

NLWJC - Kagan

DPC - Box 041 - Folder 009

**Race-Race Initiative Policy - Civil
Rights - Federal Employees [4]**

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phone Number. Social Security Number. [partial] (2 pages)	10/16/1997	P6/b(6)
002. memo	Phone Number. Social Security Number. Birth Dates. [partial] (1 page)	n.d.	P6/b(6)

COLLECTION:

Clinton Presidential Records
 Domestic Policy Council
 Elena Kagan
 OA/Box Number: 14366

FOLDER TITLE:

Race - Race Initiative Policy - Civil Rights - Federal Employees [4]

2009-1006-F

vz93

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

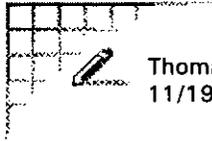
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Race initiative policy -
civil rights enforcement



Thomas L. Freedman
11/19/97 11:19:25 AM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Mary L. Smith/OPD/EOP
Subject: Civil Rights Meeting w/OMB

A few interesting things came out of the OMB civil rights cross cut meeting with Raines:

1. There is still no difference on theme with us (compliance, data, technology, ADR).
2. OMB is vetting our specific additional ideas for another \$20 million in these areas, and Mary and I are trying to set other performance goals as we discussed in our team leaders meeting and see what resources might be needed to meet them.
3. Judy Winston sent Raines a note. Of interest, she said PIR is likely to send "a general recommendation to the President for increased funding as well as better data collection". She also suggested OMB: should add something on coordination (which we are pushing DOJ to come up with a \$ estimate on), push DOJ to formulate an "aggressive, proactive strategy" for police brutality, add money for the community relations service, and that OMB's should restore its civil rights budget analysis. I'm sending you a copy of her note.

FYI. Raines has what I understand to be a general review meeting with his staff of "Presidential initiatives" tomorrow.

Susan M. Carr

11/24/97 01:01:32 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc: Susan M. Carr/OMB/EOP

Subject: Notes of Action - Director's Review, Civil Rights Crosscut, November 12 and 19, 1997

1. Agency funding increases, which are part of a Presidential Initiative on Civil Rights, are approved (except for the U.S. Commission on Civil Rights, which is funded below guidance):

- **Issue #1 - EEOC.** Recommend funding at \$270 million, \$34 million above guidance. Funding increases are for information systems upgrades, increased use of mediation programs, and staff to reduce the time it takes to process private sector charges to 6 months.
- **Issue #2 - Fair Housing Activities.** Recommend funding at \$44 million, \$10 million above guidance. Funding increase is to develop a targeted, audit-based enforcement initiative using paired testers to raise public awareness of discrimination and take subsequent enforcement action. There was a discussion of this proposal to gather data for individual metropolitan areas for their fights against local housing discrimination versus the need to consider alternative national measures of baselines of discrimination in housing and other areas such as employment. Sally Katzen offered OIRA's assistance in reviewing a local group's methodology and assessing its relevance to other areas of discrimination, including employment. what is this?
- **Issue #3 - Justice Civil Rights Division.** Recommend funding at \$69 million, \$2 million above guidance, to provide adjustments to base. coordination back?
- **Issue #4 - Labor's Office of Federal Contractor Compliance Programs (OFCCP).** Recommend funding at \$68 million, \$6 million above guidance. Funding continues OFCCP's streamlining and compliance assistance initiatives. need more omph
- **Issue #5 - Education's Office of Civil Rights.** Recommend funding at \$65 million, \$2 million above guidance. Funding would provide for investments to information technology upgrades and additional staff. need more omph
- **Issue #6 - U.S. Commission on Civil Rights.** Recommending funding at \$9.1 million, \$2 million below guidance. Specify in passback the management reforms that need to be addressed beginning in FY 1998 and continuing through FY 1999, before increased funding is warranted.

2. The Director recommended pursuing the following particular themes in agencies' civil rights budgets:

- increased compliance efforts by Federal agencies
- use of tools other than enforcement and litigation to increase compliance (mediation, the role of data collection)
- encouraging the role of the states in addressing discrimination ?

- - emphasizing greater use of prevention versus enforcement
- - improving statistical methods of measurement

3. Accept OMB's recommendation to include a civil rights section in the FY 1999 Budget as part of an Administration effort to highlight government-wide civil rights activities. HTF Division staff will have the lead.

4. Include a "boxed description" on civil rights in the budget.

5. Review additional funding requests solicited by DPC from the civil rights agencies, totalling some \$18 million, for potential inclusion as pending Presidential Initiatives.

6. Reinstitute a Civil Rights Working Group (CRWG) Council along the lines of the CFO Council, or the CIO Council. Civil rights agency heads could prioritize and coordinate civil rights efforts, redefining the notion of what it means to advance civil rights in the next century. This may be chaired by the DPC.

7. The President's Initiative on Race made four recommendations:

1. Increased funding for Justice Department Coordination (this issue needs to be more fully developed, maybe by the CRWG Council).
2. Increased funding for Justice/Police "Brutality" issues (these have been recommended).
3. Increased funding for Community Relations Service (\$6 m is recommended, \$1 m over FY 1998).
4. Restoration of OMB's Civil Rights Budget Analysis (OMB also recommended restoration and it was agreed to).

↖
? where is this?
bring
✓ good

good

Message Sent To: _____

Have some \$
" right themes
Need some programs/initiatives/
goals.

✓ 2011-12
CT
Form

✓ ATDS
Div Rts

✓ VAWA 245i

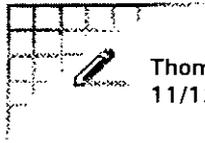
✓ Vouchers (WTR)

✓ Immig. structure

✓ Health Care Primes & Mtg

✓ Service ratio address -

Race Law Policy -
Civil Rights Enforcement



Thomas L. Freedman
11/12/97 01:27:15 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Laura Emmett/WHO/EOP, Julie A. Fernandes/OPD/EOP, Mary L. Smith/OPD/EOP

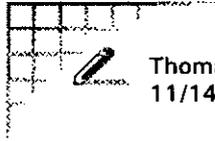
Subject: Civil Rights and OMB review

The review with Raines on civil rights is going well -- from our point of view. Raines emphasized the notion of compliance/ADR as key -- making employers feel like the process would be less difficult (adversarial, slow) for them.

OMB has made the four points of mediation, compliance, technology and data gathering its theme, but the budget numbers arguably don't fully support that storyline. Given what Raines said, I think they will be ready to move even more in that direction and we have the supplemental materials from the agencies on how to do this.

The meeting got about halfway through before Raines had to leave.

Race initiative policy - civil rights
enforcement



Thomas L. Freedman
11/14/97 01:27:37 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Julie A. Fernandes/OPD/EOP, Laura Emmett/WHO/EOP, Mary L. Smith/OPD/EOP

Subject: Civil Rights Enforcement

I made up a draft side by side chart (not of Rice's quality) of what each agency was getting from OMB vs. what else they asked for in response to our requests for ideas in the areas of data, technology, mediation and compliance. I'll drop it by.

★ October 27, 1997 FEDERAL TIMES ★

OPINION

EDITORIAL

Giving the EEOC Teeth

As Gilbert Casellas leaves the Equal Employment Opportunity Commission, he leaves behind strong recommendations for changes so important that employees shouldn't just applaud, they should get up and back them.

Under Casellas' leadership, an EEOC task force decided regulations should change so that the commission, not agencies, has the final word in discrimination cases at the commission.

Such a change would be a victory for employees and for the objective, third-party review the EEOC embodies.

Agencies now are able to ignore an EEOC decision they don't like, issuing a "final agency decision" instead.

When EEOC judges' decisions favor the agency, the decisions

stand all but 0.1 percent of the time. When the decisions favor employees, agencies reverse the decisions 63 percent of the time.

This practice degrades the judges,

Reversal of a neutral body's decisions against them makes agencies look as if they're too self-serving to admit when they're wrong and too arrogant to punish wrongdoers.

the EEOC, the employees who approach EEOC and even the agencies themselves. Reversals of a neutral body's decisions against them

make agencies look as if they're too self-serving to admit when they're wrong and too arrogant to punish the wrongdoers.

The commission also wants to require every agency, not just those that want to, to develop alternative dispute resolution procedures.

ADR is taken seriously in some agencies but hasn't caught fire in others. Perhaps some agencies view ADR as no more than the feel-good acronym of the month.

But the commission wants agencies to provide an independent forum for settling complaints and to ensure that battling sides agree to the resolution reached.

EEOC has made a real effort to put some teeth in its own decisions and to make the complaint process less lengthy and painful.

That effort deserves to become reality.

Race Int. Policy -
Civil Rts Enforcement

Other ags
have?
Reach-to?

Sp-95 - charge prioritization
Process - 3 classes

111,000 backlog →
70,000

moving non-wait out of
syst.

A/B/C cases

EGOC Meeting - Vargas 10-21-97

1. Postal whos → private sector

1. Money - example

- Mediation program - beg FY 96 started.

Imp tool in
toolbox.

Growing + successful program

Very real results

Changing phys opting in more than business.

Not cheap. Time-consuming to set up system.

Good results - get people to solve problems on own.

Before positive burden / before attys fees

2 real savings to parties.

Broaden effort at cultural shift.

- Technology - not an email! No national network.

90% of budget - personnel + overhead.

10% - everything else, incl training, litig support.

Can't analyze data

" more than 1 office to another!

Enormous savings in efficiency.

- Training. 1% of budget in training. Less than any major

org.
changing laws

- Tech ass.

Do a lot. Could do more.

Do some new - have part of \$ - should do more

Don't know if other CR offices have charge prioritization -
no one has the #'s we do.

Also others have more discretion - we have stat reqs

This year - brought 300 cases.

General's office - written high now low.

Com'n has delegated most auth to pursue litigation -

Then he delegates to 7. in field.

GCs have always taken position that they are independent - impedes progress.

~~Go to clarity~~

Fed gov enforcement

Com'n has approved regs - circulate to agencies.

Comes back to EEOC to vote on NPRM.

Admin position on these recommendations?

- Principal problems are not stat work problems.

1 yr → 6 mos??

Easy to close a case.

Should that be part. measure?

This is what ag. used to do.?

Very dangerous.

Try to do baseline research??

No real data here

Not sure we're right agency - resources or expertise.

Risk to
open up
statute

Tester programs -

let 2 Ks to do some testing.

Simple in hearing.

Obviously controversial - espec in eng - where there is
more subjective evaluation.

