THE WHITE HOUSE

WASHINGTON

December 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
TOM FREEDMAN

SUBJECT: Civil Rights Enforcement Initiative

We have developed a civil rights enforcement initiative that places a new emphasis on prevention and non-litigation remedies for discrimination while also strengthening civil rights agencies' ability to bring enforcement actions for violations of anti-discrimination law. The plan promotes prevention by providing increased resources for compliance reviews and technical assistance, and offers an alternative to expensive litigation by funding a dramatic expansion of alternate dispute resolution (ADR) mechanisms. The plan also sets specific performance goals for the EEOC to speed its processing of complaints and reduce its backlog, and provides for greater coordination across federal civil rights agencies and offices. The package of improvements totals approximately $100 million, including a 16.5% increase above the enacted FY 1998 budget for EEOC and a roughly 50% increase for the relevant HUD office.

I. Strategies that Promote Prevention and Avoid Litigation

A. Resolving Problems Without Lengthy Court Fights

The plan calls for the dramatic expansion of Alternative Dispute Resolution (ADR) programs across all relevant agencies. The largest initial investment is a $40 million expansion over three years of the EEOC's mediation program. The EEOC currently sends only a small number of cases to mediation. The increased funding will allow upwards of 70% of all complainants to choose mediation, rather than the lengthy process of investigation and litigation. (The remainder will not have this option, either because their cases are seen as the most serious enforcement priorities or because their cases are wholly devoid of merit.) We expect about half of all complainants to choose the mediation option. In addition to the EEOC program, pilot mediation programs will be introduced at HHS and Labor.

B. Spotlighting the Problem and Encouraging Compliance

The initiative includes a fund to improve surveillance, technical outreach, and compliance efforts by civil rights offices. The focus on compliance is reflected in increased support for DOL's Office of Federal Contract Compliance, which ensures that businesses under contract to the federal government implement E.O. 11246 and comply with anti-discrimination law. This $18 million reform will allow the office to increase tenfold the number of compliance reviews it

conducts through the introduction of a tiered review system. In addition, the initiative provides $10 million to HUD to conduct a program using paired testers, which is designed to raise awareness of the extent of housing discrimination through the public release of audit results and some focused enforcement action. This initiative also will enable the EEOC to improve compliance through videos for employers and a public service campaign.

II. Making Enforcement Work

A. Resources to Eliminate Backlogs

One of the most common criticisms of federal civil rights enforcement relates to the length of time the EEOC takes to hear and decide cases. This plan uses improvements in technology, mediation, and the addition of over 100 investigators to lower the average time spent resolving private-sector complaints to under 6 months (from the current 9.4 months) and to reduce the inventory from 64,000 cases to 28,000 by the year 2000. The plan also includes two new initiatives at HHS to reduce backlogs by expanding the use of case management techniques and giving state and local civil rights agencies an additional role in enforcement activities.

B. Coordinating and Streamlining Federal Policies

Federal civil rights offices only rarely consult or coordinate with each other. This initiative will institute a standing inter-agency working group to address issues of common interest, including development of strategy, implementation of performance outcome measures, and sharing of training initiatives and data collection.

We also recommend that you begin the process of implementing EEOC's proposal to strengthen its authority to eradicate discrimination from federal agencies, provided White House and Department of Justice attorneys approve the measures. Currently, parties who complain of discriminatory treatment by an agency can request a hearing from an Administrative Judge (AJ) who is an impartial EEOC employee. Agencies, however, can then issue a final agency decision (FAD) rejecting the AJ's decision altogether. Statistics show that agencies modify decisions adverse to them nearly two-thirds of the time, while modifying decisions favorable to them only about 1% of the time. The EEOC proposal would eliminate the FAD process where there has been an AJ hearing, and permit both the complaining party and agencies to appeal the AJ's decision to the EEOC.

C. Modernizing Civil Rights Enforcement

Many civil rights agencies have not received sufficient increases in resources to make use of technology and improve their efficiency. For instance, unlike most of the federal government, EEOC offices lack the ability to communicate with each other using e-mail. The plan includes a $15 million technology initiative for EEOC, HHS, Labor, and Education to provide for communication via electronic mail; eliminate redundant data entry procedures; permit the

sharing of information and enhanced research capabilities for investigators and attorneys; allow for the filing of forms and complaints over the Internet; and provide for the sharing of civil rights data bases.

