

Report: EEOC Data a Flawed

Trends in Federal Worker Complaints Ignored, GAO Says

By SPENCER S. HSU
Washington Post Staff Writer

The U.S. Equal Employment Opportunity Commission fails to monitor basic job discrimination trends among federal workers, and what data it collects are often flawed, according to a recent General Accounting Office report.

While federal workers lodged 28,947 discrimination complaints in 1997, the agency cannot say how many individuals were involved, whether bias was based on race, sex, religion or other factors, or what actions triggered the allegations, the GAO said.

Investigators also found that the Postal Service, the source of half of the federal complaints, mistakenly reported that 10,040 of 14,326 complaints in 1997, or 70 percent, were filed by white postal workers. The actual number was 1,654, or 12 percent.

"EEOC does not collect and report data ... in a way that would help answer some fundamental questions about the nature and extent of workplace conflicts," the GAO said in its report, requested by Reps. Elijah E. Cummings and Albert R. Wynn, both Maryland Democrats.

"The reliability of the data that EEOC collects from agencies and reports is questionable," reported the GAO, the congressional watchdog.

EEOC Chairwoman Ida L. Castro said the agency is responding to reporting flaws but improvements would not be seen until fall 2001, because eight months would be needed to issue new regulations and one fiscal year to collect new data.

"EEOC agrees that the data collected from federal agencies could be more comprehensive and accurate," Castro replied to the report, which was sent to lawmakers in May and made public last week. "At the same time, we believe each agency bears the major responsibility to ensure the accuracy of its data."

Castro, who took office seven months ago to clean up the neglected agency, said new funds requested for 2000 to deal with a surging



FILE PHOTO/JOHN MCDONNELL—THE WASHINGTON POST

EEOC Chairwoman Ida L. Castro, recognizing data reliability problems, said that information collected from federal agencies could be more complete. She said new funds for 2000 would help the EEOC better handle its problems.

**"The reliability of
the data EEOC
collects from
agencies and
reports is
questionable."**

—General Accounting Office report

caseload could help pay for on-site reviews to address workplace disputes, data reliability problems and EEOC program weaknesses among federal agencies.

The backlog of unresolved discrimination complaints at federal agencies doubled between 1991 and 1997 to 34,267, while hearing requests tripled to 10,016 and appeals before the EEOC grew fivefold, to 9,980.

Postal Service officials blamed its race-based complaint errors in both 1996 and 1997 on a computer programming flaw and staff re-

structuring. Because of its high volume of complaints, the Postal Service was the only agency reviewed by the GAO for the accuracy of its reports.

About 320,000 of the 2.7 million federal workers live in the greater Washington area. The two Maryland lawmakers joined last week with the NAACP, Blacks in Government and other federal worker groups to highlight the problems. Officials of the groups called for the Clinton administration to set up a citizen review panel and said "corrupted data" are compromising workers' legal protection against bias.

"Why are so many people being denied promotion? Why are so many people being passed over? We can't answer these questions because the data collection is so flawed," said Wynn, a deputy Democratic whip and liaison to the Congressional Black Caucus.

Gerald R. Reed, president of the employee association Blacks in Government, added, "The GAO report gives considerable credence to the allegation made by many federal employees that the EEOC lacks the integrity to protect their constitutional and civil rights."

The Washington Post
TUESDAY, JULY 6, 1999

Comments From the U.S. Equal Employment Opportunity Commission



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, DC 20507

April 9, 1999

Office of
the Chairman

Mr. Michael Brostek
Associate Director, Federal Management and Workplace Issues
General Accounting Office
Washington, D.C.

Dear Mr. Brostek:

Thank you for providing us with the opportunity to review the General Accounting Office's draft report on EEOC's data collection for the federal sector EEO process. The draft report concludes that EEOC does not collect and report data about bases and issues in a way that would help answer some fundamental questions about the nature and extent of workplace conflicts. These include questions such as how many individuals filed complaints, in how many complaints each of the bases for discrimination were alleged, and what were the most frequently cited issues in employees' discrimination complaints. The report also concludes that the reliability of the data that EEOC collects from agencies and reports is questionable, and that EEOC did not have procedures that ensured the reliability of the data that it publishes.

EEOC agrees that the data collected from federal agencies could be more comprehensive and accurate. I have directed that efforts to clarify instructions for data collection, begun a year ago, be expedited and address the concerns raised in the GAO report. At the same time, we believe each agency bears the major responsibility to ensure the accuracy of its data. We urge agencies to give higher priority to the accuracy of their EEO data collection, tabulation and analysis efforts to provide the information their managers and decision-makers need to address the cause of workplace conflicts. We will do our part by requiring that agencies certify the reliability of the data they provide to us and to explain how they assure the quality of their data.

As you know, EEOC's resources are sorely pressed to keep up with the burgeoning workload of requests for federal sector hearings and appeals, as amply documented in GAO's Report of July 1998, Equal Employment Opportunity: Rising Trends in Complaint Caseloads in the Federal Sector (GAO/OGD-98-157DR, July 24, 1998). If additional resources requested for FY 2000 are provided, we would welcome the opportunity to expand our analysis of the underlying causes of the rising EEO complaint workload in the federal sector, based on more accurate data. Additional resources would enable us to conduct on-site reviews, which provide

Page 1 of 2

the vehicle for more closely examining the nature of workplace disputes, assessing the reliability of agency data, and working with agencies to improve their EEO programs.

With respect to our efforts to revise instructions for data collection to promote more comprehensive and reliable reporting of federal EEO data, we plan to pursue changes with due speed. However, with the review and approval processes required, which include allowing time for our federal partners to comment, reviews for paperwork reduction and time for printing, etc, it is likely to take close to 8 months to issue the changes and then another 12 months before agencies will be reporting in accordance with the new instructions.

Please be assured that EEOC is committed to improving the quality of federal sector EEO data and doing that which is possible within the limits of our resources to assist federal agencies in addressing the causes of workplace conflicts. We welcome your insights and support in these important matters.

Sincerely,



Ida L. Castro
Chairwoman

Page 2 of 2

EEOC Data Collection
Question and Answer
July 7, 1999

Q: What is the Administration's response to the GAO report that criticizes the EEOC for failing to collect relevant and useful data on job discrimination trends among the federal workers?

A: The Administration is taking steps to ensure that the data collected from federal agencies is more comprehensive and accurate. The EEOC has begun to clarify the instructions for data collection and to require that federal agencies certify the accuracy of the data. In addition, the Administration has requested for the EEOC a \$33 million increase in FY 2000, of which \$4 million is directed toward EEOC enforcement efforts including funding for analyzing trends of job discrimination among federal workers. Finally, the EEOC will soon publish a rule that will improve data collection of job discrimination trends among federal workers.

FEDERAL DIARY

Mike Causey

Worker Sees No Reason to Complain About Pay

the 1990 bipartisan federal pay law. That ended to narrow the pay gap by next year to reduced raises, federal unions say, become a canyon.

He says nobody will know whether federal workers are underpaid, or maybe overpaid, the value of the federal compensation package, pension, vacations, holidays, compared with private pay and private

the pay gap issue divides the nation. Federal workers, especially those here in a town where high-paid lobbyists, lawyers and trade unionists consider the pay gap as gospel. Most federal workers cite talk of a pay gap as a myth. In Washington, D.C., stands for Disneyland.

He says this: We have found a federal worker who thinks he is paid fairly, enjoys good pay and doesn't (repeat, DOESN'T) believe in the pay gap.

He comes as a surprise, however, that the worker doesn't want to identify himself. He may be brave, but he isn't foolish.

Here's what he says: "Your April 11 column stated that 155,000 federal employees are eligible for regular retirement and that 258,000 more are eligible for early retirement. That is more than 400,000 federal employees who could retire and receive an immediate annuity. Yet they don't quit. Or to be more accurate, to include myself, we don't quit."

"Why don't we quit?"

"Because we know that most of us could not find a job in the private sector that pays anywhere near what we get now in the federal government, and that few, if any, private-sector jobs have a benefits package anywhere near what the feds provide. This is proof positive that the 'pay gap' between the federal and private sectors is a myth. If it exists at all, it is the private sector that lags federal pay and not the other way around."

"If you could retire on a fully-indexed pension of half your pay and get a job that pays 20 to 30 percent more than your current job, wouldn't you retire? Would you turn down a 70 to 80 percent raise?"

Concludes Anderson: "Either federal employees love their jobs, or they are stupid or the pay gap is a fake."

See why he wants his agency to remain a mystery?

WISE Women

Women in Science and Engineering (WISE) will have a national training and development program from April 26 to 28 at the Holiday Inn Rosslyn Westpark Hotel. To register, log on to www.fedwise.org.

Promotion Protest

The Equal Employment Opportunity Commission has certified all African American males at the Social Security Administration's Baltimore headquarters as part of a class for purposes of a discrimination suit against SSA. The employees allege a pattern of discrimination in promotion and other personnel practices. The American Federation of Government Employees union has contributed \$10,000 to help the group, Black Males for Justice at the SSA.

The group plans a rally and news conference today—at 11:30 a.m.—in the EEOC headquarters in Washington. It is seeking promotions and retroactive back pay.

Monday, April 19, 1999

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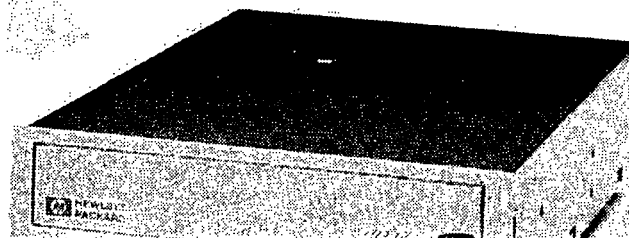
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Dunbar et al v. Social Security Administration

On November 9, 1995, a class of African American males filed a class complaint, alleging discrimination on the basis of sex and gender in regard to performance appraisals, awards and bonuses and disciplinary action .

On April 8, 1997, an EEOC administrative judge issued a decision recommending that the Social Security Administration certify the class complaint.

On May 8, 1997, the Social Security Administration rejected the EEOC's administrative judge's recommendation and dismissed the class complaint. The class agent appealed the rejection to EEOC.

On July 8, 1998, EEOC issued an appellate decision, reversing the decision by the Social Security Administration and ordered SSA to process the class complaint.

On August 12, 1998, SSA requested EEOC reconsider its decision.

On January 22, 1999, EEOC denied the request of SSA and remanded the class complaint for further processing.

On April 16, 1999, EEOC's administrative judge scheduled a status conference for May 10, 1999.

On April 16, 1999, the law firm Kator, Scott & Parks, P.L.L.C. representing the class announced it would hold a press conference on April 19, 1999 in front of EEOC's headquarters. This case is pending before the Administrative Judge on the merits.



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

***OFFICE OF FEDERAL OPERATIONS
FEDERAL SECTOR PROGRAMS***

***FEDERAL SECTOR REPORT ON
COMPLAINTS PROCESSING AND APPEALS
BY FEDERAL AGENCIES FOR FISCAL YEAR 1997***

THE COMMISSION

Ida L. Castro
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SUMMARY

The summary highlights Federal Sector EEO complaint processing activity for Fiscal Year (FY) 1997 pursuant to 29 C.F.R. Part 1614, as reported by agencies on EEOC Form 462.

▶ **PRE-COMPLAINT COUNSELING ACTIVITY AND DISTRIBUTION OF COUNSELING PERSONNEL**

Federal agencies reported counseling 65,820 individuals in FY 1997 as compared with 64,298 individuals counseled in FY 1996, an increase of 2.4%.

A majority (59%) of pre-complaint counseling activity was completed within the regulatory requirement of 30 days.

The percentage of counseling contacts resulting in formal complaints increased from 41% in FY 1996 to 44% in FY 1997.

10,434 — There were 10,774 EEO Counselors government wide in FY 1997 as compared with a total of 9,220 counselors in FY 1996.

An additional 676 EEO Counselors/Investigators provided EEO counseling during FY 1997.

▶ **FORMAL COMPLAINTS FILED**

Agencies reported 28,947 complaints filed in FY 1997, compared with 26,410 complaints filed in FY 1996, an increase of 9.6%.

▶ **COMPLAINTS INVENTORY**

During FY 1997, the government wide EEO inventory of complaints grew from 30,717 complaints at the beginning of the year to 34,286 at the end.

▶ **BASES AND ISSUES IN COMPLAINTS FILED**

Race and reprisal were the leading bases alleged in Federal EEO complaints. There were 15,071 allegations based on race: black, white, and other. This represented a 5% increase in allegations based on race from FY 1996. There were 15,058 allegations of reprisal in FY 1997.

Harassment (non-sexual), with 12,561 allegations made, was the issue most frequently raised in EEO complaints filed in FY 1997. Harassment, sexual and non-sexual combined, accounted for 14,068 allegations.

▶ **FEDERAL EEO INVESTIGATIONS ACTIVITY, DISTRIBUTION OF FEDERAL INVESTIGATIVE PERSONNEL AND COST OF CONTRACTING OUT FEDERAL INVESTIGATIONS**

Agencies completed 14,797 EEO investigations in FY 1997, utilizing in-house and contract investigators.

There were 1,242 Federal EEO investigators and 676 Counselor/Investigators governmentwide in FY 1997.

In FY 1997, 60.2% of the Federal agencies contracted out all or part of their EEO investigations.

Agencies reported spending \$10,176,946 for contract investigations in FY 1997 as compared with \$7,109,816 in FY 1996; a 43% increase. Agencies reported spending a total of \$28.4 million on investigations.

▶ **COMPLAINT RESOLUTIONS AND AVERAGE PROCESSING TIME**

In FY 1997, 26,508 complaints were resolved, compared with 25,150 resolutions in FY 1996; a 5% increase in closures.

Decisions on the merits increased from 7,763 in FY 1996 to 8,728 in FY 1997.

The Average Processing Time for all types of resolutions was 391 average days in FY 1997 compared with 379 average days in FY 1996. Processing through merits decision accounted for the largest portion of the processing time, 602 average days governmentwide. This was an increase of 3.8% from FY 1996 when the average processing time for merit decisions was 580 average days.

▶ **SUMMARY OF FEDERAL EEO ALLEGATIONS CLOSED BY STATUTE**

Of the allegations contained in cases closed in FY 1997, 67.4% were Title VII, ADEA closures accounted for 16% of all Federal EEO closures in FY 1997, the Rehabilitation Act also accounted for 16%, and Equal Pay Act (EPA) 0.5%.

▶ **CORRECTIVE ACTION IN EEO COMPLAINTS CLOSED**

There were 6,252 complaints of discrimination resolved with corrective action in FY 1997. Awards totaled \$10,987,560 government wide in FY 1997 compared to \$8,472,842 awarded in FY 1996.

▶ **COMPENSATORY DAMAGES**

The total amount awarded in compensatory damages was \$3,723,873 in FY 1997.

▶ **ATTORNEY'S FEES**

Agencies awarded a total of \$4,838,454 in attorney's fees and costs government wide in FY 1997. This was \$784,658 or 19% more than the \$4,053,796 paid in attorney's fees and costs in FY 1996.

▶ **AGE OF PENDING EEO COMPLAINTS INVENTORY**

The largest number of complaints was pending at the investigation stage, 12,422. This was 36% of the cases open in the governmentwide inventory at the end of FY 1997.

▶ **AVERAGE PROCESSING TIME FOR EEOC ADMINISTRATIVE JUDGES' ACTIONS**

In FY 1997, the EEOC Hearings Program nationwide received 11,198 requests for hearings as compared with 10,677 requests in FY 1996. This was 5% more requests than received in FY 1996.

The EEOC Hearings Program resolved 9,424 cases nationwide. This was 8% more cases than the 8,760 cases resolved nationwide in FY 1996. The production rate per AJ was 124.6 cases in FY 1997, a 6.6% increase over the 116.9 cases resolved per AJ in FY 1996. The two largest resolution categories were Recommended Decisions, which accounted for 35%, and Settlements, which accounted for 31% of all hearings closures.

The average processing time for hearings resolutions was 277 days in FY 1997 compared with 234 days in FY 1996.

▶ **AGENCY ACTIONS ON RECOMMENDED FINDINGS AND CONCLUSIONS**

In FY 1997, agencies acted on 3,335 of the recommended findings of fact and conclusions of law from the EEOC Administrative Judges, of which 272, or 8%, were findings of discrimination and 3,063, or 92%, were findings of no discrimination. Agencies accepted 33% of the recommended findings of discrimination and 98% of the recommended findings of no discrimination.

▶ **APPELLATE REVIEW PROGRAM**

The EEOC's Appellate Review Program received 8,453 cases for review in FY 1997, a 5.6% increase over the 8,001 cases received in FY 1996. Appellate Review personnel resolved a total of 6,850 cases in FY 1997, an increase of 11.9% compared to the 6,123 cases resolved in FY 1996.

INTRODUCTION

A. BACKGROUND

The Equal Employment Opportunity Commission (EEOC or the Commission) has published the annual report on the administrative processing of Federal sector Equal Employment Opportunity (EEO) complaints from the pre-complaint counseling and formal complaint stages since Fiscal Year (FY) 1982. Appeals data were added to the report in FY 1991. The information included in the FY 1996 report covers the pre-appellate through the appellate processing of Federal EEO complaints. The FY 1996 data cover the complaints processing activity from October 1, 1995 to September 30, 1996. The data were received from Federal agencies covered by 29 C.F.R. Part 1614.

The EEOC Federal Sector Complaint Processing Manual, Management Directive (MD)-110, Chapter 11, Section II, and provisions of 29 C.F.R. Part 1614, require agencies with an employment allocation of 100 or more employees to report their EEO complaint data to the EEOC at the end of each fiscal year. Heads of all Federal agencies having fewer than 100 employees are responsible for maintaining data on discrimination complaint activities and submitting the data to EEOC upon request.

In this report the word "governmentwide" refers to the combined complaints data submitted by the covered Federal agencies.¹

B. REGULATORY PROCEDURES

EEO complaints of discrimination against Federal agencies are processed according to the regulations at 29 C.F.R. Part 1614 that became effective October 1, 1992. This report sets forth data for the pre-appellate through appellate stages of the Federal EEO process. Those procedures are set out in steps 1 through 7 below.

1. PRE-COMPLAINT COUNSELING

A Federal employee or applicant for employment must first contact an Equal Employment Opportunity (EEO) Counselor at the agency where the person is employed or applied for employment

¹ The data for all the reporting Department of Defense (DOD) components are listed separately in the Tables. The "Defense Summary" category incorporates all reporting DOD component agencies. In addition, the Executive Office of the President's (EOP) complaints data include four components: the Offices of Administration, Management and Budget, National Drug Control Policy, and the United States Trade Representative. The "Executive Office of the President Summary" category includes all reporting EOP components.

or at the agency against which the discrimination complaint is brought. The aggrieved person must consult with an EEO Counselor within 45 calendar days of the date of the alleged discriminatory act or, if a personnel action, within 45 calendar days of that action's effective date, or the date that the aggrieved person knew or reasonably should have known of the discriminatory act or personnel action. The EEO Counselor will inquire into the facts and attempt to resolve the matter at this initial stage of the process. Counseling must be completed within 30 days of the date of the aggrieved person's initial contact with the counselor, unless the parties agree in writing to extend the counseling period for up to an additional 60 days or unless the agency has an established alternative dispute resolution procedure and the aggrieved person agrees to participate, in which event the counseling period shall be 90 days.

2. FILING A COMPLAINT

If informal resolution fails, the aggrieved person may file a formal complaint in writing with the alleged discriminating agency within 15 calendar days of receipt of a written notice of right to file a complaint, issued by the EEO Counselor. Failure to file within 15 days may result in dismissal of the complaint by the agency. Where no notice of a final interview is provided by the counselor and no extension of counseling is secured, the aggrieved person has a right to file a formal complaint any time after 30 days from the date of initial contact with the counselor.

3. ACKNOWLEDGMENT OF A FORMAL COMPLAINT

Immediately upon receipt of a formal complaint, an agency must acknowledge receipt of the complaint in writing following the requirements in §1614.106(d) and *Chapter 4, Section I, EEO MD-110*. In the acknowledgment, or simultaneously with the acknowledgment, the agency must also inform the complainant of the issue(s) to be investigated and, if appropriate, that the complaint, or part of the complaint, is dismissed. If the agency dismisses the complaint, or part of the complaint, the complainant is notified in writing of the right to appeal to the EEOC's Office of Federal Operations (OFO) within 30 days of receipt of the notice, or of the right to file a civil action in Federal district court within 90 days of receipt of the dismissal.

4. INVESTIGATING THE COMPLAINT

The investigator develops a complete and impartial factual record on which to make findings on the matters raised by the written complaint. The investigator may use a variety of fact-finding methods. The investigation must be completed within 180 days from the date the complaint was filed unless the parties agree in writing to an extension for up to an additional 90 days or within the time contained in an order from OFO. Upon completion of the investigation, the agency will provide the complainant with a copy of the investigative file and will notify the complainant of the right to request, within 30 days of receipt of the file, a hearing before an EEOC Administrative Judge (AJ)

or an immediate final agency decision. Without the required notice, the complainant may request a hearing anytime after 180 days have elapsed from the filing of the complaint.