Trying to look at Times in more systemic fashion -
more pattern + practice

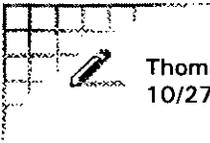
But this is exactly what they are getting after with

↓
Pick your poison

But. common happy w/
privatization - they want
to close.

Best measure in APR

Race initiative policy -
civil rights enforcement



Thomas L. Freedman
10/27/97 05:56:13 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP, Mary L. Smith/OPD/EOP
Subject: Private sector compliance activity funding and potential adr savings

We wanted to see if we could get a budget savings figure from the increased use of mediation. Here's OMB's first try.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 10/27/97 05:53 PM -----

Susan M. Carr

10/27/97 05:41:34 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP, Mary L. Smith/OPD/EOP
cc: See the distribution list at the bottom of this message
Subject: Private sector compliance activity funding and potential adr savings

You asked me to prepare a "back of the envelope" calculation of potential savings through increased use of mediation versus full investigation.

EEOC's budget allocates \$140 million to private sector compliance activity. This is the full cost of salaries and rent and computers and travel that the Commission spends on processing individual complaints of discrimination from private sector employees. EEOC spends an average \$1,750 on each of an estimated 80,000 cases annually.

Using ADR contracts of \$500 per case results in "savings" of \$1,250 per case processed. If 10 percent of the 80,000 cases were resolved using ADR, this would result in a "savings" of \$10 million for FY 1999. This funding could support 200 additional positions for private sector enforcement of more complex cases as well as help to reduce the time it takes the Commission to resolve cases from 1 year to 6 months by 2002.

Message Copied To:

Michael Deich/OMB/EOP
Theodore Wartell/OMB/EOP
Patricia E. Romani/OMB/EOP
Alan B. Rhinesmith/OMB/EOP
Francis S. Redburn/OMB/EOP

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

		FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget					FY 1998 Request Less:		Percentage Change:		Real
				FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002	Growth: FY 1997 to FY 2002
Civil Rights Enforcement Programs:													
Equal Employment Opportunity Commission.....	BA	222.0	239.7	246.0	246.0	246.0	246.0	246.0	24.0	6.3	2.6%	0.0%	-9.7%
	OL	218.0	256.0	245.0	246.0	246.0	246.0	246.0	27.0	-11.0	-4.3%	0.4%	-15.5%
Department of Labor, Office of Federal Contractor Compliance Programs.....	BA	55.6	59.1	68.7	68.7	68.7	68.7	68.7	13.1	9.7	16.4%	0.0%	2.4%
	OL	55.0	58.6	68.6	68.5	68.5	68.5	68.5	13.6	10.0	17.1%	-0.1%	2.8%
Department of Justice, Civil Rights Division.....	BA	52.7	62.4	67.4	70.6	72.4	74.3	76.8	14.7	5.0	8.1%	13.9%	8.2%
	OL	52.0	77.4	66.7	70.3	72.1	74.0	76.4	14.7	-10.7	-13.8%	14.6%	-13.1%
Department of Education, Office For Civil Rights.....	BA	56.0	55.0	61.5	63.0	65.0	67.0	69.0	5.5	6.5	11.8%	12.2%	10.3%
	OL	52.0	57.0	60.0	63.0	65.0	66.0	69.0	8.0	3.0	5.3%	15.0%	6.5%
Department of Housing and Urban Development, Fair Housing Activities..	BA	15.0	30.0	39.0	35.0	29.0	29.0	29.0	29.0	9.0	30.0%	-25.6%	-15.0%
	OL	8.9	24.0	27.0	35.0	35.0	34.0	30.0	18.1	3.0	12.5%	11.1%	9.9%
United States Commission on Civil Rights.....	BA	7.8	8.7	11.0	11.0	11.0	11.0	11.0	3.2	2.3	25.9%	0.0%	10.7%
	OL	8.0	7.9	11.0	11.0	11.0	11.0	11.0	3.0	3.1	39.9%	0.0%	23.1%
All Other Enforcement Programs.....	BA	20.3	25.1	26.1	26.1	26.1	26.1	26.1	5.8	1.0	4.2%	0.0%	-8.4%
	OL	25.1	25.6	26.0	26.1	26.1	26.1	26.1	0.9	0.4	1.4%	0.5%	-10.4%
Total, Civil Rights Enforcement Programs.....	BA	429.4	480.0	519.8	520.4	518.2	522.1	526.6	90.4	39.8	8.3%	1.3%	-3.5%
	OL	419.0	506.5	504.3	519.8	523.7	525.6	527.0	85.3	-2.2	-0.4%	4.5%	-8.5%
Civil Rights Non-Enforcement Programs:													
Department of Commerce, Minority Business Development Agency.....	BA	37.9	28.0	27.8	27.8	27.8	27.8	27.8	-10.1	-0.2	-0.7%	0.0%	-12.6%
	OL	42.6	34.5	30.5	28.1	27.8	27.8	27.8	-12.1	-4.0	-11.6%	-8.9%	-29.1%
Small Business Administration, 8(a) and 7(f) Programs.....	BA	28.2	22.4	31.0	31.0	31.0	31.0	31.0	2.8	8.6	38.4%	0.0%	21.7%
	OL	27.6	22.2	29.0	31.0	31.0	31.0	31.0	1.4	6.8	30.6%	6.9%	22.8%
All Other Non-Enforcement Programs.....	BA	42.7	26.4	30.0	29.6	29.0	28.6	29.9	-12.7	3.6	13.5%	-0.3%	-0.5%
	OL	33.4	25.9	29.7	30.0	29.8	28.0	29.7	-3.7	3.8	14.8%	0.0%	1.0%
Total, Civil Rights Non-Enforcement Programs.....	BA	108.8	76.8	88.8	88.4	87.8	87.4	88.7	-20.0	12.0	15.6%	-0.1%	1.6%
	OL	103.6	82.6	89.2	89.1	88.6	86.8	88.5	-14.4	6.7	8.1%	-0.8%	-5.7%
Total, Civil Rights Program Funding.....	BA	538.2	556.8	608.6	608.8	606.0	609.5	615.3	70.4	51.7	9.3%	1.1%	-2.8%
	OL	522.6	589.0	593.5	608.9	612.3	612.4	615.5	70.9	4.5	0.8%	3.7%	-8.1%

Real Funding - Civil Rights Enforcement

ID:

UCL 08 97 3:08 PM 001 F 02

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget				FY 1998 Request Less:		Percentage Change:		Real
		FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002

Highlights of Civil Rights Funding:

- o Relative to FY 1997 enacted, the President's FY 1998 Budget will propose \$608.6 million for Federal civil rights programs, a \$51.7 million, or 9.3 percent, increase in budget authority.
- o Funding increases are proposed for nearly every civil rights agency, spreading scarce Federal resources over a broad group of agencies and programs.
- o Civil rights enforcement agencies receive FY 1998 increases in budget authority ranging to 30 percent, relative to FY 1997, with an average increase of 8.3 percent. Significant increases for enforcement programs include:
 - a 26 percent increase for the U.S. Commission on Civil Rights, including funding for a two-year national fact finding project on the extent and economic consequences of various forms of discrimination (to \$11 million);
 - a 30 percent increase for fair housing activities at HUD (to \$39 million);
 - a 16 percent increase for Labor's OFCCP (to \$69 million);
 - an 11 percent increase for Education's civil rights enforcement programs (to \$62 million); and
 - an 8 percent increase for the Department of Justice's Civil Rights Division (to \$67 million).
- o Non-enforcement programs increase 15.6 percent from FY 1997 to FY 1998, primarily reflecting a 38 percent increase in SBA's minority and women small business programs, necessary to address the increased workload in overseeing minority contracting in a post-Adarand environment.
- o In real terms, however, overall funding for civil rights declines from FY 1997 through FY 2002 an average 2.8 percent, reflecting the Administration's overarching policy of proposing a balanced budget in FY 2002. Notable exceptions are:
 - education-related enforcement programs;
 - the Department of Justice's Civil Rights Division;
 - the U.S. Commission on Civil Rights; and
 - SBA's minority and women small business programs.

LD:

ULI 08 '97 3:39 NO. 007 P. 05

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

		FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget					FY 1998 Request Less:		Percentage Change:		Real
				FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002	Growth: FY 1997 to FY 2002
DO NOT PUT THIS PAGE IN THE BRIEFING BOOK													
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<u>Back-up for All Other Enforcement Programs</u>													
Department of Health and Human Services, Office of Civil Rights.....	BA	18.3	19.5	20.5	20.5	20.5	20.5	20.5	2.2	1.0	5.3%	0.0%	-7.4%
	OL	18.1	20.0	20.4	20.5	20.5	20.5	20.5	2.3	0.4	1.8%	0.6%	-9.9%
Department of Transportation, Office of Civil Rights.....	BA	2.0	5.6	5.6	5.6	5.6	5.6	5.6	3.6	0.0	0.0%	0.0%	-12.0%
	OL	7.0	5.6	5.6	5.6	5.6	5.6	5.6	-1.4	0.0	0.0%	0.0%	-12.0%
<u>Back-up for All Other Non-Enforcement Programs</u>													
Department of Labor, Women's Bureau.....	BA	7.8	7.7	7.6	7.6	7.6	7.6	7.6	-0.2	-0.2	-2.2%	0.0%	-14.0%
	OL	7.6	7.7	7.6	7.6	7.6	7.6	7.6	-0.2	-0.1	-1.3%	0.0%	-13.2%
Department of Labor, Directorate of Civil Rights.....	BA	5.0	4.5	4.6	4.6	4.6	4.6	4.6	-0.4	0.1	1.3%	0.0%	-10.9%
	OL	5.0	4.5	4.6	4.6	4.6	4.6	4.6	-0.4	0.1	2.2%	0.0%	-10.1%
Department of Transportation, Minority Business Resource Center.....	BA	0.4	4.8	4.8	4.8	4.8	4.8	4.8	4.4	0.0	0.0%	0.0%	-12.0%
	OL	0.0	4.8	4.8	4.8	4.8	4.8	4.8	4.8	0.0	0.0%	0.0%	-12.0%
Department of Justice, Community Relations Service.....	BA	27.1	5.3	7.5	7.8	8.0	8.3	8.5	-19.6	2.2	41.0%	13.3%	40.5%
	OL	18.7	5.7	7.5	8.1	8.0	8.2	8.5	-11.2	1.8	32.5%	13.3%	32.1%
Department of Commerce/SBA SMOBE/SWOBE.....	BA	2.4	4.0	5.5	4.8	4.0	3.3	4.4	3.1	1.5	37.5%	-20.0%	-3.2%
	OL	1.9	3.2	5.2	4.9	4.8	2.8	4.2	3.3	2.0	62.5%	-19.2%	15.4%