III. Status of Proposals

DPC developed this plan after consultation with representatives of leading civil rights organizations, heads of federal civil rights offices, and other White House offices. OMB has recommended a package of $57 million for this initiative, which will fund some of the measures described here. OMB is currently reviewing other agency proposals, including the $40 million expansion of ADR at EEOC and the $18 million proposal by DOL-OFCCP to expand its compliance program.

File/ Civil Rts Enforcement

Tom — This was helpful. Let's talk Monday so we can set up a meeting for this week. Elena

MEMORANDUM

TO: ELENA KAGAN

FROM: TOM FREEDMAN, MARY SMITH, TANYA MARTIN, JULIE MIKUTA

RE: FEDERAL ENFORCEMENT OF CIVIL RIGHTS LAWS cc: Bruce

DATE: AUGUST 1, 1997

SUMMARY

Attached is a brief description of the structure and legal authority of the civil rights offices across the federal government, the current status of the office and potential improvements that might be pursued as a part of the Race Initiative. The last section describes a process/timetable for potential next steps for the workgroup addressing administration of justice.

I. OVERVIEW OF FEDERAL CIVIL RIGHTS ENFORCEMENT

- Prior to the Civil Rights Act of 1957, the federal civil rights effort was limited to the enforcement of a few post-Civil War criminal statutes.
- Since 1957, Congress and the President have expanded greatly the Federal civil rights effort through the creation of additional substantive rights and additional enforcement agencies.
- The Civil Rights Act of 1964, the Voting Rights Act of 1965 and the Fair Housing Act of 1968 are among the initial pieces of legislation that were enacted to address barriers to equal opportunity in employment, voting, public accommodations, education and federal financial assistance.[1]

A. Methods of Enforcement

Every government agency, department and commission is involved in some aspect of civil rights enforcement -- external or internal -- and in most cases, both:

- **External** - agencies are responsible for prohibiting discrimination by recipients of federal financial assistance (Title VI of the Civil Rights Act of 1964); moreover, some agencies have additional freestanding civil rights enforcement authority;
- **Internal** - Equal Employment Opportunity Commission (EEOC) regulations apply to all agencies in their own hiring activities.

[1] Attached as Appendix A is a list of the relevant civil rights laws.

While this memorandum focuses on external enforcement activities, information on internal compliance with civil rights requirements should also be gathered from agencies, as agency hiring practices and external enforcement of programs are often discussed in tandem.(see Section XIV).

B. Federal Agencies

The July 15 memorandum on the race initiative policy process, identified nine participating agencies for the workgroup on the administration of justice. All nine, along with the U.S. Commission on Civil Rights, are discussed in this memorandum. Brief descriptions are provided of civil rights activities in other federal agencies.

- **Agencies with broad overview.**
  These agencies have responsibility across the government for civil rights enforcement:
  - U.S. Commission on Civil Rights -- civil rights monitoring and reporting
  - Justice Department -- government-wide civil rights enforcement
  - EEOC -- employment

- **Agencies with principal responsibilities.**
  The U.S. Commission for Civil Rights identified the following agencies, along with Justice, as having principal responsibility for civil rights enforcement:
  - Department of Education -- educational opportunity
  - HHS, Office for Civil Rights -- health care; welfare
  - HUD --housing
  - Labor -- federal contracts

- **Other agencies with civil rights enforcement activity participating in workgroup.**
  - Treasury -- fair lending
  - Interior - Indian civil rights
  - USDA - minority farmers

- **Other agencies with civil rights enforcement activities.**
  Finally, there are a number of other agencies that have active civil rights issues including the Small Business Administration (Section 8/minority businesses); Commerce (minority business development); EPA (environmental justice); Transportation (road/transit system location and maintenance); and the FCC (broadcaster preferences).

