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The Honorable John Conyers, Jr.  
Chairman  
Committee on the Judiciary  
House of Representatives

The Honorable Jerrold Nadler  
Chairman  
Subcommittee on the Constitution, Civil Rights,  
and Civil Liberties  
Committee on the Judiciary  
House of Representatives

The Honorable Melvin L. Watt  
House of Representatives

Subject: *DOJ's Civil Rights Division: Opportunities Exist to Improve Its Case Management System and Better Meet Its Reporting Needs*

The Civil Rights Division (Division) of the Department of Justice (DOJ) is the primary federal entity charged with enforcing federal statutes prohibiting discrimination on the basis of race, sex, disability, religion, and national origin in such areas as voting, employment, housing, public accommodations, the rights of institutionalized persons, and education.<sup>1</sup> Each year, the Division initiates thousands of matters, which may consist of the investigation of an allegation of discrimination, and participates in hundreds of cases to carry out its broad enforcement responsibilities.<sup>2</sup>

Over the past 20 years, the Division has used various case management systems to manage its workload. In October 2000, the Division implemented the Interactive Case Management System (ICM) as its official system to track, count, and capture performance measurement information for all matters and cases from their inception to their conclusion and to assist staff in their casework. According to Division documentation, ICM was also designed to serve as a tool for senior management to oversee the work of the Division and to assist senior managers in reporting accurate matter and case data at all levels of the organization, improving accountability, analyzing the Division's performance, and responding to

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<sup>1</sup> The Division uses the term protected class to refer to the different groups (e.g., race, sex, and national origin) covered by the statutes that it enforces.

<sup>2</sup> A matter is defined as an activity that has been assigned an identification number but has not resulted in the filing of a complaint, indictment, or information. A case is defined as an activity that has been assigned an identification number that has resulted in the filing of a complaint, indictment, or information in court. A complaint is a document filed in court by the plaintiff to initiate a lawsuit. The complaint outlines the facts and legal claims for relief from damages caused, or wrongful conduct engaged in, by the defendant. An indictment or information is the formal charge made by a prosecutor to initiate a criminal proceeding against the accused.

congressional inquiries about the work of the Division. Additionally, ICM was designed to capture and report on the level of effort that attorneys and professionals dedicate to investigations and case-related tasks to help Division managers oversee attorneys' work.

Like the Division, each of DOJ's other litigating components has its own case management system to maintain information on its respective enforcement efforts. According to DOJ, the distribution of information across different case management systems makes it difficult and costly to generate department-level reports that support decision making. By linking the various litigating components, the Litigation Case Management System (LCMS) will enable greater and more effective collaboration and information management.<sup>3</sup> In March 2006, DOJ began the LCMS project, intended to link the seven litigating components and facilitate the sharing of standardized information on their enforcement efforts by replacing components' individual case management systems, including ICM. However, according to a DOJ Office of the Inspector General (OIG) report issued in March 2009, the implementation of the first stage of LCMS is nearly 2 years behind schedule and overbudget. Moreover, DOJ is now uncertain if LCMS will be implemented in six of the litigating components, including the Division, raising questions as to whether the Division will need to continue to rely on ICM.

Because DOJ has such broad responsibilities for enforcing statutes that prohibit discrimination, you asked us to review the enforcement efforts of four sections within the Division—the Employment Litigation, Housing and Civil Enforcement, Voting, and Special Litigation sections<sup>4</sup>—from fiscal years 2001 through 2007, including how the Division uses its case management system to collect data on these efforts.<sup>5</sup> This report addresses the following questions: (1) To what extent has the Division conducted and documented assessments of ICM's performance since its implementation in fiscal year 2001? (2) What additional data, if any, could be collected using ICM to assist in reporting on the four sections' enforcement efforts? We also have ongoing work reviewing the activities that the Division undertook to implement its enforcement responsibilities through these four sections from fiscal years 2001 through 2007. We expect to report on the results of this work later this year.

To address both objectives, we analyzed DOJ guidance regarding the development and maintenance of electronic data systems, such as ICM. We interviewed senior officials in DOJ's Justice Management Division, which is the management arm of DOJ; the Acting Assistant Attorney General for the Division; and Division information technology (IT) officials, who are the Division officials responsible for managing and maintaining ICM. We also interviewed section chiefs, deputy chiefs, and other section staff to obtain information on how they used ICM data to help manage and report on the enforcement efforts of the four sections from fiscal years 2001 through 2007.

To address the first objective, we analyzed Division documents, such as internal memorandums from Division managers and the ICM user's guide and data dictionary, describing the purpose and contents of ICM; a DOJ document identifying issues with ICM and opportunities for improvements through LCMS, which was part of a larger analysis regarding how LCMS could be used to enhance DOJ's business processes; and templates for

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<sup>3</sup> DOJ's seven litigating components in place at the time LCMS was planned were the Antitrust, Civil, Civil Rights, Criminal, Environment and Natural Resources, and Tax Divisions and the Executive Office for United States Attorneys, which is the administrative office for the 94 U.S. Attorneys Offices.