ID:

OCT 08 '97

3:39 NO.007 P.04

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

		FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget					FY 1998 Request Less:		Percentage Change:		Real
				FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002	FY 1997 to FY 2002
Civil Rights Enforcement Programs:													
Equal Employment Opportunity Commission.....	BA	222.0	239.7	246.0	246.0	246.0	246.0	246.0	24.0	6.3	2.6%	0.0%	-9.7%
	OL	218.0	256.0	245.0	246.0	246.0	246.0	246.0	27.0	-11.0	-4.3%	0.4%	-15.5%
Department of Labor, Office of Federal Contractor Compliance Programs.....	BA	55.6	59.1	68.7	68.7	68.7	68.7	68.7	13.1	9.7	16.4%	0.0%	2.4%
	OL	55.0	58.6	68.6	68.5	68.5	68.5	68.5	13.6	10.0	17.1%	-0.1%	2.8%
Department of Justice, Civil Rights Division.....	BA	52.7	62.4	67.4	70.6	72.4	74.3	76.8	14.7	5.0	8.1%	13.9%	8.2%
	OL	52.0	77.4	66.7	70.3	72.1	74.0	76.4	14.7	-10.7	-13.8%	14.6%	-13.1%
Department of Education, Office For Civil Rights.....	BA	56.0	55.0	61.5	63.0	65.0	67.0	69.0	5.5	6.5	11.8%	12.2%	10.3%
	OL	52.0	57.0	60.0	63.0	65.0	66.0	69.0	8.0	3.0	5.3%	15.0%	6.5%
Department of Housing and Urban Development, Fair Housing Activities..	BA	15.0	30.0	39.0	35.0	29.0	29.0	29.0	29.0	9.0	30.0%	-25.6%	-15.0%
	OL	8.9	24.0	27.0	35.0	35.0	34.0	30.0	18.1	3.0	12.5%	11.1%	9.9%
United States Commission on Civil Rights.....	BA	7.8	8.7	11.0	11.0	11.0	11.0	11.0	3.2	2.3	25.9%	0.0%	10.7%
	OL	8.0	7.9	11.0	11.0	11.0	11.0	11.0	3.0	3.1	39.9%	0.0%	23.1%
All Other Enforcement Programs.....	BA	20.3	25.1	26.1	26.1	26.1	26.1	26.1	5.8	1.0	4.2%	0.0%	-8.4%
	OL	25.1	25.6	26.0	26.1	26.1	26.1	26.1	0.9	0.4	1.4%	0.5%	-10.4%
Total, Civil Rights Enforcement Programs.....	BA	429.4	480.0	519.8	520.4	518.2	522.1	526.6	90.4	39.8	8.3%	1.3%	-3.5%
	OL	419.0	506.5	504.3	519.8	523.7	525.6	527.0	85.3	-2.2	-0.4%	4.5%	-8.5%
Civil Rights Non-Enforcement Programs:													
Department of Commerce, Minority Business Development Agency.....	BA	37.9	28.0	27.8	27.8	27.8	27.8	27.8	-10.1	-0.2	-0.7%	0.0%	-12.6%
	OL	42.6	34.5	30.5	28.1	27.8	27.8	27.8	-12.1	-4.0	-11.6%	-8.9%	-29.1%
Small Business Administration, 8(a) and 7(j) Programs.....	BA	28.2	22.4	31.0	31.0	31.0	31.0	31.0	2.8	8.6	38.4%	0.0%	21.7%
	OL	27.6	22.2	29.0	31.0	31.0	31.0	31.0	1.4	6.8	30.6%	6.9%	22.8%
All Other Non-Enforcement Programs.....	BA	42.7	26.4	30.0	29.6	29.0	28.6	29.9	-12.7	3.6	13.5%	-0.3%	-0.5%
	OL	33.4	25.9	29.7	30.0	29.8	28.0	29.7	-3.7	3.8	14.8%	0.0%	1.0%
Total, Civil Rights Non-Enforcement Programs.....	BA	108.8	76.8	88.8	88.4	87.8	87.4	88.7	-20.0	12.0	15.6%	-0.1%	1.6%
	OL	103.6	82.6	89.2	89.1	88.6	86.8	88.5	-14.4	6.7	8.1%	-0.8%	-5.7%
Total, Civil Rights Program Funding.....	BA	538.2	556.8	608.6	608.8	606.0	609.5	615.3	70.4	51.7	9.3%	1.1%	-2.8%
	OL	522.6	589.0	593.5	608.9	612.3	612.4	615.5	70.9	4.5	0.8%	3.7%	-8.1%

Race Initiative Policy - Civil Rights Enforcement

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget				FY 1998 Request Less:		Percentage Change:		Real Growth:
		FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002

Highlights of Civil Rights Funding:

- o Relative to FY 1997 enacted, the President's FY 1998 Budget will propose \$608.6 million for Federal civil rights programs, a \$51.7 million, or 9.3 percent, increase in budget authority.
- o Funding increases are proposed for nearly every civil rights agency, spreading scarce Federal resources over a broad group of agencies and programs.
- o Civil rights enforcement agencies receive FY 1998 increases in budget authority ranging to 30 percent, relative to FY 1997, with an average increase of 8.3 percent. Significant increases for enforcement programs include:
 - a 26 percent increase for the U.S. Commission on Civil Rights, including funding for a two-year national fact finding project on the extent and economic consequences of various forms of discrimination (to \$11 million);
 - a 30 percent increase for fair housing activities at HUD (to \$39 million);
 - a 16 percent increase for Labor's OFCCP (to \$69 million);
 - an 11 percent increase for Education's civil rights enforcement programs (to \$62 million); and
 - an 8 percent increase for the Department of Justice's Civil Rights Division (to \$67 million).
- o Non-enforcement programs increase 15.6 percent from FY 1997 to FY 1998, primarily reflecting a 38 percent increase in SBA's minority and women small business programs, necessary to address the increased workload in overseeing minority contracting in a post-Adarand environment.
- o In real terms, however, overall funding for civil rights declines from FY 1997 through FY 2002 an average 2.8 percent, reflecting the Administration's overarching policy of proposing a balanced budget in FY 2002. Notable exceptions are:
 - education-related enforcement programs;
 - the Department of Justice's Civil Rights Division;
 - the U.S. Commission on Civil Rights; and
 - SBA's minority and women small business programs.

CIVIL RIGHTS FUNDING FOR THE FY 1998 BUDGET
(discretionary BA and OLs, in millions of dollars)

		FY 1993 Actual	FY 1997 Estimate	FY 1998 Budget					FY 1998 Request Less:		Percentage Change:		Real
				FY 1998	FY 1999	FY 2000	FY 2001	FY 2002	FY 1993 Actual	FY 1997 Estimate	FY 1997 to FY 1998	FY 1998 to FY 2002	Growth: FY 1997 to FY 2002

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Back-up for All Other Enforcement Programs

Department of Health and Human Services, Office of Civil Rights.....	BA	18.3	19.5	20.5	20.5	20.5	20.5	20.5	2.2	1.0	5.3%	0.0%	-7.4%
	OL	18.1	20.0	20.4	20.5	20.5	20.5	20.5	2.3	0.4	1.8%	0.6%	-9.9%
Department of Transportation, Office of Civil Rights.....	BA	2.0	5.6	5.6	5.6	5.6	5.6	5.6	3.6	0.0	0.0%	0.0%	-12.0%
	OL	7.0	5.6	5.6	5.6	5.6	5.6	5.6	-1.4	0.0	0.0%	0.0%	-12.0%

Back-up for All Other Non-Enforcement Programs

Department of Labor, Women's Bureau.....	BA	7.8	7.7	7.6	7.6	7.6	7.6	7.6	-0.2	-0.2	-2.2%	0.0%	-14.0%
	OL	7.8	7.7	7.6	7.6	7.6	7.6	7.6	-0.2	-0.1	-1.3%	0.0%	-13.2%
Department of Labor, Directorate of Civil Rights.....	BA	5.0	4.5	4.6	4.6	4.6	4.6	4.6	-0.4	0.1	1.3%	0.0%	-10.9%
	OL	5.0	4.5	4.6	4.6	4.6	4.6	4.6	-0.4	0.1	2.2%	0.0%	-10.1%
Department of Transportation, Minority Business Resource Center.....	BA	0.4	4.8	4.8	4.8	4.8	4.8	4.8	4.4	0.0	0.0%	0.0%	-12.0%
	OL	0.0	4.8	4.8	4.8	4.8	4.8	4.8	4.8	0.0	0.0%	0.0%	-12.0%
Department of Justice, Community Relations Service.....	BA	27.1	5.3	7.5	7.8	8.0	8.3	8.5	-19.6	2.2	41.0%	13.3%	40.5%
	OL	18.7	5.7	7.5	8.1	8.0	8.2	8.5	-11.2	1.8	32.5%	13.3%	32.1%
Department of Commerce/SBA SMOBE/SWOBE.....	BA	2.4	4.0	5.5	4.8	4.0	3.3	4.4	3.1	1.5	37.5%	-20.0%	-3.2%
	OL	1.9	3.2	5.2	4.9	4.8	2.8	4.2	3.3	2.0	62.5%	-19.2%	15.4%

**TIMELINE ON CIVIL RIGHTS ENFORCEMENT
AGENCY PROPOSALS**

- October 8. Meeting with White House staff from DPC, NEC, VPOTUS, OMB, OPL, and counsel's office.

Review of submitted agency memoranda, discussion of chronology and policy planning, suggested follow-up contacts with agencies.

- October 15. Draft proposals and revised drafts from agencies due.
- October 17th and 21st. Meetings with Lead Agencies -- EEOC, Education, Labor, HUD, Justice and HHS to discuss preliminary recommendations for improvements

Simultaneous outreach to groups monitoring civil rights enforcement for suggestions of possible improvements, such as:

- Citizen's Commission on Civil Rights
- ACLU
- American Council on Education
- NAACP
- National Urban League
- National Council of La Raza
- National Asian-Pacific American Legal Consortium
- Urban Institute

- October 24. Meeting with White House staff to review proposals.
- Mid-November. Proposals should be finalized and vetted, meetings for announcement and implementation underway.

race initiative policy -
civil rights enforcement

MEMORANDUM

TO: DISTRIBUTION LIST

FROM: DOMESTIC POLICY COUNCIL MEMORANDUM

RE: FEDERAL ENFORCEMENT OF CIVIL RIGHTS

DATE: OCTOBER 7, 1997

I. SUMMARY

Summarized below are the memoranda received from EEOC, Education, HHS, Justice, SBA, and the US Commission on Civil Rights. While all the agencies were requested to make suggestions for proposals that might improve their functioning, many simply summarized their goals, current status and existing budgetary requests.