II. U.S. COMMISSION ON CIVIL RIGHTS

A. Structure

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** alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, disability, or national origin, or by reason of

fraudulent practices;

- **Study and collect information** relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, or national origin, or in the administration of justice

- **Serve as a national clearinghouse** for information with respect to discrimination or denial of equal protection of the laws;

- **Submit reports, findings, and recommendations** to the President and Congress;

- **Issue public service announcements** to discourage discrimination or denial of equal protection of the laws.

B. Current Status

- In FY 1998, the Commission requested a budget of $11 million, an increase of $1.3 million over the 1997 level of $8.7 million.

- In July 1997, GAO reported the Commission lacks basic management and financial controls; key documents are lost or nonexistent; accurate cost data on programs or project is unavailable; and reports take so long to complete that published data is often outdated or inaccurate.

- The Citizens' Commission on Civil Rights, which monitors civil rights enforcement, has also recently released a report critical of the U.S. Commission.

III. JUSTICE -- CIVIL RIGHTS DIVISION (CRD)

A. Structure

- 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. Although its initial focus was on voting and post-civil war criminal statutes, the Civil Rights Act of 1964 greatly expanded its authority.

- CRD can receive, investigate, and litigate complaints of discrimination in places of public accommodation, in school and colleges, in public facilities owned by State or local governments, in programs or activities receiving Federal financial assistance, and in employment.

- CRD has an office of Redress Administration (WWII internment/national origin), an office of Administrative Management, and 10 subject-matter sections:
  - Appellate;
  - Civil Rights Prosecution (criminal prosecutions e.g., hate crimes);
  - Coordination and Review (coordination of enforcement activity of all federal agencies);
  - Disability Rights (ADA);
  - Education Opportunities (school desegregation);
  - Employment Litigation;
  - Housing and Civil Enforcement;
  - Special Litigation (civil rights of institutionalized persons);
  - Voting; and
  - the Office of Special Counsel.

B. Process

The various sections of CRD have broad authority to receive, investigate, and litigate complaints of discrimination under the Constitution and civil rights laws. Alternatively, the sections can initiate litigation upon referral from the designated federal agency conducting investigations under the applicable civil rights law.

C. Current Status

- For FY 1998, CRD has requested a budget of $67.4 million, an increase of $6 million (8%) from FY 1997 level, to enhance prosecution of hate crimes and police misconduct, as well as for enforcement of the Americans with Disabilities Act.

- CRD started FY 1996 with 1,406 cases pending, received 366 new cases and terminated 406, ending the year with 1,366 cases pending.

- CRD started FY 1996 with 8,359 matters pending, received 4,358 new matters and terminated 4,177, ending the year with 8,720 matter pending.

- For FY 1998, Justice requested $7.5 million for the Community Relations Service, established by the Civil Rights Act of 1964, to provide assistance to communities in preventing and resolving disputes arising from discriminatory practices.

D. Possible Improvements

- Caseload improvements -- because of the vast jurisdiction of the CRD, its overall workload is affected by nearly every expansion of civil rights protections.

- Coordination -- improve data collection/dissemination among agencies.

IV. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

A. Structure

- 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 become responsible for administering additional laws: (1) the Equal Pay Act of 1963, (2) the Age Discrimination in Employment Act of 1967, (3) the Equal Employment Act of 1972, (4) Section 501 of the Rehabilitation Act of 1973, (5) the Americans With Disabilities Act (ADA) of 1990, and (6) the Civil Rights Act of 1991.

- EEOC carries out its mission through 50 field offices that receive, investigate, and resolve charges of discrimination in the private sector, and it coordinates these activities in the public sector.

- A 5-member commission heads the EEOC. The President appoints the members, with the consent of the Senate, for rotating 5-year terms. No more than 3 members can be from the same political party.

B. Process

- Plaintiff has 180 days to file a charge of discrimination with EEOC.

- EEOC investigates whether there is cause to believe discrimination occurred.
  - However, even if EEOC investigation is not completed, 180 days after the charge is filed, a plaintiff can request a "right to sue" letter, which permits the filing of the case in federal court
  - Plaintiff has 90 days to file complaint in federal court after receiving "right to sue" letter

- If the EEOC does investigate, then it either issues a "cause" finding or a "no cause" finding.
  - "Cause" finding issued: EEOC encourages the parties to enter into conciliation procedures which either result in a settlement or if no settlement, the plaintiff is given a "right to sue" letter
  - "No cause" finding issued: potential plaintiff is given a "right to sue" letter <u>and the EEOC's determination of "no cause" is entitled to no deference in court</u>

C. Current Status

- For 1998, the EEOC has requested a budget of $246 million, an increase of $6 million (2.65%) over the current level for 1997.