<sup>4</sup> The Special Litigation Section is responsible for the enforcement of federal civil rights statutes in four primary areas: conditions of institutional confinement, conduct of law enforcement agencies, access to reproductive health facilities and places of religious worship, and the exercise of religious freedom of institutionalized persons.

<sup>5</sup> The Division has 11 sections—10 program-related sections and an Administrative Management section.

management reports generated from ICM. We compared the Division's efforts to conduct performance assessments with DOJ guidance regarding the development and maintenance of information technology systems.<sup>6</sup> Additionally, we assessed the Division's method for documenting assessments of ICM's performance using criteria in *Standards for Internal Control in the Federal Government*.<sup>7</sup> Finally, we interviewed Division IT officials regarding the actions taken to conduct and document assessments of ICM's performance, including the process and performance measures used.

To address the second objective, we analyzed Division documents such as internal memorandums from Division managers and federal budget submissions to determine how ICM was used by Division and section officials to report information on enforcement efforts. In addition, we analyzed transcripts of congressional oversight hearings and Division reports to Congress on the four sections' enforcement endeavors to determine the type of information congressional committees have requested on the four sections and whether this type of information was maintained in ICM.<sup>8</sup> As part of this review and in support of our ongoing work, we assessed the accuracy, completeness, and reliability of ICM data by analyzing data on matters initiated and closed and cases pursued by the four sections from fiscal years 2001 through 2007. This assessment included ascertaining the extent to which data fields that the team anticipated using to conduct our analysis of matters and cases were complete and comparing fields with related values to determine the consistency of the data. To supplement our analysis and further assess the reliability of the data, we compared ICM data with information contained in documentation, such as memorandums and correspondence included in files for matters that had been concluded, and information contained in complaints the Division filed in court. Specifically, we reviewed files for a nongeneralizable sample of closed matters from ICM data for each of the four sections.<sup>9</sup> We reviewed such files for 49 of about 3,300 closed matters in the Employment Litigation Section; 60 of about 1,070 closed matters in the Housing and Civil Enforcement Section; 51 of about 345 closed matters in the Voting Section; and 51 of about 714 closed matters in the Special Litigation Section. In determining our samples, we randomly picked matters that were investigated under statutes enforced by the sections, and took into consideration factors such as the government role (e.g., plaintiff or defendant) and subject (e.g., the nature of the alleged discrimination) to ensure that the sample reflected the breadth of the work and practices of the respective sections. Because our samples were not representative of all closed matters investigated by these sections during the period of our review, we were unable to generalize the results to these populations. However, our file reviews provided examples of how the matter data in ICM compared to the same information in the matter files as well as information on how the sections investigated matters and reasons for closing them.

Additionally, to supplement our analysis and further assess the reliability of the ICM case data for each section, we analyzed the complaints for all of the cases filed in court as plaintiff by the Employment Litigation, Voting, and Special Litigation sections from fiscal years 2001

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<sup>6</sup> Department of Justice, *Systems Development Life Cycle Guidance* (Washington, D.C.: March 2000 and January 2003).

<sup>7</sup> GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

<sup>8</sup> We reviewed two reports that the Division was required to submit to Congress: a report on DOJ's activities under the Civil Rights of Institutionalized Persons Act, which DOJ submits annually to Congress pursuant to 42 U.S.C. § 1997f, for each year 2001 through 2007, and DOJ's annual report to Congress on the administration of its functions under the Equal Credit Opportunity Act, pursuant to 15 U.S.C. § 1691f.

<sup>9</sup> A nongeneralizable sample may be either a nonprobability sample where observations are selected in a manner that is not completely random or a probability sample where random sampling is used, but the sample size is too small to allow the results to be generalized to the broader population.

through 2007. Specifically, we analyzed 60 complaints from the Employment Litigation Section, 56 complaints from the Voting Section, and 31 complaints from the Special Litigation Section. We compared the information in the complaints to data contained in ICM. For the Housing and Civil Enforcement Section, we reviewed the documents for a nongeneralizable sample of 31 out of 270 cases filed in court as plaintiff, given the larger number of cases filed. In selecting the sample of cases to review, we randomly chose cases that were pursued under the statutes enforced by the section and took into consideration other characteristics, such as the fiscal year in which a case was filed. Although the information obtained cannot be generalized to all cases filed by the Housing and Civil Enforcement Section during the period of our review, it provided us with information on how the case data in ICM compared to the same information in the complaints filed. Limitations in the data that we identified are noted in the report.

