

Department of Justice Criminal Division



Performance Budget
FY 2022 Congressional Submission



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I. Overview of the Criminal Division

Mission Statement

The Criminal Division’s mission is to protect the American people from serious criminal activity, including transnational criminal organizations, violent gangs, drugs, cybercrime, child exploitation, corruption, fraud, and money laundering. The Criminal Division’s specialized prosecution units develop and enforce federal criminal laws that target complex, international, and multi-district crime. The Division responds to critical and emerging national and international criminal threats and leads a coordinated, nationwide response to reduce those threats.¹

To accomplish its mission, the Division joins with domestic and foreign law enforcement partners to pursue criminal investigations and prosecutions. The Division often partners with U.S. Attorneys’ Offices in investigating and prosecuting criminal matters, particularly in complex multi-jurisdictional or international cases. The importance of the Division’s centralized expertise and coordination has been recognized for decades: former Attorney General Robert H. Jackson noted that it is necessary “to promote uniformity of policy and action, to establish some standards of performance, and to make available specialized help.” Attorney General Jackson emphasized a balance that “avoid[s] any lessening of the prestige and influence of the district attorneys” while proceeding “with that uniformity of policy which is necessary to the prestige of federal law.”

The Division also plays a critical and unique role in fighting transnational crime. As the “central authority” for U.S. law enforcement interactions with other countries, the Division secures evidence critical to solving crimes against Americans and obtains the extradition of criminals from foreign countries to face justice in U.S. courts. No other organization within the Department of Justice or the United States Government is authorized to fulfill this critical international role.

To sustain mission needs, the Criminal Division requests a total of 772 permanent positions (478 attorneys), 762 direct Full-Time Equivalent work years (FTE), and \$215,173,000 in its Salaries and Expenses appropriation for Fiscal Year (FY) 2022.

Division Priorities

The Criminal Division has identified the following key strategic goals to address our country’s most critical justice priorities:

- Disrupting and dismantling domestic and transnational criminal organizations and networks that threaten our country through violence, drug trafficking, human smuggling and immigration offenses, and computer crime;
- Ensuring trust and confidence in government institutions, by reducing public corruption at every level of government;
- Ensuring the stability and security of domestic and global markets, as well as the integrity of government programs, by reducing fraud, money laundering, and other economic crimes committed by both corporations and individuals;

¹ Electronic copies of the Department of Justice’s Congressional Budget Justifications and Capital Asset Plan and Business Case exhibits can be viewed or downloaded from the Internet using the Internet address: <https://www.justice.gov/doj/fy-2021-CJ>.



- Combating cyber threats and attacks while assuring that agents and prosecutors across the country can obtain digital evidence critical to every sort of investigation;
- Protecting our children from exploitation and defending human rights;
- Securing evidence located abroad that is essential for successful U.S. prosecutions, and seeking international enforcement of U.S. asset forfeiture orders abroad;
- Assisting foreign law enforcement authorities to obtain evidence in the United States, thereby empowering them to interdict criminal actors on foreign soil before the threat can migrate to the United States;
- Ensuring accountability through extradition for criminals who seek safe haven abroad, while removing violent criminals and other fugitives from our communities to face justice in foreign courts;
- Strengthening justice-sector institutions in countries throughout the globe; and
- Supporting crime-fighting efforts across federal, state, and local governments.

The Criminal Division engages in several program activities to achieve its mission:

- Investigating and prosecuting cases;
- Providing expert guidance and advice to our prosecutorial and law enforcement partners;
- Authorizing the use of sensitive law enforcement tools; and
- Engaging with domestic partners and foreign counterparts to enforce the law, advance public safety, and achieve justice.

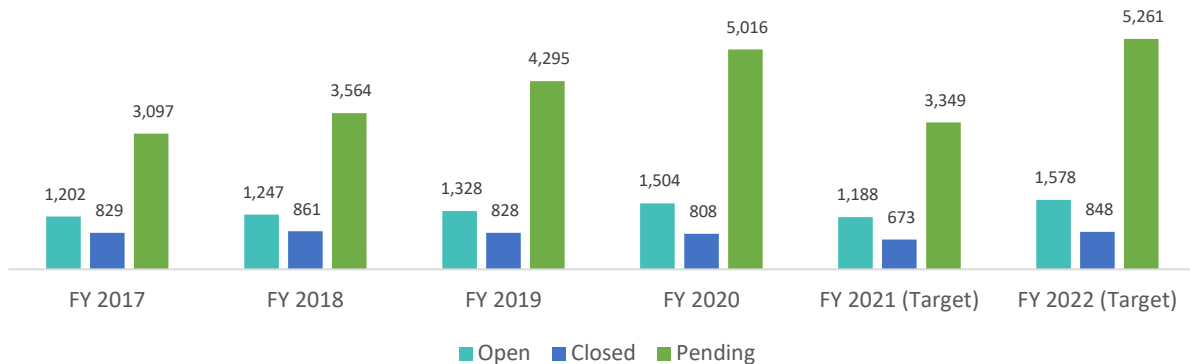
Every day, the Criminal Division performs these functions at the forefront of federal criminal law enforcement.

Program Activities

Investigating and Prosecuting Cases

- Investigating and prosecuting the most significant cases and matters; and
- Coordinating a wide range of criminal investigations and prosecutions that span jurisdictions and involve multiple law enforcement partners.

Criminal Division Prosecutions and Investigations FY 2017-FY 2022



The Criminal Division supports its mission through the responsible and aggressive investigation and prosecution of crime. The Division undertakes complex cases, including cases involving multiple jurisdictions and those that have an international component. In addition, for certain criminal statutes, the Division approves all federal charging instruments filed throughout the United States to ensure a consistent and coordinated approach to the nation’s law enforcement priorities. The Division has a bird’s-eye view of violent crime, organized crime, narcotics, money laundering, white-collar crime, public corruption, cybercrime, and other criminal activities. Consequently, the Division is uniquely able to ensure that crimes that occur, both in the United States and abroad, do not go undetected or ignored.

Select Recent Criminal Division Accomplishments in Investigating and Prosecuting Cases²

- Computer Crime & Intellectual Property Section (CCIPS):** In August 2019, CCIPS charged eight defendants with running two of the largest illegal television show and movie streaming services in the United States, causing millions of dollars in losses to television program and motion picture copyright owners. One of the services, called Jetflix, claimed to have more than 183,200 different television episodes. One defendant left Jetflix to create a competing service, iStreamItAll, which claimed to have 115,849 different television episodes, 10,511 individual movies, and more content than Netflix, Hulu, Vudu, and Amazon Prime. In December 2019, CCIPS obtained two guilty pleas.
- Fraud Section (FRD):** In September 2020, the Fraud Section’s Health Care Fraud Unit organized and led an historic nationwide law enforcement operation, the National Health Care Fraud and Opioid Takedown. On September 30, 2020, the Criminal Division announced this operation, which involved 345 charged defendants across 51 federal districts, including more than 100 doctors, nurses, and other licensed medical professionals. These defendants were collectively charged with submitting more than \$6 billion in allegedly false and fraudulent claims to federal health care programs and private insurers, including more than \$4 billion connected to telemedicine, more than

² The Division completed these cases in conjunction with other Department components and law enforcement agencies.



\$845 million connected to substance abuse treatment facilities, or “sober homes,” and more than \$806 million connected to other health care fraud and illegal opioid distribution schemes across the country.

