

**FAX COVER SHEET**

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**Thu Dec 01 1994 6:17 pm**

**To: White House  
Attn: Steve Warnath  
Fax #: 94567028**

**From:**

**Fax: 4 pages and a cover page.**

FOR IMMEDIATE RELEASE  
Thursday, Dec. 1, 1994

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**EEOC CHAIRMAN ANNOUNCES TASK FORCES TO ADDRESS  
OPERATIONAL ISSUES; RELEASES FY 1994 ENFORCEMENT RESULTS**

WASHINGTON -- At the first meeting of the U.S. Equal Employment Opportunity Commission (EEOC) since April 12, 1994, new Chairman Gilbert F. Casellas announced the formation of three task forces to address critical issues facing the EEOC.

At Chairman Casellas' request, Vice Chairman Paul M. Igasaki will chair the Task Force on Charge Processing, Commissioner Joyce E. Tucker will chair the Task Force on Fair Employment Practices Agencies (FEPAs), and Commissioners Paul Steven Miller and R. Gaull Silberman will co-chair the Task Force on Alternative Dispute Resolution (ADR).

Since arriving at EEOC on October 3, Casellas has been examining the agency's operations and considering various options for improvement. "I want these task forces to play a significant role in the development and implementation of a strategic plan to reduce the agency's pending charge inventory and to make it operate more effectively," said Chairman Casellas.

The Charge Processing Task Force will study ways to improve the current system, with the twin goals of reducing the existing number of pending charges and developing more effective and efficient procedures for resolving charges.

In urging that a "clean sheet" approach be taken, Casellas said the reviews should be done "with an eye toward improving efficiency, eliminating redundant or unnecessary steps, and reducing time, while ensuring due process for the individual charging parties and respondents."

The Fair Employment Practices Agencies Task Force will evaluate EEOC's partnership with these state and local agencies to ensure maximum effectiveness. EEOC has worksharing agreements with FEPAs around the country to process charges. In fiscal year

(FY) 1994, FEPAs received 41 percent of a total of 155,612 charges filed under EEOC-enforced statutes.

The Alternative Dispute Resolution Task Force is asked to recommend appropriate options for the use of ADR by the Commission. The task force will base its recommendations on an evaluation of the EEOC pilot ADR program and its review of the many existing studies of ADR.

Chairman Casellas has asked that the Charge Processing and the ADR Task Forces prepare recommendations to the Commission within 90 days, and the FEPA Task Force to present its recommendations within 60 days.

Today's meeting coincides with the release of information on EEOC's enforcement activity during FY 1994, which ended only days prior to Casellas' arrival at the agency. The report from last year "reinforces the need for bold initiatives to improve the way we serve those who come to us for help," Casellas said.

FY 1994 marked the third year in a row that the agency received a record breaking number of charges alleging job bias, increasing the number of charges awaiting investigation to nearly 97,000 at the end of FY 1994.

Chairman Casellas reported that EEOC received 91,189 new charges of discrimination between Oct. 1, 1993 and Sept. 30, 1994 -- 3.7 percent over the record number of 87,942 charge receipts in FY 1993 (see Table 1)\*. The EEOC's pending inventory of 96,945 charges represents a 32.6 percent increase over the pending 73,124 charges at the end of FY 1993 (see Table 2).

The most significant increases from FY 1993 in discrimination charges by basis include disability related charges, up 23.5 percent, and retaliation based charges, up 14.2 percent. There were also increases in sex and religion based charges, as well as a small increase in charges filed under the Equal Pay Act. Race, age, and national origin based charges declined slightly from last year's totals (see Table 3).

Discharge continues to be the most often alleged employment discrimination issue, comprising 47 percent of all charges in FY 1994, down slightly by 1.9 percent from FY 1993. Other issues that decreased in frequency in FY 1994 were hiring and layoff, down 8.2 percent and 2.3 percent, respectively. Issues showing an increase over FY 1993 figures are sexual harassment (+13.2 percent), harassment of a non-sexual nature (+12.5 percent), and terms and conditions of employment (+10.4 percent) (see Table 4).

Investigators resolved 71,563 charges in FY 1994, the second highest number of resolutions in EEOC's history and only 153 fewer than last year's record total.

Monetary benefits to victims of discrimination obtained through administrative enforcement efforts reached an all time high of \$146.3 million, compared to \$126.8 million in FY 1993.

Preliminary data from the Office of General Counsel show the Commission filed 428 lawsuits and resolved 456 in FY 1994. Monetary benefits of \$29.2 million were recovered through litigation, primarily in the form of back pay, down from the FY 1993 total of \$34.4 million.

EEOC enforces Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Age Discrimination in Employment Act; the Equal Pay Act; the Americans with Disabilities Act, which prohibits discrimination against people with disabilities in the private sector and state and local governments; prohibitions against discrimination affecting individuals with disabilities in the federal government; and sections of the Civil Rights Act of 1991.