We conducted this performance audit from June 2007 through September 2009 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, in accordance with DOJ guidance that encourages components to conduct assessments of electronic data systems at least once a year in order to ensure that the systems are performing cost effectively and continue to meet the needs of the users, the Division reported conducting annual assessments of ICM's performance from fiscal years 2001 through 2006, but has not assessed the performance of ICM since then and lacks documentation of its prior assessments. As a result, the Division lacks information on how ICM is performing and whether it is meeting users' needs. Additionally, by requiring sections to collect additional data in ICM on protected class and subject—information that is key to ensuring that the Division executes its charge to enforce statutes prohibiting discrimination on the basis of protected class and has repeatedly been requested by congressional committees for oversight purposes—the Division could strengthen its ability to account for its enforcement efforts. According to DOJ officials, when planning for ICM's implementation with section officials, the Division did not consider requiring sections to record these data.

To strengthen the Division's ability to manage and report on the four sections' enforcement efforts, we recommend that the Acting Assistant Attorney General of the Division, among other things, (1) conduct and respond to annual assessments of the performance of the Division's case management system and ensure that these assessments are documented and maintained so they can be used to improve the performance of the system and (2) require sections to record data on protected class and subject in the Division's case management system in order to facilitate reporting of this information to Congress. DOJ concurred with our recommendations.

## **Background**

Created as a result of the Civil Rights Act of 1957,<sup>10</sup> the Division is responsible for the enforcement of all federal statutes affecting civil rights. The act focuses on voting and was followed by a series of laws that prohibit discrimination in employment, credit, housing, public accommodations and facilities, education, and certain federally funded and conducted programs. These laws also expand the classes of individuals entitled to statutory protection

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<sup>10</sup> Pub. L. No. 85-315, 71 Stat. 634.

from discrimination to include national origin, religion, familial status, and gender—referred to as protected classes.

### Statutes Enforced by the Four Sections

The Employment Litigation, Housing and Civil Enforcement, Voting, and Special Litigation sections enforce multiple statutes.

- The Employment Litigation Section is responsible for enforcing various civil rights statutes that prohibit discrimination in employment based on race, color, sex, religion, national origin, and military service as well as retaliation against a person for filing a charge of discrimination, participating in an investigation, or opposing discriminatory practices. Statutes enforced by the Employment Litigation Section include Title VII of the Civil Rights Act of 1964<sup>11</sup> and the Uniformed Services Employment and Reemployment Rights Act of 1994.<sup>12</sup>
- The Housing and Civil Enforcement Section is responsible for enforcing federal civil rights statutes related to discrimination in housing, credit transactions, land use, and certain places of public accommodation, as well as enforcing certain federal protections for active duty servicemembers. Statutes enforced by the Housing and Civil Enforcement Section include the Fair Housing Act,<sup>13</sup> the Equal Credit Opportunity Act,<sup>14</sup> Title II of the Civil Rights Act of 1964,<sup>15</sup> the land use provisions of the Religious Land Use and Institutionalized Persons Act,<sup>16</sup> and the Servicemembers Civil Relief Act.<sup>17</sup>
- The Voting Section is responsible for enforcing federal voting rights statutes, including statutory provisions designed to safeguard the right to vote of racial and language minorities, disabled and illiterate persons, and overseas and military personnel. The Voting Section is also charged with enforcing federal statutes that address, among other things, issues such as voter registration and voter information. Statutes enforced by the Voting Section include the Voting Rights Act of 1965,<sup>18</sup> the Uniformed and Overseas Citizens Absentee Voting Act of 1968,<sup>19</sup> the National Voter Registration Act of 1993,<sup>20</sup> and the Help America Vote Act of 2002.<sup>21</sup>
- The Special Litigation Section is responsible for enforcing federal civil rights statutes in four primary areas: conditions of institutional confinement, conduct of law enforcement agencies, access to reproductive health facilities and places of religious worship, and the exercise of religious freedom of institutionalized persons. Statutes enforced by the Special Litigation Section include the Civil Rights of Institutionalized Persons Act<sup>22</sup> and

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<sup>11</sup> 42 U.S.C. §§ 2000e *et seq.*

<sup>12</sup> 38 U.S.C. §§ 4301–34.

<sup>13</sup> 42 U.S.C. §§ 3601 *et. seq.*

<sup>14</sup> 15 U.S.C. §§ 1691 *et. seq.*

<sup>15</sup> 42 U.S.C. §§ 2000a *et seq.*

<sup>16</sup> 42 U.S.C. §§ 2000cc *et seq.*

<sup>17</sup> 50 U.S.C. App. §§ 501–96.

<sup>18</sup> 42 U.S.C. §§ 1971, 1973 to 1973bb-1.

<sup>19</sup> 42 U.S.C. §§ 1973ff–1973ff-6.

