 2003)); Nevada Youth Training Center (2004 Settlement Agreement); Central Juvenile Hall, Los Padrinos Juvenile Hall, and Barry J. Nidorf Juvenile Hall, California (2004 Settlement Agreement); Adobe Mountain School, Black Canyon School, and Catalina Mountain School (United States v. Arizona (D. Ariz. 2004)); Maxey Training School, Michigan (2005 Settlement); Oakley Training School and Columbia Training School (United States v. Mississippi, 3:03 CV 1354 BN (S.D. Miss. 2003)); Charles H. Hickey Jr. School, Cheltenham Youth Facility, and Baltimore City Juvenile Justice Center (United States v. Maryland (D. Md. 2007)); Logansport Juvenile Intake/Diagnostic Facility and South Bend Juvenile Correctional Facility (United States v. Indiana (S.D. Ind. 2006)); and Hawai'i Youth Correctional Facility (United States v. Hawai'i (D. Haw.))

E. Jails: Hagatna Detention Center and Fibrebond Detention Facility (United States v. Territory of Guam, 91-00-20 (D. Guam 1991)); Harrison County Jail (United States v. Harrison County, Mississippi, 1:95 CV5-G-R (S.D. Miss. 1995)); Coffee County Jail, Georgia (Voluntary Agreement 1997); Simpson County Jail (Rainier and United States v. Jones, J-78-0135 (S.D. Miss. 1994)); Sunflower County Jail (United States v. Sunflower County, Mississippi, 4:95 CV 122-B-O (S.D. Miss. 1995)); four jails in the Northern Mariana Islands (United States v. Commonwealth of the Northern Mariana Islands, CV 99-0017 (D. N. Mar. I. 1999)); Muscogee County Jail (United States v. Columbus Consolidated City/County Government (M.D. Ga. 1999)); McCracken County Regional Jail (United States v. McCracken County, Kentucky, 5:01CV-17-J (W.D. Ky.

2001)); Nassau County Correctional Center (United States v. Nassau County, New York, CV 02-2382 (E.D. N.Y. 2002)); Shelby County Jail (United States v. Shelby County, Tennessee, 02-2633DV (W.D. Tenn. 2002)); eight jails in Los Angeles County, California (2002 Settlement Agreement); Wicomico County Detention Center, Maryland (2004 Settlement Agreement); Santa Fe County Adult Detention Center (2004 Agreement); LeFlore County Detention Center (United States v. LeFlore County, Oklahoma (E.D. Okla. 2003)); Baltimore City Detention Center, Maryland (2007 Agreement); and Dallas County Jail (United States v. Dallas County, Texas, 307 CV 1559-N (N.D. Tex. 2007))

F. Prisons: Guam Adult Correctional Facility (United States v. Territory of Guam, 91-00-20 (D. Guam 1991)); Golden Grove Correctional and Adult Detention Facility (United States v. Territory of the Virgin Islands, 86-265 (D. V.I. 1986)); Saipan Prison Complex (United States v. Commonwealth of the Northern Mariana Islands, CV-99-0017 (D. N. Mar. I. 1991)); McPherson Correctional Facility and Grimes Correctional Facility, Arkansas (2004 Settlement Agreement); and Delaware Correctional Center, Howard R. Young Correctional Institution, Sussex Correctional Institution, and Delores J. Baylor Women's Correctional Facility, Delaware (2007 Agreement)

G. Other Facilities: New Mexico School for the Blind and Visually Impaired (United States v. New Mexico (D. N.M. 1999)).

## V. Enforcement Activities

During the Fiscal Year, the Division has aggressively pursued actions against recalcitrant jurisdictions to address their failure to achieve compliance with agreed-upon settlement remedies.

1. The Division sought to enforce provisions of the consent decree entered by the Court in United States v. Commonwealth of Puerto Rico (D. P.R. 1994) regarding its juvenile justice facilities. The Division filed a motion for a temporary restraining order and preliminary injunction directing Puerto Rico to immediately prevent facility staff, criminally charged with institutional child abuse, from having contact with confined youth in Puerto Rico's juvenile facilities. The court granted the relief requested and directed Puerto Rico to report to the Civil Rights Division and the independent monitor when a staff person is criminally charged with child abuse; the court also required Puerto Rico to separate such staff from having contact with confined youth. The Division continues to monitor progress in this case.