**Table 1. Comparison of Receipts\*\***

|                        | <u>FY 90</u> | <u>FY 91</u> | <u>FY 92</u> | <u>FY 93***</u> | <u>FY 94</u> |
|------------------------|--------------|--------------|--------------|-----------------|--------------|
| Receipts               | 62,135       | 63,898       | 72,302       | 87,942          | 91,189       |
| Change From Prior Year | 4.6%         | 2.8%         | 13.2%        | 21.6%           | 3.7%         |

**Table 2. Pending Inventory**

|                       | <u>FY 1990</u> | <u>FY 1991</u> | <u>FY 1992</u> | <u>FY 1993</u> | <u>FY 1994</u> |
|-----------------------|----------------|----------------|----------------|----------------|----------------|
| Pending               | 41,987         | 45,717         | 52,856         | 73,124         | 96,945         |
| Change/<br>Prior Year | 4,084          | 3,730          | 7,139          | 20,268         | 23,821         |
| Percent Change        | -8.9           | 8.9            | 15.6           | 38.3           | 32.6           |
| Months Pending        | 7.9            | 9.0            | 10.4           | 12.2           | 18.8           |

**Table 3. Basis**

| <b>Basis</b>    | <b>FY 1993</b> | <b>FY 1994</b> | <b>Percent Change</b> |
|-----------------|----------------|----------------|-----------------------|
| Race            | 31,695         | 31,656         | -0.1                  |
| Sex             | 23,919         | 25,860         | 8.1                   |
| Age             | 19,884         | 19,571         | -1.6                  |
| Disability      | 15,274         | 18,859         | 23.5                  |
| National Origin | 7,454          | 7,414          | -0.5                  |
| Religion        | 1,449          | 1,546          | 6.7                   |
| Equal Pay       | 1,334          | 1,395          | 4.6                   |
| Retaliation     | 12,627         | 14,415         | 14.2                  |

**Table 4. Issues**

| <b>Issue</b>      | <b>FY 1993</b> | <b>FY 1994</b> | <b>Percent Change</b> |
|-------------------|----------------|----------------|-----------------------|
| Discharge         | 43,565         | 42,756         | -1.9                  |
| Terms/Conditions  | 13,618         | 15,029         | 10.4                  |
| Harassment        | 10,364         | 11,657         | 12.5                  |
| Sexual Harassment | 7,273          | 8,234          | 13.2                  |
| Promotion         | 7,715          | 8,060          | 4.5                   |
| Hiring            | 7,900          | 7,252          | -8.2                  |
| Wages             | 6,301          | 6,482          | 2.9                   |
| Layoff            | 5,507          | 5,382          | -2.3                  |

# # #

- \* The statistics to follow represent charges filed with and processed by EEOC only. They do not include charges received and processed by FEPA's.
- \*\* Data were compiled on 11/15/94 by the Office of Program Operations from EEOC's Charge Data System's National Data Base. EEOC's computerized Charge Data System is continually updated as data are submitted to EEOC headquarters by EEOC field offices around the country; therefore, statistics may change slightly over time.
- \*\*\* FY 1993 was the first full year EEOC enforced Title I of the ADA.

## MEMORANDUM

To: LCCR Executive Committee Members  
From: Ralph  
Date: September 21, 1994

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### Legislative Alert

1. **Danforth Amendment to the Elementary and Secondary Education Act**

The House-Senate Conference on the Elementary and Secondary Education Act is presently considering the Senate-passed Danforth Amendment. It would waive Title IX as well as other key federal civil rights laws to permit schools to experiment with single sex classes.

Enclosed are materials explaining the amendment.

Also enclosed is a list of conferees. Please contact the Senators and Representatives as soon as possible and ask them to oppose the Danforth Amendment.

2. **EEOC Commissioners**

\* Apparently, one or two Senate Republicans have placed a "hold" on the three nominees to the Equal Employment Opportunity Commission. Please contact Senators Mitchell, Dole, and Kennedy, and the White House, and ask them to bring these nominees to the Senate floor for a confirmation vote immediately!

3. **Justice for Wards Cove Worker's Act**

Last week, the Senate Labor and Human Resources Committee reported out the Justice for Wards Cove Worker's Act by a vote of 10-7. At long last!

Please contact Senators Mitchell, Kennedy, Murray, and Simon and ask them to bring up the Wards Cove bill for a Senate vote before Congress adjourns.

4. **Employment Non-Discrimination Act**



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF THE ASSISTANT SECRETARY FOR CIVIL RIGHTS

Friday, November 25, 94

To: Schedulers in the following Offices

Deval Patrick  
Gil Casellas  
Dennis Hayashi  
David Montoya  
Roberta Achtenburg  
Tony Califa  
Judy Winston  
Shirley Wilshire

From: Nhora Serrano (Norma Cantu's Scheduler)

Re: Interagency Civil Rights Chiefs Teleconference call at  
4:30 pm on Monday, November 28, 94  
Follow-Up Fax with Bridge Number and Access Code

The telephone number which you call into to connect is  
1-700-991-1732.

The conference access code which you then punch in is  
19999.

The expected duration of the call is to be one hour. I  
will call each of you on Monday to confirm your participation and  
that you have received these two faxes.

Thanks again for your patience during the last call.  
Please feel free to call me, 260-9228, if there are any questions.

# Vice Chairman's Opening Statement

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## I. INTRODUCTION

The EEOC is at a critical juncture. Thirty years after the implementation of the Civil Rights Act which created us, the nation's promise of equality and civil rights remains as elusive as ever. Race and gender relations are strained as never before. Discrimination on the basis of age and disability continue despite initial enforcement efforts. Amid the important debate on affirmative action, we see many that are assuming that job discrimination is largely a thing of the past. Would that that were so, but, here at the EEOC, it is obvious that it is not. The work of the EEOC, that of eradicating employment discrimination, is still America's unfinished business.

The EEOC's case processing workload continues to grow and increase at all levels. Current projections conservatively estimate that we will have well in excess of 100,000 charges to process by the end of Fiscal Year 1995 if we continue to operate under existing rules. One of our District Directors summed it up by noting, "For every three quarters of a charge that we complete, we take in an additional charge. We are always playing catch-up, without the prospect of additional resources." The inescapable truth is that EEOC budget and staffing levels have remained flat over recent years, while at the same time, charges in certain areas have shot up and the agency has assumed major additional statutory responsibilities.