- **Human Rights and Special Prosecutions Section (HRSP):** On April 30, 2019, Moayad Heider Mohammad Adairi pleaded guilty to conspiracy to bring aliens to the United States and a related charge for his role in a scheme to smuggle Yemeni aliens through Mexico to the United States. Specifically, Aldairi, a Jordanian national residing in Mexico, conspired with others to smuggle nationals from Yemen into the United States in exchange for money. Aldairi was sentenced to 36 months’ imprisonment in October 2019. This case serves as a model for what the Division and a broad coalition of its law enforcement partners can accomplish through whole-of-government initiatives designed to protect our nation’s borders from the threat posed by human smugglers.
- **Narcotic and Dangerous Drug Section (NDDS):** Luz Irene Fajardo Campos (“Fajardo”), a/k/a “La Comadre,” “La Madrina,” or “La Dona,” was convicted in December 2019 of conspiracy to distribute cocaine and to manufacture and distribute cocaine. Her conviction arose from a complex investigation began in January 2012, when law enforcement identified Fajardo as the leader of a drug trafficking organization and a high-level narcotics broker for the Sinaloa Cartel. Prosecutors from the Division obtained an indictment against Fajardo and two of her sources of supply in Colombia in August 2016. Fajardo was arrested in March 2017 after NDDS prosecutors obtained an emergency Interpol Red Notice for Fajardo’s arrest and Colombian National Police Officers arrested her as she attempted to depart Bogota International Airport.
- **Organized Crime and Gang Section (OCGS):** By the end of Fiscal Year 2020, Operation Pitch Six, an Organized Crime And Drug Enforcement Task Force-designated case, resulted in federal indictments against 55 Gangster Disciples members and associates, with more than an additional 20 state indictments. The defendants included national leaders of the Gangster Disciples from multiple states, including Georgia, Florida, Alabama, Mississippi, California, Colorado, and Michigan. Thirty-nine federal defendants were indicted for RICO conspiracy, with over 12 murders being named as racketeering activity. Other defendants were charged with drug and firearms offenses. Seizures included over 50 pounds of cocaine, 4 kilograms of methamphetamine, over 30 firearms, and many stolen and counterfeit credit cards. All but two of the federal defendants were convicted.

Providing Expert Guidance and Advice

- Developing and supporting effective crime reduction strategies and programs;
- Driving policy, legislative, and regulatory reforms; and
- Providing expert counsel and training in criminal enforcement matters to state, local, and federal and foreign enforcement partners.

The Criminal Division serves as the strategic hub of legal and enforcement expertise in the fight against national and international criminal threats. Consequently, its expert guidance and advice are crucial to the successful application of criminal law throughout the country. The Division leads the national effort to address emerging criminal trends, including the increasingly international scope of criminal activity. The guidance provided to U.S. Attorneys’ Offices and other federal law enforcement partners promotes

coordination, consistency, and the efficient use of resources while leveraging expertise and furthering the Department’s mission to ensure justice.

Expert Guidance and Legal Advice



Select Recent Criminal Division Accomplishments in Providing Expert Guidance and Advice

- Computer Crime & Intellectual Property Section (CCIPS):** Any effective strategy to address the rapid growth in the number, impact, and complexity of novel cyber challenges requires centralized expertise and coordination. CCIPS has innovated throughout its existence with initiatives that include training, policy, and operational support to over 200 Computer Hacking and Intellectual Property (CHIP) coordinators, as well as the Global Law Enforcement Network of International CHIPs, ensuring that prosecutors domestically and worldwide have the latest training on investigative techniques, legal issues at the intersection of technology and law, and up-to-date advice and examples.

- Child Exploitation & Obscenity Section (CEOS):** The Department of Justice and the Department of Homeland Security, along with our counterparts from Australia, Canada, New Zealand, and the United Kingdom, announced on March 5, 2020, the publication of the *Voluntary Principles to Counter Online Child Sexual Exploitation and Abuse* (the Principles). Developed in consultation with Facebook, Google, Microsoft, Roblox, Snap and Twitter, the Principles outline measures that companies in the technology industry can choose to implement to protect children who use their platforms from sexual abuse online and to make their platforms inhospitable to child sex offenders. The Principles cover child sexual abuse material; online grooming and preparatory behavior; livestreaming; searches for child sexual abuse material; specialized approaches for child safety; consideration of victim/survivor-led mechanisms; and evolving threats. CEOS played an instrumental role in the intensive effort that produced the Principles.

Reviewing the Use of Sensitive Law Enforcement Tools



Approving and overseeing the use of the most sophisticated investigative tools in the federal arsenal

The Criminal Division serves as the Department’s “nerve center” for many critical legal and operational matters. It is the Division’s responsibility to ensure that investigators are effectively and appropriately using available sensitive law enforcement tools. These tools include Title III wiretaps, electronic evidence-gathering authorities, correspondent banking subpoenas, and the Witness Security Program. In the international arena, the Division manages the Department’s relations with foreign counterparts and coordinates all prisoner transfers, extraditions, and mutual legal assistance requests. Finally, the Division handles numerous requests for approval from U.S. Attorneys’ Offices to use sensitive law enforcement techniques, in conjunction with particular criminal statutes. For example, the Division reviews every



racketeering indictment that is brought across the nation and is involved in every Foreign Corrupt Practices Act case. In these ways, the Division serves a critical and unique role in ensuring consistency across districts and continuity over time, as well as the even-handed application of statutes.

Select Recent Criminal Division Accomplishments in Reviewing the Use of Sensitive Law Enforcement Tools

- **Office of Enforcement Operations (OEO):** In *United States v. Madonna, et al.*, the U.S. Attorney’s Office for the Southern District of New York and the FBI targeted the Luchese family of La Cosa Nostra. The Luchese Family, a powerful and violent group of approximately 130 members and 1,000 criminal associates, has operated in the New York area for over 100 years and generated tens of millions of dollars in illegal profits. On May 31, 2017, twenty-one Luchese members were indicted. Charges included racketeering conspiracy, conspiracy to murder in aid of racketeering, murder in aid of racketeering, assault and attempted murder in aid of racketeering, conspiracy to distribute narcotics, and the use of firearms resulting in death. All defendants pleaded guilty, with the exception of four who went to trial in October 2019, and were convicted. The successful prosecution of 21 high-ranking Luchese crime family members could not have happened without the investigatory and prosecutorial support of OEO, which provided guidance on the use of sensitive law enforcement tools, including electronic surveillance and the secure production and handling of prosecution witnesses.

OEO’s Policy and Statutory Enforcement Unit, with which federal prosecutors must consult regarding proposed attorney search warrants, played a leading role in the Department’s efforts to respond to the concerns raised in *In re Search Warrant*, a decision from the U.S. Court of Appeals for the Fourth Circuit, which criticized the government’s actions in a particular case involving a search warrant for a law firm. OEO worked closely with the Office of the Deputy Attorney General and other Department components in developing guidance for U.S. Attorneys’ Offices and the Criminal Division’s litigating components regarding filter reviews, privilege determinations, and other matters that arise in executing search warrants involving attorneys.

- **Office of International Affairs (OIA):** On October 24, 2019, Canadian authorities extradited Abdullahi Ahmed Abdullahi on charges of conspiracy to provide material support to terrorists engaged in violent activities in Syria. From 2013 through 2014, Abdullahi allegedly conspired with other individuals to provide, among other things, money to individuals engaged in terrorist activities in Syria, including killing, kidnapping, and torture. Abdullahi also allegedly facilitated the travel of at least three Canadian nationals and two United States citizens to Syria to fight for ISIS, all of whom were later reportedly killed. OIA worked closely with American and Canadian authorities to produce a full extradition request, coordinate with law enforcement authorities in Alberta, and navigate the procedures required for extradition.

OIA’s Incoming Mutual Legal Assistance and Cyber teams assisted Ireland in securing the first capital murder conviction in Ireland since 1985. On August 12, 2020, a jury in Ireland convicted Irish citizen Aaron Brady of capital murder and robbery in the killing of Irish police detective Adrian Donohoe in 2013. OIA provided significant assistance in obtaining records from Facebook, providing investigative records and statements from Homeland Security Investigations (HSI), and facilitating the transfer of a cell phone belonging to Brady and data from another suspect’s phone. OIA then provided urgent assistance on multiple requests from Irish authorities throughout the nearly seven-month trial. Among other things, OIA negotiated conditions with Irish authorities for



the disclosure of sensitive email evidence, facilitated the testimony of an HSI Special Agent in the trial, and overcame pandemic restrictions to secure the testimony from the United States of a key prosecution witness who testified that Brady confessed to the murder. In October 2020, Brady was sentenced to life in prison.