2. The Division notified defendants in United States v. Mississippi, 3:03 CV 1354BN (S.D. Miss. 2003) regarding compliance with the consent decree the Department secured to ensure the safety of juveniles residing at two juvenile justice facilities in Mississippi. Specifically, the Division identified deficiencies in compliance in the areas of protection from harm and suicide prevention. The Division initially filed suit in December 2003 following an investigation of the facilities that found evidence of shockingly abusive practices, including hogtying, pole-shackling, and placing suicidal students for extended periods of time into a "dark room," naked, with only a hole in the floor for a toilet.

**VI. Termination of CRIPA Consent Decrees and Partial Dismissals of Complaints**

When jurisdictions comply with settlement agreements or court orders and correct unlawful conditions in an institution, the Division joins with defendants to dismiss the

underlying action. During Fiscal Year 2007, the Division joined with defendants to seek dismissal of all claims regarding Simpson County Jail (Rainier and United States v. Jones, J-78-0135 (S.D. Miss. 1994)); Nim Henson Geriatric Center (United States v. Breathitt County, Kentucky (E.D. Ky. 2004)); community-based mental health facilities in Hawai'i (United States v. Hawai'i, 91-00137 (D. Haw. 1991)); Jetson Correctional Center for Youth (United States v. Louisiana, 98-947-B-1 (M.D. La. 1998)); Hammond and Pinecrest Developmental Centers (United States v. Louisiana, 04-15-D-M2 (M.D. La. 2004)); and Adobe Mountain School, Black Canyon School, and Catalina Mountain School (United States v. Arizona (D. Ariz. 2004)). The Division also closed actions regarding two juvenile justice centers, Ponce Victoria Guali and Sabana Grande, after Puerto Rico voluntarily terminated those programs (United States v. Commonwealth of Puerto Rico (D. P.R. 1994)).

#### **VII. New CRIPA Investigations**

The Division initiated 12 CRIPA investigations during Fiscal Year 2007. These new investigations involved the following facilities:

- King County Jail, Washington;
- Los Angeles County Work Camps, California, including:
  - Camp Clinton B. Afflerbaugh
  - Camp David Gonzales
  - Camp Karl Holton
  - Camp Gregory Jarvis
  - Camp Vernon Kilpatrick
  - Dorothy Kirby Center



Camp Ronald McNair  
Camp William Mendenhall  
Camp Fred Miller  
Camp John Munz  
Camp Ellison Onizuka  
Camp Joseph Paige  
Camp Judith Resnick  
Camp Glenn Rockey  
Camp Louis Routh  
Camp Francis Scobee  
Camp Joseph Scott  
Camp Kenyon Scudder, and  
Camp Michael Smith;

- Worcester County Jail, Massachusetts;
- Tennessee State Veterans' Homes
  - Tennessee State Veterans' Home - Murfreesboro
  - Tennessee State Veterans' Home - Humboldt;
- Cook County Jail, Illinois;
- Clyde L. Choate Developmental Center, Illinois;
- Georgia Mental Health Facilities, including:
  - Georgia Regional Hospital (Atlanta)
  - Georgia Regional Hospital (Savannah)
  - Northwest Georgia Regional Hospital

Central State Hospital

Southwest State Hospital

West Central Georgia Regional Hospital, and

East Central Regional Hospital;

- Dougherty County Jail, Georgia;
- Beatrice State Developmental Center, Nebraska;
- Northwest Habilitation Center, Missouri;
- Howe Developmental Center, Illinois; and
- Westchester County Department of Corrections, New York.