The prospect for those additional resources remains slim. Congressional and administration downsizing and cutting remain high priorities. Despite our great need, and the modest increase proposed by President Clinton, we are not likely to see more funding in the near future.

This enormous build-up of pending cases, coupled with a lack of priority to class or other significant casework, has resulted in a serious loss of public confidence and faith in EEOC's ability to effectively carry out its law enforcement responsibilities. The stature of EEOC has particularly been diminished in the last several years, as the growth of the case inventory has accelerated and public perceptions that the likelihood of a fair resolution may only be remotely achievable. We found that this lack of confidence and frustration exists on the part of charging parties, employers, civil rights groups, plaintiffs' and management attorneys, and our own employees at all levels. There is broad consensus that our charge process is "broken" and needs substantial reform.

This need for change is critical to our mission and to our survival as an agency. The EEOC is a central part of this nation's commitment to outlaw job discrimination and, while it is true that to fully accomplish this mission we ultimately need an infusion of resources, it is also true that we can and must do better with what

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we already have. Our Chairman has put it well in saying that we must act to change ourselves or have some other force change us - and I, for one, believe that we have the best information and tools to decide our appropriate and effective direction.

We have a rare opportunity as a new administration, an opportunity to create the necessary change called for by our own employees, by employers, by the civil rights community and by the bar. Along with the amazing level of agreement among those with significantly disparate interests, we have the commitment of the Clinton Administration to "reinvent" itself through the National Performance review. Add to that the pressure from Congress for each governmental agency to justify its existence and we have an extraordinary force for change.

We are indebted as well to past administrations that have also taken a bite out of the apple of EEOC reform. We have learned much from their efforts and from their studies and experience. We have learned that we must move quickly to make change and to be open to fine tuning and changing course as we learn the effects of our work. We have learned that we need to strike a balance between the effort to process cases quickly and the need to aggressively enforce the laws that we are charged with carrying out. Commissioner Silberman has given me permission to use a very apt analogy to EEOC management, likening the job to elephant training. When you nudge the Elephant to one side, it goes barreling off in that the direction, nudge it the other way, and it goes way off in the other. The balance is an elusive one. Most of all, given limited resources, we have learned the need to make difficult choices and to be more strategic in our use of limited resources.

## II. METHODOLOGY

On November 22, 1994, about a month after I arrived here at the Commission, Chairman Casellas asked me to lead a task force on EEOC charge processing, taking a clean sheet approach in recommending changes which would improve our procedures and operations. In addition to my staff, we assembled an exceptional group of folks, including field investigators and supervisors, headquarters personnel, field attorneys and representatives from our union, from the National performance review effort, from the office of Legal Counsel and from the Chairman's office and the ADR task force.

I want to take this opportunity to thank and salute these task force members, whose input was thoughtful and deeply felt, whose commitment to civil rights was exceptional and whose hard work and team spirit will continue well past this report, they truly will be a part of the EEOC's ongoing force for change:

[READ LIST]

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**A. INTERNAL INPUT**

I sent out a memorandum to every EEOC staff person in every one of our offices seeking their input. And we met with many offices which I will list in a moment. Both in written comments and in discussions, our staff feels strongly that our case process takes too long and unnecessarily involves substantial amounts of staff, especially with regard to enforcement actions taken in anticipation of or in response to internal oversight activities.

Many investigators and management staff recommended that mandates that inflexibly require that older cases always be investigated before newer charges or that volume be the primary measure of all performance be changed. Many in our organization believe that the perceived full investigation policy has caused us to overinvestigate charges which have little or no merit, and that there must be a way to more quickly process weak charges so that we can focus on the more serious violations. There is a desire for greater prosecutorial discretion, so that we can have an impact despite our limited resources and for greater flexibility in field approaches so that individual strengths and weaknesses can be taken into account. Our staff wants to be held accountable for their work, but is troubled by what has been perceived as micromanagement. They desire greater sharing of information on a lateral level, between offices, as to what has been tried and what has worked in terms of charge processing. In addition to direction and leadership, headquarters must empower our people on the front lines, in our district, area and local offices, to work together to make our system work.

I have found our employees to be a very committed and hard-working group of people. Most of them are overworked and overstretched and care deeply about fighting discrimination, despite the enormous pressures of our caseload. Acknowledging the problems in our operations by no means is an indictment of our staff, many of whom have been here from our very beginnings as an agency. I am proud to have joined their team and we at the Commission owe them strong leadership in these difficult times.

**B. EXTERNAL INPUT**

We reached out, both here in Washington, and with each field office that we visited, to meet with groups and companies and lawyers that feel that they have a stake in our work. Attorneys for management and charging parties, as well as employers and employer groups, such as the Equal Employment Advisory Council and Organization Resources Counselors indicate that their clients are experiencing inordinate delays at EEOC, oftentimes as long as eighteen months before contact following the initial position statement. They are also frustrated by lack of information and by a seemingly mechanistic need to fully respond to even obviously meritless charges. Civil rights groups such as the Leadership

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Conference for Civil Rights, National Womens Law Center, NAACP, American Association of Retired People, the National Asian American Legal Consortium, the National Council of LaRaza and a number of disability rights organizations cited or documented problems with charge processing including investigators discouraging the filing of bona fide employment discrimination charges. They also expressed concern for training for our staff in increasingly complex legal and related areas involved in our enforcement activities. They, as did the employer groups, offered a partnership to improve our effectiveness. To overcome these great challenges, such partnerships are essential.