5. HEARING AND RECOMMENDED FINDINGS AND CONCLUSIONS

A hearing is conducted by an EEOC Administrative Judge who notifies the complainant and the agency of the time and place of the hearing. The AJ hears relevant testimony and considers documentary evidence about the allegation(s). Witnesses give testimony under oath or affirmation and can be cross-examined. The AJ submits recommended findings of fact and conclusions of law to the head of the agency. The agency can accept, modify or reject the AJ's recommended findings and conclusions.

The AJ may decide according to §1614.109(e) to issue recommended findings and conclusions without a hearing where the AJ determines that there are no material facts in genuine dispute.

6. AGENCY'S FINAL DECISION AFTER HEARING

Within 60 days of receiving the recommended findings and conclusions of the AJ, the agency issues its final decision either accepting, modifying, or rejecting the AJ's recommendations. The final decision must consist of findings by the agency on the merits of each issue in the complaint, and, when discrimination is found, appropriate remedies and relief. The final decision contains notification of the complainant's right to appeal to the EEOC's OFO or to file a civil action in Federal district court.

7. APPEAL TO EEOC

The complainant may appeal the agency's final decision to OFO within 30 calendar days of receipt of that decision. The appeals are processed by the Appellate Review Programs in OFO. Federal sector appeals can be: (1) appeals from final agency decisions; (2) appeals from decisions on grievances; (3) requests for review of Merit Systems Protection Board (MSPB) decisions on discrimination claims; (4) petitions for enforcement or clarification of Commission decisions; and, (5) requests to reconsider Commission decisions.

After appellate review, the Commission decision becomes final unless a request for reconsideration is filed within thirty (30) days of receipt of the initial decision. The decision on the request for reconsideration is the final step in the administrative process.

C. DEFINITIONS

1. PRE-APPELLATE COMPLAINT PROCEDURES

The various stages of the Federal pre-appellate complaint process are highlighted below. EEOC ascribed definitions to the terms to encourage standardized usage.

AGENCY DECISION TO DISMISS: A complaint must be dismissed on the grounds set forth in 29 C.F.R. §1614.107. The regulation provides that agencies must dismiss a complaint or part of a complaint when:

- (1) The complaint fails to state a claim under §§1614.103 or 1614.106(a) or states the same claim that is pending before or has been decided by the agency or the Commission.
- (2) The complaint fails to comply with the applicable time limits in §§1614.105, 1614.106 and 1614.204(c), unless the agency extends the time limits according to §1614.604(c), or the complaint raises a matter that has not been reported to a counselor and is not like or related to a matter brought to the counselor's attention.
- (3) The complainant files a civil action concerning the same matter, at least 180 calendar days after (s)he filed his/her administrative complaint, or the same matter has been decided by a United States district court or court of appeals and the complainant was party to the lawsuit.
- (4) The complainant has raised the matter in a negotiated grievance procedure that permits allegations of discrimination, indicating an election to pursue a non-EEO process, or the complainant has elected to appeal the matter to the Merit Systems Protection Board, rather than file a mixed case complaint under §1614.302.
- (5) The complaint is moot or alleges that a proposal to take a personnel action, or other preliminary step in taking a personnel action, is discriminatory.²
- (6) The complainant cannot be found if reasonable efforts have been made to locate the complainant and the complainant has not responded within 15 calendar days to a notice of proposed dismissal sent to his or her last known address.

2 If the individual alleges, however, that the preliminary step was part of a pattern of harassing the individual for a prohibited reason, the complaint cannot be dismissed under this section because the preliminary step has already affected the employee.

- (7) The complainant has failed to respond to a written "request to provide relevant information or otherwise proceed" within 15 calendar days of receipt, provided that the request contained notice of the proposed dismissal and further provided that there is otherwise insufficient available information to adjudicate the matter.
- (8) The complainant refuses, within 30 calendar days of receipt of an agency offer of settlement, to accept the offer, if it is an offer of full relief containing a certification from the agency's EEO Director, Chief Legal Officer, or designee reporting directly to the EEO Director or Chief Legal Officer, that the offer constitutes full relief, and providing further that the offer gave notice that failure to accept within 30 calendar days would result in dismissal of the complaint.

WITHDRAWAL: A complainant may withdraw a complaint anytime after it has been filed. Agencies have been advised that withdrawals with remedial relief agreed to by the parties should be reported as settlements.

SETTLEMENT: A settlement is an agreement entered between the complainant and the agency which resolves the complaint to the satisfaction of the parties. Any settlement reached must be in writing and signed by both parties and must identify the allegations resolved. 29 C.F.R. §1614.603.

RECOMMENDED FINDINGS AND CONCLUSIONS: A written recommendation to the agency by the EEOC AJ that includes findings of fact and conclusions of law regarding the matter(s) which caused the complaint and the general environment out of which the complaint arose. It includes a recommended decision on the merits of the complaint and remedial action where appropriate.

AGENCY DECISION ON THE MERITS: The agency's written decision sets forth findings on each issue in the complaint, provides relief where appropriate, and informs the complainant of the right to appeal and/or file a civil action. Where there has been a hearing, the agency's final decision, made within 60 calendar days of its receipt of the AJ's findings and conclusions, adopts, rejects, or modifies the AJ's recommended findings and conclusions, specifically detailing its reasons therefor. 29 C.F.R. §1614.110.

2. APPELLATE COMPLAINT PROCEDURES

The terms below are associated with the appellate review process. There are five types of decisions that can be rendered:

01 Decision: Appeal from a final agency decision.

02 Decision: Appeal from a decision on a grievance.

03 Decision: Petition for review of an MSPB decision.

04 Decision: Petition for enforcement of EEOC final decisions and petition for clarification of EEOC final decisions.

05 Decision: Request to reopen and reconsider a previous Commission decision.

D. ORGANIZATION AND METHODOLOGY

This report is divided into seven sections and contains analyses of pre-appellate EEO complaints processing data provided by federal agencies and appellate data maintained by the Commission. Tables (Attachment I) provide aggregate data on complaints processing as follows:

TABLE I	FY 1997 Federal Sector Pre-Complaint Counseling
TABLE I (A)	FY 1997 Federal Sector Pre-Complaint Counseling by Regulatory Time Frames
TABLE I (B)	FY 1997 Federal Sector EEO Counselors
TABLE I (C)	FY 1997 Federal Sector EEO Investigators
TABLE I (D)	FY 1997 Federal Sector EEO Counselors/Investigators
TABLE II	FY 1997 Federal Sector Complaints Inventory Summary
TABLE III	FY 1997 Federal Sector Investigations Cost
TABLE III (A)	FY 1997 Federal Sector Investigation Completion Time
TABLE IV	FY 1997 Federal Sector Complaints Closure Types
TABLE IV (A)	FY 1997 Federal Sector Average Days to Closure in Final Agency Decisions With or Without a Hearing
TABLE IV (B)	FY 1997 Federal Sector Complaint Closures With Corrective Action
TABLE V	FY 1997 Federal Sector Agency Closures

TABLE V (A)	FY 1997 Federal Sector Agency Action on EEOC Findings and Conclusions
TABLE VI	FY 1997 Federal Sector Complaints Pending End Inventory - Summary
TABLE VI (A)	FY 1997 Federal Sector Pending End Inventory - Acceptance/Dismissal
TABLE VI (B)	FY 1997 Federal Sector Pending End Inventory - Investigations
TABLE VI (C)	FY 1997 Federal Sector Pending End Inventory - Hearings
TABLE VI (D)	FY 1997 Federal Sector Pending End Inventory - Agency Decision on the Merits
TABLE VII	FY 1997 Federal Sector Summary of Appellate Receipts and Closures

At the end of the report is a copy of the Reporting Format, *EEOC Form 462 (Attachment II)*.

SECTION I

PRE-COMPLAINT COUNSELING IN THE FEDERAL SECTOR

Counseling is the first step in the federal employment discrimination process for an applicant or employee who feels aggrieved by an agency's employment decisions. When the aggrieved person brings the matter to the agency's attention through the EEO counseling process, the assigned EEO Counselor attempts to resolve the matter before a formal complaint is filed. If the EEO Counselor does not resolve the matter within the required time limit, the applicant or employee has the right to file a formal EEO complaint with the agency. Table I (pages T-1 through T-3) shows the EEO counseling statistical data, including the number of persons counseled represented as a percent of the agency and government wide work force, and the number of persons counseled compared with the number of formal complaints filed by agency and government wide in FY 1997.

A. SUMMARY OF PRE-COMPLAINT COUNSELING ACTIVITY

Federal agencies counseled 65,820 persons in FY 1997 (Table I). This was 1,522 more persons than the 64,298 counseled in FY 1996. During the reporting period agencies counseled 2.4% of the Federal work force.

The table below shows pre-complaint counseling activity from FY 1994 through FY 1997 by the number of persons counseled and the percent of government wide work force that these numbers represent.

**Summary of Federal EEO Counseling Activities
Government Wide - From FY 1994 to FY 1997**

Fiscal Year	Persons Counseled	Percent of Work Force Counseled
1994	68,084	2.3
1995	68,936	2.4
1996	64,298	2.3
1997	65,820	2.4

Sometimes, Federal EEO complaints are settled during the pre-complaint counseling stage. In FY 1997, 44% of the persons counseled filed formal complaints, and 41% filed in FY 1996.

Figure 1 below shows the number of persons counseled in comparison to the number of formal complaints filed in FY 1994 through FY 1997.

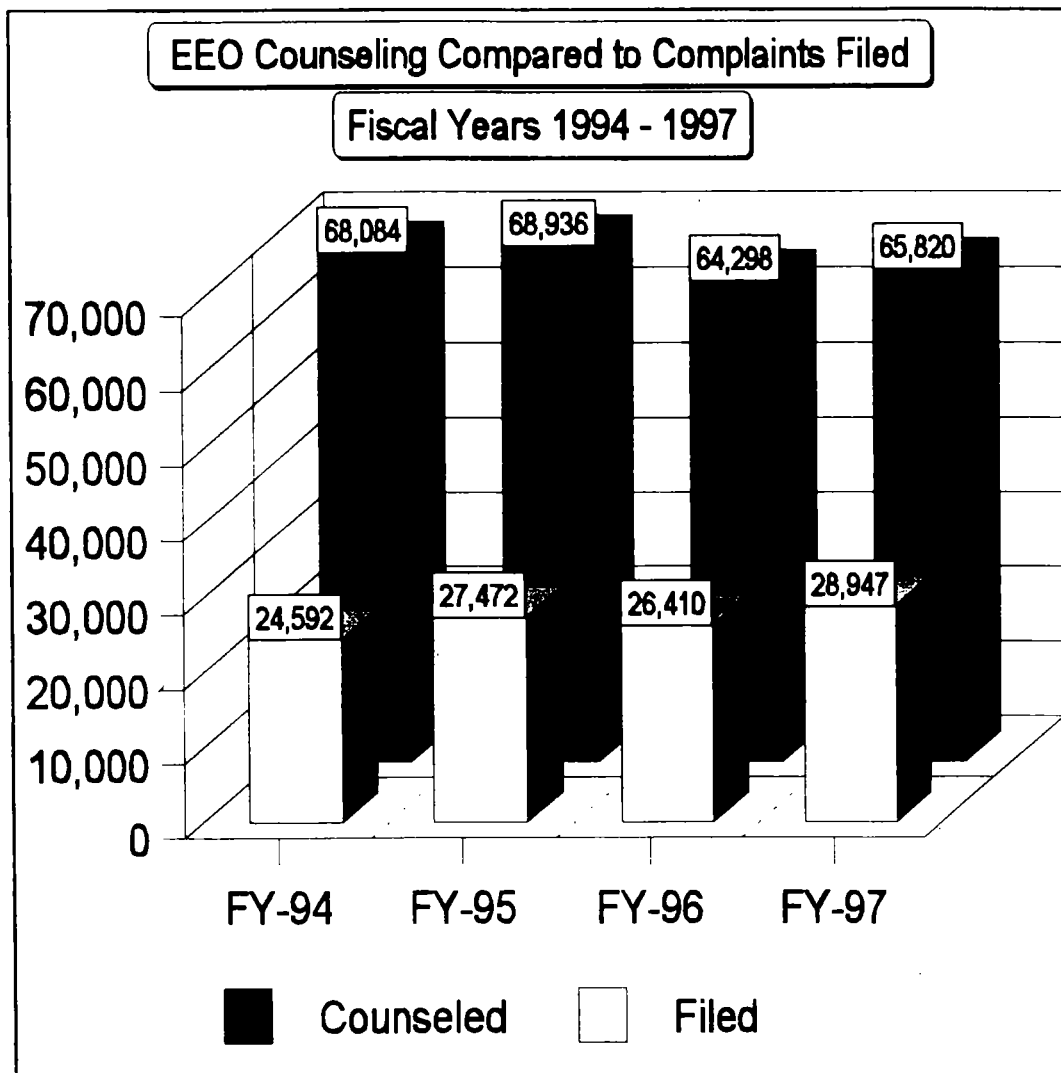


Figure 1

In FY 1997, agencies reported 65,820 individuals were counseled government wide. The table on the following page shows the number of individuals who were counseled in FY 1997 within 30 calendar days, the number who were counseled within an agreed upon extension of up to an additional 60 calendar days, the number counseled through agency dispute resolution procedures, and the number counseled on remand by an AJ under the provisions of §1614.109(a).

FEDERAL SECTOR REPORT ON EEO COMPLAINTS AND APPEALS

Pre-Complaint Counseling in FY 1997

Total Counseled	Counseled Within 30 Days		Counseled Within 60 Day Extension		Counseled Through ADR		Counseled on Remand	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent
65,820	38,941	59.2%	23,828	36.2%	2,388	3.6%	663	1.0%

B. RANKING OF AGENCIES WITH COUNSELING ACTIVITY

The tables on pages 14-17 show the ranking of agencies from the lowest to the highest percentage of counseling contacts resulting in formal complaints.

**Ranking of Agencies by Percent of Counseling
Contacts Resulting in Formal Complaints - FY 1997**

Agency or Department	Total Complaints Filed	Percent of Counseling Contacts	Rank
Government Printing Office	18	4.5	1
International Trade Commission	1	5.0	2
Federal Communication Commission	11	5.6	3
Nuclear Regulatory Commission	7	6.8	4
Defense National Guard Bureau	57	11.4	5
Peace Corps of the United States	2	12.5	6
United States Information Agency	50	15.6	7
Federal Trade Commission	6	17.1	8
Federal Energy Regulatory Commission	5	17.2	9
Air Force, Department of the	1,165	20.9	10
Defense Logistic Agency	393	21.2	11
Defense Information Systems Agency	21	22.6	12
Export-Import Bank of the United States	2	25.0	13
Defense National Security Agency	46	25.3	14
United States Naval Home	3	27.3	15

FISCAL YEAR 1997

FEDERAL SECTOR REPORT ON EEO COMPLAINTS AND APPEALS

Agency or Department	Total Complaints Filed	Percent of Counseling Contacts	Rank
Federal Emergency Management Agency	24	28.6	16
Army and Air Force Exchange Service	178	31.1	17
National Labor Relations Board	19	32.2	18
Defense, Department of - Summary	5,073	34.0	19
International Boundary and Water Commission	4	36.4	20
Agriculture, Department of	773	36.8	21
General Services Administration	126	38.1	22
Securities and Exchange Commission	21	38.1	22
Veterans Affairs, Department of	2,316	38.2	23
Interior, Department of the	423	39.7	24
Equal Employment Opportunity Commission	33	40.2	25
Federal Reserve System	9	41.0	26
National Gallery of Art	9	41.0	26
National Archives and Records Administration	22	42.3	27
Defense, Office of the Secretary	36	42.4	28
Education, Department of	53	43.8	29
Army, Department of the	1,565	44.3	30
Office of Personnel Management	28	44.4	31
Soldiers' and Airmen's Home	5	45.5	32
National Aeronautics and Space Administration	45	46.9	33
Agency for International Development	16	47.0	34
Health and Human Services, Department of	402	47.1	35
United States Postal Service	14,326	48.0	36
Tennessee Valley Authority	202	49.2	37
John F. Kennedy Center for the Performing Arts	1	50.0	38
Federal Election Commission	1	50.0	38

FISCAL YEAR 1997
FEDERAL SECTOR REPORT ON EEO COMPLAINTS AND APPEALS

Agency or Department	Total Complaints Filed	Percent of Counseling Contacts	Rank
Pension Benefit Guaranty Corporation	4	50.0	38
Federal Labor Relations Authority	2	50.0	38
Railroad Retirement Board	1	50.0	38
Selective Service System	2	50.0	38
Corporation for National Service	8	53.3	39
Small Business Administration	56	55.0	40
Defense Intelligence Agency	19	55.9	41
Justice, Department of	903	56.1	42
Commerce, Department of	240	57.3	43
Treasury, Department of the	1,368	57.4	44
Labor, Department of	146	57.9	45
State, Department of	58	58.0	46
Defense Finance and Accounting Service	209	58.2	47
Panama Canal Commission	7	58.3	48
Energy, Department of	194	59.5	49
Defense Investigative Service	28	59.6	50
Social Security Administration	588	59.6	50
Federal Mediation and Conciliation Service	3	60.0	51
Central Intelligence Agency	36	60.0	51
Defense National Imagery and Mapping Agency	66	60.6	52
Transportation, Department of	811	60.9	53
Navy, Department of the	1,002	63.5	54
National Science Foundation	9	64.3	55
Smithsonian Institution	57	67.9	56
Defense Commissary Agency	161	71.6	57
Defense Education Activity	38	73.1	58
Defense Inspector General	6	75.0	59

Agency or Department	Total Complaints Filed	Percent of Counseling Contacts	Rank
United States Office of Special Counsel	3	75.0	59
National Credit Union Administration	4	80.0	60
Federal Deposit Insurance Corporation	113	80.7	61
Housing and Urban Development, Department of	196	81.0	62
Defense Contract Audit Agency	72	83.7	63
Environmental Protection Agency	83	91.2	64
Executive Office of the President - Summary	3	100.0	65
Office of Administration (EOP)	3	100.0	65
Merit Systems Protection Board	4	100.0	65
Office of Administration, Executive Office of the President	3	100.0	65
Defense Special Weapons Agency	11	122.2	66
Commodity Futures Trading Commission	12	150.0	67

The following seven agencies had no counseling or complaint activity in FY 1997:

Federal Retirement Thrift Investment Board
National Endowment for the Humanities
Office of Management and Budget (EOP)
Office of National Drug Control Policy (EOP)

United States Trade Representative (EOP)
United States Enrichment Corporation
United States Tax Court

The agencies listed below had counseling contact in FY 1997, but no formal complaints resulted from counseling activity:

Arms Control and Disarmament Agency
Consumer Product Safety Commission
Defense Nuclear Facilities Safety Board
Defense - Tricare Support Office (formerly - OCHAMPUS)
Farm Credit Administration

Federal Housing Finance Board
Federal Maritime Commission
National Endowment for the Arts
National Transportation Safety Board
Overseas Private Investment Corporation

C. DISTRIBUTION OF EEO COUNSELING PERSONNEL IN THE FEDERAL SECTOR

Federal agencies must maintain EEO Counselors and conduct their counseling program in accordance with the regulations at 29 C.F.R. Part 1614. The agency must maintain a trained EEO counseling staff.³ Tables I(B), (pages T-7 through T-9) and I(D), (pages T-13 through T-15) provide counseling information on the number and percentage of Federal EEO Counselors in the various employment categories for each reporting agency and government wide.

Figure 2 below shows the government wide distribution of Federal EEO Counselors and EEO Counselor/Investigators in each employment category (full-time, part-time, and collateral duty) for FY 1997.