Engaging with Domestic Partners and Foreign Counterparts to Enforce the Law, Advance Public Safety, and Achieve Justice

- Helping international law enforcement partners build capacity to prosecute and investigate crime within their borders by providing training and assistance; and
- Coordinating with international criminal enforcement authorities to foster operational cooperation.

The Criminal Division’s lawyers and other personnel are located in countries around the world. Posts in ten countries are maintained to foster relationships and participate in operations with international law enforcement and prosecutors. The Division also has personnel who provide assistance to foreign governments in developing and maintaining viable criminal justice institutions. Two of the Division’s sections, the International Criminal Investigative Training and Assistance Program (ICITAP) and the Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT) promote cooperation in transnational criminal matters and build the capacity in partner nations to provide modern professional law enforcement services based on democratic principles and respect for human rights.

OIA also plays a critical role in strengthening U.S. partnerships with foreign countries, which is essential to ensuring justice in individual criminal cases and protecting our national security. In the past few years, OIA has given increased attention to requests from foreign counterparts seeking electronic records. Attorneys from OIA’s specialized Cyber Unit provide critical support to partner countries seeking electronic records from the U.S. by training prosecutors and investigators on applicable U.S. legal standards.

Select Recent Criminal Division Accomplishments in Engaging with Domestic Partners and Foreign Counterparts to Enforce the Law, Advance Public Safety, and Achieve Justice

- **ICITAP:** In October 2019, the Director General of the Albanian State Police and the Director of Albania’s Counter-Terrorism Directorate announced the discovery and dismantling of a terrorist network led by elements of one of the United States’ most prominent Middle Eastern adversaries operating in Albania. The network intended to carry out attacks on the regime’s opposition movement. The terrorist plot was thwarted by the Albanian Counter Terrorism Directorate, which utilized investigative and surveillance tactics and strategies learned through ICITAP training, mentoring, and equipment provisions. One of the members of the cell was apprehended and jailed in Albania after an INTERPOL alert, which was triggered thanks to the ICITAP-developed Total Information Management System (TIMS) Border Control System.
- **OPDAT:** During Fiscal Year 2020, OPDAT’s global capacity building to combat transnational organized crime led to arrests, convictions, and forfeitures, and helped disrupt a number of transnational criminal organizations (TCOs). For example, following sustained OPDAT assistance in Central America, counterparts in El Salvador, Guatemala, and Honduras coordinated joint operations against the MS-13 and 18th Street Gangs resulting in indictments against more than



12,000 alleged gang members to date. These efforts continue through an effort named Operation Regional Shield. As a second example, in a precedent-setting decision in China, nine defendants were sentenced under the country's new fentanyl class scheduling law. The law and subsequent substantive cooperation between the Chinese and U.S. Governments included assistance from OPDAT.

Challenges to Achieving Outcomes

Many factors, both external and internal, affect the Criminal Division's capacity to accomplish its goals. While some of these factors are beyond its control, the Division strives to navigate these obstacles successfully, with an effort to minimize the negative impact these factors have on the Division's critical mission.

External Challenges

1. **Globalization of Crime:** The Criminal Division has included the globalization of crime in its challenges discussion for multiple budget cycles because many of the challenges remain the same, increasing workload demands that continue to outpace efforts to address the challenges.

For example, the incoming requests for mutual legal assistance rose from 3,469 new cases in FY 2015 to 4,943 new cases in FY 2019, an increase of 43%. While the number of new requests dropped slightly in FY 2020, this decrease was related to the temporary global slowdown resulting from the COVID-19 pandemic, and the Division expects the previous trend of increasing extradition and mutual legal assistance requests to resume once the pandemic subsides.

Although OIA has seen a dramatic growth in mutual legal assistance requests in general, cases involving evidence from Remote Computing Service and Communications Service Providers (service providers) have dramatically increased. While the Division has responded to this challenge by investing resources to assist OIA in overcoming the lingering effects of the 2017-2019 hiring freeze, increased requests for mutual legal assistance in general, and evidence from service providers in particular, still contribute to delays in response time.

Delays in responding to requests for electronic evidence in the custody or control of U.S.-based service providers present a direct threat to law enforcement's ability to successfully investigate crime. Despite improvement in processing times and increased approval rates of requests, delays occasioned by high volume and the challenges that foreign authorities face in satisfying U.S. legal standards continue to prompt calls by foreign governments for data localization, trigger foreign demands that U.S. service providers produce information directly in response to foreign orders or face criminal penalties, and encourage foreign proposals that U.S. service providers be subject to foreign or global data protection regimes.

Given the increased global demand for digital evidence stored in the U.S. and the rise in transnational criminal activity, OIA expects a continued significant annual increase in the number of new requests from around the world. As the central authority responsible for responding to and sending mutual legal assistance requests abroad, OIA bears the brunt of this challenge. Timely execution of mutual legal assistance requests, which supports OIA's mission to efficiently and effectively transfer fugitives and evidence across borders, is an essential element of the efforts of



prosecutors and law enforcement to combat transnational organized crime both in the United States and abroad.

Although the Department continues to prosecute criminals from around the globe with the help of local, state, and international law enforcement, the global nature of electronic evidence highlights the challenges of coordinating with international partners, each operating within a different legal system with diverse laws governing the collection of electronic evidence.

2. **Rapidly Evolving Technologies**: New and rapidly changing technologies continue to present challenges to the Criminal Division on several fronts:

- These technologies create gaps in existing legal authorities that present challenges for prosecuting cybercrimes. The Department, for instance, has attempted to obtain access to electronic evidence from U.S. companies that store such data overseas by serving federal search warrants on them, with inconsistent results.
- Federal courts also disagree on how to interpret key definitions in the Computer Fraud and Abuse Act (CFAA), which has led to difficulties in prosecuting individuals who misuse computer networks to which they have access. Botnets, which are networks of computers created by malware and controlled remotely, have become increasingly sophisticated. Despite gaps in the law, the Department in general, and particularly CCIPS, have continued to take action against botnets.

New technologies present criminals with the opportunity to utilize new strategies and venues that allow them to effectively target a much larger section of the population. Anonymizing technologies like The Onion Router (Tor), virtual private networks or proxies, and Freenet provide secure, anonymous systems that allow websites and their users to operate with little fear of identification, as tracing Internet Protocol addresses is nearly impossible and intercepting the communications is totally unfeasible. As a result, sites remain online for years while hundreds of thousands of offenders migrate to them to commit offenses.

- Cryptocurrency, also known as virtual currency, poses an emerging threat and new challenges. Cryptocurrency technology plays a role in many of the most significant criminal and national security threats that the United States faces. Cryptocurrencies are used by an increasing array of bad actors to profit from their crimes and conceal their ill-gotten gains. The success of many investigations and prosecutions of crimes involving cryptocurrency often hinges on the government's ability to trace transactions. However, some types of cryptocurrencies and blockchain-related technologies make it more difficult to trace transactions and recover assets for victims and forfeiture. As a result, effective tracing of cryptocurrencies requires increasingly sophisticated blockchain analysis tools.

CCIPS leads the Department's work on cybercrime, cybersecurity, intellectual property theft, and obtaining electronic evidence. CCIPS prosecutes those who seek to undermine the security of our computer networks to harm American businesses and citizens, and builds operational support around the world on cybercrime and digital evidence to better protect Americans from foreign-based crime. Yet the Division's methods of addressing cybercrimes are not only prosecutorial; the Division's Sections provide valuable policy and legislative solutions to address gaps in legal



authority, offer training events to increase the capacity of other agencies to investigate and prosecute cybercrimes, and assist with interagency coordination for national and international operations. The demand for these functions continues to grow as technology continues to evolve.