- During 1994, the EEOC issued 36,377 determinations following a full investigation, and 94.7% or 34,451 resulted in "no cause" findings in favor of the defendant. There were only 1,926 determination of "cause", a mere 5.3% of the total determinations.

- In 1994, the EEOC filed 347 substantive lawsuits, 26% involved sex discrimination, 21% involved age discrimination, 19% concerned race discrimination. The majority, 53% involved unlawful termination, 18% concerned discriminatory hiring.

- At one time the backlog was over 100,000 cases, but recently the Chairman testified before Congress that this backlog has been reduced to 75,000.

- In 1994, the EEOC stated that the average investigation of a claim took 328 days and that its backlog would take 18.8 months to clear.

D. Possible Solutions

- More funding for staff to address the backlog.

- Give the EEOC "cease and desist" authority, that is, authority to issue injunctions in cases of egregious violations.

- Give judicial deference to an EEOC determination of "cause" or "no cause," permitting only appellate review based on a "substantial evidence" standard of review.

- Encourage binding ADR on an accelerated schedule <u>before</u> EEOC does investigation.

- Criminalize job discrimination in the strongest cases, where there is profound damage and willful violations of the law with direct economic impact.

E. Solutions the EEOC Has Adopted Already

- In 1996, the EEOC adopted a national enforcement plan that sets priorities for the processing of charges and litigation on the national and local level. Priority is placed on class-action lawsuits, claims that involve allegations of company-wide discrimination, and those that are likely to develop key legal principles. The reforms mark a fundamental change for the agency because it no longer fully investigates every charge it receives.

- The EEOC beefed up its mediation strategy, using many volunteer mediators under the Administrative Dispute Resolution Act.

- The agency is also targeting high-profile cases to bring suit such as the Mitsubishi sexual harassment suit in Illinois.

V. DEPARTMENT OF EDUCATION -- OFFICE OF CIVIL RIGHTS (ED-OCR)

A. Structure

- ED-OCR is responsible for ensuring that no person is unlawfully discriminated against on the basis of race, color, national origin, sex, disability, or age in the delivery of services or

the provision of benefits in programs or activities of schools, and institutions receiving financial assistance from ED.[2]

- Its enforcement authorities are rooted in five statutes: Title VI of the Civil Rights Act of 1964 (race/ethnic); Title IX of the Education Amendments of 1972 (sex); section 504 of the Rehabilitation Act of 1973 (disabilities); the Age Discrimination Act of 1975 and the Americans with Disabilities Act of 1990.

- ED-OCR has field staff in each of ED's regional offices whose activities include complaint investigations, compliance reviews, corrective action plan monitoring, enforcement litigation, policy development and program reviews. The majority of ED-OCR staff and resources are devoted to complaint investigations and compliance reviews.

B. Process

- ED-OCR conducts investigations and compliance reviews to ensure that federal assistance recipients adhere to nondiscrimination requirements. If a determination is made that a violation has occurred, an attempt is made to achieve voluntary compliance by the recipient.

- If ED-OCR cannot obtain voluntary compliance, it proceeds in one of two ways: it initiates an administrative enforcement proceeding seeking to terminate Federal financial assistance, or it refers the matter to the Department of Justice to seek injunctive relief in Federal Court.

C. Current Status

- For 1998, ED-OCR has requested a budget of $61.5 million, an increase of $6.5 million over 1997.

- In FY 1996, OCR received 4,828 complaints and resolved 4,886; it also initiated 146 compliance actions and resolved 173. By comparison, during FY 1991, OCR received 3,809 complaints and resolved 3,497 --- and initiated 41 compliance actions and resolved 22. During this same period FTEs have decreased from 820 in 1991, to 763 in 1996.

- OCR recently announced an investigation of complaints made against the admissions process at the University of California law schools following the implementation of Proposition 209.

