

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To Julie Fernandez from Ellen J. Vargyas re: Attendees for Tuesday Meeting (partial, DOB, SSN) (1 page)	01/30/1998	b(6)
002. memo	To Julie Fernandez from Ellen J. Varygas re: More Names for Tomorrow's Meeting (partial, DOB, SSN) (1 page)	01/30/1998	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17176

FOLDER TITLE:

EEOC [Equal Employment Opportunity Commission]: FY99 Budget [3]

2017-1120-S

ry2230

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

C O V E R

FAX

S H E E T

To: Julie Fernandez
Fax #: 456-5581
Subject:
Date: April 29, 1998
Pages: 2, including this cover sheet.

COMMENTS:

From the desk of...

Benita Lucy
Confidential Assistant to Legal Counsel
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L STREET, NW
WASHINGTON, D.C. 20507

202/663-7197
Fax: 202/663-7176

point

Thursday, April 16, 1998 A6

JOE GILLETTE

You're guilty and we're gonna prove it

So, you're wondering why, the minute government gets itself involved in even the simplest task, productivity goes down; costs go up and any semblance of common sense or routine efficiency seems to fly right out the window.

The answer, my friend, is blowing that self-sustaining, hot-air wind which seems to rise to ever greater heights the more government at any level attempts to take over our lives.

For a quick clue, consider the following tidbit, which came to me unsolicited from a kindred spirit at City Hall.

It is a copy of an advisory letter from a Chicago legal office, sent to alert the municipal staff about some of the latest machinations of a pair of arms of the federal bureaucracy: the good old Equal Employment Opportunity Commission and its close cousin, the Office of Federal-All Contract Compliance Programs.

Henceforth, we will refer to these agencies only by their popular alphabet-soup designations of EEOC and OFCCP.

Of course, by the next reference to either agency, you probably won't remember what the letters stand for without stopping and backtracking to pick up the full names again, but that really doesn't matter, as the effect is the same no matter what words you might choose to assign.

Suffice it to say that both are tasked to

ensure that nary a one of us discriminates on the basis of race, sex, ethnic origin, physical disability, sexual orientation or any other means one can think up even possibly to divide people into supposed victim groups.

The EEOC does this in terms of general hiring, and the OFCCP (the appearance of which can't help but remind one of the Russian alphabet's old delineator for the former Soviet Union, which was CCCP) takes care of it in terms of the hiring of contractors where even a cent of government money is involved.

The big news is that the EEOC just has hired the legal Assistance Foundation of Chicago (henceforth known as LAFC, although it's hard to fathom anything funny about it) for \$100,000 to run "applicant tester projects" in the Chicago area, with particular focus on the suburbs.

The LAFC is a natural for this job on behalf of the EEOC because it already has been doing it, and now, the OFCCP has joined the list of clients as well.

So, what is an "applicant tester?"

Simple: The LAFC hires people "of diverse background" whose sole job is to go out among the unsuspecting community and apply for jobs — preferably entry-level — they have absolutely no intention of taking, even if offered.

Then, they report on the kind of "treat-

ment" they received, and, if the "experts" determine such treatment smacks in the least of discrimination, those applicants who didn't want the jobs in the first place then go to court to file suit because they didn't get them.

Even before the EEOC contract, the LAFC's first round of 600 tests produced a pair of federal court lawsuits.

In one, the case was settled for a payment of \$20,000 to each of the "testers."

In the second, still pending, the LAFC is demanding \$100,000 apiece for another pair of "testers."

It's one thing to enforce federal laws against obvious discrimination fairly.

It's quite another, however, to hire people and send them out in return for paychecks that are predicated upon them "finding" evil deeds — a search that, by its definition, is almost guaranteed to produce a smoking gun.

These days, it seems, our government presumes each and every one of us to be guilty of something and will leave no leaf unturned or dollar unspent in effort to prove itself right, thereby keeping all of us subserviently defensive.

Then, the folks who run that same government have the audacity to wonder why their efforts are met with less than trust, acceptance, devotion and love.

Joe Gillette is opinion page editor for The Waukegan News, a Copley newspaper

C O V E R

FAX

S H E E T

To: Julie Fernandez

Fax #: 456-5581

Subject:

Date: April 28, 1998

Pages: 1, including this cover sheet.