The following are summaries of the key points in the agencies' memoranda.

II. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

The EEOC was created in 1964 to investigate employment discrimination charges relating to race, color, religion, sex, or national origin. Since that time, the EEOC has also become responsible for administering laws prohibiting discrimination on the basis of age, gender, and disability. As a result of its reinvented administrative enforcement program, the EEOC managed to trim its claim backlog by 30%-- to 79,448 charges from an all-time high of 111,345 -- by the end of fiscal year 1996. As of the third quarter of 1997, the EEOC was continuing to resolve charges at a faster pace than they were being filed. The agency also tracks the amount of monetary benefits obtained for discrimination victims -- which totaled over \$100 million for fiscal year 1997.

The number of FTEs has fallen from a high of 3,390 in 1980 to 2,680 today. This decline has occurred at the same time that enforcement obligations have substantially expanded to cover ADA and sexual harassment claims. Charges under the ADA, enacted in 1990, account for one quarter of the EEOC's caseload. Overall, the number of filings have increased from 62,135 in FY 1990 to a projected 80,00 in FY 1997. The EEOC has requested a budget of \$246 million for FY 1998, an increase of \$6 million (2.65%) over the current level.

III. U.S. COMMISSION ON CIVIL RIGHTS (USCCR)

The U.S. Commission on Civil Rights is an independent, bipartisan agency first established by Congress in 1957 and reestablished in 1983. It is directed to investigate complaints, study and collect information, appraise federal laws and policies, serve as a national clearinghouse, submit reports and findings to the President and issue public service announcements. USCCR recently released a study, Funding Federal Civil Rights Enforcement, that found a gross disparity between agency resources and agency substantive responsibility, and urged action to increase resources to provide full and effective

enforcement of anti-discrimination laws.

The workforce of the USCCR has decreased from over three hundred employees in the early 1980s to its current level of under one hundred. In its FY 1998 budget, the Commission requested an increase of \$1.3 million -- but anticipates that, for the third consecutive year, it will be funded at \$8.7 million.

IV. JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

The mission of the Civil Rights Division (CRD) of the Department of Justice is to serve as the chief civil rights enforcement agency of the federal government. Unless otherwise specified by law, the conduct of government litigation is reserved to the Department of Justice. CRD enforces a broad range of civil and criminal statutes and presidential executive orders and has certain coordination and public education responsibilities. CRD's general goals focus on police and official criminal misconduct; hate crimes; voting rights; employment, housing, credit and education discrimination; rights of the institutionalized; anti-discrimination in public services, programs and activities; and immigration-related unfair employment practices.

The Division's FY 1997 budget is \$62 million -- that funds a staff of 560 persons, including 250 attorneys. For the past three years, funding for CRD has remained flat. For FY 1998, CRD has requested a budget of \$67.4 million, an increase of 8% over the FY 1997 level, to enhance prosecution of hate crimes and police misconduct, as well as for enforcement of the Americans with Disabilities Act. In order to maintain optimal vigorous enforcement, the Division estimates that a budgetary increase of approximately 20% would be required.

V. EDUCATION --OFFICE FOR CIVIL RIGHTS (ED-OCR)

ED-OCR enforces civil rights laws that prohibit discrimination on the basis of race, color, national origin, sex, disability and age among recipients of Federal education funds. ED.¹ The majority of ED-OCR employees (primarily attorneys and investigators) are organized into four enforcement divisions made up of 12 regional offices that are responsible for resolving complaints and conducting compliance reviews. Unlike complaints, compliance reviews target resources on compliance problems that appear particularly acute or national in scope -- e.g., tracking or targeting minority/disabled students away from honors/advanced classes.

ED-OCR has reached the limit of efficiencies and improvement to be gained from organizational and procedural reforms, and may well be losing ground as staff losses take its toll. While ED-OCR loses staff -- its most vital resource, as civil right enforcement relies in large measure on human presence and investigation -- its workload continues to grow. The number of FTEs has decreased from 820 to 724. At that same time the caseload has grown from 3,384 complaints filed and 32 compliance review initiated to 4,828 complaints filed and 146 compliance review initiated. For 1998, ED-OCR has requested a budget of \$61.5 million, an increase of \$6.5 million over 1997.

ED-OCR's recommendations for improved civil rights enforcement include presidential directives to

¹Civil rights enforcement for programs and services provided by schools of medicine, dentistry, nursing and other health-related schools remains with HHS.

evaluate nondiscrimination assurances by federal contractors; enforcement coordination on designated administration priorities, designing a cross-cutting decision-making process, sharing best practices and case targeting criteria, and improved public outreach -- such as a guide to federal civil rights agencies and a toll-free referral number.

VI. HEALTH & HUMAN SERVICES -- OFFICE FOR CIVIL RIGHTS (HHS-OCR)

HHS-OCR ensures that people have access to, and the opportunity to participate in and receive services from, all HHS programs without facing unlawful discrimination. Approximately 230,000 group and institutional providers are subject to the nondiscrimination laws HHS-OCR enforces. Major compliance actions and initiatives include: implementation of adoption non-discrimination requirements; reviews of minorities' access to hospital inpatient and emergency room services (Title VI); racial and health status discrimination in the health care industry; the effect of managed care on access to services for minorities and individuals with disabilities; discrimination against persons with HIV/AIDS; ensuring that welfare reform programs are implemented in a non-discriminatory manner; and access to services for limited English proficient individuals.

The FY 1998 budget request for HHS-OCR is \$20.5 million, a \$1 million (5%) increase over the FY 1997 budget. This \$1 million increase will be used to help implement initiatives that address discriminatory issues involving immigration, inter-ethnic adoption, managed care, Medicaid waivers, nursing home care, home health care and welfare reform.

VII. U.S. SMALL BUSINESS ADMINISTRATION (SBA)

Historically, the Department of Justice permitted SBA to interpret the guaranty on SBA loans as financial assistance covered by Title VI. However, officials at Justice recently made a preliminary determination that exempts most SBA recipients from Title VI jurisdiction because Title V explicitly excludes "guarantees" in its definition of federal financial assistance. With the exception of three programs e.g., SBA-funded lending partners, all of SBA's financial assistance is rendered through guaranty programs.

SBA's civil rights office receives 30-40 external complaints annually, There is no backlog of pending cases. Complaints are transferred, when possible. Other agencies with larger enforcement mechanisms can process cases more cost-effectively. Also, SBA's only sanction is to withdraw its financial or guaranty assistance, it cannot provide any direct relief or remedy to the claimant. Once SBA assistance is withdrawn (or repaid), SBA loses jurisdiction over the matter. Those cases that are retained are investigated, and voluntary compliance negotiated, if possible, where discrimination has been found.

SBA has drafted a proposed "EO Guide for Small Businesses" to cover a variety of civil rights requirements. SBA suggests making the guide available to small businesses that are not SBA recipients -- but would require funding to print sufficient copies.

QUESTIONS FOR CIVIL RIGHTS AGENCIES

1. What types of civil rights complaints does your agency receive? i.e. unfair treatment, denial of loans.
2. What is the process for investigating complaints? How many complaints do you have currently pending?
3. What recent initiatives or problems has your agency been involved in?
4. What coordination issues arise within your agency? Between your agency and other civil rights enforcement agencies?
5. What suggestions do you have to increase efficiency?
6. What complaints, if any, do you hear from the appropriators? Reasons given for denying increases in budgets? In FTEs?
7. What types of criticisms are made about your agency's civil rights enforcement efforts?
8. What programmatic responses would you suggest to improve civil rights enforcement at your agency? At other agencies?

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Phone Number. Social Security Number. [partial] (2 pages)	10/16/1997	P6/b(6)

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Clinton Presidential Records
 Domestic Policy Council
 Elena Kagan
 OA/Box Number: 14366

FOLDER TITLE:

Race - Race Initiative Policy - Civil Rights - Federal Employees [4]

2009-1006-F

vz93

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Race Unit Policy - Civil Rts Enf.

▶ **Marjorie Tarmey**
10/16/97 06:15:42 PM
.....

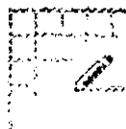
Record Type: Record

To: Elena Kagan/OPD/EOP, Robert B. Johnson/WHO/EOP, Richard Socarides/WHO/EOP
cc: Laura Emmett/WHO/EOP
Subject: Civil Rights Enforcement list

Here is the list of people that will attend the 2:00pm Civil Rights meeting in Room 211

----- Forwarded by Marjorie Tarmey/WHO/EOP on 10/16/97 06:04 PM -----

*Who were 2 who
said: Yes - mediation?*

 Brian E. Smith
10/16/97 06:10:34 PM

Record Type: Record

To: Marjorie Tarmey/WHO/EOP
cc:
Subject: Civil Rights Enforcement list

Civil Rights Enforcement Room 211

Friday 2:00 pm

RESPONSE	NAME	ORGANIZATION	TELEPHONE #	SS #
YES	Arnwine, Barbara	Lawyer's Committee on Civil Rights		P6/(b)(6) [001]
YES ✓	Coles, Matthew	Gay and Lesbian Civil Rights Project	P6/(b)(6) [001]	P6/(b)(6) [001]
YES ✓	Davis, Martha F	NOW / Legal Defense and education Fund	P6/(b)(6) [001]	P6/(b)(6) [001]
YES <i>not there</i>	Jones, Elaine	NAACP		P6/(b)(6) [001]
YES <i>not there</i>	Henderson, Wade	Leadership Conference on Civil Rights	P6/(b)(6) [001]	P6/(b)(6) [001]

YES	✓ Murphy, Laura	ACLU		P6/(b)(6) [001]
YES	Pollack, Michelle	AARP	P6/(b)(6) [001]	P6/(b)(6) [001]
YES	Siemering, Ann	AARP	P6/(b)(6) [001]	P6/(b)(6) [001]
YES	✓ Stachelberg, Cynthia	Human Rights Campaign	P6/(b)(6) [001]	P6/(b)(6) [001]
YES	Norton, Helen Louise	NOW / Legal Defense and Education Fund	P6/(b)(6) [001]	P6/(b)(6) [001]

NO	Kreiter, Nancy		P6/(b)(6) [001]	
NO	Greenberger, Marsha	Naitonal Women's Law Center	P6/(b)(6) [001]	

race init policy -
civil rights enforcement

Civil Rts Offices

1. Education -

- a. Data collection - we have slowed down on collections of dem + soc ed data. Pot, audience for this. Need common data base. user friendly / timely where students are / what causes they
- b. Interventive preventive program - technical assistance going to superintendents. Had to stop.
- c. Collab. among ourselves - in partic imp probs.