- 3. Keeping Pace with Department Workload:** Two of the Division’s Sections, OIA and OEO, provide examples of how the Division’s work is directly affected by the work of other components. Seventy-three percent of OIA’s pending U.S. requests for evidence and extraditions are from the U.S. Attorneys’ Offices. Increases in the prosecutions in U.S. Attorneys’ Offices thus result in increased requests for evidence and extraditions to OIA.

Likewise, U.S. Attorneys’ Offices and federal investigative agencies rely on OEO to approve Title III applications in a timely manner so they can conduct electronic surveillance and gather evidence that will be admissible in court. OEO has similarly experienced an increase in the number of facilities included in these applications in recent years, with no additional personnel to review them. The average turnaround time, which U.S. Attorneys’ Offices and investigative agencies require to be as quick as possible due to the nature of the work, is closely tied to the number of applications each OEO employee has to review.

In addition, the Division has confronted the emergence of COVID-19 related crime, particularly of COVID-19 related fraud concerning the Paycheck Protection Program and health care fraud. The Division has been at the forefront of the Department’s fight against fraudulent activity, leading the centralized pursuit of COVID-19 related fraud across the Department and in close coordination with other federal agencies. As the COVID-19 pandemic has unfolded, sections have redirected existing staff to address this crisis, pulling significant resources from other critical work.

Internal Challenges

Information and Network Modernization and Security: The demands on the Division’s information technology systems and staff continue to increase. These include attaining secure information technology, modernizing legacy systems, enhancing and expanding service capabilities, and maintaining existing systems. The Division has several antiquated legacy systems that must be replaced in the coming years. The capabilities of these systems are increasingly diverging from the needs of the Division, and those agencies with which it works, resulting in challenges of complex data management, excessive problem resolution times, delays in service provisioning, and insufficient ability to modernize and respond quickly to mission and business requirements. Maintaining and securing existing outdated systems requires most of the available resources, thus leaving precious little to pursue new systems. The Division will continue to manage its resources to address these challenges to the best of its ability.

Gaps in Human Capital: Human capital—our people—is the Division’s most valuable asset. Background security investigations may delay the onboarding process of Division’s mission critical positions such as attorneys, criminal investigators, and information technology specialists. Qualified candidates for these positions also have opportunities outside of the Division that generally offer far higher salaries and bonuses, more flexibility, and faster onboarding times, so the Division must devote resources towards innovative recruitment strategies and efficient onboarding processes. Similarly, the Division must devote resources to remaining an attractive place for existing employees, particularly those with significant experience and who are most marketable in the private sector. Over the last year, the Division has also faced the challenges of supporting a remote workforce.

II. Summary of Program Changes

Item Name	Description			Page
	Pos.	FTE	Dollars (\$000)	
COVID-Related Fraud	20	20	10,100	26

III. Appropriations Language and Analysis of Appropriations Language

The Criminal Division is part of the General Legal Activities (GLA) sub appropriation in the Department of Justice’s appropriation. The Department is requesting the following language be added to GLA’s overall appropriation language.

“of which not to exceed [\$20,000,000] \$50,000,000 for litigation support contracts, *and information technology projects to include cybersecurity and hardening of critical networks*, shall remain available until expended.”

The Division has several antiquated legacy systems that must be replaced in the coming years. These systems are critical to the Division’s operations and, as noted above, the capabilities of these systems are increasingly diverging from the needs of the Division. In short, existing information technology systems cannot keep up with all mission demands. There is a growing, and already great, need to process and access large amounts of data, as well as manage processes, sensitive information, and documents, that systems developed in prior years, including, in some cases, a number of years ago, cannot do effectively.

Given the scope of its antiquated legacy systems, the Division will be working on replacing these systems for an extended period, and these systems will necessitate large contracts and millions of dollars.

Increasing the No-year funding authority would allow the GLA components to:

- Continually save across fiscal years towards high-cost IT systems;
- Have flexibility with the procurement of IT systems;
- Reduce the need for requesting use of funding authorities such as Unobligated Balance Transfers (UBT), allowing other components to use these authorities; and
- Reduce the need for funding through the appropriations process.

IV. Performance Budget

This budget demonstrates how the Criminal Division’s resources directly support the achievement of the Department’s priorities, both nationally and internationally. It is intended to meet the requirements of the Office of Management and Budget (OMB) Circular A-11, Part 6, Section 240 *Annual Performance Planning*. The Division reports all resources under its only decision unit, “Enforcing Federal Criminal Law.” Total costs represent both direct and indirect costs, including administrative functions and systems.

The performance/resources tables in this section provide further detail on the Division’s performance-based budget.

<i>Enforcing Federal Criminal Law</i>	Direct Pos.	Estimate FTE	Amount (\$000)
2020 Enacted	752	628	\$195,617
2021 Enacted	752	752	\$197,254
Adjustments to Base and Technical Adjustments	0	0	\$7,819
2022 Current Services	752	752	\$205,073
2022 Program Increases	20	10	\$10,100
2022 Program Offsets	0	0	\$0
2022 Request	772	762	\$215,173
Total Change 2021-2022	20	10	\$17,919

Enforcing Federal Criminal Law

Program Description

The Criminal Division’s mission is to protect the American people from serious criminal activity, including transnational criminal organizations, cybercrime, child exploitation, fraud, gangs, corruption, and money laundering. The Criminal Division’s specialized prosecution units develop and enforce federal criminal laws that target complex, international, and multi-district crime. The Division responds to critical and emerging national and international criminal threats and leads a coordinated, nationwide response to reduce those threats. The Criminal Division is situated at headquarters in Washington, D.C. to work in partnership with both domestic and international law enforcement. While U.S. Attorneys and state and local prosecutors serve a specific jurisdiction, the Criminal Division addresses the need for centralized coordination, prosecution, and oversight.

The Division complements the work of its foreign and domestic law enforcement partners by centrally housing subject matter experts in all areas of federal criminal law, as reflected by the 17 Sections and Offices that make up the Division’s Decision Unit “Enforcing Federal Criminal Laws:”

- Office of the Assistant Attorney General (OAAG)
- Office of Administration (ADM)
- Appellate Section (APP)
- Computer Crime and Intellectual Property Section (CCIPS)
- Capital Case Section (CCS)
- Child Exploitation and Obscenity Section (CEOS)
- Fraud Section (FRD)
- Human Rights and Special Prosecutions Section (HRSP)
- International Criminal Investigative Training Assistance Program (ICITAP)
- Money Laundering and Asset Recovery Section (MLARS)
- Narcotic and Dangerous Drug Section (NDDS)
- Organized Crime and Gang Section (OCGS)
- Office of Enforcement Operations (OEO)



- Office of International Affairs (OIA)
- Office of Overseas Prosecutorial Development, Assistance and Training (OPDAT)
- Office of Policy and Legislation (OPL)
- Public Integrity Section (PIN)

The concentration of formidable expertise, in a broad range of critical subject areas, strengthens and shapes the Department's efforts in bringing a broad perspective to areas of national and transnational criminal enforcement and prevention. To capture this range of expertise, the Division's Performance and Resource Table is organized into three functional categories: prosecutions and investigations; expert guidance and legal advice; and the review of critical law enforcement tools.