There is broad consensus that we cannot treat every case in the same way, and that we must rid ourselves of procedures which have become obstacles to our work, so that we can produce a more timely and quality product. There is also areement that EEOC should adopt a case prioritization system which will permit it to expeditiously, but fairly, resolve "weaker" cases, and focus on the most serious instances of employment discrimination.

[REVIEW METHODOLOGY]

**VICE CHAIR'S MOTIONS**  
**for Commission Approval**  
MOTIONS

12:20

Vice Chair:

[INTRODUCTION ON MANDATE, WORK AND FINDINGS]

Accordingly, I make the following motions:

① That, the Commission adopt priority charge handling procedures under which field offices will categorize and prioritize charges. The first category includes those high priority charges identified as falling within the national or local enforcement plans and those in which it appears more likely than not that discrimination has occurred; the second category includes those charges that initially appear to have some merit but will require additional evidence to determine whether it is more likely than not that a violation occurred; and the third category includes those charges appropriate for immediate resolution.

② That the Chairman develop, in consultation with the General Counsel, a National Enforcement Plan for approval by the Commission that will identify priority issues and set out a plan for administrative and litigation enforcement. Issues currently designated by the Commission for priority review will be superseded by the Enforcement Plan.

All were  
passed.

③ That the following Commission policies are rescinded:

The "full investigation" policy and the Commission resolution dated December 6, 1983 upon which it is based.

The Commission's February 5, 1985 "Policy Statement on Remedies and Relief for Individual Cases of Unlawful Discrimination."

The Commission's September 11, 1984 "Statement of Enforcement Policy."

④ That the Commission eliminates the substantive "no cause" letter of determination in cases where the appropriate investigation of the charge has not established reasonable cause to believe that discrimination has occurred. Such charges should be dismissed without particularized findings. However, field offices are encouraged to share with charging parties the basis for EEOC's determination through such means as pre-determination interviews.

5 That settlement efforts be encouraged at all stages of the administrative process and that the Commission may accept settlements providing "substantial" relief when the evidence of record indicates a violation or "appropriate" relief at an earlier stage in the investigation.

6 That, until the Commission adopts its National Enforcement Plan, the authority of the Commission to decide to file suit is hereby delegated to the General Counsel in Title VII and ADEA enforcement actions involving individual claims of disparate treatment not rising to a pattern of discrimination (i.e., those cases which are currently "certified"). The General Counsel may re-delegate that authority to the Regional Attorneys; after the National Enforcement Policy is adopted, the Commission will determine those classes of cases over which it retains litigation decision authority, and the remainder will be delegated to the General Counsel, who may re-delegate that authority to the Regional Attorneys. The authority of the Commission is delegated to the General Counsel to make referrals to the Department of Justice as to Title VII and ADA cases against state and local governments; the General Counsel may re-delegate that authority to the Regional Attorneys.

**U. S. Equal Employment Opportunity Commission**

1801 L Street, NW  
Washington, DC 20507  
(202) 663-4900

## **Special Meeting of the EEOC to Consider Recommendations of the Charge Processing Task Force**

### **Task Force Recommendations to be Implemented by Chairman Gilbert F. Casellas**

**Wednesday, April 19, 1995**

Based on the Commission's votes, I am prepared to begin implementation immediately, requesting the help and cooperation of all of our employees. I therefore request and direct as follows:

1. I am requesting the General Counsel and the Director of the Office of Program Operations ("OPO"), with broad consultation with internal staff and external stakeholders, to prepare a draft national enforcement plan for presentation to the Chairman by June 30, 1995.
2. I am requesting district directors and regional attorneys to prepare local enforcement plans to be submitted to the General Counsel and Director of OPO by August 1, 1995. Such plans shall include categories of cases to be prioritized and plans for resolving older charges.
3. Field offices shall immediately begin implementation of priority charge processing procedures. The Office of Program Operations shall prepare and submit to the Chairman by May 15, 1995, flexible guidance for use by field offices.
4. Under the new charge processing procedures, potential charging parties will not be discouraged from filing a charge, after being advised of EEOC's jurisdictional requirements. Charging parties will be advised that some charges may be dismissed at intake, with a notice of right to sue.
5. Charging parties and respondents shall normally be provided with access upon request to the positions of the other during the investigation. Charging parties and respondents shall be advised of this policy.

6. Directors shall begin use of non-substantive "no cause" determinations by May 15, 1995. The language of such determinations shall be prepared by the Director of OPO, in consultation with Legal Counsel, and submitted to the Chairman by May 1, 1995.

7. I am requesting that the General Counsel authorize regional attorneys to cease the process of submitting presentation memoranda in cases involving recommendations against litigation. If a district director disagrees with a recommendation against litigation by the regional attorney, the matter may be submitted to the General Counsel, who will make the final decision. I also request that regional attorneys be authorized to cease submitting presentation memoranda in cases referred to the Department of Justice. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting these cases.

8. Presentation memoranda to the Commission will no longer be required in Title VII and ADEA enforcement actions involving individual claims of disparate treatment not rising to a pattern of discrimination. I will work with the General Counsel to advise regional attorneys by May 1, 1995 of reporting requirements respecting such cases.

9. In cases in which District Offices will still be required to submit Presentation Memoranda to the General Counsel (i.e. "non-certified cases"), I am requesting that the General Counsel forward each such Presentation Memorandum to the Commission within fourteen days.