EG - Demog plans (HUD/Ed/DOT)

Lbr: Need for lots of guidance in # of areas. For example - language.

Also - Things they can do w/ it methodology.

More coord also as relates to litigation strategies.

DOT - sees itself as having lit auth to do coord. very reactive.

HHS - need DOT to think about new innov ways of looking at old probs.

Laber - also tech ass. + data collection.

recipients asking for this.

They need to be partnering w/ us.

Data too.

→ summaries for Kerns - need help w/ compliance

Expand staff of ombudsman.

Data - more into an where w. + mins - make decr ->

at T. which Eps to select for compliance reviews.

technology too

- Eps using internet, e.g., to put us into 21st century

HHS - tech ass. - critical - e.g. in adoption bill - so state determines on how to implement

Verification re immigrants

Tech - need for much to comment w/ states on-line /
Stats - survey of all hoops - how they treat immigrants
need this info to know who to talk to

HHS: handling complaints much more than comp reviews /
trying to reduce t. assis.
backlog - worst in a year

Labur: Compliance activ. dwindled - have to focus on complaints -

OSCEP: Most of work is comp rev.

backlog of
still up to a
yr.

ED: 4 yrs ago - 55% up - complaints - small backlog
now - devoted more to ERs - up to 40%

Av = 150 days

Disabil cases - go 1st to DOS -

sometimes take ^{up} to yr to get to agency.

Labur - giving states op to address issues - then ADP.

We're thinking of using as well - ADP proven very effective

ED: ADP is great - buys lots of goodwill from
school districts.

Only downside - monitoring problem

^{ADP}
HHS: allows you to process complaints more quickly.

Probs w/ appropriations?

OSCEP: Aff Act - 7m - too cumbersome / too much paperwork.
30% less paper

Class ceiling reviews: looking at compensation / pay equity

need resources
for training

device - partners w/ companies.

We highlight best practices - award, etc.

30th anniv of inclusion of gender in ED.

HHB: Reducing race disps. in health delivery -
survey - collect data

Pilot telen program directed at nursing home contacting
AA in med schools -

New guidance on providing translation services in health care.

ED Redesigning elem + sec survey - format + substance.

HH active - fast track where p. say AA is inappropriately
and (ED/AT)

Also look to when AA and correctly -

asked campuses to do friendly audit - model
programs.

3-mo
timeline

Could do T. VI report - 25 yrs of application to
students

Conference on diversity

Next yr is 25th anniv of Sci: - 507.

ED - Need overall strategic plan - DOT as convenor.

Race Civ Rts - outreach II

only gender??

- 1. Dangle/Delano - pay discrimination claim
 training to
 investigation + attys -
 how to identify.
 Sheriff backlog cases - slating issues.

- 2. Murphy Training for pol yts
 ↓ 1994 crime bill authority
 ↓ how is it being used.
 (changing practices)

New Haven
 Citizen Review Commission
 more direct - from
 DOT to AUSTS. on
 criminal r/penalties

- 3. Human Rts Comm.
 HC legislative - 245 - eq. remedy
 FBI/DOJ. should establish btr relations w/ communities
 See up. demo projects - w/ 1 of 30

- 4. VAWA II. Regs. expanded EEOC jurisdiction - Biden
 P. who are retaliated aft b/c of being victims of viol.
 "Gender-motivated violence" - key issue in VAWA.

T. IX cases - sex harassment schools.
 DOJ not terribly involved.
 Issue very much in flux.

- 5. Using mediation at EEOC -
 dist offices - left up to them -
 generally doesn't get some
 targeted funds to do approp mediation

Repubs see ADR as great alternative to the litigation

- 4. EEOC woefully underbudgeted.
Sincere efforts, but what ad hoc. To dramatically -
expand jurisdiction.

Paul - Con's want have a survey.
Push Con's more to front

Murphy - Indiv cases on pattern/practice
Con's want Paul
Gov't cannot think he doesn't have \$

W. B. A. P. : OCR - higher ed center
Findings not made in these cases -
plan has expired - we haven't heard.
Ways to dev. a historical record.
Approp' role of tests in admission -
reg's / imp' lians.
Priorities not translated into outcomes

- 9. Gay/les
2 judges
b. heightened scrutiny for gays
c. pol depts in country systemically respond to

- 10. Racially motivated traffic stops.
Rep. Lewis - direct DOJ to do study on
how often this happens.
take this + run even further

12. Ditt Ash/Ditt Fell -

DOT can play a role in enforcement.

OCR - Ed. MA Deley wrote letter to DOT/HHS/ET -
creating safe space for kids in schools.

Utah - shutting them down.

Seattle/Mass.

Schumer - Sex of Rep. -

probs w/ r/t ^v sodomy - put in registries]
enormous

13. ADEA - law - mand retirement for old / fire fighters.

Discrim in EE benefits bill - Ashford -

allow univs + colleges.

floodgates will open.

EEOC letter - can't get atten of anyone at WH.

Multiple discriminati - - employment rather.

Report on claims in EEOC -

ENDA passage

Mediatic - City of NY has model
not arbitrati -
voluntary.

revisit level of finding! →
Oversight hearing -

Intake + charge processing processes.
Mythical / inconsistent char
reps to reps. No effective
superv. by com'rs. Many #s / equality

Vastly more than 10% of cases that go to EEOC
~~should~~ benefit from mediation.

14. Give ~~it~~ ^{EEOC} a mandate -
or clear priorities
now a mish-mosh.

Race Initiative Policy -
Civil Rights Enforcement

Susan M. Carr

09/23/97 10:03:43 AM

Record Type: Record

To: Susan M. Carr/OMB/EOP@EOP

cc:

Subject: Historical data on civil rights - PIR request

----- Forwarded by Susan M. Carr/OMB/EOP on 09/23/97 10:03 AM -----

Susan M. Carr

09/23/97 10:03:30 AM

Record Type: Record

To: Lin Liu/PIR/EOP@EOP

cc: Alan B. Rhinesmith/OMB/EOP@EOP, Francis S. Redburn/OMB/EOP@EOP, Thomas L. Freedman/OPD/EOP@EOP

Subject: Historical data on civil rights - PIR request

Per your request of last week, the attached table shows budget authority, outlays, and fte's for the following civil rights agencies:

- EEOC
- U.S. Commission on Civil Rights
- HUD Fair Housing Activities
- DOJ Civil Rights Division
- Education Office of Civil Rights
- HHS Office of Civil Rights
- DOJ OFCCP
- DOT Office of Civil Rights

As I mentioned in my previous e-mail, the deflators used to determine real change between 1993 and 1998 are 3.1% for S&E accounts and 2.3% for grant programs.

Please let me know if you have any questions.

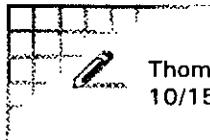

pirhist.wk4

Civil Rights Enforcement - Budget Snapshot (\$ in millions)

Civil Rights Enforcement Programs		FY92	FY93	FY94	FY95	FY96	FY97	FY98	Change	Real Growth
								Pres.Bud.	93 to 98	93-98
EEOC	BA	211	222	230	233	233	240	246	24	-4.88%
	OL	209	218	228	232	243	242	245	27	
	FTE	2,791	2,831	2,832	2,813	2,676	2,680	2,680	(151)	
U.S. Commission on Civil Rights	BA	7	8	8	9	9	9	11	3	21.43%
	OL	7	8	7	9	8	8	11	3	
	FTE	82	88	91	95	95	96	125	37	
HUD Fair Housing Grant	BA	13	12	25	33	30	30	39	27	182.97%
	OL	12	13	13	18	26	31	33	20	
	FTE	----	----	----	----	----	----	----	0	
DOJ Civil Rights Div.	BA	48	53	56	63	64	62	67	14	8.52%
	OL	47	52	55	62	64	77	67	15	
	FTE	483	496	529	577	579	579	590	94	
ED Civil Rights	BA	54	56	57	58	55	55	62	5	-6.39%
	OL	52	52	55	56	72	57	60	8	
	FTE	848	854	821	788	744	724	724	(130)	
HHS Civil Rights	BA	22	22	22	22	20	20	21	(1)	-18.06%
	OL	22	22	22	21	20	20	20	(2)	
	FTE	313	303	284	259	242	242	242	(61)	
DOL OFCCP	BA	55	56	56	59	56	59	69	13	5.77%
	OL	54	55	56	59	56	59	69	14	
	FTE	839	806	785	775	788	739	823	17	
DOT* Civil Rights	BA	0	0	0	0	6	6	6	6	-14.16%
	OL	0	0	0	0	5	5	6	6	
	FTE	0	0	0	0	79	77	70	70	

*Prior to FY 1996, DOT Civil Rights functions were spread among disparate operating entities.

Race Int Policy -
Civ Rts Ent



Thomas L. Freedman
10/15/97 06:10:49 PM

Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Mary L. Smith/OPD/EOP, Tanya E. Martin/OPD/EOP
Subject: Civil Rights proposals for OMBs Review

Attached is OMB suggestion that we shoot for Nov. 4 for initial proposals.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 10/15/97 06:06 PM -----

Susan M. Carr

10/15/97 05:47:10 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP
cc:
Subject: Civil Rights proposals for OMBs Review

To give OMB time to consider incorporating recommendations into the Director's crosscut review on civil rights that may result from Elena's outreach and agency meetings, Michael suggests that we need to receive initial proposals by November 4th. Could you please pass this along to those who need to know?

Thanks. See you tomorrow.

efficiencies
coordinate
performance goals
enforcement strategies

Tim talk w/
Sue

- 1) Justice
- 2) EEOC
- 3) Enforcement Offices.

FILE: Racket Policy - Civil Rights

**TIMELINE ON CIVIL RIGHTS ENFORCEMENT
AGENCY PROPOSALS**

- October. Meeting with White House staff from DPC, NEC, VPOTUS, OMB, OPL, PIR, and Counsel's office.