Performance and Resource Tables

PERFORMANCE MEASURE TABLE									
Decision Unit: Enforcing Federal Criminal Laws									
Performance Report and Performance Plan Targets		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020		FY 2021	FY 2022
		Actual	Actual	Actual	Actual	Target	Actual	Target	Target
OUTPUT Measure	Number of Legislative and Policy Analysis Matters Completed	7,700	6,154	7,851	8,269	6,456	9,607	6,510	6,510
OUTPUT Measure	Number of Programmatic Coordination Activities	12,447	16,874	18,137	17,149	16,885	17,646	17,026	17,026
OUTPUT Measure	Number of Legal Advisory Matters	36,521	23,744	27,653	36,996	27,951	41,235	28,185	28,185
OUTPUT Measure	Number of Training Sessions/Presentations	6,365	1,778	5,234	4,525	3,661	7,187	3,692	3,692
OUTPUT Measure	Number of Mandatory Reviews Completed	24,928	23,312	28,060	29,227	35,840	35,360	36,140	36,140
OUTCOME Measure	Favorably Resolved ¹ Criminal Cases	96%	98%	99%	99%	90%	96%	90%	90%
OUTCOME Measure	Favorable Resolved ¹ Civil Cases	100%	100%	100%	100%	80%	100%	80%	80%

¹Defendants whose cases were favorably resolved include those defendants whose cases resulted in court judgments favorable to the government, such as convictions after trial or guilty pleas. Favorable resolution is measured at the defendant level and reported at the conviction stage of the case.

PERFORMANCE AND RESOURCES TABLE

Decision Unit: Enforcing Federal Criminal Laws

Performance Report, Performance Plan Targets, and Resources		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020		FY 2021	FY 2022
OUTPUT Measure	Number of activities conducted with the goal of building the capacity of foreign law enforcement, prosecutors, and judicial systems to disrupt and dismantle terrorist actions and organizations	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
		N/A	N/A	N/A	958	850	1113	850	850
OUTCOME Measure	Percentage of cyber defendants whose cases were favorably resolved ¹	Actual	Actual	Actual	Actual	Target	Actual	Target	Target
		100%	100%	94%	100%	90%	97%	90%	90%

¹While the percentage of cyber defendants whose cases were favorably resolved reflects the combined result of Criminal Division, National Security Division, and U.S. Attorneys' Offices when reported as an Agency Priority Goal, only the Criminal Division's percentage for sole and shared cases is shown in this table.

PERFORMANCE AND RESOURCES TABLE

Decision Unit: Enforcing Federal Criminal Laws

Performance Report, Performance Plan Targets, and Resources		FY 2016	FY 2017	FY 2018	FY 2019	FY 2020		FY 2021	FY 2022
OUTCOME Measure	Percentage of federal violent crime defendants whose cases were favorably resolved	N/A	N/A	100%	100%	90%	85%	90%	90%
OUTCOME Measure	Percentage of extraditions received related to violent criminals	N/A	N/A	18.4	21.2%	20%	28.8%	20%	20%
OUTCOME Measure	Percentage of illicit market defendants whose cases are favorably resolved ^{2,3}	N/A	N/A	100	100%	85%	100%	85%	85%

²Illicit markets are markets where illicit goods and services are marketed and sold.

³While the percentage of illicit market defendants whose cases were favorably resolved reflects the combined result of the Criminal Division's and the U.S. Attorneys' Offices when reported in the Annual Performance Report, only the Criminal Division's percentage for sole and shared cases is shown in this table.

Performance, Resources, and Strategies

The Criminal Division utilizes a number of strategies and resources to achieve its mission of enforcing federal criminal law, detecting criminal misconduct, obtaining restitution for victims, and strengthening the rule of law. To evaluate the Division’s progress toward achieving its mission, it utilizes output and workload measures across its three primary activity areas – prosecutions and investigations, expert guidance and legal advice, and law enforcement tools. These metrics track performance in categories such as criminal and civil litigation, appellate work, legal and policy advising, training events, and mandatory reviews.

Performance Plan and Report for Outcomes

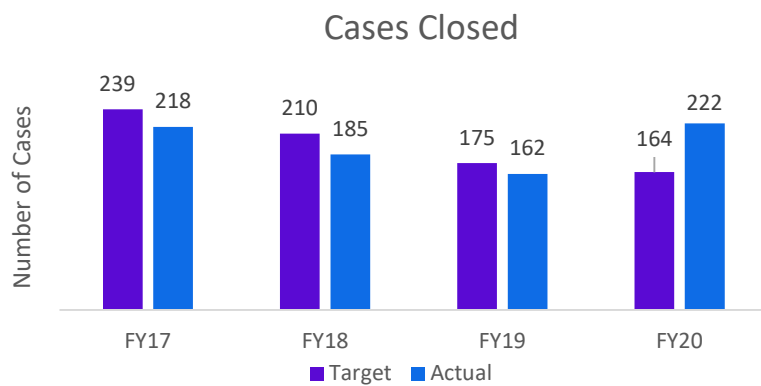
Prosecutions and Investigations

The Division leads complex investigations and brings and tries significant cases. Many of these cases are of national significance, require international coordination, have precedent-setting implications, and involve the coordination of cross-jurisdictional investigations.

Workload Measure: Number of Cases Closed

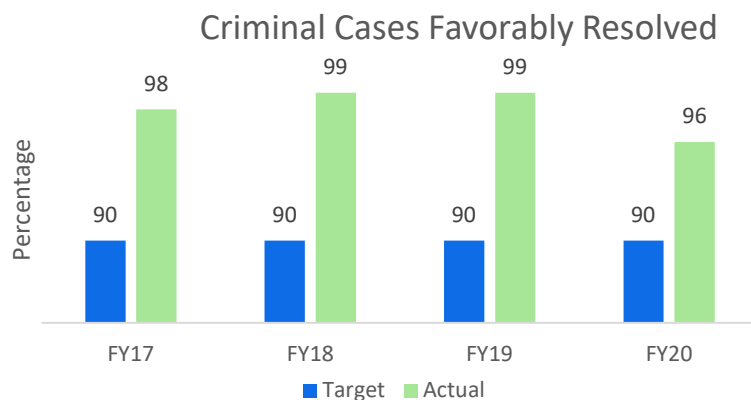
The Division prioritizes resolving cases efficiently and favorably, taking into account all facts and circumstances, including the scope of criminal misconduct and an offender’s history and characteristics. This metric illustrates the number of open prosecutions that are closed during each fiscal year and provides a snapshot of the Division’s

workload. While the Division has experienced some decrease in its number of cases in recent years, its prosecutors have handled increasingly complex cases that often involve multiple jurisdictions and international conduct, factors that are not accounted for by the mere number of cases. In FY 2020, the target number of 164 cases, which takes into account both the historical trend and the Division’s available litigation resources, was exceeded by 58 cases.



Outcome Measure: Criminal Cases Favorably Resolved

The Department’s long-term outcome goal for its litigating divisions, including the Criminal Division, is the percentage of criminal and civil cases favorably





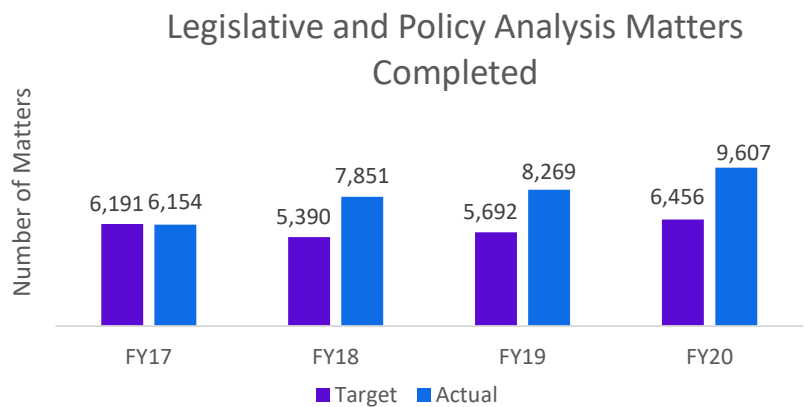
resolved during the Fiscal Year.³ This measures the effectiveness of the Division’s core law enforcement efforts. The goals are 90 percent for criminal cases and 80 percent for civil cases. The Division has consistently met or exceeded these goals. In FY 2020, the Division exceeded both outcome goals (96% criminal, 100% civil).