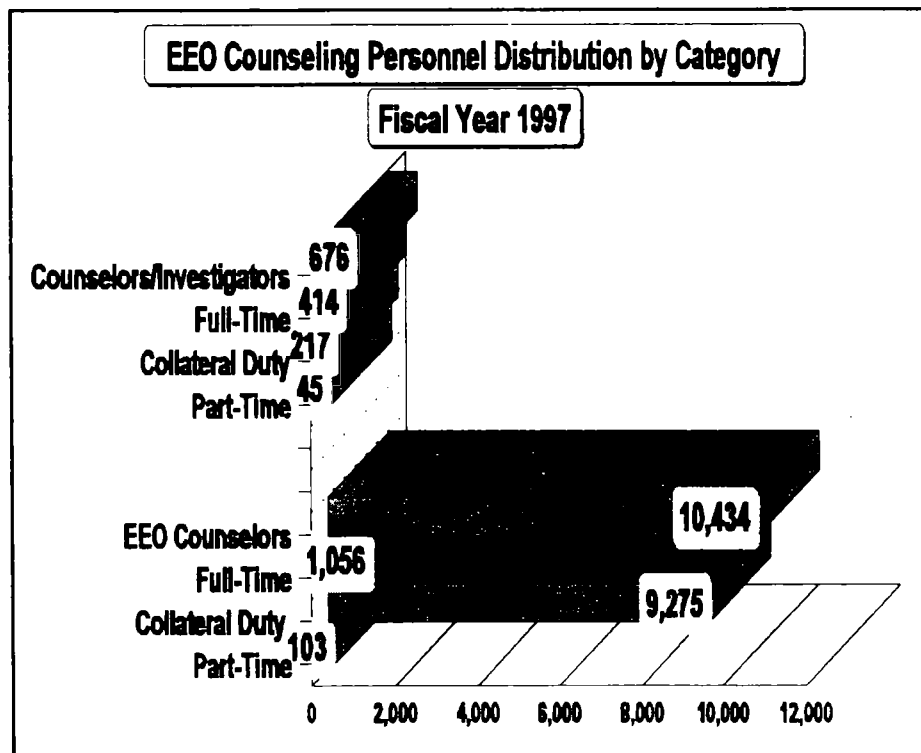


Figure 2

3 The Department of the Army, the National Aeronautics and Space Administration, the National Science Foundation, and the National Transportation Safety Board contracted for part of their counseling requirements. The Federal Retirement Thrift Board, Defense Education Activity, and Defense Office of the Secretary contracted out 100% of their EEO counseling in FY 1997.

SECTION II

FORMAL EEO COMPLAINTS FILED IN THE FEDERAL SECTOR

A. SUMMARY OF FEDERAL EEO COMPLAINTS INVENTORY

Federal administrative Equal Employment Opportunity (EEO) complaints of discrimination may be filed by Federal employees or applicants for employment with the Federal agency they believe engaged in discriminatory conduct. Procedural guidance for filing Federal EEO complaints is set forth at 29 C.F.R. Part 1614 and EEOC Management Directive (MD)-110.

The table below demonstrates how the number of Federal complaints in the government wide inventory varied each fiscal year from FY 1994 through FY 1997. The number of complaints on hand at the beginning of the reporting period was compared with the number of complaints on hand at the end of the reporting period. The differences in the beginning and ending complaints inventory and rate of growth or reduction in the government wide complaints inventory are set out in the chart below.

EEO Complaints Beginning and End Inventory Government Wide

Fiscal Year	Complaints on Hand at Beginning of Reporting Period	(+) Complaints Filed During the Reporting Period	(-) Complaints Closed During the Reporting Period	(=) Complaints on Hand at the End of the Reporting Period ⁴	Rate of Inventory Growth or (Reduction)	
					Number	Percent
FY 1994	21,929	24,592	21,565	25,707	3,778	17.2
FY 1995	25,072	27,472	22,497	30,682	5,610	22.4
FY 1996	28,949	26,410	25,150	31,195	2,246	7.8
FY 1997	30,717	28,947	26,508	34,286	3,569	11.6

⁴ Various agencies continue to report discrepancies between the number of complaints pending at the end of a given fiscal year and the number pending at the beginning of the following fiscal year. This created discrepancies in the government wide numbers of pending complaints from FY 1996 to FY 1997, as well as in previous years.

Fiscal Year 1997 ended with 34,286 complaints on hand in the government wide complaints inventory. The complaints inventory increased by 3,569 complaints government wide.

During the fiscal year, 35 agencies reported reduction in their EEO case inventory, ranging from - 0.79% to 100%. Forty-three reported increases in the case inventory ranging from less than 1.16% to a 600% increase. Sixteen agencies had no complaints or changes in the FY 1997 complaints inventory. Table II (pages T-16 through T-18) shows the Federal agencies and the government wide rates of reduction and growth.

B. COMPLAINTS FILED

A complainant, i.e., a Federal employee or applicant for employment to a Federal agency, may file a formal complaint when counseling efforts have failed to resolve the alleged discriminatory matter. The complainant must do so in writing within 15 calendar days after receiving a written notice of right to file a complaint. If no notice has been issued, the aggrieved person may file a formal complaint after 30 calendar days from the first contact with an EEO Counselor.

There were 28,947 Federal sector complaints filed in FY 1997 compared with 26,410 complaints filed in FY 1996. The number of formal complaints increased by 2,537 complaints, or 9.6%. Federal complaints filed represented approximately one percent of the government wide work force.

The number of complaints filed and that number expressed as a percentage of the Federal work force from FY 1993 through FY 1996 are shown in the table below.

**Total Number of Complaints Filed as a
Percentage of the Federal Work Force**

Fiscal Year	Complaints Filed	Percentage
1994	24,592	0.8
1995	27,472	1.0
1996	26,410	0.9
1997	28,947	1.0

Figure 3 below shows the four-year trend for the number of EEO complaints filed in the Federal sector from FY 1994 to FY 1997.

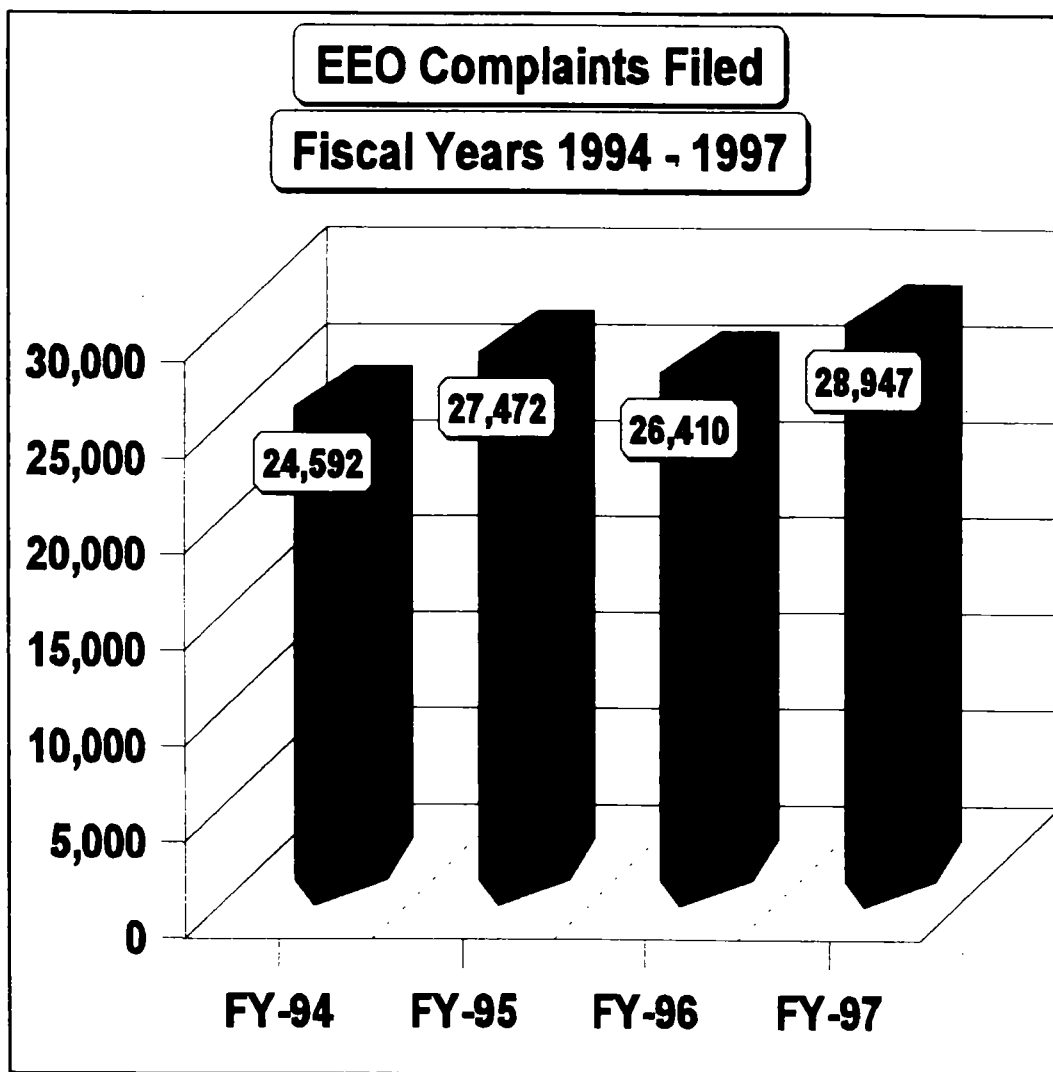


Figure 3

The five agencies, depicted in the graph below, accounted for 19,724 or 68.1 percent of the complaints filed within the Federal EEO complaint system in FY 1997: Department of Justice (903), Department of the Treasury (1,368), Department of Transportation (811), United States Postal Service (14,326) and the Department of Veterans Affairs (2,316).

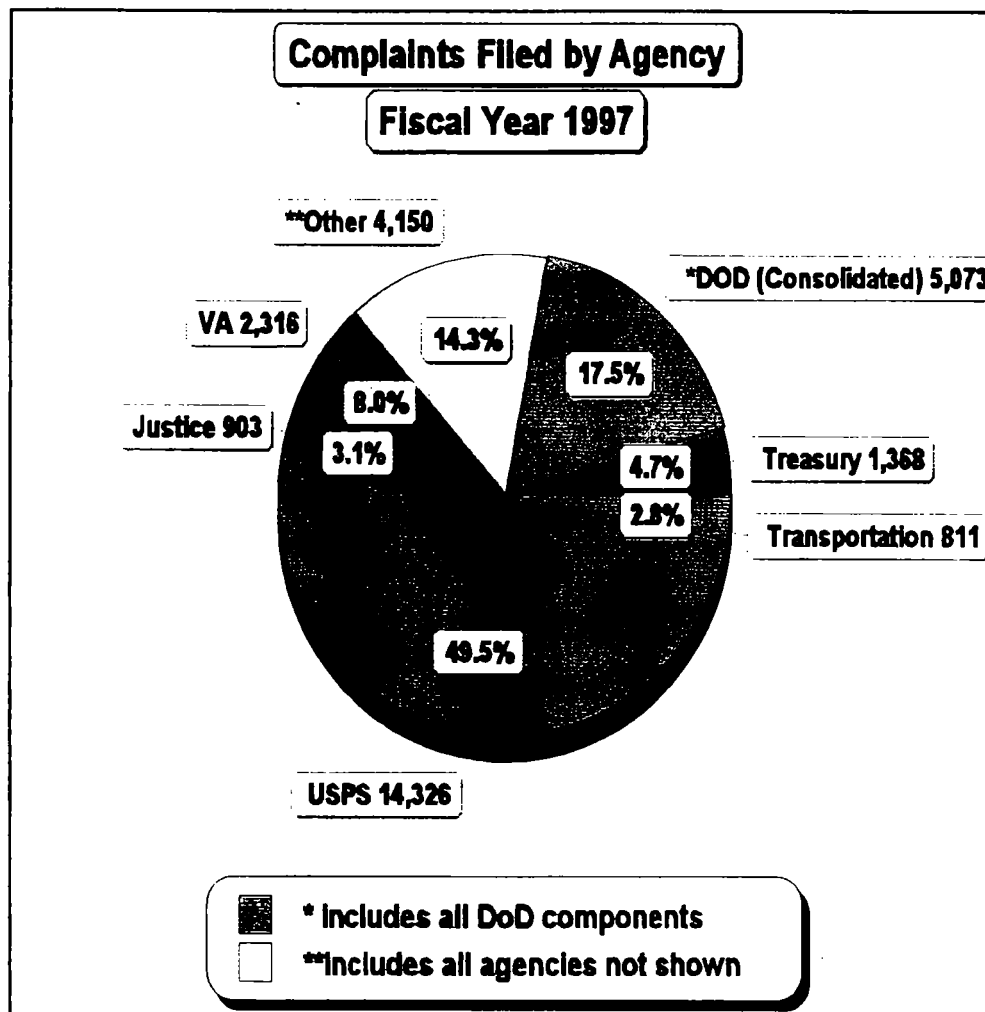


Figure 4

C. BASES AND ISSUES ALLEGED IN COMPLAINTS FILED

In the Federal sector, EEO complaints of unlawful employment discrimination are covered by the statutes administered by EEOC. The bases for complaints under the Federal statutes are race, color, sex, religion, national origin, age, disability, equal pay, and reprisal. Generally, issues connected with employment and application for employment are covered if one of these bases is alleged.

1. BASES ALLEGED IN COMPLAINTS

The most frequently alleged bases in Federal EEO complaints were reprisal, sex (female), race (black), age, and disability (physical). These five bases accounted for 72.8% of all bases alleged in FY 1997.⁵

The listing below shows the bases alleged by number and percentage of all bases alleged in formal complaints during FY 1997.

<u>Alleged Bases</u>	<u>Number of Times Alleged</u>	<u>Percent of Total</u>
Reprisal	15,477	22.0
Sex (Female)	10,098	14.3
Race (Black)	9,875	14.0
Age	8,984	12.7
Disability (Physical)	6,904	9.8
Sex (Male)	5,936	8.4
Race (White)	4,271	6.1
National Origin (Hispanic)	2,278	3.2
National Origin (Other)	2,114	3.0
Disability (Mental)	1,832	2.6
Religion	1,466	2.1
Race (Other)	1,269	1.8
Total	70,504	100.00

5 Many federal sector complainants often allege more than one basis in a single complaint.

Figures 5 through 7, on this page and figures 8 through 11, on the next page, show the trend for each basis, i.e., race, national origin, sex, disability, age, religion, and reprisal for complaints filed from FY 1994 through FY 1997.⁶

Figure 5 shows the number of allegations of race discrimination increased from FY 1994 through FY 1997. In FY 1997, the data show a increase of .3% in the number of complaints filed based on race.

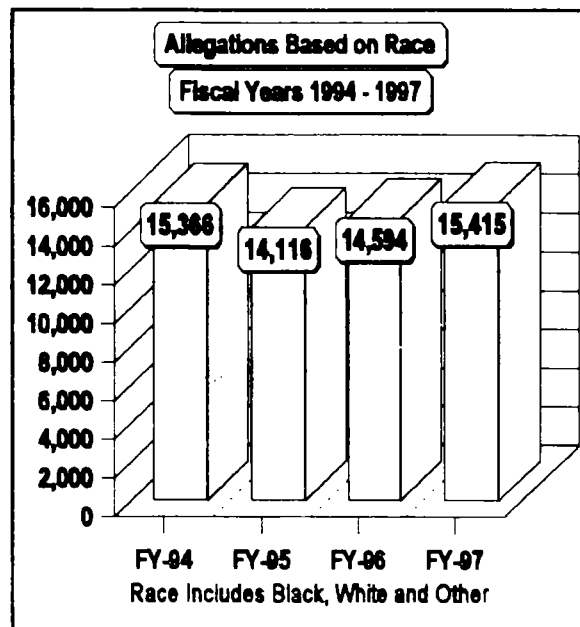


Figure 5

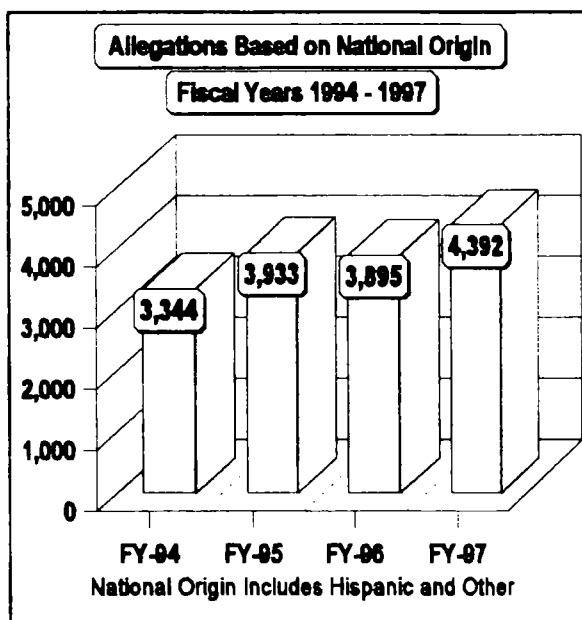


Figure 6

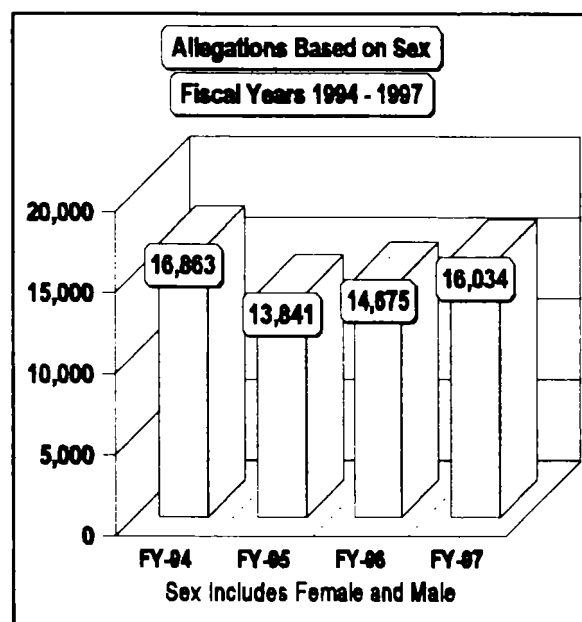


Figure 7

⁶ Bases and issues alleged in Federal Sector complaints filed in Fiscal Years 1995 and 1996 (Figures 5-11 and tables shown on pages 26 and 28) were adjusted to reflect revised data provided by the U.S. Postal Service.

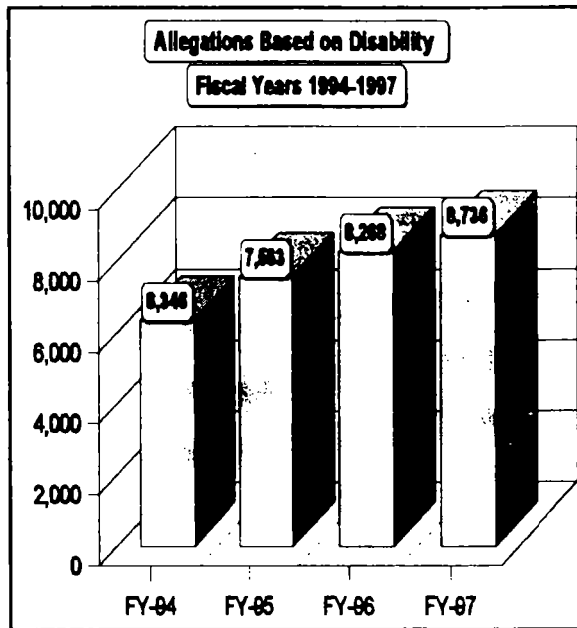


Figure 8

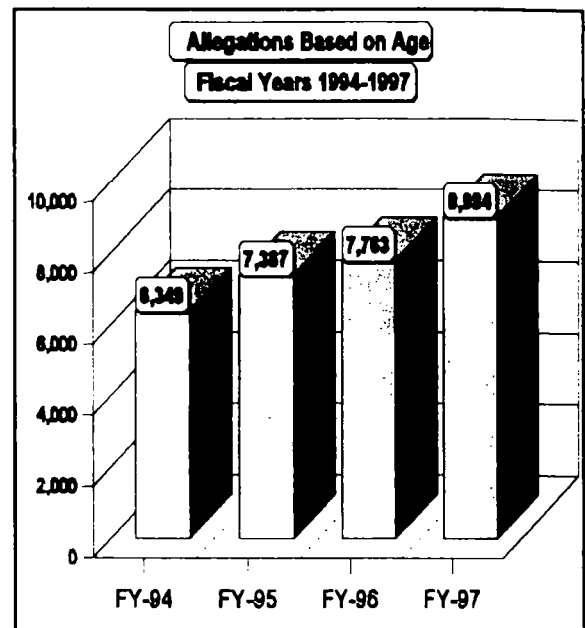


Figure 9

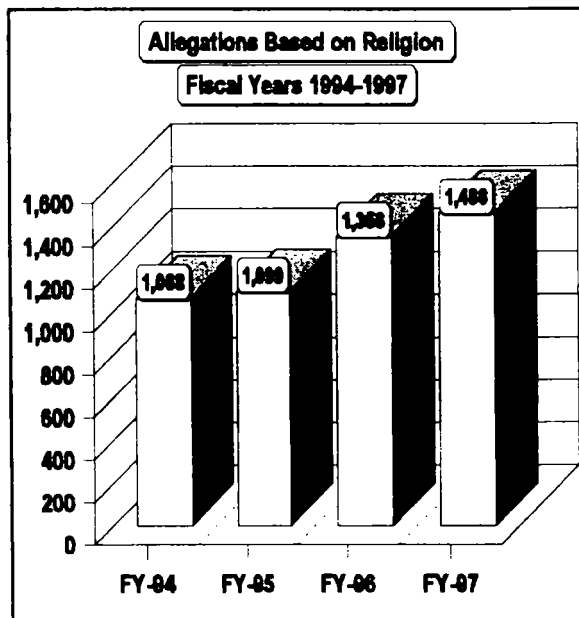


Figure 10

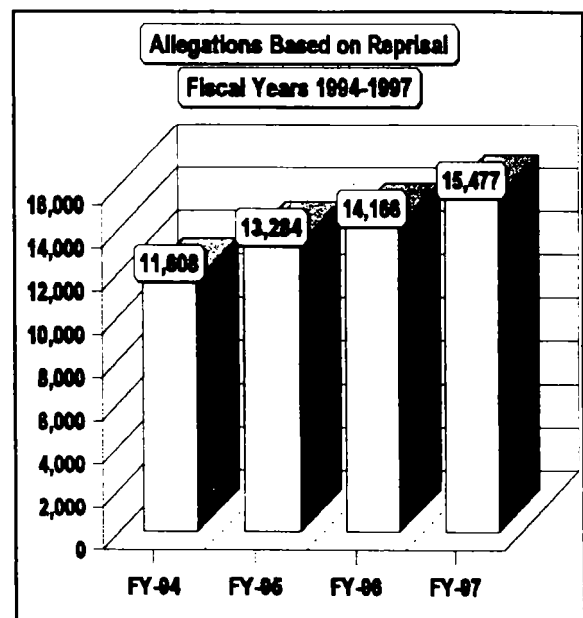


Figure 11

The table below shows the overall trend for all bases alleged in Federal sector complaints from FY 1994 through 1997.