Review of submitted agency memoranda, discussion of chronology and policy planning, suggested follow-up contacts with agencies.

USDA
Office
at 10/17??

- October. Draft proposals and revised drafts from agencies due.
- October. Meetings with Lead Agencies -- EEOC, Education, Labor, HUD, Justice and HHS to discuss preliminary recommendations for improvements

Simultaneous outreach to groups monitoring civil rights enforcement for suggestions of possible improvements, such as:

- Citizen's Commission on Civil Rights
- ACLU
- American Council on Education
- NAACP
- National Urban League
- National Council of La Raza
- National Asian-Pacific American Legal Consortium
- Urban Institute

- Late October. Meeting with White House staff to review proposals.

- Mid-November. Proposals should be finalized and vetted, meetings for announcement and implementation underway.

Talk to appropriates -
find out their concerns.

Mid-November
By Thanksgiving

Signal to other branches or OIG -
need to be prepared.

TIMELINE ON CIVIL RIGHTS ENFORCEMENT AGENCY PROPOSALS

- October. Meeting with White House staff from DPC, NEC, VPOTUS, OMB, OPL, PIR, and Counsel's office.

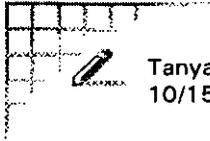
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- Mid-November. Proposals should be finalized and vetted, meetings for announcement and implementation underway.



Tanya E. Martin
10/15/97 02:44:55 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: Essence P. Washington/OPD/EOP, Marjorie Tarmey/WHO/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP
Subject: Civil Rights Enforcement -- Meetings with Agencies -- ADD'L CHANGES

1. The meeting with EEOC is now from 1:45 - 2:45 PM in room 474, OEOB, on Thurs, Oct 16

EEOC: Gilbert Casellas, Maria Burrero, Mary McIver, Ellen Vargyas

2. The meeting with Justice is now from 4:00-5:00 PM in room 474, OEOB, on Thurs, Oct 16.

Justice: Isabelle Pinzler, Lisa Jacobs, Milton McConkey

3. The meeting with ED, HHS, HUD, Labor -- is still Friday from 11-12:30 in room 180.

ED: Norma Cantu, Kelly Saunders, Art Coleman

Labor: Shirley Wilcher, Annabelle Lockhart, Gale Black

HUD: Lori Garcia (for Mercedes Marquez)

HHS: Dennis Hayashi

Message Sent To:

Thomas L. Freedman/OPD/EOP
Mary L. Smith/OPD/EOP
Susan M. Carr/OMB/EOP
John E. Thompson/OMB/EOP
Maria Echaveste/WHO/EOP
Dawn M. Chirwa/WHO/EOP
Emil E. Parker/OPD/EOP
Lin Liu/PIR/EOP

Race Int Policy - Civ Rts Enf
and
Race-Hate Crimes

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0500



Tom/Tom -

FYI. See p. 3
especially for
ideas that could
be used in hate
crimes conference
or civil rights initiative

Elena

DEPUTY GENERAL COUNSEL

SEP 16 1997

MEMORANDUM FOR: Elena Kagan, Deputy Assistant to the President
for Domestic Policy

FROM: Mercedes M. Márquez, Deputy General Counsel for Civil
Rights and Fair Housing

RE: Race Policy Report - Update

Attached please find an updated version of the Department's race policy proposals. I also have included statistics on the number of cases received by the Department in recent years. I apologize for the delay in transmitting this update to you. Many of our staff members, from whom we were awaiting data, have been on leave. Please feel free to contact me at (202) 708-2467 with any questions regarding this piece.

Attachment



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-0500

DEPUTY GENERAL COUNSEL

HUD ENFORCEMENT IN THE 21ST CENTURY

○ ENFORCEMENT POLICY INITIATIVES:

In 1996, the Department took action on 12,037 cases of alleged housing discrimination in violation of the Fair Housing Act (Act). In 3,271 of those cases, the Department concluded that there was no reasonable cause to believe that discrimination in violation of the Act had occurred. In 330 cases, the Department concluded that there was reasonable cause to believe that discrimination had occurred. The Department conciliated 2,846 cases. The statistics for the three previous years are as follows:

Total cases:
1995 - 8,206
1994 - 9,672
1993 - 10,190

Cases Taken Action On:
1995 - 7,407
1994 - 8,402
1993 - 9,225

Cases no-caused:
1995 - 2,095
1994 - 2,151
1993 - 1,738

Cases caused:
1995 - 414
1994 - 514
1993 - 432

Cases conciliated:
1995 - 3,126
1994 - 3,303
1993 - 3,061

This policy piece sets forth initiatives designed to double - in the next four years - the number of housing discrimination actions taken by the Department.

Combatting covert discrimination in the '90s

Housing discrimination in the 1990's is no longer limited to overt acts such as a landlord's bold assertion that he will not rent to persons of color. Today, housing discrimination is often so subtle that an individual buyer or renter cannot recognize that they have been discriminated against. In order to root out today's more covert discriminator, the Department must broaden its working definition of discrimination, it must assess discrimination within the marketplace, and it must consequently expand the parameters of fair housing compliance and enforcement. The Department has begun this process by focusing on discrimination in the following areas:

- Lending
- Insurance
- Zoning Decisions

Current fair housing law encompasses even these novel forms of discrimination. As the discriminator becomes more sophisticated in his acts, however, the Department must look beyond these fair housing laws and make full and creative use of its statutory and regulatory enforcement arsenal. When appropriate, RESPA, the Truth in Lending Act and other non-civil rights vehicles must be used in lieu of, or at times, in conjunction with customary civil rights enforcement laws. When current statutory and regulatory mechanisms do not adequately address the new discrimination, the Department will be prepared to propose new legislation on the issue.

Hate Crimes: Make 'Em Pay

While acts of housing discrimination have expanded to more sophisticated forms, acts of violence taken against people or their property, or threats of violence made to people, because of their race or ethnic background are on the rise. Such hate crimes constitute a major barrier to the ability of people to live where they want and otherwise could. Currently, HUD investigates hate crimes in the housing context and refers appropriate cases to the Department of Justice for criminal prosecution. When hate crime perpetrators are prosecuted for their acts, the judicial system may profess that justice has been served and that society at large may now rest assured that a barrier to housing choice has been eradicated. For the individual victim, however, the acute pain of being targeted because of race or ethnicity lingers and may not be assuaged by a remedy that does not change that reality and the ever-present possibility of its reoccurrence.

HUD's Make 'Em Pay initiative, through use of the Fair Housing Act, affords the victim a civil remedy whereby he can take from the wrongdoer to compensate for what was stripped from him. Thus, when a group of teenagers speed by in their prized possession hotrod and fire shots into the bedroom of a sleeping African-American family because of their race, those teenagers relinquish their car to that couple because of their crime.

The Department can significantly increase the number of Make 'Em Pay complaints by:

- Proactively monitoring newspaper and other media reports,
- Establishing close contact with local fair housing groups who agree to inform HUD of all such acts that become known to them,
- Requiring FHIPs to report to HUD all such acts that become known to them,
- Setting up a Hotline for the report of such actions.

HUD Testing Program

Fair housing testing is a widely accepted, powerful weapon used to establish the existence of discrimination in housing. A tester assumes the role of a verifiable profile and purports to be a home-seeker for the specific purpose of gathering information concerning the manner in which a housing provider does business. The Department of Justice currently runs its own fair housing testing program out of main Justice. Over 350 non-attorney DOJ employees have participated in the program.

With regional offices nationwide, HUD proposes to create its own program to train and utilize testers throughout the country. The Department can thereby more closely direct and control its own fair housing investigations. Furthermore, a testing program presents an ideal opportunity to galvanize the Department's employees and expose them to civil rights enforcement in a wholly hands-on manner.

○ AGENCY REFERRAL OF FAIR HOUSING ACT MATTERS TO HUD:

In a January, 1994 Executive Order (Executive Order 12892), President Clinton declared that it is the responsibility of Executive Agencies to forward, upon receipt of a complaint or other information alleging facts that may constitute a violation of the Fair Housing Act or suggesting a violation of the Act, to the Secretary such facts or information for processing under the Act. The Secretary can remind federal agencies of the Executive Order directive and require that the agencies submit information to the Department pursuant to it.

○ **THE PRESIDENT'S FAIR HOUSING TASK FORCE:**

In the January, 1994 Executive Order, President Clinton also established the "President's Fair Housing Council" and named the Secretary of HUD as chair of that Council. The President directed the Secretary to work closely with the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Education, the Secretary of Labor, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Veterans Affairs, the Secretary of the Treasury, the Attorney General, the Secretary of the Interior, the Chair of the Federal Reserve, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Chair of the Federal Deposit Insurance Corporation and such other officials of executive departments and agencies as the President may, from time to time, designate. The Secretary can develop memoranda of understanding with these executive agencies and in July, 1997, did so with the Department of Agriculture. The unprecedented memorandum of understanding grants HUD the jurisdiction to handle all future Fair Housing Act complaints received in connection with Agriculture's housing financing and rental assistance programs. HUD also intends to convene, for the first time, the Council so that it can fulfill its mandate to review the design and delivery of Federal programs and activities to ensure that they support a coordinated strategy to affirmatively further fair housing.

○ **PUBLIC EDUCATION CAMPAIGN:**

Coinciding with the 30th anniversary of the Fair Housing Act - to be celebrated in the spring of 1998 - the Department proposes to launch a three pronged public education campaign. Educating the public about their right to fair housing will enable them to recognize when discriminators violate their rights and allow them to take aggressive action with HUD to combat that discrimination.

Media Drive

The Department will commence an extensive media drive designed to educate the public about their rights under the Fair Housing Act and the resources available from HUD to vindicate their rights if violated. The Department intends to use print ads and other media forms to convey its pertinent message. It will solicit the help of major entertainers and public figures committed to the principle of fair housing.

Fair Housing Fora

The Department will host a series of local, regional, and then a national forum celebrating the accomplishments and promise of the Fair Housing Act and reaffirming HUD's commitment and duty

to enforce the Act and other related civil rights laws.

Performance Awards

The Department proposes creating an award which recognizes communities' outstanding work in the area of fair housing and in formulating good partnership programs which foster integration. Not unlike the Blue Ribbon Practices awards given by the Secretary last month at the meeting of the Conference of Mayors, the Civil Rights Excellence award would recognize a community's outstanding performance. We must encourage civil rights best practices and recognize those practices when they succeed, just as we must enforce them when they fail.