Expert Guidance and Legal Advice

The Division also provides expert guidance and legal advice on significant legislative and criminal rule proposals, analyzes Department-wide and government-wide law enforcement policy, conducts training for prosecutors and agents, and engages in programmatic coordination across the country.

Workload Measure: Legislative and Policy Analysis Matters Completed

This measure includes legislative reviews, policy and data analysis projects, policy guidance provided, and other activities completed by the Division on behalf of partners such as the U.S. Attorneys’ Offices. The target is determined annually based on the number of requests for assistance expected and consideration of Division resources. With the exception of FY 2017, between FY 2016 and FY 2020, the Division exceeded its target each year.

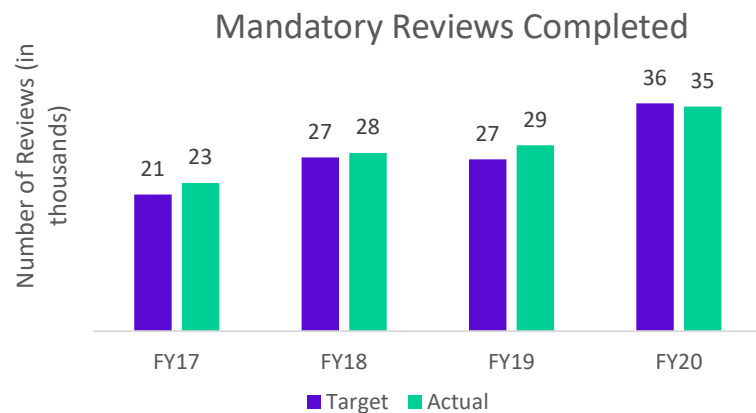


Law Enforcement Tools

The Division plays a central role in the Department’s mission by approving and overseeing the use of the most sophisticated and critical law enforcement tools. This includes the approval of all requests for Title III surveillance, securing the return of fugitives from abroad, and obtaining evidence from other countries integral to criminal prosecutions and investigations.

Workload Measure: Mandatory Reviews of Law Enforcement Tools Completed

The Division serves as the Department’s “nerve center” for many critical operational matters. It is the Division’s responsibility to ensure that investigators are effectively and appropriately using available sensitive law enforcement tools. This is done by reviewing the proposed use of tens of thousands of law enforcement tools on behalf of the Department each year. From FY 2016 to FY 2019, the Division exceeded its target number of mandatory reviews, that is, those reviews in



³ Favorable resolution is measured at the defendant level and reported at the conviction stage of the case.



which review is required, such as Title III surveillance, each year. The number of reviews dropped slightly in FY 2020 due to the COVID-19 pandemic. It is anticipated that as federal law enforcement continues to adapt to pandemic-related challenges, federal investigations and prosecutions will increase, and therefore reviews in many areas will increase as well. It is also expected that shifts in Department priorities, such as an increased focus on computer-related crime, could result in increased reviews.

Strategies to Accomplish Mission

The Criminal Division’s mission is to protect the American people from serious criminal activity, including transnational criminal organizations, cybercrime, child exploitation, fraud, gangs, corruption, and money laundering. To meet this mission and the performance goals described above, the Division plans to leverage its resources strategically to maximize the impact of its investigative, prosecutorial, advising, and law enforcement activities.

The Division will employ several strategies:

- Utilize centralized headquarters to promote favorable case resolutions and ensure cost savings: The Division’s role as a centralized hub for critical law enforcement functions allows it to support law enforcement partners in offices throughout the U.S. and foreign counterparts across the world. This structure allows the Division the flexibility necessary to quickly mobilize staff and provide guidance to address criminal threats as they develop. As its workload shifts in response to the changing nature and globalization of crime, the Division plans to leverage this structure to continue resolving complex prosecutions and investigations favorably and efficiently.
- Directing resources toward law enforcement priorities and expert guidance areas: While prosecuting and investigating cases comprised an estimated 49% of the Division’s work in FY 2020, expert advising and law enforcement activities were also significant, comprising 39% and 12% respectively. Several of the Division’s pressing internal and external challenges and the backlog of mutual legal assistance requests inhibit the Division’s effectiveness in these important areas. Maintaining OIA’s capacity to continue reducing the mutual legal assistance request backlog and OEO’s resources for reviewing Title III applications for electronic surveillance in a timely manner will assist the Division in meeting its performance targets.

Performance and Resource Tables by Program Activities

PERFORMANCE AND RESOURCES TABLE											
Decision Unit: Enforcing Federal Criminal Law											
RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2020		FY 2020		FY 2021		Current Services Technical and Base Adjustments and FY 2022 Program Changes		FY 2022 Request	
Total Costs and FTE		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		1,175	\$195,617	975	\$195,145	1,154	\$197,254	10	\$17,919	1,164	\$215,173
TYPE	PERFORMANCE	FY 2020		FY 2020		FY 2021		Current Services Technical and Base Adjustments and FY 2022 Program Changes		FY 2022 Request	
Program Activity	1. Prosecutions and Investigations	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
		577	\$95,983	478	\$95,751	559	\$95,471	5	\$8,792	571	\$105,578
Workload	Cases Opened	484		383		386		36		422	
Workload	Cases Closed	164		222		224		21		244	
Workload	Cases Pending	1,290		2,330		2,349		216		2,566	
Workload	Appellate Work - Opened	1,220		2,302		2,321		214		2,535	
Workload	Appellate Work - Closed	1,140		2,313		2,332		215		2,547	
Workload	Appellate Work Pending	547		834		841		77		918	
Workload	Matters Opened	873		1,121		1,130		104		1,234	
Workload	Matters Closed	518		586		591		54		645	
Workload	Matters Pending	1,470		2,686		2,708		249		2,958	

PERFORMANCE AND RESOURCES TABLE

Decision Unit: Enforcing Federal Criminal Law

RESOURCES		Target		Actual		Projected		Changes		Requested (Total)	
		FY 2020		FY 2020		FY 2021		Current Services Technical and Base Adjustments and FY 2022 Program Changes		FY 2022 Request	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
	2. Expert Guidance and Legal Advice	456	\$75,899	378	\$75,716	456	\$77,981	4	\$6,941	451	\$83,344
Workload	Number of Legislative and Policy Analysis Matters Completed	6,456		9,607		9,687		862		10,550	
Workload	Number of Programmatic Coordination Activities	16,885		17,646		17,794		1,584		19,377	
Workload	Number of Legal Advisory Matters Completed	27,951		41,235		41,580		3,701		45,281	
Workload	Number of Training Sessions/Presentations	3,661		7,187		7,247		645		7,892	
Program Activity		FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000	FTE	\$000
	3. Law Enforcement Tools	143	\$23,735	118	\$23,678	139	\$23,802	1	\$2,186	142	\$26,251
Workload	Number of Mandatory Reviews Completed	35,840		35,360		35,656		3,275		38,931	
Workload	Favorably Resolved Criminal Cases	90%		96%		90%		0%		90%	
Workload	Favorable Resolved Civil Cases	80%		100%		80%		0%		80%	

Data Definition, Validation, Verification, and Limitations: Definitions: Prosecutions and Investigations: This program activity includes cases or investigatory matters in which the Criminal Division has sole or shared responsibility. The case breakouts include cases from the following Sections/Offices: Fraud Section, Public Integrity Section, Computer Crime and Intellectual Property Section, Child Exploitation and Obscenity Section, Organized Crime and Gang Section, Narcotic and Dangerous Drug Section, Money Laundering and Asset Recovery Section, Human Rights and Special Prosecutions Section, and Capital Case Section. Appeals: Appellate Section. Expert Guidance & Legal Advice: This program activity includes oral and written advice and training to federal, state, local, and foreign law enforcement officials; coordination and support of investigations, prosecutions, and programs at the national, international and multi-district levels; and oral and written analysis of legislation and policy issues, development of legislative proposals, advice and briefing to Departmental and external policy makers, and participation in inter-agency policy coordination and discussions. Law Enforcement Tools: This program activity includes the work the Division does in specific areas of criminal law in reviewing and approving the use of law enforcement tools throughout the law enforcement community. Validation: The Division's management quarterly validates performance information to ensure date integrity.