10. I am requesting the General Counsel to develop further standards for delegation of litigation authority to regional attorneys as part of the national enforcement plan.

11. I am requesting the General Counsel to delegate to regional attorneys the authority to seek temporary relief pursuant to § 706(f)(2) of Title VII, without prior approval from the General Counsel or the Commission, in cases involving individual claims of disparate treatment not rising to a pattern of discrimination, when the District Director has concluded on the basis of a preliminary investigation that prompt judicial action is necessary to carry out the purposes of the Act.

12. I recognize that in order to enhance legal unit productivity, regional attorneys must have input into basic administrative decisions such as legal unit staffing levels, computer and software needs and litigation travel budget. We will work aggressively to address these issues in order to facilitate more effective administrative processes.

13. In preparing new standards for evaluating field offices and individual employees, the labor-management partnership shall establish standards for evaluation of regional attorneys and district directors which should include measures for evaluating their collaboration and cooperation.

14. New systemic cases developed in the field offices based on individual or Commissioner charges shall not require prior approval or oversight of the investigation by OPO.

15. Directors are encouraged to increase the use of directed investigations in ADEA and EPA cases. Requests for directed Commissioner charges in Title VII and ADA cases may be submitted directly to the Commission, and if signed by a Commissioner, shall be investigated like other charges, without OPO oversight of the investigation. The Director of OPO, in consultation with Legal Counsel, shall submit to the Chairman by May 15, 1995, recommendations for implementation of a directed Commissioner charge procedure.

16. I am requesting the General Counsel and the Director of OPO to consider establishing pilot enforcement units, which will include attorneys and investigators.

17. I am requesting the General Counsel and the Director of OPO, with input from Legal Counsel and field staff, to prepare and submit to the Chairman by August 15, 1995, plans for training of the Commission's legal and enforcement staff, including training for effective implementation of the national and local enforcement plans.

18. OPO is encouraged to share information pertaining to EEOC and FEPA charge processing maintained in Headquarters with field offices as requested. The Director of OPO shall submit to the Chairman by May 15, 1995 proposals for implementing this policy.

19. The Office of Communications and Legislative Affairs shall submit to the Chairman a proposal for responding to inquiries concerning the new procedures announced today and for responding to complaints about prioritization of charges in particular cases.

THE WHITE HOUSE

WASHINGTON

**EQUAL EMPLOYMENT OPPORTUNITY STATEMENT  
EXECUTIVE OFFICE OF THE PRESIDENT**

The President is committed to ensuring equal employment opportunity for all Executive Office of the President (EOP) employees. Equally as important, the President is committed to a government that is free of discrimination and which reflects the diversity of this nation.

This statement reaffirms the policy of the EOP prohibiting unlawful discrimination and sexual harassment. The EOP does not condone nor tolerate discrimination based on race, color, national origin, sex (including sexual harassment), religion, age (over 40), disability or sexual orientation, in any of its personnel policies, practices, and operations.

All EOP agency heads and employees have a responsibility to uphold this policy. Each employee must be personally accountable for his or her performance in ensuring and promoting equal opportunity principles and in recognizing diversity as a source of strength for the EOP. Moreover, managers and employees alike must work together to ensure a workplace free of discrimination and sexual harassment.

In general terms, unlawful discrimination involves improperly making employment decisions or carrying out actions based on the factors listed above. Discrimination on the basis of sex includes sexual harassment. Sexual harassment, as defined by the Equal Employment Opportunity Commission and for the purposes of the EOP, is: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission is made explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

While every EOP employee may raise claims of discrimination and/or sexual harassment, employees' rights, responsibilities, appeals, and remedies may vary. If you believe that you have been discriminated against or sexually harassed, you may pursue an equal employment opportunity claim. You should be aware that the timeframes for raising claims vary for EOP employees from 45 to 180 calendar days from the alleged discriminatory event.

If you have any questions about the process and timeframes for raising a claim or would like more information, please contact Sharon Solomon, Equal Employment Opportunity Manager, Office of Administration, Executive Office of the President, at (202) 395-3996/TDD: 395-1160.

## **Accomplishments of the Civil Rights Division in the Clinton Administration**

The Civil Rights Division is the primary agency in the federal government charged with enforcing federal civil rights laws. These laws prohibit discrimination on the basis of race, color, sex, religion, national origin and disability, among others. These protections extend to a wide range of activities, including voting, education, employment, housing, the use of public accommodations, and access to reproductive health services.

Since the Clinton Administration took office, the Division has made substantial accomplishments in each of the areas of civil rights enforcement. Major accomplishments include:

► **Criminal Prosecution:** The Division remains strongly committed to the vigorous prosecution of criminal violations of the civil rights laws.

◄ In Fiscal Year 1995, the Division filed a record 83 criminal cases, surpassing last year's record of 76. The number of defendants charged (138) was second only to last year's total of 139 defendants.

◄ The Division filed 42 cases involving racial violence charging 66 defendants, the highest number of cases and the second highest number of defendants ever charged in one year.

◄ The Criminal Section maintained an overall 89% success rate.

◄ The Division has placed a special emphasis on hate crimes where serious injury or death results. For example:

◄ In Richland, Mississippi, four members of a neo-Nazi skinhead organization, pled guilty to conspiracy and interfering with the housing rights of an interracial couple by throwing a molotov cocktail at their trailer home.

◄ Three defendants, one of whom is a racist skinhead and a member of the white supremacist group "South Bay Nazi Youth," were convicted of a civil rights conspiracy after they drove through the streets of Lubbock, Texas, hunting African-American men, luring them to the conspirators' car and shooting the men at close range with a short-barrelled shotgun. One victim died, one was seriously wounded in the face and another had a finger blown off.