**Bases Alleged in
Complaints Filed in the Federal Sector
(Trend for Fiscal Years 1994 - 1997)**

Bases	FY 1994		FY 1995		FY 1996		FY 1997	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Race								
Black	9,803	16.1	8,998	14.7	9,499	14.7	9,875	14.0
White	4,515	7.4	3,949	6.5	3,756	5.8	4,271	6.1
Other	1,048	1.7	1,169	1.9	1,339	2.1	1,269	1.8
Religion	1,068	1.8	1,099	1.8	1,356	2.1	1,466	2.1
Sex								
Female	9,082	14.9	8,755	14.3	9,332	14.4	10,098	14.3
Male	7,781	12.8	5,086	8.3	5,343	8.3	5,936	8.4
National Origin								
Hispanic	1,411	2.3	2,009	3.3	1,995	3.1	2,278	3.2
Other	1,933	3.2	1,924	3.1	1,900	2.9	2,114	3.0
Age	6,349	10.4	7,367	12.0	7,763	12.0	8,984	12.7
Disability								
Mental	1,304	2.1	1,397	2.3	1,413	2.2	1,832	2.6
Physical	5,042	8.3	6,166	10.1	6,855	10.6	6,904	9.8
Reprisal	11,608	19.1	13,284	21.7	14,166	21.9	15,477	22.0
Total	60,944	100	61,203	100	64,717	100	70,504	100

2. ISSUES ALLEGED IN COMPLAINTS

The number of sexual harassment allegations increased by 1,328 allegations in FY 1997.

Three hundred twelve allegations of reasonable accommodation on the basis of disability were reported by the Federal agencies in FY 1997.

The listing below shows the ranking of the alleged issues, by number and percentage, in formal complaints filed during FY 1997.

<u>Issue</u> <u>Allegations</u>	<u>Number of</u> <u>Allegations</u>	<u>Percent of</u> <u>Total</u>
Harassment (sexual & non-sexual)	14,068	19.9
Disciplinary Action	10,364	15.0
Promotion/Non-Selection	9,044	12.8
Terms/Conditions of Employment	7,476	10.6
Other	6,096	8.6
Assignment of Duties	4,526	6.4
Evaluation/Appraisal	4,426	6.3
Time and Attendance	2,572	3.6
Reassignment (Directed and Denied)	2,543	3.6
Training	1,997	2.8
Wages/Overtime	1,701	2.4
Appointment/Hire	1,666	2.4
Duty Hours	1,355	1.9
Awards	1,080	1.5
Examination/Test	360	0.5
Reinstatement	326	0.5
Reasonable Accommodation	312	0.4
Retirement	302	0.4
Equal Pay Act	160	0.2
Conversion To Full-Time	130	0.2
Total	70,504	100.00

The table below shows the trend for all issues alleged in Federal Sector complaints filed from FY 1994 through FY 1997.

**Issues Alleged in
Complaints Filed in the Federal Sector
(Trend for Fiscal Years 1994 - 1997)**

ISSUES	FY 1994		FY 1995		FY 1996		FY 1997	
	No.	Percent	No.	Percent	No.	Percent	No.	Percent
Appointment Hire	2,319	3.8	2,011	3.3	1,869	2.9	1,666	2.4
Assignment of Duties	3,508	5.8	3,842	6.3	4,338	6.7	4,526	6.4
Awards	794	1.3	783	1.3	745	1.2	1,080	1.5
Conversion to Full Time	170	0.3	196	0.3	146	0.2	130	0.2
Disciplinary Action	9,399	15.4	10,604	17.3	10,508	16.3	10,364	15.0
Demotion	154	0.3	260	0.4	281	0.4	236	0.3
Reprimand	2,210	3.6	2,369	3.9	2,237	3.5	2,369	3.4
Suspension	1,877	3.1	2,134	3.5	2,302	3.6	2,695	3.8
Termination	4,342	7.1	4,845	7.9	4,470	6.9	4,035	6.0
Other	816	1.4	996	1.6	1,218	1.9	1,029	1.5
Duty Hours	1,189	2.0	1,142	1.9	1,439	2.2	1,355	1.9
Examination/Test	258	0.4	367	0.6	304	0.5	360	0.5
Evaluation/Appraisal	4,213	6.9	3,824	6.2	3,822	5.9	4,426	6.3
Harassment	11,880	19.5	11,798	19.3	12,740	19.7	14,068	19.9
Non-Sexual	10,333	17.0	10,320	16.9	11,267	17.4	12,561	17.8
Sexual	1,547	2.5	1,478	2.4	1,473	2.3	1,507	2.1
Pay (Including Overtime)	1,864	3.1	1,708	2.8	1,558	2.4	1,701	2.4
Promotion/Non-Selection	7,955	15.8	8,451	13.8	7,915	12.2	9,044	12.8
Reassignment	2,614	4.3	2,290	3.7	2,352	3.7	2,543	3.6
Request Denied	1,491	2.5	1,058	1.7	1,265	2.0	1,316	1.9
Directed	1,123	1.8	1,232	2.0	1,087	1.7	1,227	1.7
Equal Pay Act	41	0.1	126	0.2	142	0.2	160	0.2
Reinstatement	658	1.1	473	0.8	393	0.6	326	0.5
Retirement	219	0.4	293	0.5	304	0.5	302	0.4
Time and Attendance	1,436	2.4	2,239	3.7	2,698	4.2	2,572	3.6
Training	1,323	2.2	1,443	2.4	1,517	2.3	1,997	2.8
Terms/Conditions of Employment	4,413	7.2	5,034	8.2	6,559	10.1	7,476	10.6
Reasonable Accommodation	00	0.0	91	0.1	283	0.4	312	0.4
Other	6,438	10.6	4,488	7.3	5,085	7.9	6,096	8.6

SECTION III

FEDERAL EEO INVESTIGATIONS

A. SUMMARY OF FEDERAL EEO INVESTIGATIONS

The requirements for investigating a federal EEO complaint are outlined in 29 C.F.R. §1614.108 and EEOC *Management Directive (MD)-110, Chapter 5*. The investigation of an EEO complaint is the responsibility of the agency against which a complaint is filed. The agency must develop a complete and impartial record upon which to make findings on the matters raised by the formal complaint. Agencies have discretion in using a number of fact finding methods that efficiently and thoroughly address the matters at issue. The agency's investigation generally must be completed within 180 calendar days from the date of filing the complaint, unless the parties agree in writing to an extension up to an additional 90 calendar days. Agencies are responsible for maintaining the personnel and/or resources to investigate employment discrimination complaints that arise in the agency.

Federal agencies in recent years have begun contracting out the investigation of EEO complaints to private contractors. Sixty-six agencies contracted out all or part of their investigations in FY 1997 compared with 62 agencies in FY 1996. Thirteen of the 66 agencies that contracted out used in-house EEO investigators to complete some of their investigations. Seven agencies used in-house investigators to complete all of their EEO investigations. See Tables I (C) and I (D) (pages T-10 through T-15) for the number and percent, by agency and government wide, of EEO Investigators employed as collateral duty, full-time and part-time employees.

Twenty-seven of the 94 reporting agencies, including the Department of Defense and the Executive Office of the President components, used in-house investigators and/or counselors/investigators. See (pages T-10 through T-15) for the number and percent, by agency and of EEO Investigators and Counselor/Investigators employed as collateral duty, full-time and/or part-time employees.

B. DISTRIBUTION OF FEDERAL INVESTIGATORS AND EEO COUNSELOR/INVESTIGATORS

Twenty-eight agencies, excluding the Department of Defense summary, or 27.7% of the 94 reporting agencies had in-house investigators and/or counselor/investigators on staff.

There were 1,242 EEO investigators. Full-time investigators make up 7% of the government wide investigative staff. Approximately 2% were part-time investigators, and 91% were collateral duty investigators. There were 676 EEO Counselors/Investigators. The government wide percentages

for EEO Counselors/Investigators were 61 % full-time, 7% part-time, and 32 % collateral duty EEO Counselors/Investigators.

Figure 12 below shows the total number of EEO Investigators and Counselor/Investigators in full-time, part-time, and collateral duty positions government wide in FY 1997.

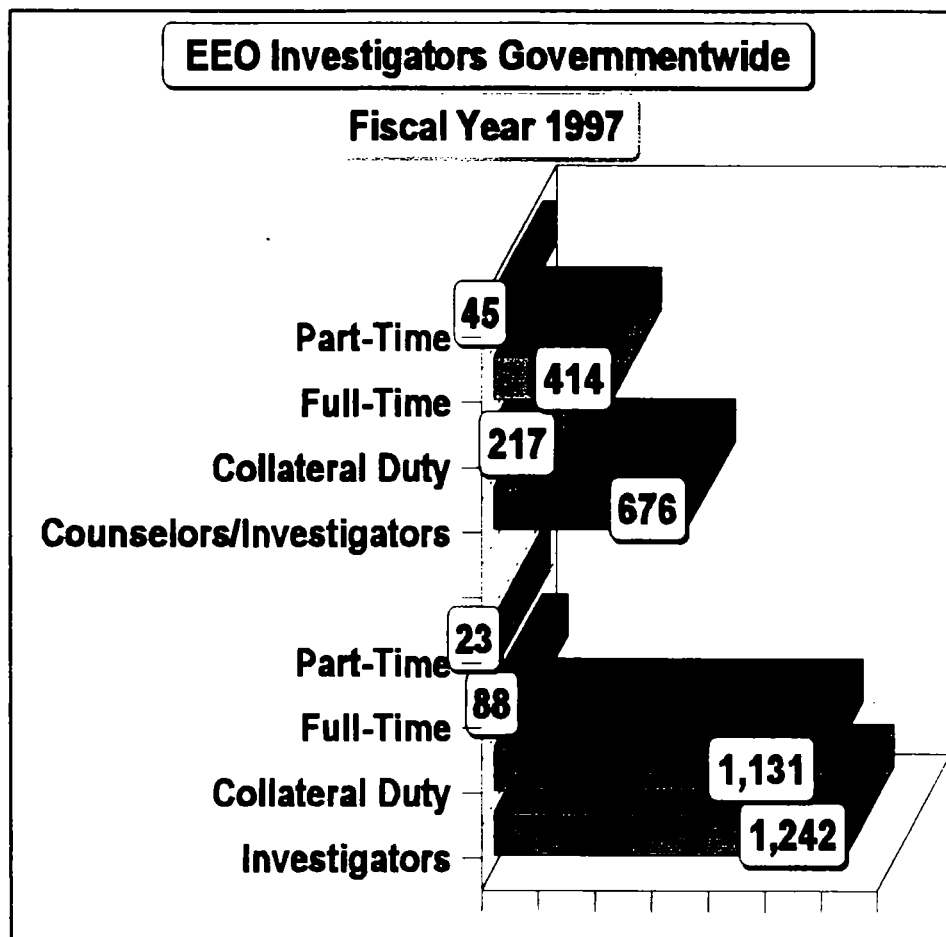


Figure 12

C. FEDERAL EEO INVESTIGATIONS CONTRACTED OUT AND COST

Agencies reported spending a total of \$10,176,946 on contract investigations in FY 1997 compared with \$7,109,816 in FY 1996. This was \$3,067,130 or 43 % more than the amount spent for contract investigations in 1996. Table III (pages T-19 through T-21) shows the number of investigations contracted out, investigations conducted in-house, and the dollar amount spent, on contracting out and in-house investigations by agency and government wide.

SECTION IV

FEDERAL SECTOR EEO CLOSURES

A. SUMMARY OF FEDERAL SECTOR CLOSURES

Federal EEO complaints processed in accordance with 29 C.F.R. Part 1614 were reported as closed only when all issues in the complaint were resolved. However, a Federal sector case may be reopened in instances where a case is remanded to the agency by the EEOC for further processing.

There were 26,508 Federal EEO complaints closed in FY 1997. This was 1,358 more cases than the 25,150 cases closed in FY 1996. Eighty-eight percent of the 26,508 Federal EEO closures in FY 1997 were from six of the largest agencies, and the consolidated Department of Defense components. See *Figure 13* below.

The number of complaints closed by merit decisions was 8,728 or 32.9% of all Federal sector closures in FY 1997, compared with 7,763, or 30.9%, of the complaints closed by merit decisions in FY 1996.

Figure 13 below shows the distribution by number and percent of total closures for the six agencies and Department of Defense components with the largest number of closures. The Department of Defense largest components (Air Force, Army, and Navy) are shown in detail.

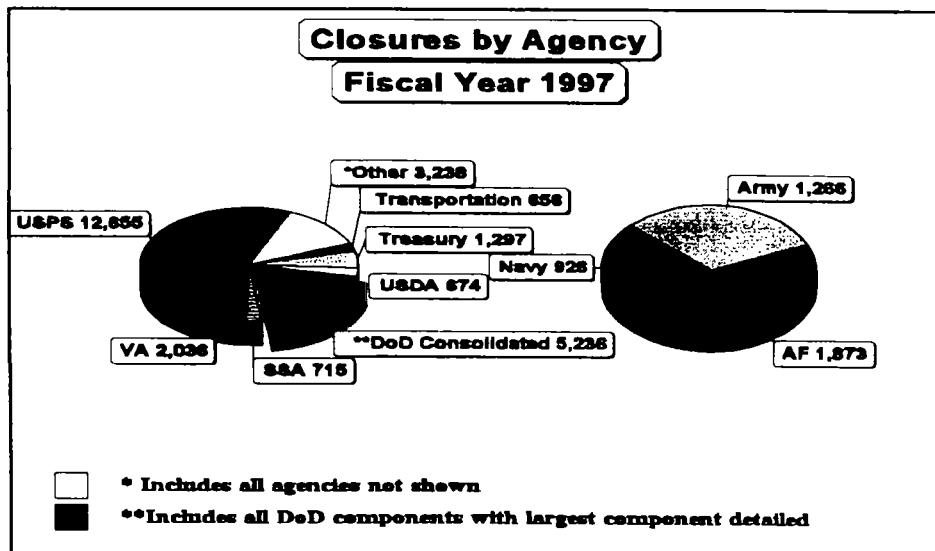


Figure 13

B. TYPES AND NUMBER OF CLOSURES

Federal EEO complaints were closed by the following methods: dismissals, withdrawals, settlements and merit decisions. Closure data (totals and percentages) for each agency and government wide are summarized in Table IV (pages T-25 through T-27).

An agency can issue a decision to dismiss a complaint according to the criteria outlined in 29 C.F.R. §1614.107(a)-(h).

An EEO complaint may be closed by withdrawal at the request of the complainant at any time after it has been filed. Agencies were advised to report withdrawals with corrective action as settlements.

A settlement may occur anytime after a complaint has been filed. A settlement must be in writing and must be signed by both parties, the complainant and an authorized agency official.

The settlement of Federal complaints also may occur during the hearing stage of the process. In FY 1997, 1,566 complaints, or 33.3% of the cases resolved by EEOC AJs, were closed as settlements.

An agency decision on the merits is either a finding of discrimination or a finding of no discrimination rendered by the agency after the complainant has had an opportunity to review the agency's investigative file and, if requested, receive a hearing from an EEOC AJ.

In FY 1997, agencies closed 26,508 complaints, 1,358 or 5.4%, more closures than the 25,150 reported in FY 1996. More cases were closed by dismissals (8,775 or 33.1% of all EEO complaints closed) than by any other method.

Figure 14 shows the number of closures by category, i.e., dismissals, withdrawals, settlements, and agency (merit) decisions.

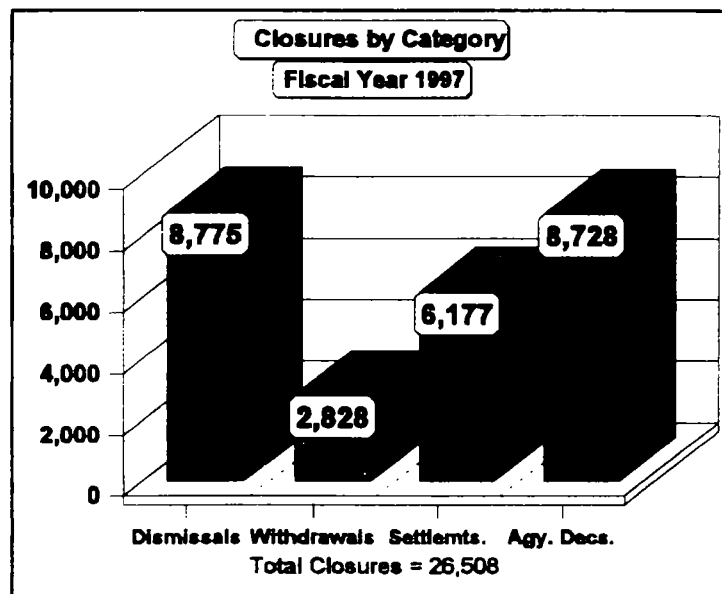


Figure 14

C. AVERAGE PROCESSING TIME (APT) FOR FEDERAL SECTOR CLOSURES

The APT for all Federal sector EEO complaints closed in FY 1997 increased to 391 average days from 379 average days in FY 1996. The average days for merit decisions (602), was 22 average days more than the 580 average days reported in FY 1996. The table below shows the trend for the APT by average number of days for all closures by category from FY 1994 to FY 1997.

Governmentwide Average Number of Days for Closures by Category

Category	FY 1994	FY 1995	FY 1996	FY 1997
Dismissals	175	155	228	226
Withdrawals	217	237	318	293
Settlements	312	300	370	371
Merit Decisions	606	489	580	602
All Closures	556	305	379	391

The listing below ranks agencies with closure activity from the lowest to the highest average processing time for all closure categories combined.