V. Program Increase

Item Name: **COVID-19-Related Fraud**

Strategic Goal: N/A

Strategic Objective: N/A

Budget Decision Unit(s): Enforce Federal Criminal Laws

Organizational Program: Criminal Division

Program Increase: Positions 20 Agt/Atty 20 FTE 10 Dollars \$10,100,000

Description of Item

The Criminal Division requests **20 positions (20 attorneys), 10 FTE, and \$10,100,000** to address pervasive COVID-19-related crime, primarily COVID-19-related fraud concerning the Paycheck Protection Program, Economic Injury Disaster Loans administered by the Small Business Administration, and health care fraud. The Criminal Division has been at the forefront of the Department’s fight against surging fraudulent and other criminal activity, leading the centralized pursuit of COVID-19-related fraud and crime across the Department and in close coordination with other federal agencies. The Fraud Section, in particular, has had significant success investigating and prosecuting COVID-19-related fraud cases, often in conjunction with U.S. Attorneys’ Offices. Similarly, other Criminal Division sections are seeing significant growth in COVID-19-related crime, as well as supporting a wide range of investigations through the lawful collection of electronic evidence, support for other critical investigative tools, and continuing our international assistance. The Criminal Division seeks funds to hire temporary positions to meet the substantial COVID-19-related crime workload.

Justification

Paycheck Protection Program and Economic Injury Disaster Loans

On March 29, 2020 Congress enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which, among other things, provided forgivable loans guaranteed by the Small Business Administration through the Paycheck Protection Program (PPP), and expanded the availability of the Small Business Administration (SBA)’s Economic Injury Disaster Loans (EIDL). The CARES Act and subsequent COVID-19-related legislation has authorized approximately \$900 billion for this program. The Fraud Section’s analysis of relevant loan data and experience investigating and prosecuting over 120 criminal defendants for PPP and EIDL fraud confirm that these schemes put these billions of federal dollars at risk, that new COVID-19 relief funds will likely face similar risks, and that a formalized response is necessary to deter fraud and maximize efficiencies in prosecutions, including by leveraging relationships with the various government agencies and private-sector lenders involved in the programs.



Starting in April 2020 and continuing, the Fraud Section has led an effort to identify, disrupt, and aggressively prosecute fraud on the PPP and related disaster relief programs, including EIDL. The Fraud Section's PPP and EIDL work has involved the creation of numerous partnerships with law enforcement and regulatory agencies, as well as new partnerships with private sector financial institutions. It has also called upon the Fraud Section's expertise in data-driven investigations, as it has involved collection and analysis of national-level loan data from public- and private sector sources to identify indicia of fraud. The Fraud Section's response has been modeled on the Strike Forces that operate within the Fraud Section's Health Care Fraud Unit. The Fraud Section has been able to successfully leverage the assistance and cooperation of private sector firms (banks, credit unions, payroll companies, and financial technology firms), which have provided information in a timely fashion. Additionally, a robust system of data analytics and review of suspicious activity reports by analysts and Fraud Section attorneys has aided prosecutions and generated quick case referrals so that, where possible, funds could be seized before they were dissipated.

The Fraud Section achieved early success when it charged over 50 defendants with defrauding the PPP by September 10, less than six months from the creation of the program.⁴

Between May 2020 and March 2021, the Fraud Section continued to successfully investigate and prosecute fraud, by among other things:

- Publicly charging over 120 individuals in 81 different cases, with alleged total intended losses of over \$296 million and alleged total actual losses of over \$156 million;
- Obtaining guilty pleas from more than 40 individuals;
- Seizing over \$66 million in loan proceeds stolen from the PPP and millions of dollars in various real and personal property purchased with fraud proceeds; and
- Providing more than 1,000 PPP fraud case referrals to U.S. Attorneys' Offices across the country and assisting other prosecutors and federal agents with data analysis and process.

For example, Fraud Section cases included:

- *United States v. Shashank Rai* (E.D. Tex.), in which the defendant was charged with seeking more than \$10 million in PPP loans from different banks by falsely claiming to have 250 employees working for his purported business when, in fact, he had no employees at all;
- *United States v. Samuel Yates* (E.D. Tex.), in which the defendant was charged with seeking more than \$5 million in PPP funds, fraudulently claimed to employ more than 400 people (amounting to nearly 40% of the total population of the small town in which he lived), and fabricated employees on loan applications based on lists of names obtained from a publicly available random name generator on the internet;
- *United States v. James Stote* (N.D. Ohio; S.D. Fla.) and related matters, in which a ring of individuals, acting in concert across jurisdictions, were charged with using shell companies and fabricated tax and wage documents to seek a combined total of more than \$24 million in PPP loans; and

⁴ <https://www.justice.gov/opa/speech/acting-assistant-attorney-general-brian-rabbitt-delivers-remarks-ppp-criminal-fraud>



- *United States v. Richard Ayvazyan, et al.* (C.D. Cal.), in which a ring of eight individuals were charged for their alleged participation in a scheme to submit over 150 fraudulent loan applications seeking over \$21.9 million in COVID-19 relief funds guaranteed by the SBA through the PPP and EIDL programs.

The Fraud Section continues to identify significant numbers of leads, and the continued availability of PPP, EIDL, and other COVID-19-related relief funds will likely be accompanied by additional attempts to obtain such funds through fraud. The Fraud Section is singularly well positioned to identify, investigate, prosecute, and assist others in prosecuting such fraud, but the Fraud Section's efforts to detect, disrupt, investigate, and prosecute COVID-19-related fraud schemes currently (and unsustainably) draw upon resources vital to the enormous volume of other Fraud Section work, risking a diminishment of the Fraud Section's capability to address existing Departmental enforcement priorities. It is only through an infusion of resources to fund this significant expansion of the Fraud Section's workload that the proactive, innovative, and critical work the Fraud Section is doing to combat COVID-19-related fraud can be appropriately and proportionately scaled to meet the challenge of such fraud.

Health Care Fraud

The Criminal Division's Fraud Section is also leading the Department's COVID-19 Health Care Fraud (HCF) Working Group, centralizing the government's health care fraud response within the Criminal Division, which, as a headquarters component, has extensive experience with large, complex and cross-jurisdictional cases. Combating COVID-19 health care fraud is critical work on behalf of American taxpayers not only because it impacts the public fisc, but also because this fraud may result in patient harm. The Working Group, chaired by the Fraud Section's HCF Unit, includes the leadership of over 10 key government agencies, such as the Federal Drug Administration, the Health and Human Services Office of Inspector General, the Small Business Administration Office of Inspector General, the Veterans Administration Office of Inspector General, the Federal Bureau of Investigation, and the Drug Enforcement Administration, among others. The role of the Working Group is to identify new COVID-19 fraud cases, assist with deconfliction, discuss relevant factual and legal matters in this rapidly evolving regulatory space, collaborate on data analytics, and coordinate a rapid response to developing schemes through the assignment of agents and prosecutors.

In addition to coordinating interagency efforts, the HCF Unit is also unifying efforts across the Department. This includes coordinating with law enforcement, identifying cases, organizing the HCF Unit's response, advising U.S. Attorneys' Offices and other Department components, and assisting prosecutors with investigative and prosecutorial strategy.

- As of March 29, the HCF Unit has referred 86 cases to 35 U.S. Attorneys' Offices, and is continuing to offer guidance, data analytics support and strategy to Assistant U.S. Attorneys and investigators as they work on these referrals.
- The HCF Unit itself has assigned 27 prosecutors to investigate and prosecute COVID-19 health care fraud and has 67 open investigations involving 12 Strike Forces.



- The HCF Unit’s Data Analytics Team has processed 3,098 COVID-19-related requests and is currently actively monitoring 19 providers for suspected health care fraud.