<sup>20</sup> 42 U.S.C. §§ 1973gg–1973gg-10.

<sup>21</sup> 42 U.S.C. §§ 15301–545.

<sup>22</sup> 42 U.S.C. §§ 1997–1997j.

the police misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994.<sup>23</sup>

### Division's Use of ICM

ICM is the official data system used by the Division for tracking and managing its diverse caseload, and is used for both internal and external management purposes. Internally, Division officials use ICM to track matters, cases, and time spent on activities, such as outreach to community-based organizations regarding civil rights issues. Officials from all four sections reported using ICM to generate a quarterly report for Division managers to help oversee the operations of the sections. This report includes information such as the number of open matters and cases. Additionally, the managers in the four sections said that they used ICM reports as tools during periodic meetings with attorneys to review their workloads by discussing their open matters and cases, among other things. Special Litigation Section and Housing and Civil Enforcement Section officials stated that they also sometimes generate additional reports to review individual attorneys' efforts and to inform decisions about workloads.

The Division also uses ICM for various external reporting purposes. ICM is used to generate data for performance and accountability reports and annual performance budgets, which are important for resource allocation and oversight purposes. It is also used to provide information for responses to congressional, the Office of Management and Budget, and other interested parties' information inquiries, such as requests for information on the Division's enforcement efforts. Additionally, Division officials use ICM data to prepare congressional hearing testimony on the Division's enforcement efforts.

### Data Entered in ICM

Sections are responsible for ensuring that data are entered and updated in ICM, a responsibility that is usually performed by a case management specialist or that specialist's backup.<sup>24</sup> When a matter or case is first entered into ICM, DOJ assigns it a unique identification number, called a Department of Justice number (DJ number), which can be used to track a matter or case. Once a DJ number is assigned, case management specialists in each section are to record in ICM associated data for certain required fields that the Division has deemed important and therefore requires sections to capture, such as the relevant statute and the government's role (e.g., plaintiff or defendant). Although the Division considers other fields as optional, or nonrequired, section managers can require that additional data be recorded in these fields based on their information needs. Table 1 provides examples of selected required and nonrequired ICM data fields.

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<sup>23</sup> 42 U.S.C. § 14141.

<sup>24</sup> Depending on the needs of the section, case management specialists provide, among other things, paralegal and data entry support. Case management specialists in all four sections are responsible for entering and updating data in ICM.

**Table 1: Examples of Selected Required and Nonrequired Data Fields**

<b>Data field</b>	<b>Description</b>	<b>Required</b>	<b>Nonrequired</b>
DJ number	Identification number assigned by the department.	✓	
Government role	The duty of the government as a participant in the matter or case, such as plaintiff or defendant.	✓	
Statute	The law or laws relevant to the matter or case.	✓	
Stage and status	The stage and status field are linked together. The stage field tracks the formal stage, event, or process that describes the current status of a matter or case, such as if a case is at trial. The status field captures, chronologically, where a matter or case is at the Division level, such as if a matter or case is closed.	✓	
Protected class	The class or classes of individuals entitled to statutory protection from discrimination.		✓
Subject	Information on the nature of a matter or case, such as an issue related to hiring, promotion, or intimidation.		✓
Business type	The type of business associated with the defendant.		✓

Source: GAO analysis of DOJ information technology documents.

### LCMS

If fully implemented, LCMS is to serve as the case management system for DOJ litigating components and replace the component case management systems, including ICM. According to a schedule issued in May 2006, DOJ initially planned to complete the implementation of LCMS in three stages across seven of DOJ's litigating components, as shown in table 2, by December 2010.

**Table 2: LCMS Implementation Stages by Component**

<b>Stage</b>	<b>Litigating components included in each stage</b>
1	Executive Office for U.S. Attorneys and U.S. Attorneys Offices
2	Civil Rights Division, Civil Division, and Environment and Natural Resources Division
3	Criminal Division, Tax Division, and Antitrust Division

Source: DOJ.

However, in a March 2009 report, the DOJ OIG reported that the implementation of LCMS is significantly behind schedule and overbudget, and recommended that the Chief Information

Officer (CIO) conduct an assessment to determine if DOJ should continue with the implementation of LCMS.<sup>25</sup> As shown in table 3, the implementation of LCMS in Stage 1 components is more than 2 years behind schedule and, as of December 2008, was anticipated to cost about \$26 million more than initially estimated. According to the OIG report, the delays and budget overruns occurred as a result of ineffective planning during a key system development phase, which resulted in the contractor needing to make significant changes after much work had been done, and severe defects identified during testing, which required an extensive amount of time to correct. Additionally, the OIG report stated that DOJ's oversight efforts were not sufficient to ensure that the contractor met the LCMS schedule and cost requirements. The CIO agreed with the OIG's recommendation and had until June 22, 2009, to provide the OIG with documentation outlining the specific actions the CIO's office had taken or planned to take to assess whether DOJ should continue with the implementation of LCMS.