Federal Agencies Ranked by Average Number of Processing Days for all Closures in FY 1997

Agency or Department	Total Closures	Average Days	Rank
Federal Mediation and Conciliation Service	3	33	1
United States Naval Home	1	66	2
United States Office of Special Counsel	1	113	3
Farm Credit Administration	1	136	4
Air Force, Department of the	926	142	5
Soldiers' and Airmen's Home	4	176	6
Nuclear Regulatory Commission	8	179	7
Export-Import Bank of the United States	6	209	8
Army, Department of the	1,873	220	9

Agency or Department	Total Closures	Average Days	Rank
Tennessee Valley Authority	124	228	10
Defense Special Weapons Agency	6	254	11
Defense Commissary Agency	115	258	12
National Guard Bureau	48	260	13
Corporation for National Service	9	263	14
National Gallery of Art	7	277	15
Federal Reserve System	17	282	16
Defense Logistics Agency	378	289	17
Railroad Retirement Board	2	290	18
Defense Finance and Accounting Service	172	292	19
Department of Defense-Summary	5,237	300	20
Smithsonian Institution	26	302	21
John F. Kennedy Center for the Performing Arts	2	310	22
Transportation, Department of	656	310	22
Commerce, Department of	286	323	23
Defense Intelligence Agency	28	324	24
Defense Contract Audit Agency	56	332	25
Defense Inspector General	10	335	26
Merit Systems Protection Board	2	341	27
Army and Air Force Exchange Service	121	343	28
United States Information Agency	46	344	29
United States Postal Service	12,655	353	30
Treasury, Department of the	1,297	354	31
United States Enrichment Corporation	1	355	32
Panama Canal Commission	17	371	33
Federal Housing Finance Board	2	377	34

FEDERAL SECTOR REPORT ON EEO COMPLAINTS AND APPEALS

Agency or Department	Total Closures	Average Days	Rank
National Archives and Records Administration	20	386	35
Defense National Imagery and Mapping Agency	38	396	36
Federal Energy Regulatory Commission	3	396	36
Labor, Department of	112	415	37
DOD - Office of the Secretary	32	427	38
Energy, Department of	163	430	39
Defense Investigative Service	32	435	40
Veterans Affairs, Department of	2,036	440	41
National Aeronautics and Space Administration	47	449	42
General Services Administration	99	450	43
International Trade Commission	7	454	44
Defense National Security Agency	56	457	45
National Credit Union Administration	5	457	45
Social Security Administration	715	472	46
Securities and Exchange Commission	26	473	47
Government Printing Office	4	482	48
Navy, Department of the	1,266	504	49
Environmental Protection Agency	63	505	50
Defense Information Systems Agency	39	509	51
Pension Benefit Guaranty Corporation	4	543	52
Federal Election Commission	3	546	53
Federal Communications Commission	3	550	54
Interior, Department of the	485	601	55
Central Intelligence Agency	52	618	56
Defense Education Activity	40	625	57
State, Department of	50	635	58

Agency or Department	Total Closures	Average Days	Rank
National Labor Relations Board	22	637	59
Health and Human Services, Department of	324	645	60
Selective Services System	1	647	61
Commodity Futures Trading Commission	10	653	62
National Science Foundation	3	657	63
Agriculture, Department of	674	669	64
Federal Retirement Thrift Investment Board	1	687	65
Arms Control and Disarmament Agency	1	696	66
National Transportation Safety Board	2	697	67
Federal Emergency Management Agency	12	710	68
Federal Deposit Insurance Corporation	114	756	69
Justice, Department of	654	780	70
Education, Department of	56	782	71
Small Business Administration	45	809	72
Office of Personnel Management	35	814	73
Agency for International Development	18	847	74
Housing and Urban Development, Department of	159	930	75
Peace Corps	5	967	76
Consumer Product Safety Commission	1	975	77
Equal Employment Opportunity Commission	65	1,304	78

The agencies shown below had no closure activity in FY 1997:

Defense Nuclear Facilities Safety Board
 Defense - Tricare Support Office (formerly - OCHAMPUS)
 Federal Labor Relations Authority
 Federal Maritime Commission
 Federal Trade Commission
 International Boundary and Water Commission
 National Endowment for the Arts

National Endowment for the Humanities
 Office of Administration (EOP)
 Office of Management and Budget (EOP)
 Office of National Drug Control Policy (EOP)
 Overseas Private Investment Corporation
 United States Tax Court
 United States Trade Representative (EOP)

D. FEDERAL AGENCY CLOSURES: SETTLEMENTS AND FINDINGS OF DISCRIMINATION

Of the total 26,508 agency closures, 6,177 or 23.3% resulted in settlements. Of the 8,728 agency decisions on the merits, discrimination was found in 359 or 4.1% of the cases.

E. FEDERAL EEO COMPLAINTS CLOSED WITH CORRECTIVE ACTION

Federal sector EEO administrative closures often include corrective action. EEOC's regulations at 29 C.F.R. §1614.501(a) provide that when an agency or the Commission, in an individual case of discrimination, finds that an applicant or an employee has been discriminated against, the agency shall provide relief. Relief to complainants, whose discrimination complaints are resolved through the administrative process, includes a variety of corrective actions and monetary relief in the form of back pay and compensatory damages as appropriate. The regulations also provide for compensation for attorney's fees, except in ADEA cases in the administrative process, and costs to a prevailing complainant.

Corrective action can be granted at any stage of the Federal administrative complaint process, including the pre-complaint counseling and the formal complaint stages. The regulation states that any settlement reached shall be in writing and signed by both parties and shall identify the allegations resolved. A settlement of a complaint may include an award of back pay, attorney's fees or other appropriate relief.

1. TYPES OF CORRECTIVE ACTION IN FEDERAL EEO COMPLAINTS CLOSURES

The types of corrective actions granted include hiring, promotion, priority consideration, disciplinary action, cessation of certain employment practices, reinstatement, performance reevaluation and removal of adverse material from Personnel files.

In FY 1997 corrective action was granted at various stages of the administrative EEO complaint process during the pre-complaint counseling and formal complaint stages, before and after a decision. The table below shows the cases closed with corrective actions by type of action with and without back pay.

**Government Wide Summary of the Types of Remedial Action Taken
in EEO Complaints Closed With and Without Back Pay Award
Fiscal Year 1997**

Types of Corrective Actions	With Back Pay	Without Back Pay
1. Hire	35	36
A. Retroactive	21	14
B. Non-Retroactive	14	22
2. Promotion	308	187
A. Retroactive	226	63
B. Non-Retroactive	82	124
3. Disciplinary Action	144	231
A. Rescind	104	175
B. Modify	40	56
4. Reinstatement	29	48
5. Reassignment	42	310
6. Performance Evaluation Modified	120	265
7. Personnel File Purged of Adverse Material	66	221
8. Other	795	3,492
Total	1,539	4,790

2. BACK PAY AWARDS

A total of 6,252 individual Federal sector complaints were closed with corrective action with and without back pay. Note, a complaint may contain more than one allegation subject to corrective action, therefore a total of 6,329 allegations were contained in the cases subject to corrective action.

Back pay awards were granted to Federal complainants in 24% of the complaints closed with corrective action during FY 1997. The remainder, 76%, of the Federal EEO closures included some form of remedial action without back pay.

Figure 15 below shows the Federal sector cases closed, with corrective actions with and without back pay for FY 1997.

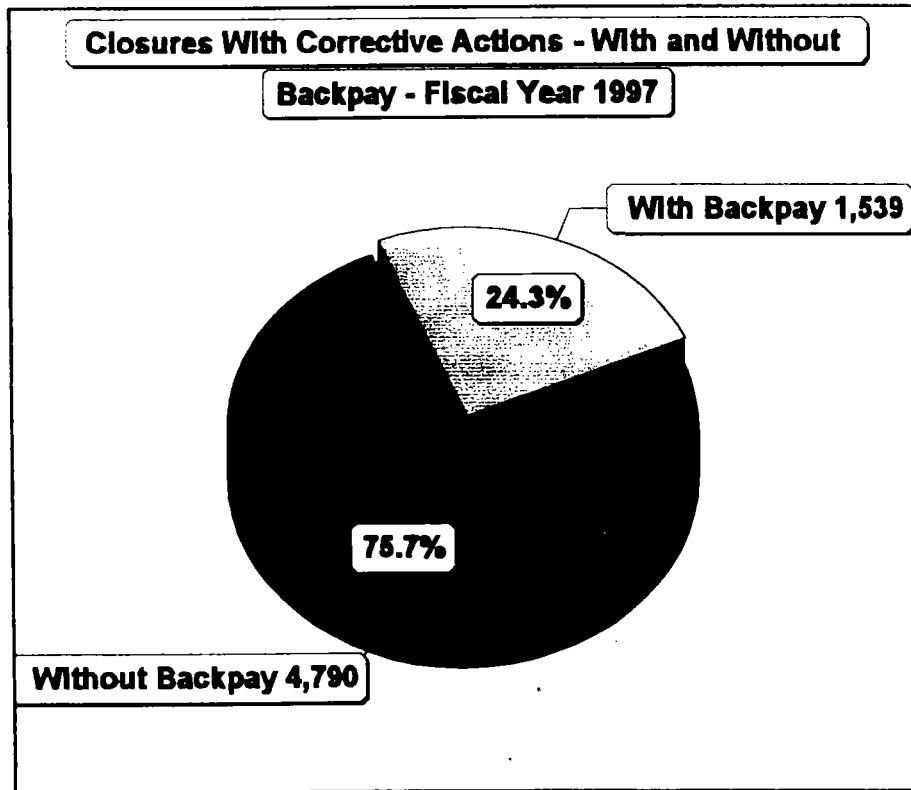


Figure 15

Figure 16 below shows the dollar amounts awarded in federal sector closures from FY 1994 through FY 1997.

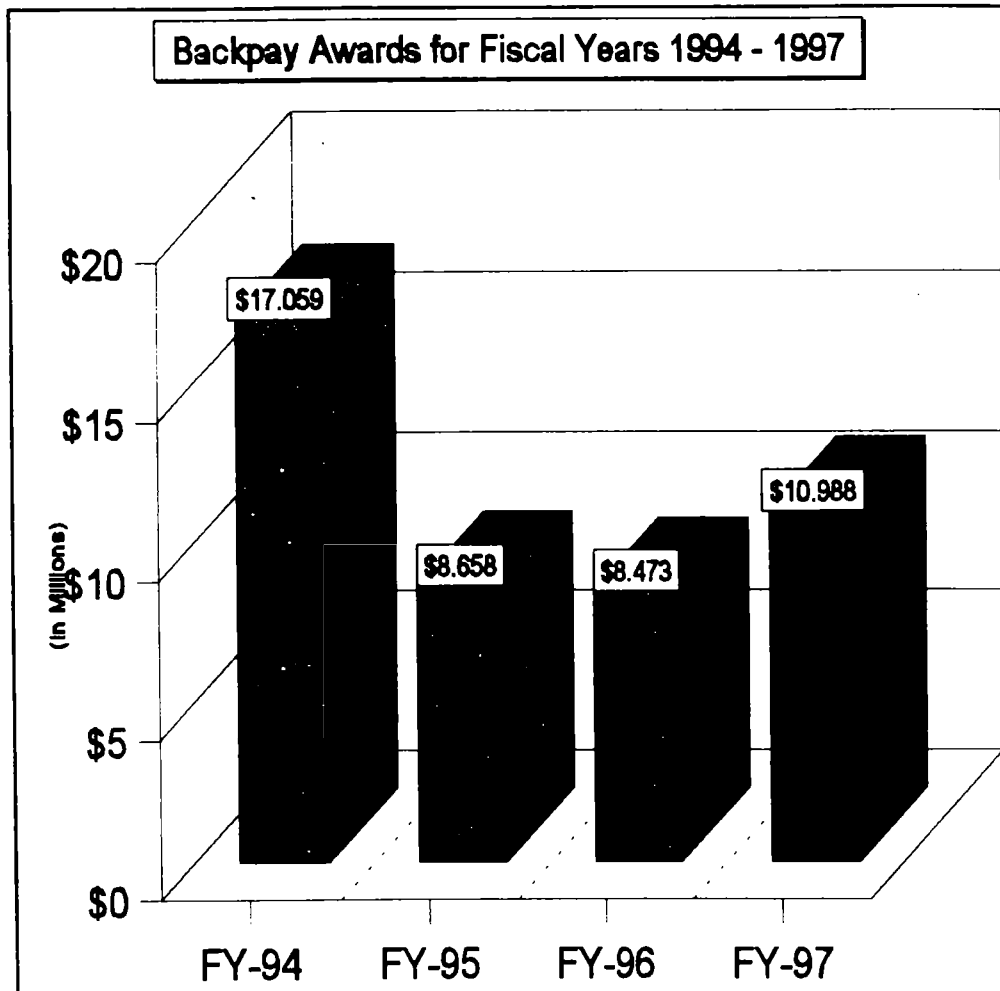


Figure 16

3. COMPENSATORY DAMAGES AWARDED

Compensatory damages are awarded to compensate a complainant for loss or suffering incurred due to the discriminatory conduct. Damages are authorized only in cases of intentional discrimination.

In FY 1997, twenty (or 21.3%) Federal agencies reported the award of compensatory damages. Table IV(B) (pages T-31 through T-33) shows compensatory damages awarded by agency and government wide.

Compensatory damages awards totaled \$3,723,873, in FY 1997.

4. ATTORNEY'S FEES AND COSTS

Figure 17 below shows the dollar amounts awarded in Federal sector closures with attorney's fees and costs awarded from FY 1994 through FY 1997.

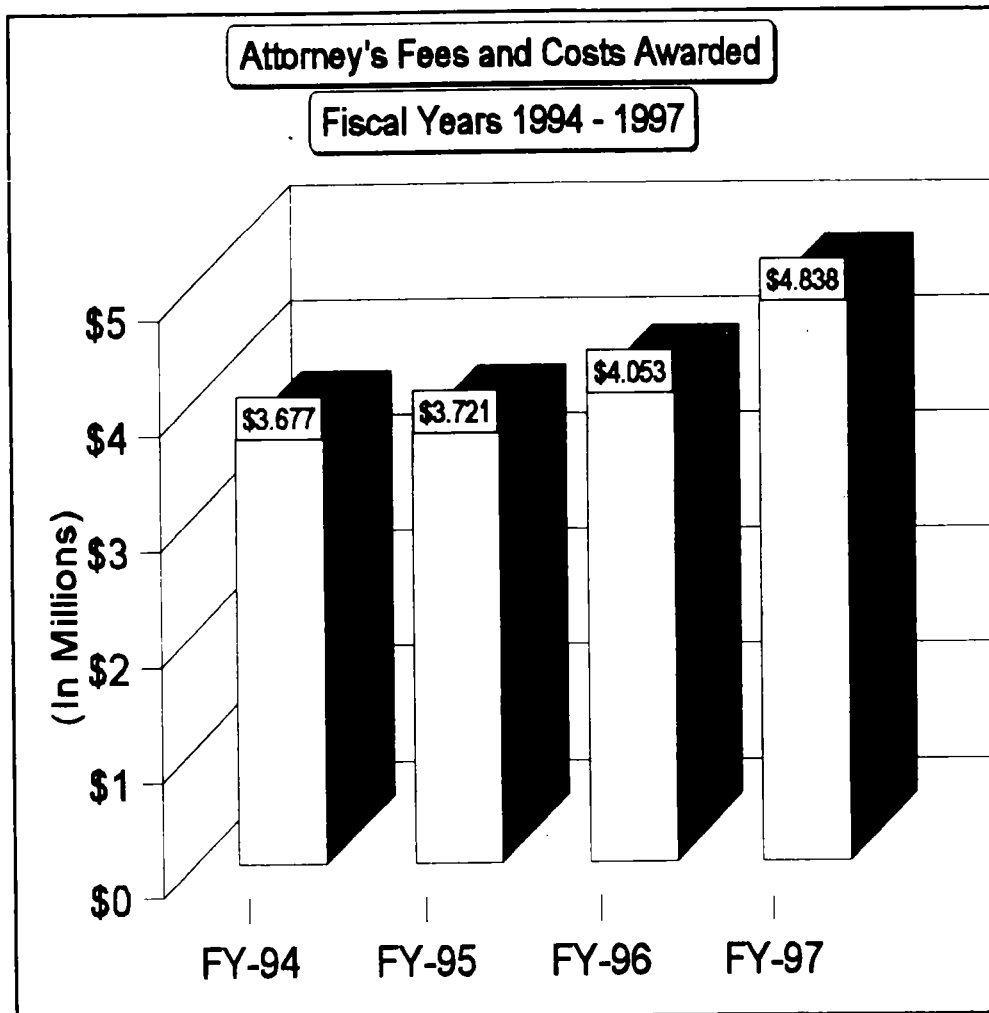


Figure 17

F. FEDERAL EEO CASES CLOSED BY STATUTE

The Commission enforces the following statutes:

- *Title VII of the Civil Rights Act of 1964*, as amended, which prohibits employment discrimination based on race, color, sex, religion and national origin;
- *Age Discrimination in Employment Act of 1967 (ADEA)*, which protects persons 40 years of age or older;
- *Equal Pay Act of 1963 (EPA)*, which prohibits discrimination in pay/wages because of sex; and
- *Section 501 of the Rehabilitation Act of 1973*, which prohibits discrimination in the Federal sector against persons with mental or physical disabilities.

There were 36,535 statutory bases alleged in EEO complaints closed in FY 1997: 67.4% were *Title VII* allegations, 16.1% *ADEA* allegations, 16% *Section 501 of the Rehabilitation Act* allegations and 0.5% were *EPA* allegations. There were 172 *EPA* closures reported in FY 1997; this was 55 more than in FY 1996.

Figure 18 below shows the number and percent of Federal sector closures by statute in FY 1997.

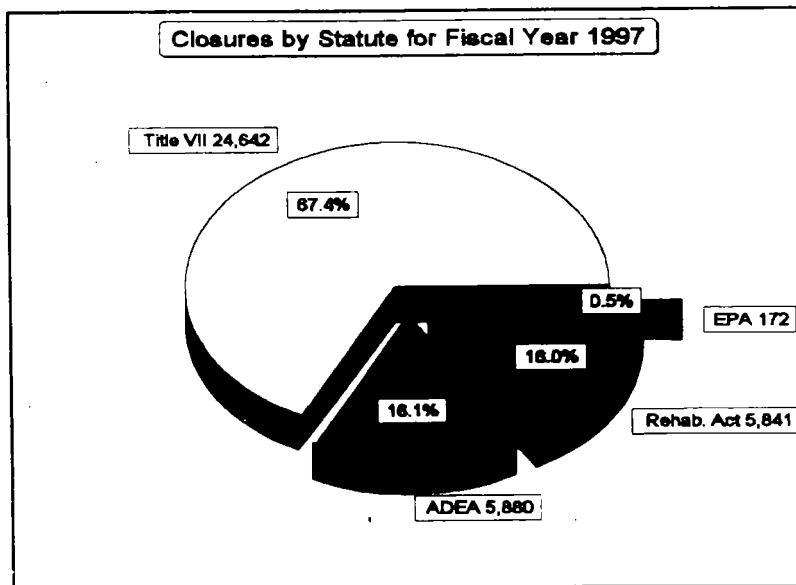


Figure 18

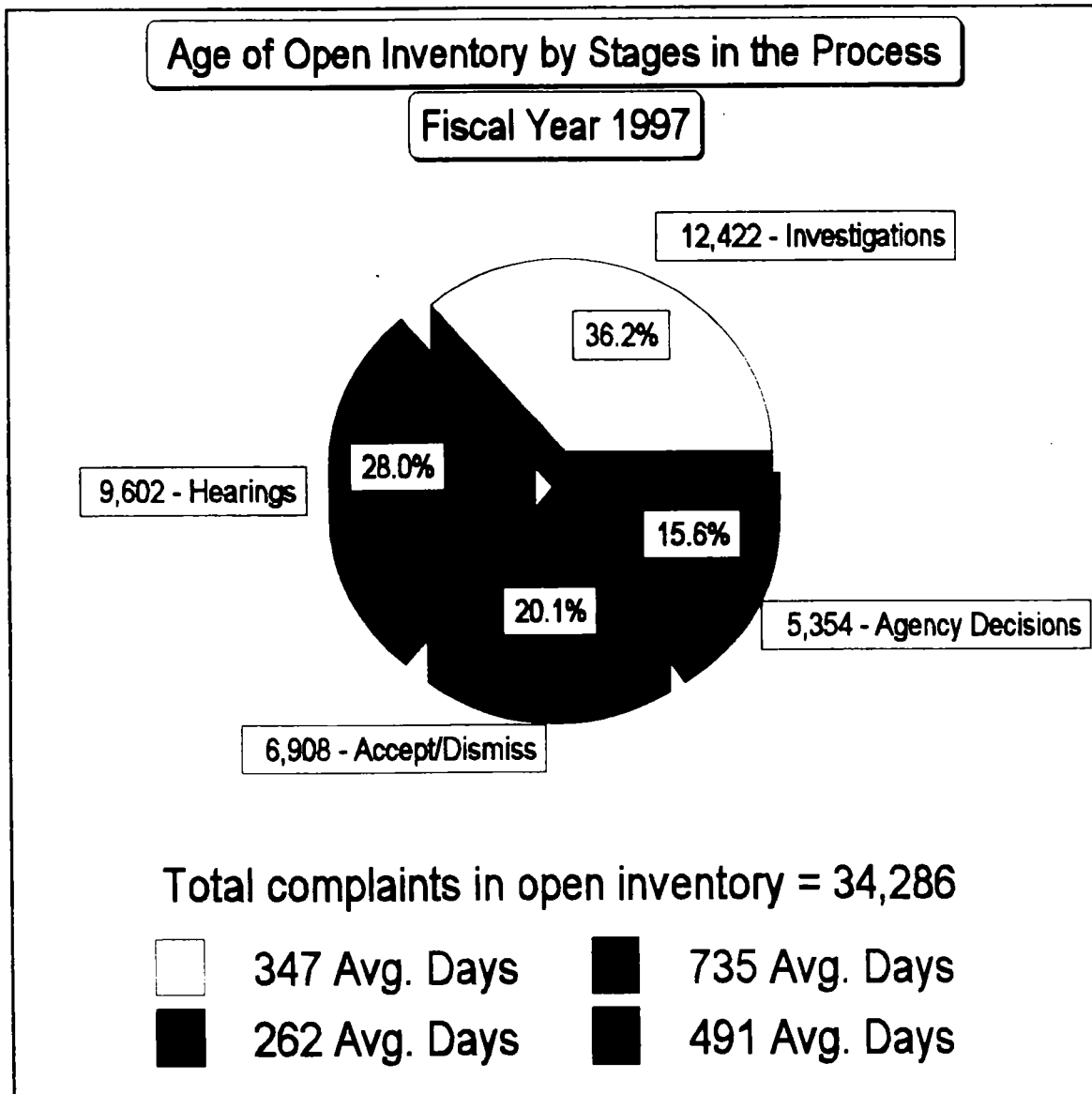


Figure 19

SECTION VI

EEOC HEARINGS PROGRAM ACTIVITY

A. EEOC HEARINGS PROGRAM PROCEDURES

The Federal sector EEO complaint processing procedures provide that a complainant has the right to an agency decision with or without a hearing. The regulations in 29 C.F.R. Part 1614 provide that the Federal complainant has up to 30 calendar days to request a hearing after receipt of the agency's investigative file.