Race Int Pol - Civ Rts Enforcement

Outreach Mtg #1

- WH:
1. IRS Program announcement - troubling.
review of safeguards in place -
suggests they are insufficient
need to have start from Fey Rubin
Should be review /st -
these suspicious.
 2. Any 94 EO - coord. role w/in WH for c.r. policies -
need to have someone at or input level
at Council level - person who is respons for addressing
these issues
Look at this.
 3. EEOC - oppurt + real challenges.
Nominations
Needed reform - backlog huge
of cases resolved - below minimum threshold
e.g. - cases generated from field - not centrally.

Narasim: Divs have ext resources -
paralegals, intake people - espec in regional offices.
Faster nominations - need leadership.
New initiatives - leverage these

Verdy: Coordination - EEOC often not represented in issues where
they should be.

WH: Lots comes back to leadership from WH.
Asst AG in Civ Rts often not at table
Same for person at HUD - Fair Housing office head not in loop.

Taylor: Need to have someone at WH who worries abt these issues all the time.

Past desire to deflect this to DOT. W/R1 - he's sending msg that he doesn't want to deflect concern.

EG - Follow-up to CR - such derog cases. Ought to be conv. w/ DOT - can they be more proactive? Possibly so.

Human mobility programs

Title I - abt to transfer from failing schools → schools that are succeeding.

Need a person to coord.

Williams: Many ags have less than one person devoted to CR coord.
Title IX directive.

Need funds for all these agencies.

Report on Reinventing EEOC.

WH: Need a person w/ real stature. Access to President, etc.

1. Division w/in fed agencies

Not just OIDA - they're the only ones who've built the bullet.

DoD/State

Chirwa: Glickman a good model?

WH: his findings were very encouraging.

haven't looked closely enuf at particulars.

2. Need better coord. in budget process

3. Title VI - ignored/mentioned.

HHS/Div Rts Division

Admin ent would make diff.

Other not used bec remedy is w/drawing \$.

CR Council - done major study on this 2.

Health/transportation,

Narasimh: Lack of implementing regulations is key.

One out has been held up since The Bush Admin!

(2 yrs at OMB by current HHS).

Williams: Same for T. IX enforcement.

Only 4 compliance reviews.

Needs to be identifying priorities + push on those

Other languishing regs -

- neging contractors to issue AA plans

- " " "

to show range of salaries

since late 80s - OFCCP hasn't

come out w/ them yet.

WH: ERC - internally divided.

Judge Hissinbothen has proposed that all be released even when there's a dispute - i.e. w/ dissenting views.

Stat change? But then what if we lose Presidency?

In interim - does need to be a research function performed -

collecting data on measuring discrimination

Narasimh: Com'n now is dysfunctional bec of 4-7 split.

Taylor: Get what credible research you can out of them - partic on govt's continuing deficiencies.

Then - look to other sources -

OMB may had a CR capability - social indicators

Narasimh: Data is imp. Reye/Pouch circumscribed data collection functions of app.

11/11/11

→ Need data to pursue CR cases.

Taylor: Office was - partly a 2 y leadership -
planning initiatives / not just responding to complaints.
Then says - picking spots - knowing where can make
gains + how to make them. Good judgment.
backing / prodding of Secy. Doesn't need as intercessor
w/ inst role.

Verdujo: People in ays often feel hung out to dry. - Et especially.
Again, need WH coordination.

↓
but hasn't gotten met backing
Dept / DOT / WH

Strategic Thinking on Calit / Hoopwood needed.

WH: AA - cab Secy should play more visible role.

EG - IOTEA bill - need Cohen / Daley missing in action
2 issues we have to win -

↳ Hunter

Need Admin to play bigger role. Disappointed by remarks in
Hunter. Repid Posture will undermine us.

Marachi: We don't see Admin there.

WH: How you tabulate data on multiethnic census count.

OMIS target date today??

Still serious intercounting problems.

Not out there thought given - at least wanted to postpone.

Announcement made today??

Appointment of judges!!!
Nothing more important

Need particulars on:

1. Internal discussion
2. Data collection
3. Title VI sub.
4. Initiatives / not complaints

Narasimha: Permit as Comma - initiated review of \$ position / salaries, etc. could see when there were a problem.
Initiate such reviews.

Ag - looked at selection process in SES.

Race sensitivity / diversity training. w/in depts.

WH: Treasury - some of people identified in roundup associated w/ invs. of churches.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	Phone Number. Social Security Number. Birth Dates. [partial] (1 page)	n.d.	P6/b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Elena Kagan
OA/Box Number: 14366

FOLDER TITLE:

Race - Race Initiative Policy - Civil Rights - Federal Employees [4]

2009-1006-F

vz93

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

Freedom of Information Act - [5 U.S.C. 552(b)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

- C. Closed in accordance with restrictions contained in donor's deed of gift.
- PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
- RR. Document will be reviewed upon request.

Civil Rights Enforcement

WED 11:00 am Room 180

RESPONSE	NAME	TELEPHONE #	SS #	DOB
message	Figuroa, Juan Puerto Rico Legal Defense Fund	P6/(b)(6) [002]		
YES	Henderson, Wade Leadership Conference on Civil Rights	P6/(b)(6) [002]	P6/(b)(6) [002]	P6/(b)(6) [002]
YES	Narasaki, Karen National Assoc. Pacific Legal Consortium	P6/(b)(6) [002]	P6/(b)(6) [002]	P6/(b)(6) [002]
YES	Taylor, Bill Citizens Commission on Civil Rights	P6/(b)(6) [002]	P6/(b)(6) [002]	P6/(b)(6) [002]
YES	Williams, Verna National Women Law Center	P6/(b)(6) [002]	P6/(b)(6) [002]	P6/(b)(6) [002]
YES	Verdugo, Georgina Mexican Am Legal Defense Fund	P6/(b)(6) [002]	P6/(b)(6) [002]	P6/(b)(6) [002]

internal sur
discrim
data correcti-
problem
initialing / not
sur complaints,
Title VI enforcement

Race Initiative Policy - civil rights enforcement

10/21 Pinzler

1. Coordination -

Coord Rev Section

DP chaired Civ Rts Wg by - never got off of Att acti-
This started getting back together

Policy themselves - Their living / grants / Ks

half a dozen retreats / same ^{kind} ~~con~~ ^{con} ~~cert~~ ^{cert} ~~pts~~ for last sev. yrs.

↳ not a very sensible solution -
also politically fraught

earlier - DOT goes ^{to} ~~ct~~

C & R section are not litigators. DOT do real coord - major staff ^{change}

They don't do real investigation - They start at end of process.
not how they're trained.

With him EEOC - where they go to win.

DOT as training person

2. Mediation -

Access issues

DOT has successful med prof in ADA sect -

~~works~~ using for a lot of cases.

worked in some cases / not others

Only section where we get initial complaint.

Could be very imp. on T.I.X for fed protected programs

Can't do systemic / law return cases that way.

Police brutality - special litig acti - // profiling (harassment)

Race Initiative Policy -
Civil Rights Enforcement

August 19, 1997

MEMORANDUM FOR SYLVIA MATHEWS

FROM: Richard Hayes
Dawn Chirwa
Susan Liss
Emil Parker

RE: Civil Rights Enforcement

As you requested, and as part of the ongoing work of the President's Race Initiative, we have begun discussing policy initiatives designed to enhance federal civil rights enforcement. As we proceed, we thought it would be useful to provide you with some background on the various civil rights enforcement offices which exist, their funding levels, current projects underway and previous Administration efforts to improve federal civil rights enforcement.

In addition, this memorandum seeks your approval to proceed with forming a working group composed of the Civil Rights chiefs in the major enforcement agencies to develop a comprehensive civil rights enforcement strategy. (Deval Patrick and Chris Edley chaired such a group in response to the President's directive to mend affirmative action programs in 1995.) We think the responsible federal agencies need to be part of our discussions to ensure their support of any changes or enhancements we recommend.

I. Federal Civil Rights Enforcement Agencies

Over the past five years, the Clinton Administration has worked diligently to enforce the laws which protect the rights of those who have been discriminated against based on age, disability, gender, race, religion, and sexual orientation by supporting civil rights enforcement programs that effectively aid each of those groups. This work is accomplished through the oversight responsibilities of the following agencies.

A. Department of Justice, Civil Rights Division

The Civil Rights Division at the Department of Justice is charged with enforcing the Civil Rights Act of 1957, 1960, 1964, and 1968, the Voting Rights Act of 1965, the Equal Credit Opportunity Act, and the Americans with Disabilities Act. These statutes deal with eliminating discrimination in education, employment,

credit, housing, public accommodations and facilities, voting and some federally funded and conducted programs. The Civil Rights Division, along with the Associate Attorney General, the Office of Legal Counsel and the Solicitor General has primary responsibility among the federal agencies for enforcing federal civil rights laws in the

courts and for providing legal counsel to agencies with respect to statutory and constitutional civil rights issues.

B. Department of Labor, Office of Federal Contract Compliance Programs (OFCCP).

OFCCP is part of the Employment Standards Administration at the U.S. Department of Labor. OFCCP's jurisdiction covers approximately 26 million or nearly 22% of the total civilian workforce (92,500 non-construction establishments and 100,000 construction establishments). Its primary responsibility is to enforce Executive Order 11246 under which all federal contractors, as a condition of receiving government funds, are required to refrain from discrimination and take good faith efforts -- including affirmative action -- to expand employment opportunities for qualified women, minorities, and persons with disabilities. In addition, OFCCP is charged with enforcing Section 503 of the Rehabilitation Act of 1973, and the affirmative action provisions of Section 4212 of the Vietnam Era Veteran's Readjustment Assistance Act.

The OFCCP employs various enforcement procedures, such as compliance reviews and complaint investigations of federal contractors' personnel policies and procedures, to enforce these statutes. OFCCP's current high priority initiatives include its public education initiative, introduction of its Fair Enforcement Strategy, and launching its tester's initiative.

C. Equal Employment Opportunities Commission (EEOC)

The EEOC is an independent agency whose primary goal is to ensure fair labor practices for employees who belong to minority groups that have experienced historical and current discrimination on the basis of race, gender, disability, national origin, religion and age. In particular, the EEOC is responsible for enforcing Title VII of the Civil Rights Act of 1964, the Equal Pay Act, the Age Discrimination in Employment Act, Section 501 of the Rehabilitation Act, the Americans with Disabilities Act, and, pursuant to Executive Order 12067, providing coordination among the federal agencies involved in equal employment opportunity issues.