**Table 3: Initial and Most Recent LCMS Implementation Schedule and Cost Estimates**

Dollars in millions

Stage	May 2006 implementation schedule by stage	May 2006 estimated cost by stage	November 2008 implementation schedule by stage	December 2008 estimated cost by stage
Stage 1	March 2008	\$34.7	July 2010	\$60.6
Stage 2	September 2009	4.2	DOJ did not identify a time frame	DOJ did not calculate a cost estimate
Stage 3	December 2010	3.4	DOJ did not identify a time frame	DOJ did not calculate a cost estimate

Source: DOJ.

Note: The table provides information regarding the initial and most recent LCMS implementation schedule and cost estimates. The LCMS Project Management Office also issued a revised implementation schedule in April 2007 and a revised cost estimate in September 2007.

In a June 2009 memorandum responding to the OIG report, the CIO stated that DOJ's fiscal year 2010 budget forecast includes funding to support LCMS costs. Additionally, the CIO stated that actions are being taken to ensure that officials in the components designated for Stages 2 and 3 are committed to the implementation of LCMS. In August 2009, DOJ Justice Management Division officials stated that a decision had not been made regarding whether LCMS would be implemented in Stage 2 and 3 components.

<sup>25</sup> Department of Justice, Office of the Inspector General, "The Department of Justice's Litigation Case Management System" (Mar. 24, 2009).

**While the Division Conducted Annual Assessments of ICM through Fiscal Year 2006, Reinstating Those Assessments and Documenting the Results Would Better Ensure That the Division's Case Management System Is Performing Effectively and Meeting Users' Needs**

Division IT officials stated that from the implementation of ICM in October 2000 through fiscal year 2006, they conducted annual assessments of the system's performance, including its operating capabilities and the extent to which it was meeting users' needs; however, they have not conducted assessments since fiscal year 2006. DOJ's Systems Development Life Cycle Guidance (Guidance) encourages such assessments to ensure that the case management system is performing cost effectively and continues to meet the needs of the user, and establishes a framework for conducting the reviews. Specifically, the Guidance, initially implemented in March 2000, identifies the importance of ensuring that users' needs are met and the system continues to perform as intended. The Guidance states that changes will be required to fix problems, possibly add features, and make improvements to the system. To this end, the Guidance suggests that components conduct assessments of an IT system's performance and user satisfaction at least once a year. The Guidance suggests the types of information that components may want to collect as part of the user satisfaction review, including the following:

- whether and why users maintain manual records to supplement computer-processed information;
- whether the system duplicates other information and, if so, where the information is stored;
- whether information in the system can be readily obtained from other sources;
- whether users think the system is accurate and reliable, current and up to date, and useful;
- whether the system should be improved to make users' jobs easier; and
- the extent to which users feel they are knowledgeable about the system.

Division IT officials responsible for managing ICM identified two issues that contributed to their decision not to conduct an annual assessment of ICM since fiscal year 2006. First, officials said that they anticipated the implementation of LCMS, which would replace ICM, and consequently did not find it necessary to conduct assessments. Second, IT officials said that the Division was unable to make extensive changes to ICM, such as adding a function that would help sections track significant milestones related to cases, because the vendor no longer supports the version of the software used by the Division. However, officials stated that they were able to make limited changes, such as modifying lists of values from which users choose when entering data in ICM and creating ad hoc reports to help respond to external information requests. In our prior work, we have also identified that a key practice in managing an IT system is to evaluate the system at least annually to assess and improve its performance.<sup>26</sup> Continuing to conduct annual assessments of ICM beyond fiscal year 2006 could have provided officials with information regarding the system's performance that is needed to manage the system, such as how well the system was functioning in comparison to its performance measures; whether it was meeting the users' needs; and what additional capabilities, if any, were needed. Moreover, in March 2009, IT officials said that because of the system's declining capabilities and the nearly 2-year delay in the implementation of LCMS in Stage 1 components, the Division may have to obtain an upgrade of ICM that is supported

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<sup>26</sup> GAO, *Information Technology Investment Management: A Framework for Assessing and Improving Process Maturity*, [GAO-04-394G](#) (Washington, D.C.: Mar. 1, 2004).

by the vendor so that changes can be made to the system. In August 2009, Division officials stated that a decision had not been made regarding whether the Division will obtain an upgrade of ICM or wait for the possible implementation of LCMS. Given that it is unclear how much longer the Division may need to rely on the current version of ICM, information from annual assessments could help the Division maximize the performance of the current system and any upgrade of ICM as well as inform planning for the implementation of LCMS, if it proceeds in Stage 2 components, or any another case management system that may take its place.