D. Potential Improvements

- Reduce delay -- some education civil rights groups have complained to the Department about the speed of enforcement actions and delivery of the Elementary and Secondary

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

School Survey data.

- Provide more proactive technical assistance/guidance to school districts/states.

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

A. Structure

- HHS-OCR administers numerous statutes that prohibit discrimination by providers of health care and social services: (1)Title VI of the Civil Rights Act of 1964; (2)Title IX of the Education Amendments of 1972; (3) section 504 of the Rehabilitation Act of 1973; and (4) the Age Discrimination Act of 1975 which prohibit discrimination by recipients of Federal financial assistance based on race, color, national origin, sex, age and disability.

- HHS-OCR estimates that approximately 230,000 group and institutional providers of federally assisted services are subject to the nondiscrimination laws it enforces.

B. Process

- HHS-OCR relies on a compliance program that includes complaint investigations, compliance and other reviews, monitoring of corrective action plans, and voluntary compliance and other outreach activities.

- If a matter cannot be resolved voluntarily to the satisfaction of all parties, HHS-OCR may effect compliance by terminating Federal financial assistance, referring the matter to the Attorney General for enforcement proceeding, pursuing HHS administrative proceedings or invoking applicable State or local law.

C. Current Status

- The FY 1998 budget request for HHS-OCR is $20.5 million, a $1 million (5%) increase over the FY 1997 budget authority of $19.5 million.

- 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.

- The number of complaints received in FY 1993 (2,094) reflected an 82 percent increase over the FY 1987 level (1,148). This rise in complaints was, in part, attributable to large increases in the number of AIDS-related complaints and other §504 disability cases. These cases focus on protecting persons with AIDS against unlawful discrimination and ensuring that minorities have an equal opportunity to participate in federally assisted programs and activities designed to combat AIDS.

- In the North Carolina Law Review, Professor Sidney Watson criticizes HHS-OCR as

being "ineffective in ending the health care discrimination caused by the myriad policies that disproportionately exclude minorities." Although numerous studies document the underutilization if health services by minorities, few studies have analyzed Title VI compliance by health-care facilities.

D. Potential Improvements

- Increase funding -- HHS-OCR is below its FY 1981 funding and FTE levels, while the number of complaints is increasing.

- Increase the availability of data on Title VI compliance by health care facilities

VII. HOUSING AND URBAN DEVELOPMENT
OFFICE OF FAIR HOUSING AND EMPLOYMENT OPPORTUNITY (FHEO)

A. Structure

- The majority of FHEO's civil rights responsibilities lie in its authority to enforce Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendments Act of 1988, which prohibit discrimination on the basis of race, color, religion, sex, disability, familial status or national origin in the sale or rental, provision of brokerage services, or financing of housing.

- FHEO also enforces provisions of Title VI (race/ethnic), section 504 (disability), Section 109 (housing and community development), the Americans with Disabilities Act, and related executive orders to ensure nondiscrimination in federally assisted programs and activities relating to housing and urban development

- FHEO's fair housing duties include the administration of two programs: (1) the Fair Housing Assistance Program (FHAP) provides financial assistance to supplement the enforcement activities of State and local enforcement agencies to ensure the prompt processing of Title VIII complaints; (2) the Fair Housing Initiatives Program (FHIP) provides support to public and private organizations for the purpose of eliminating or preventing discrimination in housing and for enhancing fair housing opportunities.

B. Process

- FHEO investigates complaints received from any person who claims to have been injured by a discriminatory housing practice or believes that an injury is about to occur.

- Those Title VIII complaints that fall within the jurisdiction of a substantially equivalent State or local agency are referred to those agencies for initial processing.

- After investigation, FHEO issues a determination indicating whether reasonable cause exists to believe that discrimination has occurred.

- If reasonable cause is found, any of the parties may elect to resolve the matter in Federal court through a HUD referral to Justice. Otherwise, the matter is resolved through the HUD administrative process.

- FHEO also conducts investigations, and compliance reviews to enforce the provisions of civil rights laws applicable to federal assistance recipients. If a violation is found, HUD may refuse to approve an application for federal funds, or terminate funds of a current recipient.