The Federal EEO hearing process is conducted by EEOC AJs who are located in EEOC District Offices and the Washington Field Office. *EEOC Management Directive 110, Federal Sector Complaint Processing Manual*, sets forth the procedures for requesting an EEOC AJ to conduct a hearing on an individual complaint of discrimination, and to recommend acceptance/dismissal of a class complaint, or to hold a hearing on a class complaint. All agency requests are transmitted directly to the appropriate EEOC District Office having geographic jurisdiction over the agency's organizational component where the complaint arose. See the listing for EEOC offices and their geographic jurisdictions on pages 53-58.

After a hearing is conducted, the EEOC AJ issues recommended findings of fact and conclusions of law, either finding discrimination or finding no discrimination, to the agency where the complaint originated. The AJ may, after giving appropriate notice, issue findings of fact and conclusions of law without a hearing in cases where there are no genuine issues of material fact in dispute. The agency, in making its final decision, has the option of accepting, rejecting, or modifying the AJ's recommended findings and conclusions.

The information on actions taken on EEOC AJs' recommended decisions, by agencies during the FY 1997 reporting period, can be found in Table V(A) (pages T-37 through T-39).

B. HEARINGS PROGRAM RECEIPTS AND RESOLUTION ACTIVITIES

1. SUMMARY OF HEARINGS PROGRAM RECEIPTS

The Commission's hearings units nationwide received a total of 11,198 requests for hearings during FY 1997. This was 521 more than the 10,677 requests received in FY 1996.

Figure 20 below shows the trend from FY 1994 through FY 1997 for EEOC hearings program receipts.

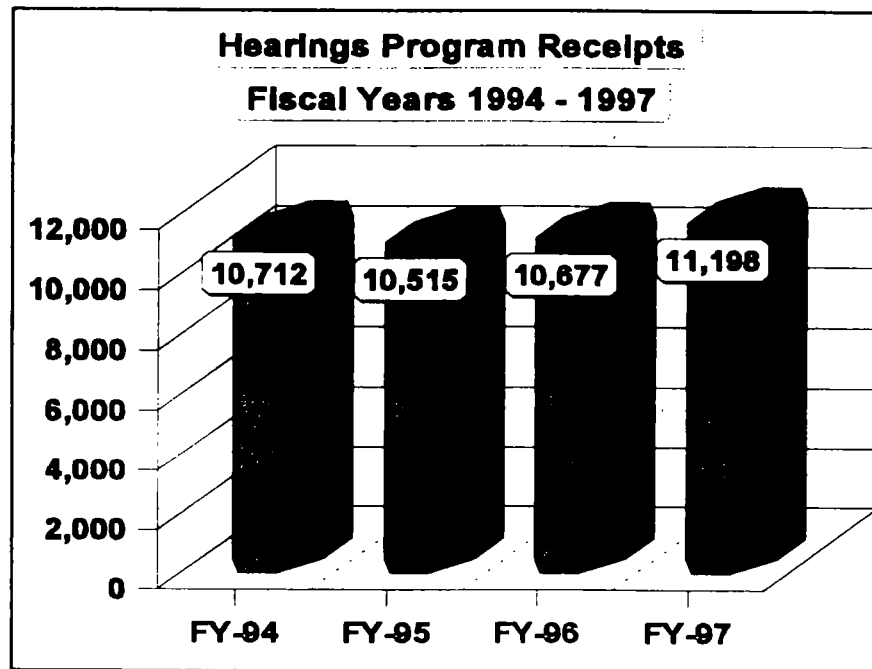


Figure 20

2. SUMMARY OF HEARINGS PROGRAM RESOLUTIONS

The number of EEOC hearings resolutions increased in FY 1997. Complaints in the hearings program nationwide were resolved by the following methods during FY 1997:

- Recommended Findings of Fact and Conclusions of Law
- Remands
- Settlements
- Withdrawals

The hearings resolutions included individual and class cases.

During FY 1997 recommended findings and conclusions were 35.2% of all hearings resolutions.

Settlements were 31.1% of FY 1997 hearing resolutions, remands were 15.5%, and withdrawals were 15.2%. Administrative closures were 3.1% of the total hearings resolutions. Individual complaints were 99.3% of the hearings resolutions, and the remaining 0.7% were class cases.

Figure 21 below shows the number of hearings resolutions in individual cases by category, i.e., recommended findings and conclusions of discrimination and no discrimination, settlements, withdrawals, remands and administrative closures.

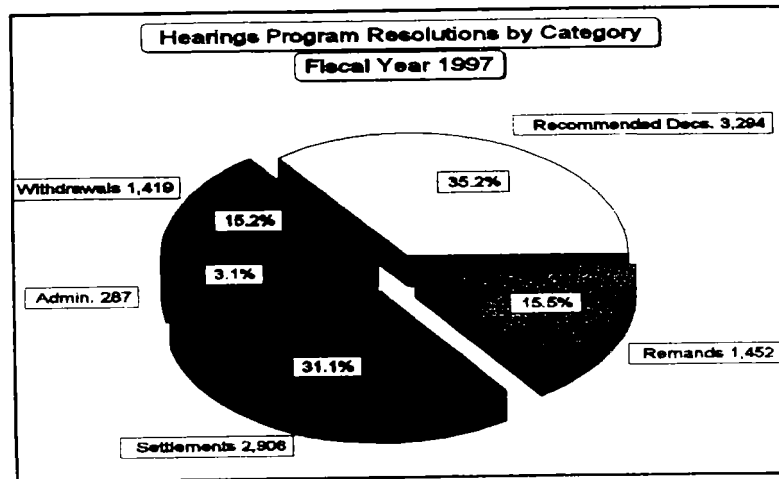


Figure 21

Figure 22 below shows the number of hearings resolutions by type, i.e., individual and class complaints, in FY 1997.

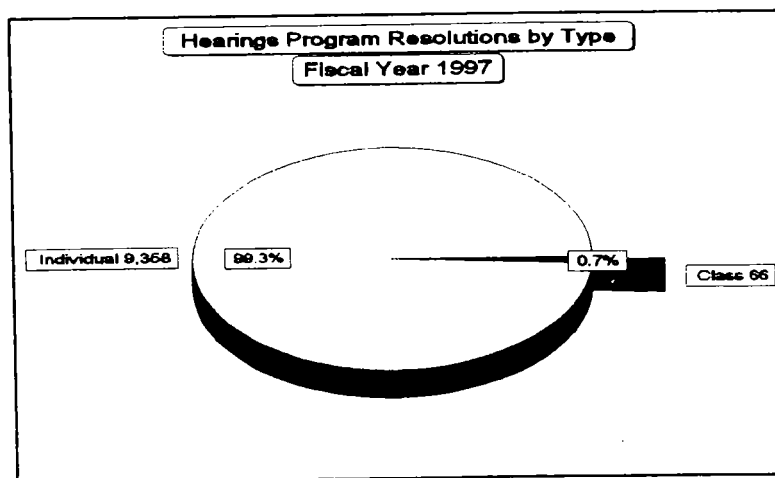


Figure 22

Nationwide, hearings program AJ's issued 3,294 recommended findings and conclusions, i.e., written, bench and record decisions finding discrimination and no discrimination in FY 1997 compared with 2,962 in FY 1996. This represents a 11.2% increase in the total recommended findings of fact and conclusions of law issued in FY 1997.

Figure 23 below shows the distribution by number and percent of recommended decisions issued by category in FY 1997.

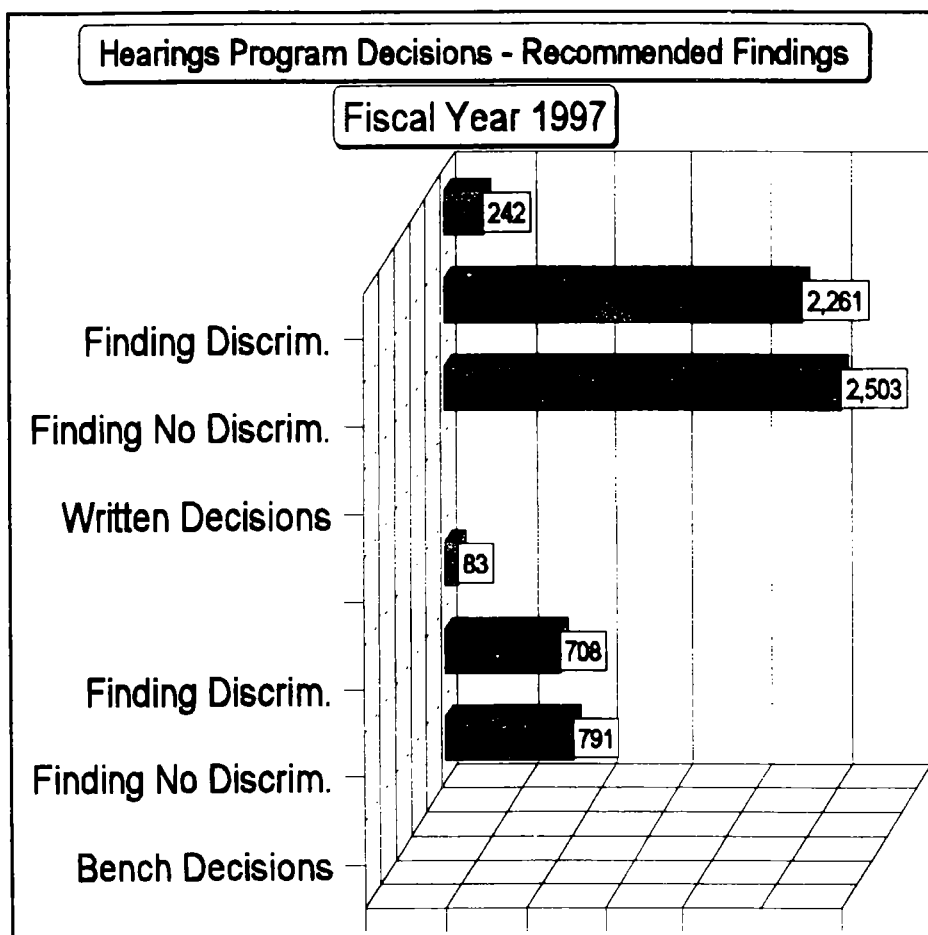


Figure 23

Figure 24 below shows the trend for EEOC hearings program closures nationwide from FY 1994 through FY 1997.

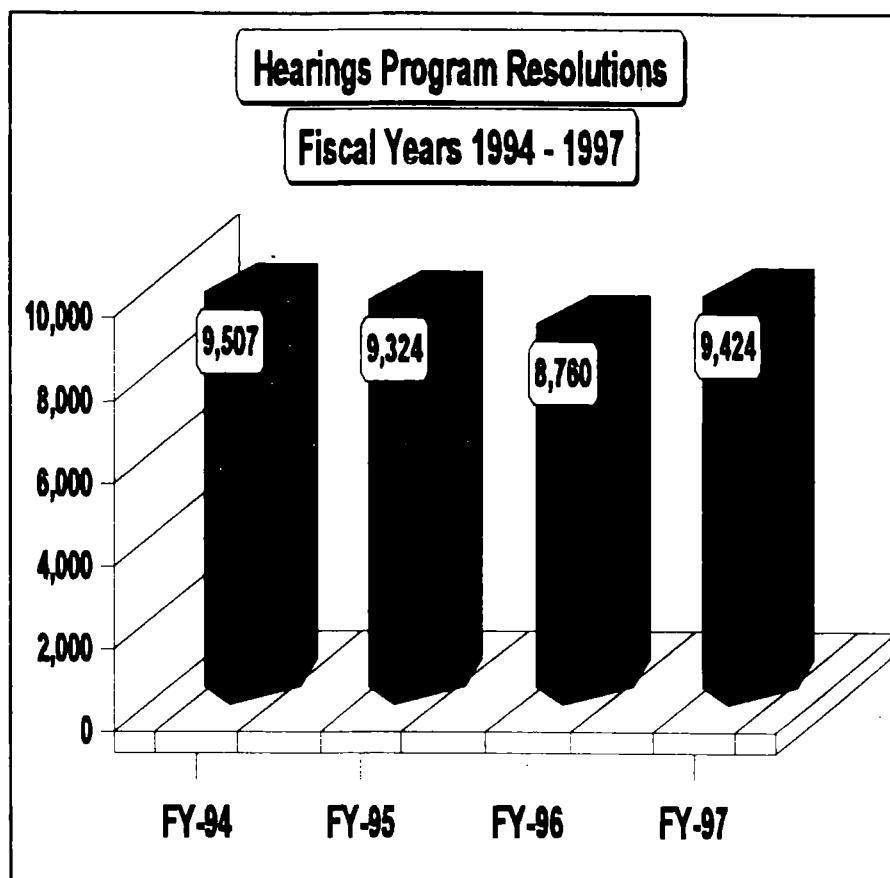


Figure 24

3. SUMMARY OF HEARINGS PROGRAM PENDING INVENTORY

The EEOC hearings program had a total of 10,016 cases pending in the inventory nationwide at the end of FY 1997.

The table on the next page shows the trend for the hearings program workload. The pending inventory was derived by adding cases pending at the beginning of the fiscal year to receipts and transfers, and subtracting the resolutions for the fiscal years from FY 1994 through FY 1997.

**Hearings Program Pending Inventory
at the End of Fiscal Years
1994 Through 1997**

Fiscal Year	Receipts	Closures	Pending Inventory
1994	10,712	9,507	5,177
1995	10,515	9,324	6,367
1996	10,677	8,760	8,275
1997	11,198	9,424	10,016

C. EEOC ADMINISTRATIVE JUDGES' AVERAGE PRODUCTION AND AVERAGE PROCESSING TIME

The EEOC nationwide hearings program received 11,198 requests for hearings in FY 1997. The Commission's AJs processed cases, on average, in 277 days throughout this fiscal year. The production rate per AJ was 124.6 cases in FY 1997 compared with 116.9 in FY 1996. This was an increase of 6.6% in the AJs' gross productivity during FY 1997.

The table below shows the Commission hearings program accomplishments from FY 1994 through FY 1997. Note that staff available is the number of AJs that are actively conducting hearings.

**Hearings Program Accomplishments
Fiscal Years 1994 Through 1997**

FISCAL YEAR	AVERAGE DAYS		
	Average Processing Time in Days	Total Number of AJs Available	Average Number of Resolutions Per AJ
1994	154	76.5	124.3
1995	187	76.7	121.5
1996	234	74.9	116.9
1997	277	75.6	124.6

D. AGENCY POST-HEARING ACTIONS ON EEOC ADMINISTRATIVE JUDGES' RECOMMENDED FINDINGS AND CONCLUSIONS

An agency may accept, modify, or reject the EEOC AJs' recommended findings of fact and conclusions of law. The tables on the following page show the actions taken by agencies on recommended decisions of discrimination and no discrimination from the EEOC AJs government wide from FY 1994 through FY 1997.

EEOC Administrative Judges' Recommended Findings of Discrimination to Agencies

FISCAL YEAR	ACCEPT		MODIFY		REJECT		TOTAL
	No.	Percent	No.	Percent	No.	Percent	
1994	119	41.2	33	11.4	137	47.4	289
1995	107	45.0	39	16.4	92	38.7	238
1996	101	35.6	5	1.8	178	62.7	284
1997	90	33.1	7	2.6	175	64.3	272

EEOC Administrative Judges' Recommended Findings of No Discrimination to Agencies

FISCAL YEAR	ACCEPT		MODIFY		REJECT		TOTAL
	No.	Percent	No.	Percent	No.	Percent	
1994	2,352	83.1	69	2.8	19	0.7	2,440
1995	1,747	96.9	46	2.6	9	0.5	1,802
1996	2,739	97.9	56	2.0	4	0.1	2,799
1997	2993	97.7	56	1.8	14	0.5	3,063

**E. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION DISTRICT OFFICES
AND GEOGRAPHIC JURISDICTIONS**

ALBUQUERQUE DISTRICT OFFICE

EEOC

505 Marquette, NW, Suite 900
Albuquerque, New Mexico 87102

Geographic Jurisdiction: State of New Mexico

ATLANTA DISTRICT OFFICE

EEOC

100 Alabama Street, NW, Suite 4R30
Atlanta, Georgia 30202

Geographic Jurisdiction: State of Georgia

BALTIMORE DISTRICT OFFICE

EEOC

City Crescent Building
10 South Howard Street, 3rd Floor
Baltimore, Maryland 21201

Geographic Jurisdiction: States of Maryland and Virginia (except for those Virginia cities and counties under the jurisdiction of the Washington Field Office). See Page 59 for the Virginia cities and counties under the Washington Field Office jurisdiction.

BIRMINGHAM DISTRICT OFFICE

EEOC

1900 3rd Avenue, North, Suite 101
Birmingham, Alabama 35203-2397

Geographic Jurisdiction: States of Alabama and Mississippi

CHARLOTTE DISTRICT OFFICE

EEOC

129 West Trade Street, Suite 400
Charlotte, North Carolina 28202

Geographic Jurisdiction: States of North Carolina and South Carolina

CHICAGO DISTRICT OFFICE

EEOC

500 West Madison Street, Suite 2800
Chicago, Illinois 60661

Geographic Jurisdiction:

State of Illinois except Alexander, Bond, Calhoun, Clinton, Greene, Jackson, Jersey, Macoupin, Madison, Monroe, Perry, Pulaski, Randolph, St. Clair, Union, and Washington (which are under the jurisdiction of the St. Louis District Office).

CLEVELAND DISTRICT OFFICE

EEOC

1660 West Second Street, Suite 850
Cleveland, Ohio 44113-1454

Geographic Jurisdiction:

State of Ohio

DALLAS DISTRICT OFFICE

EEOC

207 S. Houston Street, 3rd Floor
Dallas, Texas 75202-4726

Geographic Jurisdiction:

States of Oklahoma and Texas counties of:

Anderson, Archer, Armstrong, Baylor, Bell, Bosque, Bowie, Brown, Callahan, Camp, Carson, Cass, Cherokee, Clay, Coleman, Collin, Collingsworth, Comanche, Cooke, Coryell, Dallas, Dallam, Deaf Smith, Delta, Denton, Donley, Eastland, Ellis, Erath, Falls, Fannin, Fisher, Franklin, Freestone, Gray, Grayson, Gregg, Hamilton, Hansford, Harrison, Hartley, Hemphill, Henderson, Hill, Hood, Hopkins, Houston, Hunt, Hutchinson, Jack, Johnson, Jones, Kaufman, Lamar, Lampasas, Leon, Limestone, Lipscomb, McLennan, Madison, Marion, Milam, Mills, Montague, Moore, Morris, Nacogdoches, Navarro, Nolan, Ochiltree, Oldham Potter, Palo Pinto, Panola, Parker, Rains, Randall, Red River, Roberts, Robertson, Rockwall, Runnels, Rusk, Shackelford, Shelby, Sherman, Smith, Somervell, Stephens, Tarrant, Taylor, Throckmorton, Titus, Upshur, Van Zandt, Wheeler, Wichita, Wilbarger, Wise, Wood, and Young.

DENVER DISTRICT OFFICE

EEOC

303 E. 17th Avenue, Suite 510
Denver, Colorado 80203

Geographic Jurisdiction:

States of Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming.

DETROIT DISTRICT OFFICE

EEOC

477 Michigan Avenue, Room 865
Detroit, Michigan 48226-9704

Geographic Jurisdiction: State of Michigan

HOUSTON DISTRICT OFFICE

EEOC

1919 Smith Street, 7th Floor
Houston, Texas 77002

Geographic Jurisdiction: State of Texas, counties of:

Angelina, Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Grimes, Hardin, Harris, Jasper, Jefferson, Liberty, Matagorda, Montgomery, Newton, Orange, Polk, Sabine, San Augustine, San Jacinto, Trinity, Tyler, Walker, Waller, and Wharton.

INDIANAPOLIS DISTRICT OFFICE

EEOC

101 W. Ohio Street, Suite 1900
Indianapolis, Indiana 46204-4203

Geographic Jurisdiction: States of Indiana and Kentucky

LOS ANGELES DISTRICT OFFICE

EEOC

255 E. Temple, 4th Floor
Los Angeles, California 90012

Geographic Jurisdiction: States of Nevada and California counties of:

Imperial, Los Angeles, Orange, Riverside, San Bernadino, Santa Barbara, San Diego, San Luis Obispo, Ventura.