◄ In Livingston, Texas, six defendants pled guilty to civil rights charges for beating randomly selected African-American men with a rifle and a rodeo belt buckle, and punching them repeatedly as they tried to escape. The defendants had been angered at seeing other black men at a night club in the presence of white women. The adult defendants were given prison sentences ranging from 20 to 43 months.

## Accomplishments Memo

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◀ Five skinheads were sentenced to terms of imprisonment ranging from 16 to 49 months for conspiracy after beating an African-American man while he and his wife, who is white, were in a public park in Iowa.

◀ Two defendants were sentenced to 81 months in prison after being convicted of conspiracy and housing interference in connection with a drive-by shooting into the homes of two African-American women in Alma, Georgia.

◀ In Livermore Falls, Maine, two defendants were sentenced to 70 and 88 months following their guilty pleas to civil rights charges after threatening four Latino victims, chasing them by car away from the store, and firing shots at the victims' fleeing car, wounding one victim in the arm.

◀ In San Diego, California, an inspector with the Immigration and Naturalization Service at San Ysidro pled guilty to sexually assaulting a foreign national who was appealing the confiscation of her border crossing card. After the assault, the defendant returned the victim's border crossing card to her and offered to obtain border crossing cards for her children if she agreed to see him again.

◀ In New Jersey, a police officer with the Kearny Police Department was sentenced to 87 months imprisonment after being convicted of unlawfully assaulting and injuring six persons on separate occasions between 1990 and 1993.

◀ An officer at the Hawaii Youth Correctional Center who pled guilty to striking and punching in the face a juvenile ward of the Center was sentenced to 11 months imprisonment.

◀ In West Virginia, an officer with the Logan City Police Department was sentenced to one year and one day imprisonment after pleading guilty to assaulting a handcuffed arrestee on three separate occasions during the course of the arrest.

▶ **Police Misconduct Initiative:** The Division has developed a comprehensive initiative to address police misconduct.

◀ The goal of the initiative is to establish a comprehensive approach to combat and prevent law enforcement misconduct, both through deterrence and through effective training and prevention. The initiative's efforts have been directed at evaluating current Department endeavors relating to state and local enforcement agencies, and ensuring coordination between criminal and prospective civil enforcement efforts, and between the Division and other components of the Department.

This included an assessment of the roles played by different Sections within the Division and by other Department components, an evaluation of the manner in which information on police misconduct currently is obtained and processed, and the manner in which information may be shared among Division Sections and Department components. The initiative also organized cross-training among its Section and component members, and discussed ways in which the funding components may promote effective training of law enforcement officers.

A number of measures also have been taken to begin an effective and appropriate civil enforcement program. We undertook for the first time a critical analysis of various civil enforcement options, both in terms of modes of enforcement and available remedies; we obtained and evaluated information regarding law enforcement agencies whose practices might merit review; and we developed criteria for selecting law enforcement agencies for investigation. A team of attorneys has been assigned to the civil enforcement effort and the team is conducting investigations of various law enforcement agencies.

► **Free Access to Clinic Entrances Act:** The Division pressed successfully for enactment of the statute and is pursuing a vigorous enforcement program.

◄ The Division has brought nine civil actions under FACE, sought and obtained preliminary injunctions, and enforced preliminary and permanent injunctions against individuals who have engaged in obstructive blockades of reproductive health facilities or threatened violence to those who offer abortions.

◄ Since the charging of our first criminal FACE case in August 1994, the conviction rate has been 100%.

► **Voting Rights:** One of the Division's most important missions is to ensure that all Americans enjoy a full and effective right to vote, free from unlawful discrimination.

◄ The Division is fully and vigorously enforcing the National Voter Registration Act (NVRA) -- the so-called "Motor Voter" law. The Division's litigation has successfully defended Congress's constitutional authority to enact the NVRA and has brought states that originally resisted the law -- California, Illinois, Michigan, Mississippi, Pennsylvania, South Carolina, and Virginia -- into compliance. The Division is monitoring other states for full compliance.

◄ The Division has reviewed more than 12,500 submissions under Section 5 of the Voting Rights Act and objected approximately 150 times on the grounds that proposed changes have violated the Act.

- ◀ The Division created a Shaw v. Reno Task Force which has been defending racially fair redistricting plans against unjustified claims that they are unconstitutional "racial gerrymanders."
- ◀ The Division's vigorous enforcement of the language minority provisions of the Voting Rights Act and Section 5 of the Act resulted in new and expanded protections of Native Americans' right to be provided election information and assistance in their own languages in counties in New Mexico and protections of Chinese Americans' right to be provided Chinese language election materials and assistance in Alameda County, California, and New York City. We have established a Minority Language Task Force to enhance our enforcement of these important protections.
- ◀ Pursuant to our authority under the Voting Rights Act, the Division has monitored numerous elections around the country in order to ensure that minority citizens are able to cast their ballots, have those ballots counted and are able to receive assistance -- including effective assistance in Native American languages, Chinese, and Spanish -- from the person of their choice while casting their ballots.
- ▶ **Americans With Disabilities Act:** The Division has placed a high priority on fully enforcing the Americans with Disabilities Act (ADA), a comprehensive civil rights law for people with disabilities.
  - ◀ The Division created the Disability Rights Section, which handles the Division's responsibilities for enforcing the laws protecting the rights of people with disabilities, including the Americans with Disabilities Act's (ADA) provisions regarding nondiscrimination in public employment, access to government services, and access to public accommodations. The ADA affects 6 million businesses and non-profit agencies, 80,000 units of state and local government, as well as 49 million people with disabilities.
  - ◀ The Division has sought to promote voluntary compliance with the ADA by providing technical assistance regarding the Act's requirements and engaging in extensive outreach efforts. Major initiatives include --
    - ◀ Operating a toll-free ADA Information Line that receives well over 75,000 calls per year.
    - ◀ Placing an ADA Information File in 15,000 local public libraries throughout the country.
    - ◀ Disseminating more than 27 million ADA publications and information pieces to the public since January 1993.