C. **Current Status**

- The FY 1989 budget request for FHEO is $39 million, a $9 million (30%) increase over FY 1997.

- Of the amount requested, $15 million is for the FHAP (state/local enforcement) and $24 million is for the FHIP (public/private initiatives).

D. **Potential Improvements**

- Increase the number of state/local agencies qualifying as "substantially equivalent" under the FHAP program. The number decreased due to the implementation of more stringent requirements in the Fair Housing Amendments Act of 1988. In 1990, approximately 125 agencies were certified, by 1993 the number qualifying was 52.

- In 1994, the Civil Rights Commission found that in most cases HUD did not reach a conclusion as to just cause within the 100-day benchmark set by Congress. The average case-processing time in 1993 was 151 days.

VIII. DEPARTMENT OF LABOR (DOL) OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS (OFCCP) OFFICE OF CIVIL RIGHTS

A. **Structure**

- The enforcement authority of OFCCP encompasses several statutes and Executive Order 11246, as amended, to ensure nondiscrimination in employment based on race, sex, religion, color, national origin, disability or veteran status by Federal contractors at 290,000 sites with a total workforce of 22 million people.

- OFCCP is also responsible for reviewing employers policies and practices for adherence to the Family and Medical Leave Act of 1993.

- The Office of Civil Rights that is charged with ensuring compliance with Title VI and other nondiscrimination provisions in programs receiving federal financial assistance from DOL, as well as handling internal EEOC compliance.

B. Process

The enforcement activities of OFCCP focus in primarily four areas:

- conducting compliance reviews and investigating complaints,
- negotiating compliance agreements and letters of commitment, and monitoring subsequent compliance;
- providing technical assistance to contractors; and
- recommending enforcement actions by DOL or Justice.

C. Current Status

- In FY 1998, OFCCP requested a budget of $69 million, an increase of $10 million over FY 1997

- In 1998, OFCCP will conduct approximately 6,000 compliance reviews, 900 complaint investigations, and 4,100 other compliance actions.

- In FY 1998, the Office of Civil Rights requested a budget of $4 million, a decrease of $1 million from 1997.

D. Potential Improvements

- OFCCP's FY 1998 budget includes resources for a tiered-review process, which will reduce the paperwork burden on federal contractors and increase coverage of the contractor universe.

- Increase amount of compliance assistance provided to contractors

IX. TREASURY/COMPTROLLER OF THE CURRENCY (OCC)

A. Structure/Process

- As with all federal agencies, Treasury must enforce Title VI provisions that prohibit discrimination in programs and activities receiving federal financial assistance.

- The Community Redevelopment Act (CRA) regulates banks and other financial institutions to ensure that fair-lending practices are followed.

- The Office of the Comptroller of the Currency, an independent office within Treasury, responsible for regulating commercial banks, promulgates and enforces CRA regulations. Treasury and Justice also pursue investigations against financial institutions that are violating fair-lending practices.

- Internal EEOC enforcement is part of Treasury's departmental management and administration function.

B. **Current Status**

- Line-item data on civil rights enforcement activities at Treasury was not provided in its FY 1998 budget.

- OCC has made enhanced CRA regulations and enforcement a priority.

X. INTERIOR - BUREAU OF INDIAN AFFAIRS (BIA)

A. **Structure/Process**

- The Indian Civil Rights Act of 1968 (ICRA) imposed restrictions on tribal governments similar to those found in the Bill of Rights.

- Other than *habeas corpus* actions, enforcement of ICRA takes place in tribal forums, tribal courts and Courts of Indian Offenses. Interior does not enforce or oversee enforcement of ICR. Exception: Tribes without their own courts can go to BIA courts for ICRA actions. The Office of Tribal Justice at DOJ reviews the administration of tribal justice across the federal government.

- Interior is also responsible for enforcing Title VI nondiscrimination requirements for all programs and activities that receive federal financial assistance.

B. **Current Status**

- BIA is working on a initiative to improve the way tribal courts provide services to tribe members.

C. **Potential Improvements**

- Enhance programs to strengthen tribal courts

XII. USDA - CIVIL RIGHTS ACTION TEAM

A. **Structure**

- Over the years, USDA has had a number of different offices responsible for Title VI and EEOC concerns at the agency.