Importantly, between May 2020 and March 2021, the HCF Unit itself, using the collaborative process described above, identified and prosecuted some of the nation’s most complex cases of COVID-19 related health care fraud, involving alleged total intended losses of over \$100 million. For example, HCF Unit prosecutions included:

- *United States v. Mark Schena* (N.D. Cal.), in which the CEO of a publicly traded medical-technology company was charged for his alleged participation in schemes to mislead investors and commit health care fraud in connection with false statements concerning the company’s ability to use revolutionary “microarray technology” to test for allergies and COVID-19 based on a single drop of blood, and the submission of over \$69 million in false and fraudulent claims for allergy and COVID-19 testing;
- *United States v. Peter Khaim and Arkadiy Khaimov* (E.D.N.Y.), in which two owners of over a dozen New York pharmacies were charged for their alleged roles in a \$30 million health care fraud and money laundering scheme in which they exploited emergency codes in the Medicare system that went into effect due to the COVID-19 pandemic in order to submit fraudulent claims for expensive cancer drugs that were never provided, and laundered the money through shell companies located in China and Uzbekistan; and
- *United States v. Amina Abbas* (E.D. Mich.), in which a Michigan home health owner was indicted on allegations that she intentionally misappropriated government funds that were designed to aid medical providers in the treatment of patients suffering from COVID-19 and used them for her own personal expenses. This indictment included the first ever criminal charges for the intentional misuse of funds from the Provider Relief Fund, which was established by the CARES Act to provide relief to health care providers and maintain access to medical care during the pandemic.

While the HCF Unit has supported significant COVID-19 workload with existing staff and by reallocating resources from other health care fraud and opioid-related investigations and prosecutions, this neither can be sustained long-term nor is enough to meet demands. Additional resources are needed to properly respond to these vitally important efforts to combat COVID-19 and nationwide, multi-district health care fraud schemes.

Other Crime Surges Resulting from the COVID-19 Pandemic

The Criminal Division has also seen crime surges related the COVID-19 pandemic in other areas beyond PPP, EIDL, and health care fraud. Cybercrime, intellectual property crime, child exploitation, corruption, and opioid and synthetic trafficking investigations have increased, in some areas, dramatically, as the COVID-19 pandemic has unfolded, necessitating additional resources. This request will assist the Division in addressing this surging workload.

For example, CCIPS is working with key investigative partners, including the National Intellectual Property Rights Coordination Center and the National Center for Disaster Fraud, to combat COVID-19 related cybercrime and intellectual property violations. CCIPS’s efforts include (a)



reviewing thousands of complaints relating to counterfeit protective gear and other COVID-19-related intellectual property crimes; (b) disrupting botnets and ransomware that target hospitals and others on the front line of addressing the pandemic, often cooperatively with the private sector; and (c) identifying and taking down scam websites designed to look like legitimate charities, government agencies, or COVID-19 related information sources, but which fraudulently solicit “donations,” trick users into revealing passwords or other personal information, or distribute malicious code. CCIPS also played a leading role in ensuring that the emerging pandemic did not disrupt the lawful collection of electronic evidence, even as communications providers and courts quickly shifted to remote operations. It has also trained and assisted thousands of agents and prosecutors across the country on electronic evidence and forensics issues as they pursued a variety of criminal investigations and prosecutions.

The Criminal Division’s Child Exploitation and Obscenity Section (CEOS) has seen a significant increased threat of child exploitation during the COVID-19 pandemic. Changes in activity, including children not going to school and increase in internet activity by both adults and children, have created an increased risk for predatory grooming, sextortion, and the exchange of child sexual exploitation material (CSAM). For example, reports to the CyberTipline concerning online child exploitation increased by 28% from 2019 to 2020, from almost 17 million to almost 22 million. New forms of child exploitation have emerged, such as “zoombombing” where offenders display CSAM during a videoconference. Most chillingly, the best signal we have of the impact of COVID-19 on child exploitation is chatter we are seeing on the so-called Dark Net, where offenders speak freely about the opportunities for child exploitation created by the pandemic.

This request will assist the Criminal Division in addressing workload surges as a result of the COVID-19 pandemic.

Impact on Performance

This enhancement request will allow the Criminal Division to temporarily bolster base resources to respond to the pervasive COVID-19-related fraud and crime emerging as a result of the pandemic.

There have been a number of Executive Orders regarding COVID-19, including:

- E.O. 13987: Organizing and Mobilizing the United States Government To Provide a Unified and Effective Response to Combat COVID-19 and To Provide United States Leadership on Global Health and Security
- E.O. 13994: Ensuring a Data-Driven Response to COVID-19 and Future High-Consequence Public Health Threats
- E.O. 13995: Ensuring an Equitable Pandemic Response and Recovery
- E.O. 13996: Establishing the COVID-19 Pandemic Testing Board and Ensuring a Sustainable Public Health Workforce for COVID-19 and Other Biological Threats
- E.O. 13997: Improving and Expanding Access to Care and Treatments for COVID-19
- E.O. 14002: Economic Relief Related to the COVID-19 Pandemic



These Executive Orders communicate the vast public health and economic challenges posed by the COVID-19 pandemic and prioritize efforts to address them. However, inherent in any public health and economic emergency is the possibility for pervasive fraud and crime. This is especially applicable to the COVID-19 pandemic, as large-scale shifts in daily life and the availability of significant relief funds open up the possibility for criminals to seek to take advantage of others and the federal government. This funding request will help the Department of Justice respond to these threats.

Funding

1. Base Funding

FY 2020 Enacted				FY 2021 Enacted				FY 2022 Current Services			
Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)	Pos	Agt/Atty	FTE	Amount (\$000)
0	0	0	\$0	0	0	0	\$0	0	0	0	\$0

All current COVID-19 fraud work is currently being done using base resources. There are not dedicated positions or dollars in CRM's base for these activities; therefore, we are not showing current services costs.

2. Personnel Increase Cost Summary

Type of Position/Series	FY 2022 Request (\$000)	Positions Requested	Full Year Modular Cost per Position (\$000)	Annualizations (\$000)			
				1st Year	2nd Year	FY 2023 (net change from 2022)	FY 2024 (net change from 2023)
Attorneys (0905)	\$2,360	20	\$118	\$2,360	\$2,360	\$0	\$0
Total Personnel	\$2,360	20	\$118	\$2,360	\$2,360	\$0	\$0

3. Non-Personnel Increase/Reduction Cost Summary

The non-personnel request includes \$7,740 for training, litigation support, operations, contracts and other IT support needs that are critical to the success of the requested positions.

Non-Personnel Item	FY 2022 Request (\$000)	Unit Cost (\$000)	Quantity	Annualizations (\$000)	
				FY 2023 (net change from 2022)	FY 2024 (net change from 2023)
Training	\$140	\$140	1	\$0	\$0

Litigation and Contract Support	\$4,975	\$4,975	1	\$2,000	\$0
Operational Support	\$50	\$50	1	\$0	\$0
Technology	\$2,575	\$2,575	1	\$500	\$0
Total Non-Personnel	\$7,740	\$7,740	1	\$2,500	\$0

4. Justification for Non-Personnel Annualizations

Only a portion of litigation, contract and IT support will be annualized to ensure sufficient funding for investigation and prosecution costs.

5. Total Request for this Item

Category	Positions			Amount Requested (\$000)			Annualizations (\$000)	
	Count	Agt/Atty	FTE	Personnel	Non-Personnel	Total	FY 2023 (net change from 2022)	FY 2024 (net change from 2023)
Current Services	0	0	0	\$0	\$0	\$0	\$0	\$0
Increases	20	20	10	\$2,360	\$7,740	\$10,100	\$4,860	\$0
Grand Total	20	20	10	\$2,360	\$7,740	\$10,100	\$4,860	\$0

6. Affected Crosscuts

N/A