- ◀ Producing ADA public service announcements for radio and television featuring Attorney General Janet Reno.
  
- ◀ Since the beginning of the Clinton Administration, through an aggressive enforcement program, the Division has been successful on over 400 occasions -- through settlements, judicial decrees, or other means -- in improving access for disabled Americans. For example,
  - ◀ The Division entered into a formal settlement agreement with the United Artists Theatre chain in which the company agreed to make its facilities accessible to moviegoers with disabilities. This agreement with one of the largest theater owners in the nation will not only affect the lives of Americans with disabilities, it will also serve as a model for other theaters and entertainment venues.
  
  - ◀ The Division obtained consent decrees with Becker C.P.A. Review, which prepares over 10,000 people annually to take the national CPA exam, and with Harcourt Brace Legal and Professional Publications, which operates the nation's largest bar examination preparation course (Bar/Bri), to make these courses accessible to students with hearing and vision impairments.
  
  - ◀ The Division entered into formal settlement agreements with the Cities of Los Angeles and Chicago in which the cities agreed to take major steps to make their 911 emergency telephone services more accessible to people who use telecommunication devices for the deaf (TDD's).
  
  - ◀ The court granted summary judgment in our favor in United States v. Morvant (E.D. La. Mar. 23, 1995) holding that a dentist's policy of refusing to treat individuals with HIV or AIDS violated the ADA. This case represented the first decision on the merits of an ADA suit brought by the United States under Title III of the Act.
  
  - ◀ Through nationwide settlement agreements, the Division achieved greater physical accessibility for people with disabilities to major grocery (Safeway Stores, Inc.) and restaurant (Lone Star Steakhouse and Saloons) chains.
  
- ▶ **Housing and Public Accommodations Discrimination:** The Division has made attacking housing and lending discrimination a high priority.
  - ◀ In Fiscal Year 1995, the Division filed 133 new cases under the amended Fair Housing Act. While slightly below last year's record number of cases, this is still a significant increase over numbers of cases filed in the years before 1994.

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- ◀ The Division was quite successful in its attempt to settle filed cases without resort to litigation where possible, but was also very busy litigating cases. During Fiscal Year 1995, the section tried 17 cases, double the normal number of trials that Housing attorneys have handled in past years.
  - ◀ The Division obtained a record amount of monetary relief in 1995. Over \$24 million was obtained in the 123 cases resolved by settlement or court decision.
  - ◀ The Division recently settled a major case charging that American Family Insurance Company, the largest provider of homeowners' insurance in Wisconsin, violated the Fair Housing Act, where the company had failed to offer homeowners' insurance in the predominantly African American community in Milwaukee to the same extent and on the same terms that it offered such insurance in the majority white areas of the city and its surrounding suburbs. The consent decree provides for injunctive relief, \$5 million in monetary damages to individual victims of discrimination, and over \$9 million in low-interest loans for the formerly excluded communities.
  - ◀ The Division resolved a major lending discrimination suit against the Northern Trust bank in Chicago, Ill., resulting in monetary relief of \$700,000 for victims of the discrimination.
  - ◀ Large awards were also obtained in fair housing cases. For example, in a case alleging familial status discrimination against the operator of several mobile home parks in California and Washington, a consent decree awarding \$2.2 million was entered; in a case alleging race discrimination at a large apartment complex in south Florida, a consent decree awarding \$1.2 million was approved by the court; and, in a case resulting from the Program's fair housing testing program in the Detroit area, a settlement totaling \$425,000 was approved by the court.
  - ◀ The Division resolved a major public accommodations suit against the Denny's restaurant chain. In addition to substantial monetary relief for individual victims of discrimination, the settlement included significant provisions to prevent future discrimination.
- ▶ **Employment Discrimination:** The Civil Rights Division is responsible for enforcing Title VII of the Civil Rights Act of 1964 against state and local governments.
- ◀ During the Clinton Administration, the Division has filed nearly sixty new lawsuits charging both individual discrimination and patterns and practices of employment discrimination.