#### **VIII. Findings Letters**

During the Fiscal Year, the Division issued 11 written findings letters<sup>11</sup> regarding 14 facilities, setting forth the results of its investigations, pursuant to Section 4 of CRIPA, 42 U.S.C. § 1997b, including:

- Dallas County Jail, Texas;
- Lubbock State School, Texas;
- Delaware correctional facilities, including:
  - Delaware Correctional Center
  - Howard R. Young Correctional Institution
  - Sussex Correctional Institution, and
  - Delores J. Baylor Women's Correctional Institution;
- Oahu Community Correctional Facility, Hawai'i;

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<sup>11</sup> The full text of these findings letters may be found at the Division's website at <http://www.usdoj.gov/crt/split/index.html>.

- Evins Regional Juvenile Center, Texas;
- Bellefontaine Developmental Center, Missouri;
- Scioto Juvenile Correctional Facility, Ohio;
- Marion Juvenile Correctional Facility, Ohio;
- Marion County Juvenile Detention Facility, Indiana;
- Connecticut Valley Hospital, Connecticut; and
- Wilson County Jail, Tennessee.

In these investigations, the Division made significant findings of constitutional deficiencies. As envisioned by Congress, enforcement of CRIPA continues to identify egregious and flagrant conditions that subjects residents of publicly operated institutions to grievous harm. 42 U.S.C. § 1997a (a).

#### **IX. Investigation Closures**

During the Fiscal Year, the Division closed investigations of 7 facilities. The state of Indiana voluntarily closed the Plainfield Juvenile Correctional Facility. After thorough investigations, the Division concluded that there were no systemic violations at the George W. Herlich Juvenile Detention Center in New Jersey and the John L. Webb Correctional Facility in Delaware and, therefore, closed those investigations. The Division also determined that conditions had substantially improved at four other facilities and closed the investigations, including:

- Santa Clara County Probation Department, California;
- Banks-Jackson-Commerce Medical Center, Georgia;
- Arkansas Correctional Facilities, including:

McPherson Correctional Facility, and

Grimes Correctional Facility.

**X. New Freedom Initiative**

The Division also enforces Title II of the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq., and its implementing regulations 28 C.F.R. § 35.130(d), to ensure that public officials operating healthcare facilities are taking adequate steps to provide services to residents in the most integrated setting appropriate to their needs. In June 2001 President George W. Bush announced the New Freedom Initiative, which set as a high priority for this Administration efforts to remove barriers to community placement for persons with disabilities. The Executive Order, "Community-based Alternatives for Individuals with Disabilities,"<sup>12</sup> emphasized that unjustified isolation or segregation of qualified individuals with disabilities in institutions is a form of prohibited discrimination, and that the United States seeks to ensure that America's community-based programs effectively foster independence and participation in the community. During the Fiscal Year, as part of the mandate to fully enforce Title II of the Americans with Disabilities Act, the Division took steps to secure increased access to residential, day, and vocational services where appropriate in the following facilities:

- Woodbridge Developmental Center, New Jersey;
- Connecticut Valley Hospital, Connecticut;
- Lanterman Developmental Center, California;
- Atascadero State Hospital, California;
- Patton State Hospital, California;

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<sup>12</sup> Exec. Order No. 13217, 66 Fed. Reg. 33155 (June 18, 2001).

- Metropolitan State Hospital, California;
- Napa State Hospital, California;
- Reginald P. White Nursing Facility, Mississippi;
- Glenwood and Woodward Resource Centers, Iowa;
- Mercer Geriatric Center, New Jersey;
- Lubbock State School, Texas;
- Ft. Bayard Medical Center, New Mexico;
- St. Elizabeth Hospital, District of Columbia;
- Tennessee State Veterans' Homes;
- Clyde L. Choate Developmental Center, Illinois;
- Georgia mental health Facilities;
- Beatrice State Developmental Center, Nebraska;
- Bellefontaine Developmental Center, Missouri;
- Northwest Habilitation Center, Missouri; and
- Howe Developmental Center, Illinois.

In the Fiscal Year, the Division monitored community placements or the community systems for persons with developmental disabilities in a number of states, including the District of Columbia (in a pre-CRIPA lawsuit), Indiana, Iowa, Puerto Rico, Tennessee, and Wisconsin, and for persons with mental illness in Hawai'i.