MEMPHIS DISTRICT OFFICE

EEOC

1407 Union Avenue, Suite 621
Memphis, Tennessee 38104

Geographic Jurisdiction: States of Arkansas and Tennessee

MIAMI DISTRICT OFFICE

EEOC

One Biscayne Tower, Suite 2700
2 South Biscayne Boulevard
Miami, Florida 33131

Geographic Jurisdiction: State of Florida and Panama Canal Zone

MILWAUKEE DISTRICT OFFICE

EEOC

310 West Wisconsin Avenue, Suite 800
Milwaukee, Wisconsin 53203-2292

Geographic Jurisdiction: States of Iowa, Minnesota and Wisconsin

NEW ORLEANS DISTRICT OFFICE

EEOC

701 Loyola Avenue, Suite 600
New Orleans, Louisiana 70113-9936

Geographic Jurisdiction: State of Louisiana

NEW YORK DISTRICT OFFICE

EEOC

7 World Trade Center, 18th Floor
New York, New York 10048-1102

Geographic Jurisdiction: States of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, Vermont, the Commonwealth of Puerto Rico and the U.S. Virgin Islands.

PHILADELPHIA DISTRICT OFFICE

EEOC

The Bourse
21 S Fifth Street, Suite 400
Philadelphia, Pennsylvania 19106-2515

Geographic Jurisdiction: States of Delaware, New Jersey, Pennsylvania, and West Virginia

PHOENIX DISTRICT OFFICE

EEOC

3500 N. Central Avenue
Suite 690
Phoenix, Arizona 85012-2504

Geographic Jurisdiction: States of Arizona, New Mexico, and Utah

ST. LOUIS DISTRICT OFFICE

EEOC

Robert A. Young Federal Building
1222 Spruce Street, Room 8.100
St. Louis, Missouri 63103

Geographic Jurisdiction:

States of Kansas, Missouri, and Illinois counties of:

Alexander, Bond, Calhoun, Clinton, Greene, Jackson,
Jersey, Macoupin, Madison, Monroe, Perry, Pulaski,
Randolph, St. Clair, Union, Washington.

SAN ANTONIO DISTRICT OFFICE

EEOC

5410 Fredericksburg Road, Suite 200
San Antonio, Texas 78229-3555

Geographic Jurisdiction:

State of Texas, counties of:

Andrews, Aransas, Arkansas, Atascosa, Bailey, Bandera,
Bastrop, Bee, Bexar, Blanco, Borden, Brazos, Brewster,
Briscoe, Brooks, Burleson, Burnet, Caldwell, Calhoun,
Cameron, Castro, Childress, Cochran, Coke, Comal,
Concho, Crosby, Crockett, Cottle, Crane, Culberson,
Dawson, De Witt, Dickens, Dimmit, Duval, Ector,
Edwards, El Paso, Fayette, Floyd, Foard, Frio, Gaines,
Garza, Gillespie, Glasscock, Goliad, Gonzales, Guadalupe,
Hale, Hall, Hardeman, Hartley, Haskell, Hays, Hidalgo,
Hockley, Howard, Hudspeth, Irion, Jackson, Jeff Davis,
Jim Hogg, Jim Wells, Karnes, Kendall, Kenedy, Kent, Kerr,
Kimble, King, Kinney, Kleberg, Knox, Lamb, La Salle,
Lavaca, Lee, Live Oak, Llano, Loving, Lynn, Lubbock,
McCulloch, McMullen, Martin, Mason, Maverick, Medina,
Menard, Midland, Mitchell, Moore, Motley, Nueces,
Parmer, Pecos, Presidio, Reagan, Real, Reeves, Refugio,
San Particio, San Saba, Schleicher, Scurry, Starr, Sterling,
Stonewall, Sutton, Swisher, Terrell, Terry, Tom Green,
Travis, Upton, Uvalde, Val Verde, Victoria, Ward,
Washington, Webb, Willacy, Williamson, Wilson, Winkler,
Yoakum, Zapata, and Zavala.

SAN FRANCISCO DISTRICT OFFICE

EEOC

901 Market Street, Suite 500
San Francisco, California 94103

Geographic Jurisdiction:

Samoa, Guam, Northern Mariana Islands, Wake Island, the state of Hawaii and California counties of:

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Kern, Kings, Lake, Lassen, Madera, Manpossa, Marin, Mendocino, Mered, Modoc, Mono, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba.

(Hearings in Far East).

SEATTLE DISTRICT OFFICE

EEOC

909 First Avenue, Suite 400
Seattle, Washington 98104-1061

Geographic Jurisdiction:

States of Alaska, Idaho, Oregon, and Washington

WASHINGTON FIELD OFFICE

EEOC

1400 L Street, NW, Suite 200
Washington, D.C. 20005

Geographic Jurisdiction:

The District of Columbia and Virginia counties of:

Arlington, Clarke, Fairfax, Fauquier, Frederick, Loudoun, Prince William, Stafford, Warren, and Virginia independent cities of Alexandria, Fairfax City, Falls Church, Manassas, Manassas Park and Winchester. (Hearings in Europe).

SECTION VII

EEOC APPELLATE PROGRAMS ACTIVITY

A. BACKGROUND

The EEOC, Office of Federal Operations (OFO), Appellate Review Programs (ARP), is responsible for adjudicating appeals of administrative decisions issued by agencies on equal employment opportunity (EEO) discrimination complaints in the Federal sector. The information in this section of the report analyzes the processing of federal sector employment discrimination cases at the appellate stage of the EEO complaint process. EEOC regulations governing the Federal sector appeals process are set forth in 29 C.F.R. §1614.401-407.

B. APPELLATE REVIEW PROGRAMS

1. THE APPELLATE REVIEW PROCEDURES

After the agency issues the final decision, or the decision is issued in the final stages of the negotiated grievance procedure, the complainant has 30 calendar days from the date of receipt of the final decision to file a notice of appeal with the Commission. If a complainant does not file an appeal within the required time limit, the appeal will be untimely and shall be dismissed by the Commission.

When OFO receives an appeal, it is assigned a docket number, matched with its corresponding agency case file, and assigned to a writing attorney for review in one of the three appellate divisions. The three divisions comprising the Appellate Review Programs process appeals from administrative decisions made by Federal agencies on complaints of employment discrimination. They also process petitions for review of decisions of the Merit Systems Protection Board (MSPB) and appeals from arbitration decisions involving allegations of unlawful employment discrimination. Additionally, these divisions provide information to federal employees and agencies on EEO matters and ensure that Federal agencies comply with orders contained in Commission decisions.

An Appellate Review Programs attorney reviews the case file de novo, prepares an analysis of the facts in light of applicable statutes, regulations, case law, and policy statements, and prepares a memorandum decision that sets forth the reasons for the decision.

The Commission decision on an appeal becomes final, unless a party requests reconsideration within 30 days of receiving the initial decision. The Commission may either reconsider a case on its own motion, or may do so if one of three criteria is satisfied: (1) new and material evidence is available that was not readily available when the previous decision was issued; (2) the previous decision involved an incorrect interpretation of law, regulation or material fact, or misapplication of

established policy; (3) the decision is of such exceptional nature as to have substantial precedential implications. The Commission's decision on a request for reconsideration is the final step in the federal administrative appellate process. The decisions on appeal also may establish remedies, if appropriate. A decision on an appeal is binding on both the agency and the appellant. Aggrieved persons seeking further redress must after that file a civil suit in the appropriate Federal district court.

2. TYPES OF DECISIONS

- (a) **01 Decisions** (Appeals from final agency decisions)
 - (1) the agency's final decision to dismiss all or part of the complaint;
 - (2) the agency's decision with respect to a settlement agreement previously entered into;
 - (3) the agency's decision on the merits of a complaint of discrimination; and
 - (4) the agency's decision on the award of back pay and benefits, including attorney's fees.
- (b) **02 Decisions** (Appeals from decisions on grievances)
 - (1) the agency's decision on issues of employment discrimination raised in a negotiated grievance procedure;
 - (2) the arbitrator's decision on issues of employment discrimination raised in a grievance proceeding;
 - (3) the decision of the Federal Labor Relations Authority (*FLRA*) on exceptions to the arbitrator's award.⁷
- (c) **03 Decisions** (Petitions for review of *MSPB* decisions)
- (d) **04 Decisions** (Petitions for enforcement of Commission final decisions and petitions for clarification of Commission final decisions)
- (e) **05 Decisions** (Requests to reconsider previous Commission decisions)

6 29 C.F.R. §1614.401(c). However, a grievant may not appeal a matter raised in a negotiated grievance procedure when such matter is still ongoing in that process, is in arbitration, is before the FLRA, is appealable to the *MSPB* or if 5 U.S.C. 712(d) is inapplicable to the involved agency. Any appeals prematurely filed in such circumstances shall be dismissed without prejudice.

C. APPELLATE INVENTORY

1. APPELLATE RECEIPTS

The ARP received 8,453 requests for a review of final decisions in FY-97, which was 452 more than the 8,001 requests for appeals received in FY-96.

The largest number of receipts was 01 decisions (appeals of agency decisions). The number and percent of appellate receipts by type of cases are provided in the table below.

**Types of Appellate Receipts for Review
by Type of Decision
Fiscal Year - 1997**

TYPE OF CASE	RECEIPTS	
	Number	Percent
Appeals (Agency Decisions) - 01	7,112	84.1
Appeals (Grievances) - 02	27	0.3
Petitions (MSPB Decisions) - 03	169	2.1
Petitions (Enforcement and Clarification) - 04	26	0.3
Requests (for Reconsideration) - 05	1,119	13.2
TOTAL	8,453	100

The Commission received the largest number of appellate receipts from the Department of Defense (Consolidated), Departments of the Air Force, Army, Navy, Treasury and Veterans Affairs, Social Security Administration, and the United States Postal Service.

Figure 25 below shows the number and percent of receipts from the agencies with the largest number of appealed decisions. The remaining agencies not listed are shown under the category of other.

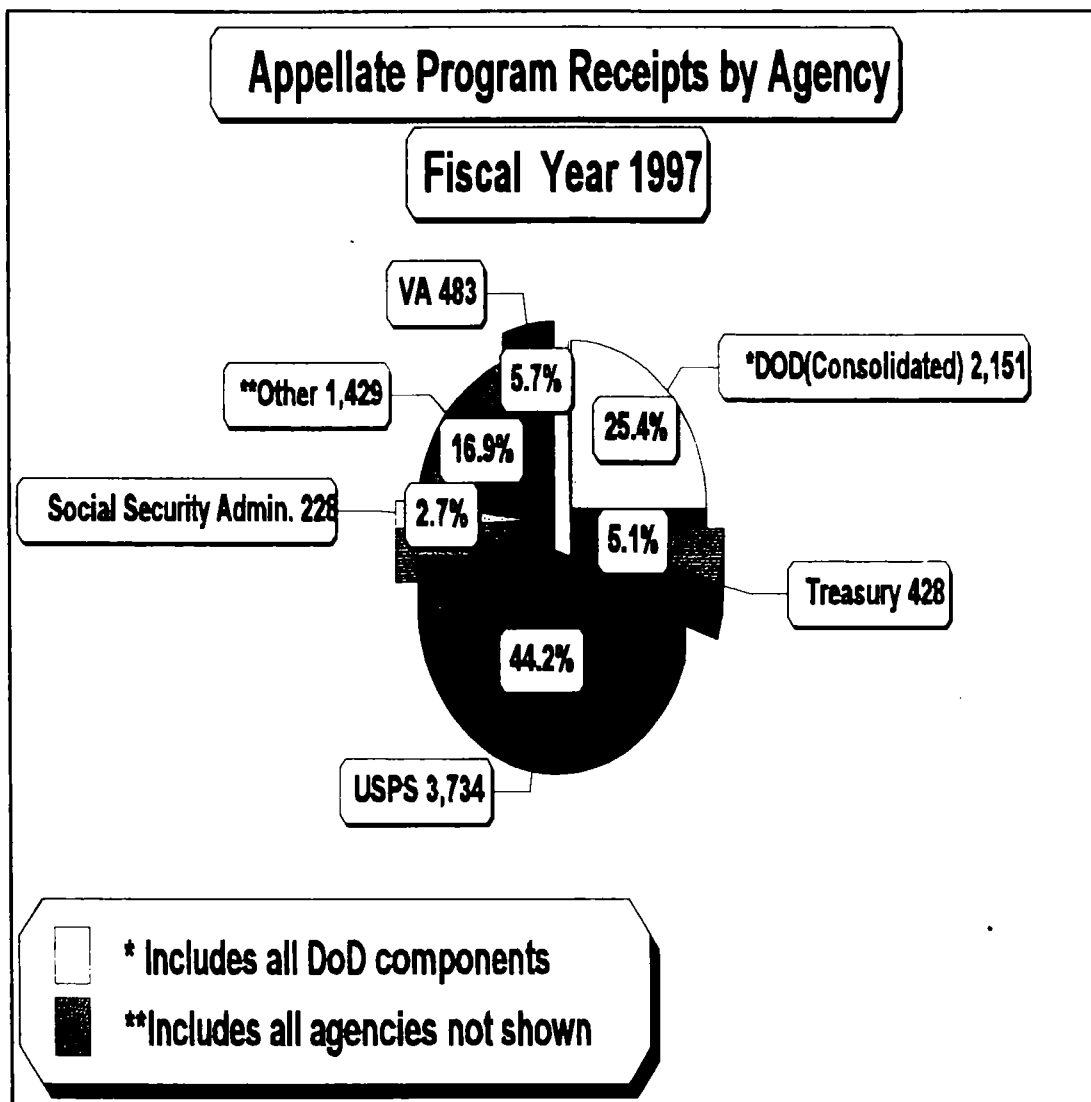


Figure 25

2. APPELLATE CLOSURES

Appellate review staff closed a total of 6,850 cases in FY 1997. This was 727 more cases than the 6,123 cases closed in FY 1996. The number and percent of appellate closures by type of case are shown in the table below.

Types of Appellate Cases Closed
Fiscal Year - 1997

TYPE OF CASE	CLOSURES	
	Number	Percent
Appeals (Agency Decisions) - 01	5,946	86.8
Appeals (Grievances) -02	12	0.2
Petitions (MSPB Decisions) -03	157	2.3
Petitions (Enforcement and Clarification) - 04	30	0.4
Requests (for Reconsideration) - 05	705	10.3
TOTAL	6,850	100

Most of the appellate closures were from the following agencies: Departments of the Air Force, Army, Navy, Treasury and Veterans Affairs, and the United States Postal Service. The closures for these agencies account for 75.4% of all the appeals closed in FY1997. Table VII (pages T-52 through T-54) shows the number of appeals received and closed by the Commission by agency and government wide in FY 1997.

Figure 26 below shows the number and percent of the closures by agencies with the largest number of requests closed by the Appellate Review Program in FY 1997.

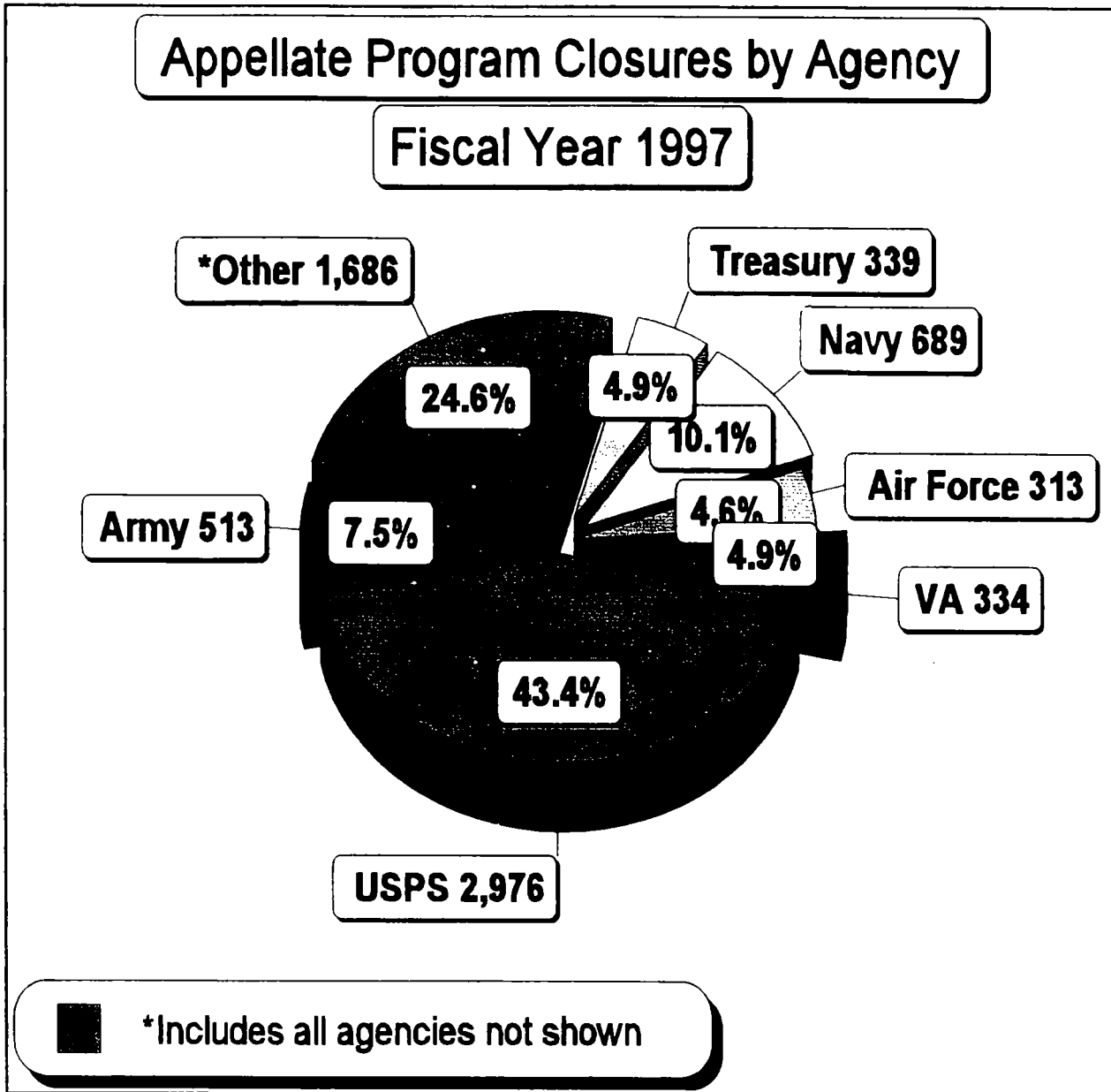


Figure 26

3. AVERAGE PROCESSING TIME FOR APPELLATE REVIEW

The average processing time for appeal requests in the Federal sector was 375 days in FY-97. *Figure 27* below shows the average processing time in days for all appeals closed during Fiscal Years 1994 through 1997.

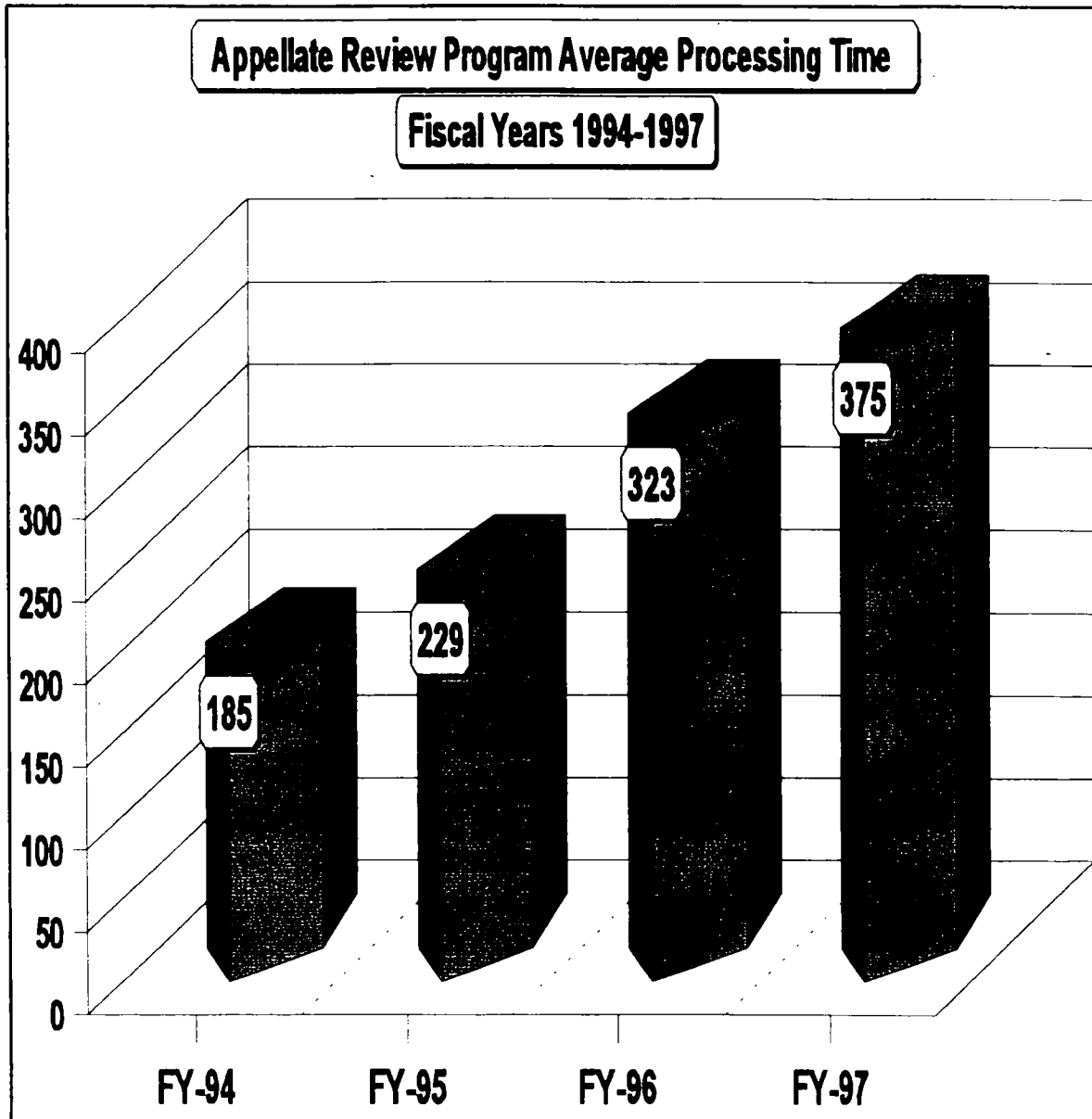


Figure 27

4. APPELLATE PENDING INVENTORY AND AGE OF ENDING INVENTORY

At the end of FY 1997, there were 9,980 appellate cases pending in the inventory. The number pending 1 to 100 days was 2,180; the number pending 101 to 200 days was 2,016; the number pending 201 to 300 days was 1,842; the number pending 301 to 365 days was 1,003 and there were 2,939 appeals that were pending more than 365 days. In addition, the appeals data show that the average case age during this period was 285.2 days.