Furthermore, for those assessments conducted during and before 2006, Division IT officials stated that they could not locate documentation on the assessment results, which they attributed to turnover among key Division and IT officials.<sup>27</sup> As a result, they could not provide specific information on the findings from each annual assessment, including feedback they received from the four sections regarding ICM, or the key decisions made and actions taken in response to the findings.<sup>28</sup> Internal control standards state that agencies should clearly document key events and that this documentation should be properly managed and maintained and readily available for examination.<sup>29</sup> Such documentation is necessary to hold Division officials accountable for ensuring that issues identified through the annual assessment are resolved. Additionally, such documentation would provide decision makers with information regarding the historical basis for past changes to the case management system that could help inform decisions about future upgrades to ICM or its replacement by another system.

### **By Requiring Sections to Collect Data on Protected Class, Subject, and Reasons for Closing Matters in Its Case Management System, the Division Could Provide Better Accountability to Congress on Its Enforcement Efforts**

By collecting additional data on protected class and subject in ICM, the Division could strengthen its ability to account for its enforcement efforts. Division IT officials stated that since the implementation of ICM in 2000, they have reminded sections to store information on their enforcement efforts in ICM, as it is the Division's official case management system and is used to provide accountability and respond to internal and external information inquiries on its enforcement efforts. In October 2006, the Principal Deputy Assistant Attorney General issued a memorandum to section chiefs stating that Division leadership relies heavily on ICM data to, among other things, report to Congress and the public about its enforcement efforts, and should be able to independently extract the data from ICM needed for this purpose. However, over the years, congressional committees have consistently requested information for oversight purposes related to data that the Division does not require to be collected in ICM.

Specifically, we, along with section officials, identified that congressional committees and external stakeholders have repeatedly requested information regarding the specific protected classes and subjects related to matters and cases—information that is key to ensuring that the Division executes its charge to enforce statutes prohibiting discrimination on the basis of

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<sup>27</sup> Officials had documentation regarding steps to plan for the implementation of ICM, such as notes from meetings with section chiefs.

<sup>28</sup> Officials identified two changes made to ICM as a result of the reviews conducted from fiscal years 2001 through 2006, including adjustments that enabled staff to access the time reporting system through DOJ's intranet and increased the operating speed of the system.

<sup>29</sup> [GAO/AIMD-00-21.3.1](#).

protected class.<sup>30</sup> While ICM includes fields for collecting these data, the Division has not required sections to do this because, according to Division officials, when planning for ICM's implementation with section officials, the Division did not consider requiring sections to provide these data. Although acknowledging that they received requests for information on protected class from external stakeholders, some section officials said that they did not believe it was necessary to maintain this information in ICM for internal management purposes. For example, Employment Litigation Section officials said that they did not maintain this information in ICM because they did not consider protected class or subject when deciding whether to pursue a case. As a result, we found that the availability and accuracy of these data vary among the sections. For example, when we compared information on the protected classes and subjects identified in the 60 complaints the Employment Litigation Section filed in court as plaintiff from fiscal years 2001 through 2007 to the data maintained in ICM, we identified that the protected class and subject data in ICM were incomplete or inaccurate for 12 and 29 cases, or about 20 and 48 percent, respectively. Additionally, based on our review of data for Employment Litigation Section closed matters for fiscal years 2001 through 2007, we found that protected class and subject data were not captured in ICM for 2,808 matters and 2,855 matters, or about 83 and 85 percent, respectively. We also reviewed the 56 cases the Voting Section filed as plaintiff for the same period and compared the information on protected class and subject to the data maintained in ICM and identified that these data were incomplete or inaccurate for 10 and 26 cases, or about 18 and 46 percent, respectively. Based on our review of the Voting Section matter data, we found that 40 out of 442 matters, or about 9 percent, were inaccurate.<sup>31</sup> In contrast, according to the Housing and Civil Enforcement Section, it requires that protected class and subject data be recorded in ICM for all matters and cases. Our review of the section's matter and case data for the 7-year period identified that the protected class and subject data were consistently recorded in ICM.<sup>32</sup>

To help respond to information inquiries, the Employment Litigation Section maintains broad information on protected class in an ancillary data system and uses this information in conjunction with data in ICM to report on its enforcement efforts, although some of the data contained in the ancillary systems could be recorded in ICM. Section officials reported using ancillary data systems in part because it was easier to generate customized reports than using ICM. (Enc. I provides information on selected ancillary data systems maintained by all four sections and the reasons the sections provided for using these systems.) We previously reported that agencies with separate, disconnected data systems may be unable to aggregate data consistently across systems, and are more likely to devote time and resources to collecting and reporting information than those with integrated systems.<sup>33</sup> Moreover, entering similar data in multiple systems creates more opportunities for data entry errors. Requiring sections to record these data in ICM would assist the Division in responding to inquiries from

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<sup>30</sup> Because of the nature of the statutes enforced by the section, the data for protected class are not relevant for most of the work done by the Special Litigation Section. Given the statutory responsibilities of the section, it requires staff to capture data in ICM on the type of facility involved in a matter or case and, where appropriate, protected class information.