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- ◀ In that same time, the Division has also obtained orders providing injunctive and make-whole relief for over 2,000 victims of discrimination. This is a new record.
  - ◀ The Division is also currently administering the distribution of over \$10 million in damages to victims of employment discrimination.
  - ◀ The Division has been deeply involved in the President's review of affirmative action and in the preparation of a proposal to reform affirmative action in government procurement.
- ▶ **Citizenship and National Origin Discrimination:** In April 1994, the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) merged with the Civil Rights Division. OSC's mission is to eliminate workplace discrimination based on a worker's citizenship status, national origin, or the employment eligibility verification process.
- ◀ In addition, the Division has investigated 1,691 discrimination charges and initiated 125 independent investigations. During this period, the Division filed 44 complaints and negotiated 158 formal settlements of charges and 26 settlements of independent investigations.
  - ◀ The Division has stepped up its efforts to deter employment discrimination by assessing civil penalties in each meritorious case.
  - ◀ The Division obtained an important ruling in U.S. v. Guardsmark, which held that all work-authorized individuals are protected under the "document abuse" provisions of the Immigration Act of 1990 (IA'90). In settling this case, the Division successfully negotiated the largest civil penalty ever assessed under the antidiscriminatory workplace provisions of the statute.
  - ◀ As part of its public outreach program, the Division obtained an automated employer hotline (1-800-255-8155, TDD 1-800-362-2735) aimed at combating employer confusion under the Immigration and Nationality Act (INA). The hotline, along with its innovative automatic "fax-back" feature, has been extremely successful and provided up-to-date information to over 7564 callers between July, 1994 and December, 1995.
- ▶ **Educational Opportunities:** The Division continues to be committed to eliminating the vestiges of segregation in elementary and secondary education as well as in state institutions of higher education.
- ◀ In the area of gender discrimination, the Division continued its challenge to the male-only admissions policy of Virginia Military Institute (VMI) and The Citadel, two public

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universities that continue to deny women the unique educational opportunities and benefits available at the schools.

◀ In the past year, the Division intervened in two private suits, Sinajini v. San Juan County Sch. Dist. and Meyers v. San Juan County Sch. Dist., to challenge allegations that Native American students in Utah were being denied equal educational opportunities because of their race and limited-English speaking proficiency.

◀ The Division also entered into a consent decree providing for enhanced educational opportunities for handicapped pre-trial detainees at the Cook County, Illinois Jail.

◀ The Division continued its challenges to the formerly separate higher education systems in Mississippi and Alabama. In Alabama, we obtained relief which included for the first time the establishment of endowments for the state's historically Black schools.

▶ **Institutionalized Persons:** The Division remains firmly committed to protecting the civil rights of institutionalized persons.

◀ The Division entered into a comprehensive consent decree with the Commonwealth of Kentucky requiring substantial improvements in all aspects of the operation of its juvenile detention centers statewide. This settlement will result in enhanced educational services, medical and mental health care, and the investigation and proper resolution of incidents of alleged abuse of juveniles.

◀ The Division has obtained civil contempt orders against District of Columbia officials for their failure to provide adequate care to patients of D.C. Village nursing home, consistent with court orders, and to provide adequate community-based mental retardation services developed to meet the needs of the former residents of Forest Haven.

◀ Civil contempt orders have been obtained against Tennessee State officials for failing to implement core requirements of outstanding orders designed to ensure the safety and well-being of the residents of the Arlington Developmental Center. The final order entered by consent of the parties requires 200 residents to be placed in appropriate community-based facilities and programs.

◀ Comprehensive investigations of 18 city and county jails in the State of Mississippi have resulted in numerous comprehensive consent decrees and the construction -- or planned construction -- of 9 new jail facilities.

► **Coordination and Cooperation with other Federal Agencies:** The Division coordinates the enforcement by Federal agencies of various statutes that prohibit illegal discriminations in programs that receive Federal financial assistance.

◄ As part of the Administration's efforts to reinvigorate the effective, consistent, and timely enforcement of grant-related civil rights statutes, as required by Executive Order 12250, the Division held individual meetings with over 26 Federal grant-giving agencies. The purposes of these meetings were to identify questions and problems, determine training needs, and share worthwhile practices and procedures utilized by various agencies. As an outgrowth of the meetings, the Division has conducted training sessions for 14 Federal agencies and the State of Tennessee, which has a State law equivalent of Title VI. In addition, an agency advisory group was established to identify current issues and build a consensus for proposed solutions. The group, which is made up of 12 Federal agencies, will meet with the Division every month.

◄ The Division developed a strategy for publicizing its responsibilities as a result of entering into a memorandum of understanding (MOU) with the Office of Justice Programs (OJP). The MOU gave the Division responsibility for investigating complaints of services discrimination on the basis of race, color, sex, national origin, and religion filed against law enforcement agencies receiving assistance from the Justice Department. Pursuant to this strategy, the Division developed and had approved for distribution a complaint form and a brochure advising individuals of their rights under grant-related civil rights laws. These materials will be distributed at a grass roots level by various civil rights organizations. In addition, the Division developed a "Question and Answer" brochure advising law enforcement agencies of their responsibilities under grant-related civil rights laws. Distribution is expected to begin soon. Finally, the Division met with numerous law enforcement interest groups advising them of its mission and seeking their advice as to how best to publicize it.

◄ The Division took several steps to increase public awareness of its mission and activities. After an over 10 year hiatus, the Division revived the Civil Rights Forum. This quarterly publication advises Federal agencies, interest groups, and interested individuals about policy developments concerning enforcement of grant-related and other civil rights laws, recent court decisions, and other items of interest. In addition, the Division continued to staff an educational center at various conventions and meetings, answering questions and providing educational material about its activities.

► **Redress for Japanese-American Internees**

◄ In FY 1995, the Division issued \$10,500,000 in redress for 525 cases to American citizens and permanent aliens of Japanese ancestry who were forcibly evacuated, relocated, and interned by the United States Government during World War II. As of

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the end of FY 1995, the Division authorized redress payments totalling over \$1.5 billion in nearly 80,000 cases.

► **Increased Fine and Debt Collection:**

◄ The Civil Rights Division collected or had funds disbursed to aggrieved parties for judgments awarding restitution, penalties and fines totalling \$25,132,408 in fiscal year 1995. This banner year represents a 50% increase over FY 1994 awards of \$12.5 million, and a 407% increase over the previous five year average.

May 22, 1996