**XI. Technical Assistance**

Where federal financial, technical, or other assistance is available to help jurisdictions correct deficiencies, the Division advises responsible public officials of the availability of such aid and arranges for assistance, where appropriate. The Division

also provides technical assistance largely through the information provided to jurisdictions by the Division's expert consultants. After the expert consultants complete on-site visits and program reviews of the subject facility, they prepare detailed reports of their findings and recommendations that provide important information to the facilities on deficient areas and possible remedies to address such deficiencies. The Division routinely provides such reports to cooperative jurisdictions. In addition, during the course of investigatory tours, the Division's expert consultants provide helpful information to jurisdictions regarding specific aspects of their programs at no costs to the local or state government. These reports permit early intervention by local jurisdictions to remedy highlighted issues before a Findings Letter is forwarded.

In Fiscal Year 2007, the Division provided technical assistance in the process of enforcing CRIPA. For example, in United States v. Puerto Rico (D. P.R. 1994), United States v. Louisiana, 04-15-D-M2 (M.D. La. 2004), United States v. Indiana, IP00-1991CB/S (S.D. Ind. 2000), and United States v. Iowa (S.D. Ia. 2004), the Section provided ongoing guidance that assisted the jurisdictions to develop and implement more integrated community supports for persons with intellectual and developmental disabilities. This assistance directly led to the creation of community homes, community jobs, and community volunteer and other meaningful activities for dozens of vulnerable people. In addition, expert consultants provided technical assistance to Coffee County, Georgia and Terrell County, Georgia regarding their new jail construction plans.

In addition, to ensure timely and efficient compliance with settlement agreements, the Division issued numerous post-tour compliance assessments letters (and in some cases emergency letters identifying emergent conditions) to apprise jurisdictions of their

compliance status. These letters routinely contain technical assistance and best practices recommendations.

## **XII. Responsiveness to Allegations of Illegal Conditions**

During Fiscal Year 2007, the Division reviewed allegations of unlawful conditions of confinement in public facilities from a number of sources, including individuals who live at the facilities, relatives of persons living in facilities, former staff of facilities, advocates, concerned citizens, media reports, and referrals from within the Division and other federal agencies. The Division received nearly 6,000 CRIPA-related citizen letters and hundreds of CRIPA-related telephone complaints during the Fiscal Year. In addition, the Division responded to nearly 70 CRIPA-related inquiries from Congress and the White House.

The Division prioritized these allegations by focusing on facilities where allegations revealed systemic, serious deficiencies. In particular, with regard to facilities for persons with mental illness or developmental disabilities and nursing homes, the Division focused on allegations of abuse and neglect; adequacy of medical and mental health care; use of restraints and seclusion. Consistent with the requirements of Title II of the Americans with Disabilities Act and its implementing regulations, 42 U.S. C. §§ 12132 et seq.; 28 C.F.R. § 35.130(d), the Division also ensured that facilities provided services to institutionalized persons in the most integrated setting appropriate to meet their needs. Similarly, with regard to its work in juvenile justice facilities, the Division focused on allegations of abuse, adequacy of mental health and medical care, and provision of adequate rehabilitation and education – including special education services. Finally, in relation to jails and prisons, the Division placed emphasis on

allegations of abuse including sexual abuse, adequacy of medical care and psychiatric services, and grossly unsanitary and other unsafe conditions.

**XIII. Juvenile Justice Activities**

The welfare of our nation's youth confined in juvenile justice facilities has been a high priority for the Division. During Fiscal Year 2007, there was one new investigation initiated, involving 19 juvenile work camps in Los Angeles, California, four findings letters issued, and one prior complaint and settlement agreement amended to include an additional juvenile justice facility. For the period from January 2001 through September 2007, the Administration has authorized 21 investigations of 42 juvenile justice facilities, issued 18 findings letters regarding 27 facilities, and obtained fourteen substantial agreements. For investigations alone, this represents a greater than 100 percent increase in investigations than were authorized in the preceding six and one half years.