<sup>31</sup> Data were plainly inaccurate because related fields contained data that were incompatible. For example, a protected class was paired with a statutory provision for which it was not relevant.

<sup>32</sup> We reviewed a nongeneralizable sample of 60 of about 1,070 closed matters and 31 of 270 cases the section filed in court as plaintiff and found that the protected class and subject information for these matters and cases was generally accurate. As previously discussed, because our samples were not representative, we were unable to generalize the results to all closed matters investigated and complaints filed by the section during the period of our review.

<sup>33</sup> GAO, *Telecommunications: FCC Has Made Some Progress in the Management of Its Enforcement Program but Faces Limitations, and Additional Actions are Needed*, [GAO-08-125](#) (Washington, D.C.: Feb. 15, 2008).

Congress by ensuring access to readily available information and by reducing reliance on ancillary data systems. Additionally, by requiring sections to record protected class and subject data, the Division would help to ensure the accuracy of these data as it has internal controls in place for information entered into ICM that are designed to ensure the accuracy of required data. For example, IT staff generate a report on an almost weekly basis to make sure that no values are missing in required fields and that required data are up to date.

Additionally, congressional committees have requested information regarding reasons the Division did not pursue matters, including instances in which Division managers did not approve a section's recommendation to proceed with a case. However, ICM does not include a discrete field for capturing the reasons that matters are closed. Although ICM has a comment field that sections can use to identify the reasons matters are closed, sections are not required to capture these data in ICM. Consequently, these data are not systematically maintained in ICM and the Division could not easily aggregate these data using the comment field. According to Division officials, when Division and section officials were determining which data were to be captured in ICM, they did not consider the need to include a discrete field to capture the reasons that matters were closed.

As a result, as part of our prior and ongoing work to assess the Division's enforcement efforts, we had to review Division matter files to determine the reasons that matters were closed—a process that was time-consuming and labor-intensive.<sup>34</sup> Given the total number of matters that the four sections closed each year (on average over 700 per year from fiscal years 2001 through 2007, according to data maintained in ICM), we could not readily or systematically review all files to determine the reasons that all matters initiated during the 7-year period were closed. Moreover, officials stated that because the Division did not track this information in ICM, they have had to review files and talk with section attorneys and managers to obtain information on closed matters. They said that it was difficult to compile this information because of turnover among key section officials. Division officials acknowledged that such methods are resource-intensive and time-consuming. In contrast, another component within DOJ, the Executive Office for United States Attorneys (EOUSA), requires the litigating sections it supervises to capture information on the reasons for declining matters in its case management system, the Legal Information Office Network System. According to EOUSA, it uses the information internally to understand why matters are declined and make management decisions. For example, according to EOUSA officials, if matters are declined because of weak evidence, U.S. Attorney's offices could work with law enforcement to make improvements in practices used to collect evidence. Capturing information on the reasons matters were closed in the Division's case management system would facilitate the reporting of this information to Congress and enable the Division to conduct a systematic analysis of the reasons that matters were closed, as well as determine whether there were issues that may need to be addressed through actions, such as additional training for attorneys or additional guidance from the Division on factors it considers in deciding whether to approve a section's recommendation to pursue a case.

## **Conclusions**

As the chief civil rights enforcement agency of the federal government, the Division is responsible for enforcing a wide array of laws. Given the scope and breadth of its enforcement efforts, a robust data system is critical to ensuring that the Division has the ability to effectively manage its diverse responsibilities, leverage resources, and report on the

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<sup>34</sup> GAO, *Civil Rights Division: Policies and Procedures for Establishing Litigation Priorities, Tracking and Managing Casework, and Disseminating Litigation Results*, [GAO/GGD-00-58R](#) (Washington, D.C.: Feb. 17, 2000).

enforcement efforts of the four sections—information that it needs in order to be accountable to Congress. While the Division reported taking actions to conduct annual assessments of ICM's performance from fiscal years 2001 through 2006, conducting such assessments beyond fiscal year 2006 could have provided the Division with information for strengthening its ability to manage and report on the enforcement efforts of the four sections. Given the uncertainty regarding how long the Division will need to rely on ICM, conducting and utilizing the results of these assessments could help the Division maximize ICM's performance and plan for an upgrade of ICM, or the implementation of LCMS or another case management system. Moreover, because officials did not maintain documentation on the prior annual assessments conducted of ICM, including key decisions made to address issues identified, the Division lacks an accountability mechanism to ensure that issues identified are addressed—a particular concern given the turnover in key decision makers that Division officials identified.