COMMENTS:

From the desk of...

Benita Lucy
Confidential Assistant to Legal Counsel
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L STREET, NW
WASHINGTON, D.C. 20507

202/663-7197
Fax: 202/663-7176

Government Shouldn't Hire Ideologues to Enforce Our Laws

Picture this: a government enforcement agency hires ideologically motivated citizens to be undercover agents. Possibly armed with falsified credentials, phony documents, or bogus recommendations, they selectively visit and infiltrate targeted employers. There is a strong preconceived notion that these employers are acting unlawfully, and the paid agents are there to "discover" the necessary evidence. Remarkably, these kinds of troubling tactics are being utilized by certain United States government enforcement agencies with jurisdiction over employment discrimination.

Rather than train and deploy federal employees, the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Labor have instead depulized private legal activist groups to direct covert employment "testing" operations at taxpayer expense. These committed ideologues-for-hire are called "testers." They pose as job applicants in targeted workplaces, employing deception to seek a job in which they have no real interest. If this elaborate ruse uncovers what these testers perceive to be hiring bias, the test results can then form the basis for an EEOC discrimination complaint. In addition, the depulized ideologues are also able to use their "evidence" to pursue a substantial private bounty of damages and attorneys' fees through what amounts to taxpayer-funded litigation.



Daniel J. Popeo
Chairman
Washington
Legal Foundation

Clearly, these questionable tactics they use to develop evidence must be viewed skeptically. By funding such biased activists and unleashing them as government investigators, aren't we creating incentives to "find" discrimination where it may not really exist? And even if these testers try to be impartial, isn't this just junk social science, because how can they or anyone else objectively determine that two job applicants are "identical" in all relevant respects?

No employer wants to be publicly accused of workplace bias in today's litigious environment. The government might ultimately decide not to bring charges, but the testers' private lawsuits can keep the accusations alive until the employer inevitably knuckles under the pressure and settles out of expedience. Even if no such

meritless accusations result, employers bear the burden of lost time and resources spent interviewing and considering fake applicants, or lost talent if genuine applicants are passed over in the process. Who will compensate employers and legitimate job applicants for these losses?

With so much at stake, why must purportedly objective federal government agencies transfer substantial enforcement authority to outside legal activists who have a direct ideological and financial interest in the outcome of their work? With a backlog of over 60,000 pending discrimination complaints that they themselves need to adjudicate, how can EEOC ensure the accuracy of "evidence" developed through potentially overzealous methods or even illegal entrapment? For that matter, why must any government agency delegate its enforcement powers at all?

All Americans agree that the elimination of workplace discrimination is, unquestionably, a worthy goal. However, ideology-driven enforcement by non-governmental agents threatens the freedom of honest employers who strive for equal opportunity in their workplace. America must never allow its laws to be ideologically enforced. This threat to our civil liberties demands close scrutiny.



Washington Legal Foundation
effective advocate of free enterprise®

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In All Fairness is produced through WLF's Civic Communications Program.

Sounds like they would prefer EEOC to run its own testing programs to their contracting out & funding a non-profit program.

Wrong

misses the pt. it is about patterns, not individual assessments of comparable value.

TH/FRI

testers

⊗ Report Language w/ 6 items

April 23rd : Senate walk-through
Gregg staff

Litigation criteria
in Sen. driven by McConnell/Hutchinson

Criteria

Difficult

① Supervision of intake & investigations
by attorneys.

② Clarification of litigation standards

(c

• precluded from bringing their own case?

Fear of micromanagement

Where are the Dems (?) (on the Gingrich 6)

⊗ Nichols

One year riders

CBC / CTC

Call to Isaiah

Neutralize

Hollings & Byrd

EEOC

Leg. Affairs

Hearing is Wed. am @ 10.

Did a walk-through last Friday.

Continuing to meet w/ individual staff member

(Maj.) - David Frank - Fawell
Susan Firth - ~~XXXXXX~~

Mike Rengler - CJS
subcommittee
Staff

(Min.) - Chris Thompson (Dixon
Staffer)

Bill W. is meeting w/ today

David Reich (Obey Staffer)
on main approp.