Figure 28 below shows the trend by number of appeals that were pending in the appellate inventory at the end of Fiscal Years 1994 through 1997.

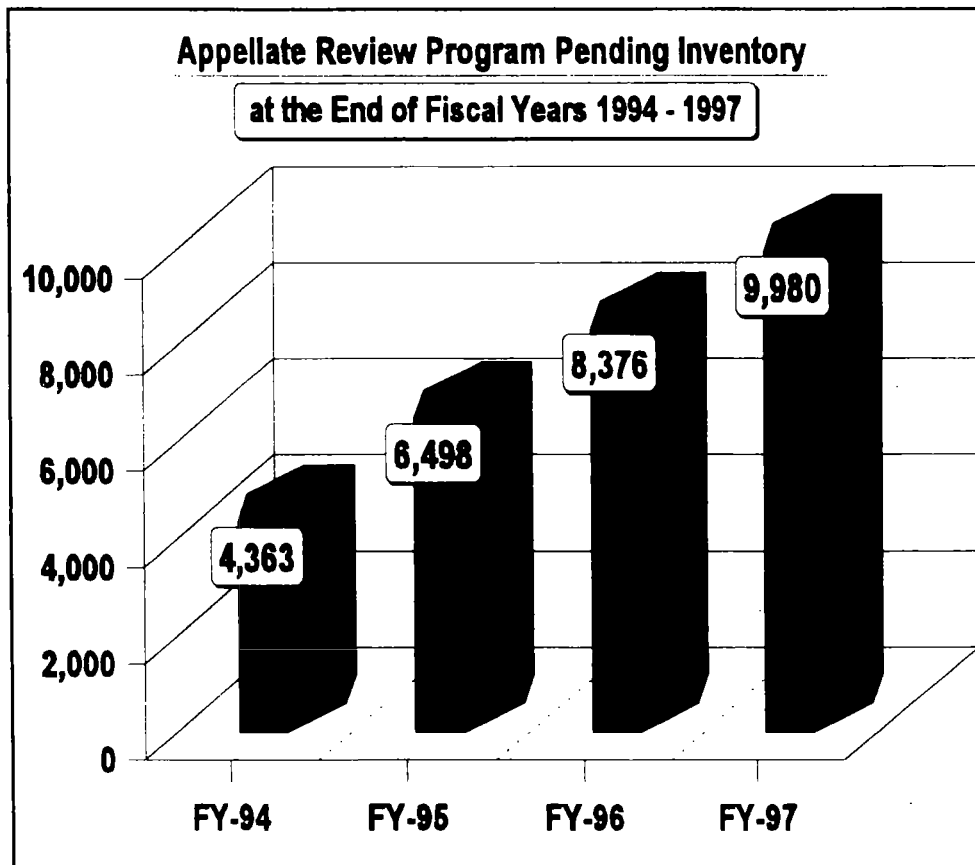


Figure 28

Figure 29 below shows the number and percent of cases pending in each range.

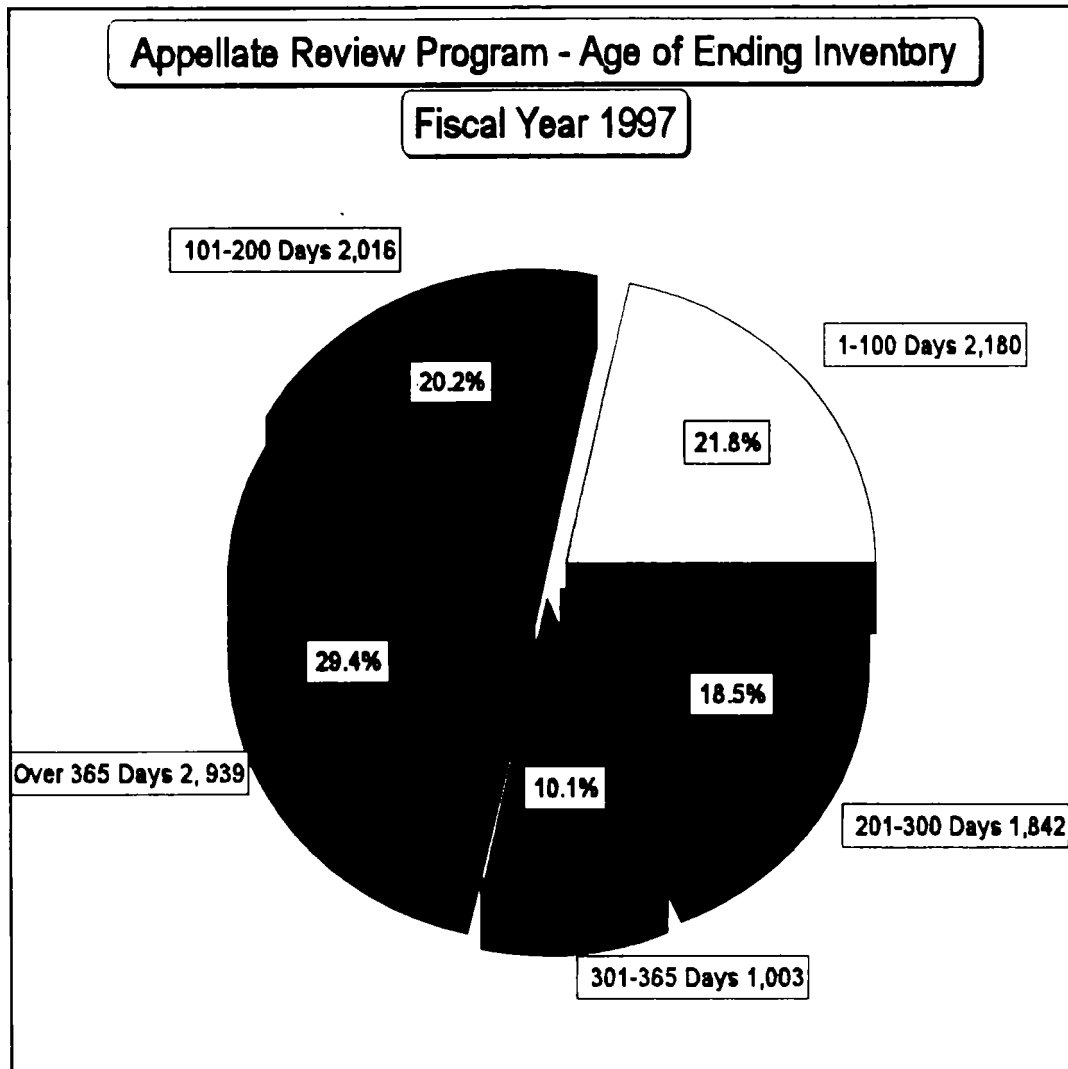


Figure 29

D. APPELLATE CLOSURES BY STATUTE

Appellate closures by statute were: *Title VII* - 5,480 closures; *Rehabilitation Act* - 1,605 closures; *ADEA* - 1,444 closures; and *CSRA/EPA* - 159 and administrative closures total 687.

Figure 30 below shows the number and percent of appeals closed by statute in FY 1997.

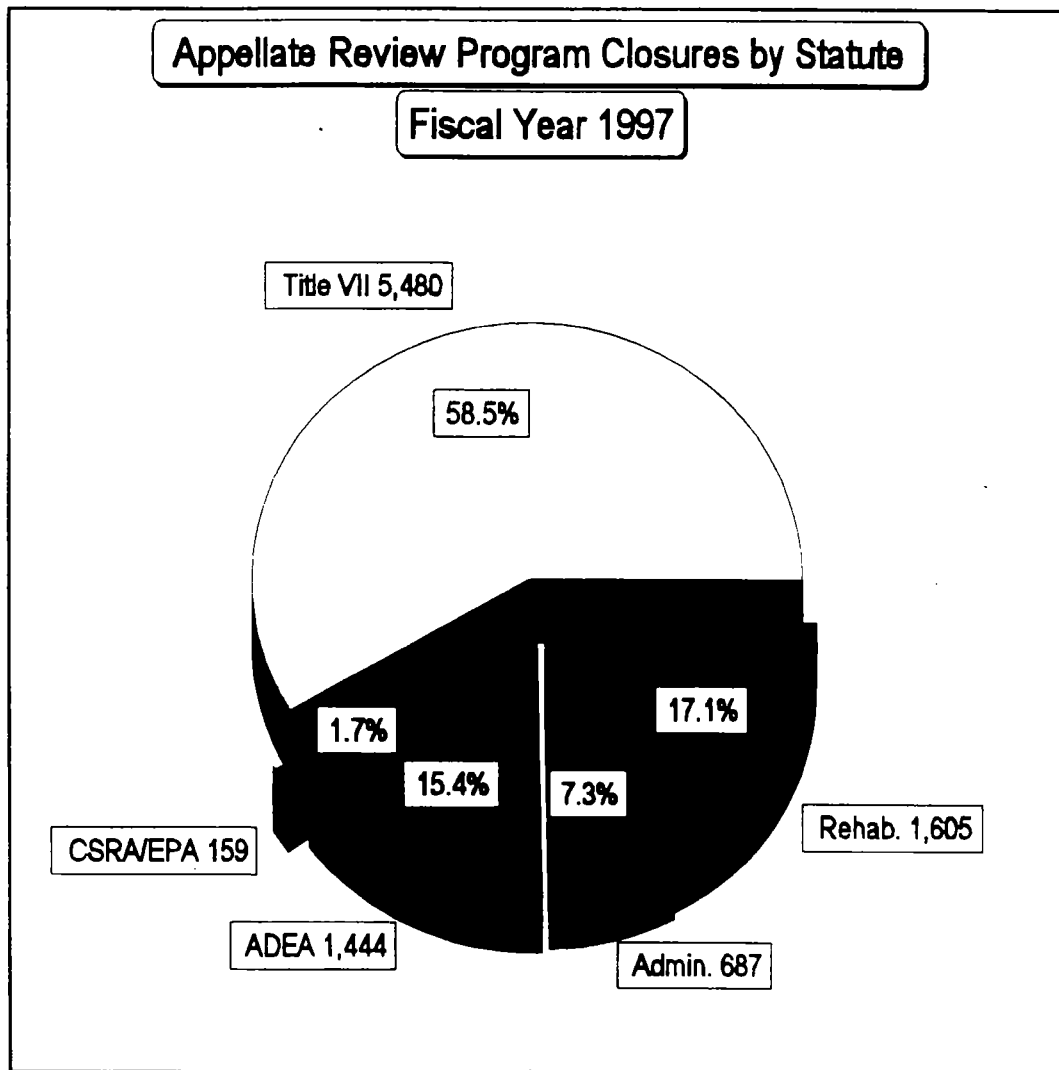


Figure 30

E. APPELLATE REVIEW ATTORNEY PRODUCTION

The total number of authorized review attorney positions in FY 1997 was 39. The table below shows the number of EEOC Appellate Review Program attorneys and the average production for each attorney from FY 1994 through FY 1997. Average production has increased steadily from FY 1994 through FY 1997.

Appellate Attorneys Production

Fiscal Year	Number of Attorneys	Average Number of Cases Produced Per Attorney
1994	39	146
1995	39	154
1996	39	157
1997	39	176

F. REMEDIES AND/OR BENEFITS

Remedies, in monetary awards, including back pay and attorney's fees, amounted to \$6,558,265.59 in FY1997.

The table below shows the trend for the amount of monetary awards at the appellate stage of federal administrative process from FY 1994 through FY 1997.

Appellate Program Monetary Awards

Fiscal Year	Remedies Awarded in Millions*
1994	\$3.4
1995	\$4.1
1996	\$4.7
1997	\$6.5

** Reflects the dollar benefits reported through appellate compliance monitoring.*

ATTACHMENT I

TABLES

Table I

FY 1997 Federal Sector Pre-Complaint Process

Agency or Department	Total Workforce	Total Counseled	Percent of Workforce	Complaints Filed	Percent Counseled	Percent of Workforce
Agency for International Development	2,453	34	1.39	16	47.06	0.65
Arms Control and Disarmament	251	30	11.95	0	0.00	0.00
Central Intelligence Agency *	0	60	0.00	36	60.00	0.00
Commodity Futures Trading Commission	564	8	1.42	12	150.00	2.13
Consumer Product Safety Commission	485	33	6.80	0	0.00	0.00
Corporation for National Service	531	15	2.82	8	53.33	1.51
Department of Agriculture	98,119	2,103	2.14	773	36.76	0.79
Department of Commerce	31,973	419	1.31	240	57.28	0.75
Department of Defense - Summary **	822,365	14,913	1.81	5,073	34.02	0.62
Army and Air Force Exchange Service	47,299	572	1.21	178	31.12	0.38
Defense Commissary Agency	13,784	225	1.63	161	71.56	1.17
Defense Contract Audit Agency	4,583	86	1.88	72	83.72	1.57
Defense Education Activity	11,800	52	0.44	38	73.08	0.32
Defense Finance and Accounting Service	18,316	359	1.96	209	58.22	1.14
Defense Information Systems Agency	8,434	93	1.10	21	22.58	0.25
Defense Inspector General	1,354	8	0.59	6	75.00	0.44
Defense Intelligence Agency *	0	34	0.00	19	55.88	0.00
Defense Investigative Service	2,522	47	1.86	28	59.57	1.11
Defense Logistics Agency	47,150	1,856	3.94	393	21.17	0.83
Defense National Imagery and Mapping Agency *	0	109	0.00	66	60.55	0.00
Defense National Guard Bureau	48,969	499	1.02	57	11.42	0.12
Defense National Security Agency *	0	182	0.00	46	25.27	0.00
Defense Nuclear Facilities Safety Board	101	2	1.98	0	0.00	0.00
Defense Office of the Secretary	4,898	85	1.74	36	42.35	0.73
Defense Special Weapons Agency	568	9	1.58	11	122.22	1.94
Defense Tricare Support Office	179	6	3.35	0	0.00	0.00
Department of the Air Force	162,760	5,575	3.43	1,165	20.90	0.72
Department of the Army	243,325	3,535	1.45	1,565	44.27	0.64
Department of the Navy	206,323	1,579	0.77	1,002	63.46	0.49
Department of Education	4,266	121	2.84	53	43.80	1.24
Department of Energy	15,408	326	2.12	194	59.51	1.26
Department of Health and Human Services	52,695	853	1.62	402	47.13	0.76
Department of Housing and Urban Development	10,159	242	2.38	196	80.99	1.93
Department of the Interior	59,647	1,066	1.79	423	39.68	0.71

Table I

FY 1997 Federal Sector Pre-Complaint Process

Agency or Department	Total Workforce	Total Counseled	Percent of Workforce	Complaints Filed	Percent Counseled	Percent of Workforce
Department of Justice	116,896	1,611	1.38	903	56.05	0.77
Department of Labor	16,530	252	1.52	146	57.94	0.88
Department of State	15,121	100	0.66	58	58.00	0.38
Department of Transportation	63,384	1,331	2.10	811	60.93	1.28
Department of the Treasury	156,564	2,385	1.52	1,368	57.36	0.87
Department of Veterans Affairs	245,130	6,059	2.47	2,316	38.22	0.94
Environmental Protection Agency	17,446	91	0.52	83	91.21	0.48
Equal Employment Opportunity Commission	2,645	82	3.10	33	40.24	1.25
Executive Office of the President - Summary **	946	3	0.32	3	100.00	0.32
Office of Administration	174	3	1.72	3	100.00	1.72
Office of Management and Budget	502	0	0.00	0	0.00	0.00
Office of National Drug Control Policy	115	0	0.00	0	0.00	0.00
United States Trade Representative	155	0	0.00	0	0.00	0.00
Export - Import Bank	418	8	1.91	2	25.00	0.48
Farm Credit Administration	303	9	2.97	0	0.00	0.00
Federal Communications Commission	2,077	197	9.48	11	5.58	0.53
Federal Deposit Insurance Corporation	8,137	140	1.72	113	80.71	1.39
Federal Election Commission	283	2	0.71	1	50.00	0.35
Federal Emergency Management Agency	8,907	84	0.94	24	28.57	0.27
Federal Energy Regulatory Commission	1,340	29	2.16	5	17.24	0.37
Federal Housing Finance Board	110	1	0.91	0	0.00	0.00
Federal Labor Relations Authority	204	4	1.96	2	50.00	0.98
Federal Maritime Commission	138	11	7.97	0	0.00	0.00
Federal Mediation & Conciliation Service	274	5	1.82	3	60.00	1.09
Federal Reserve System	1,741	22	1.26	9	40.91	0.52
Federal Retirement Thrift Investment Board	102	0	0.00	0	0.00	0.00
Federal Trade Commission	899	35	3.89	6	17.14	0.67
General Services Administration	14,309	331	2.31	126	38.07	0.88
Government Printing Office	3,510	404	11.51	18	4.46	0.51
International Boundary and Water Commission	248	11	4.44	4	36.36	1.61
International Trade Commission	348	20	5.75	1	5.00	0.29
John F. Kennedy Center for the Performing Arts	856	2	0.23	1	50.00	0.12
Merit Systems Protection Board	247	4	1.62	4	100.00	1.62
National Aeronautics and Space Administration	19,416	96	0.49	45	46.88	0.23

Table I**FY 1997 Federal Sector Pre-Complaint Process**

Agency or Department	Total Workforce	Total Counseled	Percent of Workforce	Complaints Filed	Percent Counseled	Percent of Workforce
National Archives and Records Administration	3,086	52	1.69	22	42.31	0.71
National Credit Union Administration	940	5	0.53	4	80.00	0.43
National Endowment for the Arts	149	45	30.20	0	0.00	0.00
National Endowment for the Humanities	161	0	0.00	0	0.00	0.00
National Gallery of Art	796	22	2.76	9	40.91	1.13
National Labor Relations Board	1,998	59	2.95	19	32.20	0.95
National Science Foundation	1,108	14	1.26	9	64.29	0.81
National Transportation Safety Board	388	3	0.77	0	0.00	0.00
Nuclear Regulatory Commission	3,060	103	3.37	7	6.80	0.23
Office of Personnel Management	2,430	63	2.59	28	44.44	1.15
Overseas Private Investment Corporation	182	2	1.10	0	0.00	0.00
Panama Canal Commission	649	12	1.85	7	58.33	1.08
Peace Corps	766	16	2.09	2	12.50	0.26
Pension Benefit Guaranty Corporation	699	8	1.14	4	50.00	0.57
Railroad Retirement Board	1,326	2	0.15	1	50.00	0.08
Securities and Exchange Commission	2,837	55	1.94	21	38.18	0.74
Selective Service System	161	4	2.48	2	50.00	1.24
Small Business Administration	3,431	102	2.97	56	54.90	1.63
Smithsonian Institution	6,535	84	1.29	57	67.86	0.87
Social Security Administration	64,653	986	1.53	588	59.63	0.91
Soldiers' and Airmen's Home	724	11	1.52	5	45.45	0.69
Tennessee Valley Authority	14,062	411	2.92	202	49.15	1.44
United States Enrichment Corporation	172	0	0.00	0	0.00	0.00
United States Information Agency	3,975	320	8.05	50	15.63	1.26
United States Naval Home	161	11	6.83	3	27.27	1.86
United States Office of Special Counsel	95	4	4.21	3	75.00	3.16
United States Postal Service	892,873	29,874	3.35	14,326	47.95	1.60
United States Tax Court	143	0	0.00	0	0.00	0.00
Total	2,805,005	65,820	2.35	28,947	43.98	1.03

* The number of full time permanent positions is classified information.

** Department of Defense and Executive Office of the President summary figures represent only those agencies listed.