D. Department of Housing and Urban Development (HUD)

HUD's Office for Fair Housing and Equal Opportunity enforces the Fair

Housing Act that prohibits discrimination in housing on the basis of race, color, national origin, religion, sex, familial status, and disability. One of the major enforcement mechanisms employed by HUD in this area is the use of "testers" to uncover acts of housing discrimination. HUD attorneys also litigate complaints on behalf of persons whose allegations of discrimination have been deemed valid by HUD. Current priority civil rights-related projects within HUD include: (1) wide use of volunteers in testing; (2) a national advertising campaign; (3) "Make 'em pay" - a civil counterpart to the Department of Justice's project directed at perpetrators of hate crimes; and (4) the Presidential Housing task force.

E. Department of Education, Office of Civil Rights

The Office of Civil Rights at the Department of Education (OCR) seeks to secure equal access to education regardless of race, color, national origin, sex, disability, or age under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Americans with Disabilities Act of 1990. OCR's primary tasks include [compliance reviews] at educational institutions and providing technical assistance to institutions to promote voluntary compliance. Several high priority issues within OCR include: (1) English proficiency issues; (2) over representation of minorities in special education courses; (3) under representation of women and minorities in math; and (4) desegregation.

F. Department of Health and Human Services, Office of Civil Rights

The Office of Civil Rights at the Department of Health and Human Services is responsible for enforcing several statutes. These include Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975; Title IX of the Education Amendments of 1972; Section 407 of the Drug Abuse Offense and Treatment Act of 1972; Titles VII and VIII of the Public Health Service Act; Section 307 of the Family Violence Prevention and Service Act; EEO provisions of the Communication Finance Act of 1934; the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1972; and Title II of the Americans with Disabilities Act of 1990. The current emphasis within OCR at HHS is placed on: (1) enforcement of the inter-ethnic adoption provision of the Small Business Job Protection Act of 1996; (2) medical redlining; and (3) providing government-wide guidance on non-discrimination in temporary assistance for needy families.

II. Federal Resources for Civil Rights Enforcement

The President's FY '98 budget increased the total funding for civil rights enforcement programs from \$470.8 million to \$480.32 million. (See chart below.) You should note that the EEOC and OFCCP budgets were increased, while the

budgets for other relevant agencies were either frozen at FY '97 enacted levels, with no adjustment for inflation, or decreased slightly. The President's budget requested \$246 million for the EEOC, an increase of \$6.3 million over the FY '97 enacted level of \$239.7 million. The OFCCP budget was increased from \$56 million to \$59 million. Unfortunately, neither the House nor the Senate Commerce, Justice, State Appropriations bills fully funds the President's FY 1998 request of \$246 million for the EEOC -- the House bill freezes funding at the FY 1997 level of \$239.7 million, while the Senate bill provides \$242 million.

<u>Major Civil Rights Enforcement Agencies</u> <u>1998 (millions)</u>	<u>FY 1997 (millions)</u>	<u>FY</u>
■ EEOC 246.00		239.70
■ OFCCP 59.06	56.17	
■ U.S. Commission on Civil Rights 8.74		8.75
■ Department of Housing and Urban Development 30.00	30.00	
■ Department of Justice, Civil Rights Division 62.42		62.55
■ Department of Education 55.00		55.00
■ Department of Health and Human Services 19.53		19.71

III. Summary of Administration Efforts to Improve Civil Rights Enforcement

This Administration has undertaken two major projects to reinvent Civil Rights Enforcement. The Vice President's National Performance Review recommended improvements in civil rights enforcement at the EEOC and OFCCP. In addition, the President's affirmative action review made several recommendations about how to make OFCCP more effective.

A. National Performance Review

1. EEOC

With the appointment of new Commissioners in 1994, a primary focus of the EEOC has been on decreasing its historically large backlog. Their adoption of the Priority Charge Handling Procedures in July 1995, and the adoption of the National

Enforcement Plan (NEP) in February 1996, have resulted in more timely and effective resolution of the agency's pending inventory of charges.

The Priority Charge Handling System establishes an "ABC" priority system, under which cases are ranked -- "A," "B" or "C" -- based upon the strength of a particular complaint. This enables the EEOC to weed out unmeritorious cases and devote more time and resources to meritorious ones. Adoption of this Priority Charge Handling system has reduced the backlog of cases at the EEOC by approximately 25,000 cases. None-the-less, the agency continues to have a large backlog. ✓

The National Enforcement Plan (NEP) is a three-pronged program. The aim is to dedicate available funds to prevention of discrimination as one of the most efficient and effective means to aid in the achievement of equal employment opportunity goals. This is accomplished through educational outreach, voluntary resolution of disputes, with strong enforcement remaining as a measure to be used where the other two fail. ✓

2. OFCCP

In order to improve its effectiveness while making contractors' compliance simpler and less burdensome, the OFCCP has enacted a Fair Enforcement Strategy. This expedited and more flexible tiered review process will enable the agency to concentrate on the most substantive violations while spending less time on reviews of firms that are largely in compliance. They also hope to modernize their computer systems to streamline the agency's internal procedures and reduce unnecessary paperwork requirements, permitting the office, for example, to accept electronically submitted reports from contractors. ✓

B. President's Affirmative Action Review

1. EEOC

In 1995, the President ordered a comprehensive review of affirmative action programs. This review found that the EEOC was severely under funded, and recommended that additional resources be provided to help it run effectively. It was also recommended that EEOC should work with the Office of Personnel Management to evaluate the performance of its managers and with the President's Management Council (PMC) to study and report on the (proper use of flexible goals and timetables for hiring and promotions.) The review also recommended that the PMC identify those agencies that are best able to promote diversity and equal opportunity and implement similar mechanisms throughout the government.

2. OFCCP

The review revealed that although generally effective, OFCCP programs needed reforming. Academic research showed that during periods of strong enforcement, OFCCP programs resulted in moderate increases in the employment of minorities and that OFCCP's efforts did not cause employers to hire less qualified workers. At the same time, the review found that there is a great need to reduce affirmative action program paperwork. Contractors also expressed discontent with inconsistent enforcement between regions.

Several recommendations were made to the President on how to change and improve the OFCCP. First, the Secretary of Labor should update administrative guidelines on enforcement of non-discrimination, illegality of quotas, and good faith efforts. Second, the Secretary of Labor should investigate methods that would encourage collaboration with the private sector. Lastly, the Department of Labor should implement its plan to reduce paperwork.]

IV. Congressional Civil Rights Enforcement Initiatives

Currently, both the House and the Senate have proposed similar bills, H.R. 2023 and S.71 that are aimed at amending the Fair Labor Standards Act of 1938 and the Civil Rights Act of 1964 to "give more effective remedies to victims of discrimination in the payment of wages on the basis of sex, and for any other purpose." The proposed bills attempt to eliminate the disparity in wages between males and females. Moreover, the bills require the EEOC to compel certain employers to maintain payroll records and report the information to the EEOC which will then analyze the data in regards to race, sex and national origin of employees.

Additionally, these bills require the EEOC to train its employees, employers and others on discrimination in wage payment. The Secretary of Labor will be required to conduct studies and provide information to employers, labor organizations and the public on any progress in pay equity. Moreover, these bills reward those employers that make substantial efforts to eliminating disparities in wages by awarding to them the Robert Reich National Award for Pay Equity in the Workplace.

V. Recommendations on a Proposed Working Group on Civil Rights Enforcement

It is certain that additional resources need to be appropriated for civil rights enforcement at the EEOC and other agencies in future fiscal years to effectively serve the tens of thousands of Americans who annually seek their rights. OMB needs to be made aware that the Administration will seek additional funds in the FY 1999 budget to enforce anti-discrimination laws and that this needs to be built into

the upcoming budget process. However, beyond just simply proposing additional expenditures, there are a number of other issues we need to examine in determining how federal civil rights enforcement can be enhanced. For example:

- (1) Should we prioritize enforcement efforts on particular areas, and if so on which areas: Employment? Housing? Education? Hate crimes? Old Age? Disabilities? Housing? etc.] ✓
- (2) Are there additional reinvention activities that we should pursue, even though this may result in resources being diverted from current projects?]
- (3) Can the EEOC and OFCCP be made to work more effectively both individually and collectively?
- (4) Is there duplication in the current system that we should eliminate?]
- (5) Do we need to strengthen the existing laws on the books?]
- (6) How do we encourage more voluntary efforts by corporate America and others?] ✓

To address these and other issues, we propose forming a working group to come up with a proposal for a comprehensive strategy on civil rights enforcement. We would chair this group, which would consist of the major agency civil rights chiefs as listed below. Judith Winston or her representative would be invited to participate; it will be critical that the working group work collaboratively with her and her staff. We might also want to include EPA (responsible for Administration's environmental justice effort), and Treasury/Comptroller of the currency (responsible for regulating banking practices with respect to loans). Otherwise, the members of the group will include:

- 1. Gilbert Casellas, Chairman, EEOC
- 2. Isabele Pinzler, Acting Assistant Attorney General, DOJ
- 3. Bernie Anderson, Assistant Secretary for Employment Standards,
DOL
- 4. Shirley Wilcher, Deputy Assistant Secretary, Office of Federal
Contract Compliance Programs, DOL
- 5. Dennis Hayashi, Director, Office of Civil Rights, HHS
- 6. Norma Cantu, Assistant Secretary for Civil Rights, EDUC
- 7. George Robertson, Acting Director, Office of Civil Rights
Enforcement, Agriculture
- 8. Susan Forward, Acting Assistant Secretary for Fair Housing &

Equal

Opportunity, HUD

9. April Marchese, Acting Director, Office of Civil Rights, DOT
10. Mary Francis Berry, Chairman, Commission on Civil Rights

As for process, we would convene the working group early in September. The group would review our progress to date with respect to civil rights enforcement and come up with a comprehensive set of proposals aimed at strengthening Federal efforts to eradicate racial discrimination. We would also propose to examine what kinds of cooperative efforts might be possible with employers and others in addressing this issue, and the need for additional federal legislation and funding and whether the current priorities of the agencies are the ones the Administration wants to focus on. We propose that the work of this group will either be completed or at an appropriate stage so that any requests for additional funding for civil rights enforcement can be incorporated into the FY 1999 budget before the President submits his budget to the Congress in January.

We look forward to hearing your thoughts concerning our recommendation.