Given that congressional committees have consistently requested information on protected classes and subjects for oversight purposes—fields that exist in ICM—requiring sections to record these data in ICM would help ensure that data needed for oversight purposes are readily available. Similarly, capturing the reasons matters were not pursued in the Division's case management system would facilitate the reporting of this information to congressional committees as well as enable the Division to systematically assess the reasons that matters were closed and take any necessary actions in response.

### **Recommendations for Executive Action**

To strengthen the Division's ability to manage and report on the four sections' enforcement efforts, we recommend that the Acting Assistant Attorney General of the Civil Rights Division take the following three actions: (1) conduct and respond to annual assessments of the performance of the Division's case management system and ensure that these assessments are documented and maintained so they can be used to improve the performance of the system; (2) require the Employment Litigation, Housing and Civil Enforcement, and Voting sections to record data on protected class and all four sections to record data on subject in the Division's case management system in order to strengthen its ability to account for its enforcement efforts; and (3) as the Division considers options to address its case management system needs, determine how sections should be required to record data on the reasons for closing matters in the system in order to be able to systematically assess and take actions to address issues identified.

### **Agency Comments**

We requested comments on a draft of this report from DOJ. The department did not provide official written comments to include in our report. However, in an e-mail received September 14, 2009, DOJ stated that the department concurred with our recommendations. DOJ provided written technical comments, which we incorporated into the report, as appropriate.

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As agreed with your offices, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies of this report to the Attorney General, appropriate congressional committees, and other interested parties. This report will also be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8777 or [larencee@gao.gov](mailto:larencee@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in enclosure II.

A handwritten signature in cursive script that reads "Eileen Regen Larence".

Eileen Regen Larence  
Director, Homeland Security and Justice Issues

Enclosures - 2

**Enclosure I: Selected Ancillary Data Systems Used by the Four Sections**

<b>Section</b>	<b>Description of data system</b>	<b>Section’s stated reasons for using the ancillary data system</b>
Employment Litigation Section	<ul style="list-style-type: none"> <li>A WordPerfect list that includes, among other things, broad protected class data for cases, such as race, sex, and national origin.</li> <li>A WordPerfect list that includes information related to the Uniformed Services Employment and Reemployment Rights Act cases, such as case names, consent decrees, and complaints.</li> </ul>	<ul style="list-style-type: none"> <li>According to section officials, this information has always been maintained separately from the Division’s case management system and section officials wanted to have a single source of information that includes both historical and current information.</li> <li>Officials said that they receive many requests for this information and they can more easily obtain the necessary information through the WordPerfect chart than by using ICM.</li> </ul>
Housing and Civil Enforcement Section	<ul style="list-style-type: none"> <li>WordPerfect charts on Equal Credit Opportunity Act, Religious Land Use and Institutionalized Persons Act, and Servicemembers Civil Relief Act cases and investigations.</li> </ul>	<ul style="list-style-type: none"> <li>The statute under which a matter or case is pursued may change over time. However, when an attorney opens a matter in the Interactive Case Management System (ICM), he or she is required to provide data for the statute field. Once entered, section officials said that the data should not be removed, unless the matter was closed in ICM. If a matter is closed in ICM, then there is no longer a record of the statute under which a matter was originally pursued. Officials were interested in maintaining such information so that they could track the statutes under which matters and cases were initially opened and ultimately closed.</li> </ul>
Voting Section	<ul style="list-style-type: none"> <li>A WordPerfect document that lists all cases by statute and includes additional information, such as history of claims.</li> </ul>	<ul style="list-style-type: none"> <li>Section officials said that it is easier to compile their own data to generate customized reports rather than obtaining information through ICM because it is easier for officials to search and compile the data using the WordPerfect document.</li> </ul>

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Special  
Litigation  
Section

- A WordPerfect chart that contains information on matter and case development and strategic next steps.
  - Section officials indicated that the section is often asked to report on various aspects of its enforcement efforts, such as counts of the number of matters being pursued under a certain statute. Information from the WordPerfect chart can be used to count such data in a variety of ways. If officials were to rely on ICM to count data in a way that has never before been requested, section officials said that it would take information technology staff about a day to develop a new report.
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Source: DOJ section officials.

## **Enclosure II: GAO Contact and Staff Acknowledgments**

### **GAO Contact**

Eileen Larence (202) 512-8777 or [larencee@gao.gov](mailto:larencee@gao.gov)

### **Acknowledgments**

In addition to the contact named above, Maria Strudwick, Assistant Director; Barbara Stolz, Analyst-in-Charge; and Joy Myers, Analyst; managed this assignment. David Alexander, Jennifer Andreone, R. Rochelle Burns, Michele Fejfar, Emily Hanawalt, Lara Kaskie, Jan Montgomery, and Janet Temko made significant contributions to the work.

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