- Title VI requires that programs and activities receiving funds from USDA be delivered free of discrimination. The Equal Credit Opportunity Act makes discrimination in USDA lending programs illegal as well.

- In December 1996, a group of black farmers demonstrated outside the White House calling for fair treatments in agricultural lending programs. The Civil Rights Action Team (CRAT) was appointed to report on civil rights issues across the agency and make recommendations for changes. Included in their report was a recommendation for a

consolidated, visible Office of Civil Rights.

B. Procedure

- Currently, USDA has a civil rights policy office, civil rights enforcement (which is handled in regional offices), small & disadvantaged business office and a National Appeals Division.

- The CRAT report points out that the process for filing Title VI complaints at USDA is fragmented --generally, complaints are filed with the agency within USDA responsible for the program/activity at issue.

C. Current Status

- The budget requests for civil rights at USDA is not separately reported. The U.S. Commission on Civil Rights expressed concern that absence of specific funding for Title VI contributed to inadequate enforcement.

- The CRAT issued its report in February 1997, which documents the absence of adequate Title VI and EEOC enforcement at the agency.

D. Possible Improvements

- Implementation of centralized office for civil rights enforcement.

- Compilation and dissemination of reliable data on civil rights enforcement within USDA.

- Revision of regulations -- according to CRAT, the civil rights enforcement regulations have not been revised since 1973.

XIII. OTHER AGENCIES

In addition to enforcing Title VI protections for their programs and activities, these other agencies are also active on a variety of civil rights matters:

- **Small Business Administration** -- provides assistance to Section 8 disadvantaged businesses, many of which are minority-owned.

- **Commerce** -- has programs to provide assistance to minority owned businesses.

- **EPA** -- pursues "environmental justice" cases. Minority communities have alleged that their communities are being used as dumping grounds for toxic substances, or are last priority for clean-ups of hazardous materials.

- **Transportation** -- complaints have been filed by communities alleging discrimination in the placement service delivery and maintenance of roads and public transit systems.

- **FCC** -- faces controversial issues around ensuring that minority broadcasters have access to wireless telephone, data-service, radio and other communication licenses.

XIV. POSSIBLE NEXT STEPS

- Initial planning meeting in early August with agency race initiative contacts and possibly one person from the agency's civil rights office. Possible participants:

Agency	Race Initiative Contact	Office of Civil Rights
Education	Leslie Thornton	Norma Cantu
EEOC	[Not listed by Cabinet Affairs]	
HHS	Clay Simpson	
HUD	Mercedez Marquez	
Labor	Virigina Apuzzo	
Justice	David Ogden	
Interior	David Montoya	
Treasury	Michael Froman	
USDA	Reba Evans	

- Follow-Up Meetings by mid-September:
  1. Agencies -- discuss preliminary recommendations for improvements
  2. Outreach -- meet with 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
  3. Coordination Issues -- possible separate discussion with Justice on coordination of civil rights effort across the government.

- Feedback to agencies on improvement proposals in early October.

- Progress meetings on implementation of improvement proposals/ideas in Oct-Dec.

APPENDIX A

Major congressional and presidential landmarks affecting civil rights enforcement are the:

- Equal Pay Act of 1963
- Civil Rights Act of 1964
- Voting Rights Act of 1965
- President Johnson's Executive Order 11246 in 1965
- Age Discrimination in Employment Act of 1967
- Title VIII of the Civil Rights Act of 1968
- Equal Employment Opportunity Act of 1972
- Title IX of the Education Amendments Act of 1972
- Rehabilitation Act of 1973
- Voting Rights Act Amendments of 1975
- Age Discrimination Act of 1975
- President Carter's Reorganization Plan No. 1 and equal opportunity executive orders
- Voting Rights Amendments of 1982
- Civil Rights for Institutionalized Person Act of 1986
- Housing and Community Development Act of 1987
- Civil Rights Restoration Act of 1987
- Civil Liberties Act of 1988
- Fair Housing Amendments Act of 1988
- Americans with Disabilities Act of 1990
- Civil Rights Act of 1991
- Voting Rights Language Assistance Act of 1992