- Gaines (Molahan)

Committee
staff

Key min
staffer for
related
agencies

Meeting w/ Norton and Watts^{J.C.}

Testified
before CJS
subcommittee.

ideas on how
to monitor agency.

met w/
Norton
Staffer

Keith Jarrett

Sen. Kennedy staffer (+) Watts' staff

Eric Falls from Robb was not there.
(scheduled)

Dear Colleague Letter

Kennedy/Robb

begin to circulate Dear Colleague letter

EV talked briefly to David about a week ago.
re: strings.

Norton mtg. stemmed out of her testifying before CTS
Rogers not on board w/ Fawell @ Leadership
his concerns are not necessarily the 6 Girnick
Trip.

Norton letter → tailored to ADR money.

~~fact~~ monitoring
~~fact~~

Recommendations
for monitoring

EEOC letter
to Norton on
April 9th

Norton initially wanted a time-line
w/ goals.

EEOC wanted several progress reports —
quarterly

Strings will play out in the report
language.

Rogers's issue is monitoring. If he gets that,
get the \$.

Those that want the strings are leadership
and oversight.

Brett
Sylvia

Likely use report / language.

Investigator / attny cooperati-

Rogers doesn't want this
to play out in report language.

Next impact point:

Mark-up is likely ~~to~~ happen after
~~602~~ allocatn (May 15th)

Mid-May

EEOC may be one of last hearings coming up.

Staff work will start fairly soon.

~~Speaker issues~~

~~aren't tied to increa~~

Who should WH leg. talk to (?)
When (?)

Senate: few problem members on Dem. side of aisle

- • Hollings (doesn't like funding agency @ all)
- • Mikulski - oddly silent
(on subcommittee)

House:

FAX TRANSMITTAL

Date: April 9, 1998	
To: Julie Fernandez	
Fax #: 456-5581	
From:	U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION Office of Communications and Legislative Affairs
Fax #:	(202) 663-4912
Phone #:	(202) 663-4900 (202) 663-4494 (TDD)
Subject: This is the language we are sending to Norton concerning Congressional monitoring of the expanded mediation program. We are providing this to you per our conversations earlier with Ellen Vargyas.	
Pages not including this page: 2	

The EEOC currently operates a modest mediation program. Because the agency's limited resources are supporting a continually diminishing level of staff, the EEOC is unable to dedicate many paid staff or resources to its mediation activities. Nonetheless, using a combination of a few EEOC staff and external volunteer mediators, the agency was able to successfully mediate more than 800 cases last year, and estimates that 1,100 cases will be mediated by the end of FY1998. Moreover, participants in EEOC's mediation program, both charging parties and employers, have praised the effectiveness and quality of this alternative approach to the resolution of charges. Clearly, this is an area where a substantial increase in resources will yield long-term results and improvements in services.

Without increased funding, the mediation program at the EEOC will have to remain small and volunteer-driven, limiting the number and kind of charges that might otherwise be mediated. The enactment of the President's \$279 million budget request for the EEOC, with \$13 million for an expanded ADR program, however, would result in enormous gains in the size, impact, and quality of the program.

The goals of the expanded mediation program are threefold. First, the EEOC will be able to further reduce the pending charge inventory. While the inventory has experienced a historic drop of over 40 percent during the past three years, the expanded use of mediation will allow the agency to make further headway and to give the agency another tool to work toward reducing the inventory to a manageable level. The EEOC estimates, given its prior experience, that to reach the goal of 8,000 resolutions in the mediation program, that roughly 16,000 charges will need to enter mediation. Further, to get 16,000 charges into the mediation program more than 30,000 charges will need to be offered the service.

Second, the EEOC would use mediation to further promote the effective and efficient resolution of charges. By offering mediation to more than 30,000 participants, the EEOC will be greatly expanding the choices available to both charging parties and employers upon entering the system. The EEOC expects that by offering, on such a wide scale, an alternative system that is premised on voluntary participation by both parties involved, many complaints will be resolved without the need for extended investigations or, eventually, litigation. This means better service for charging parties and employers, and outcomes that promote increased understanding of and compliance with federal equal employment opportunity laws.

Finally, the expanded mediation program may allow the EEOC to make progress in reducing the time it takes to process a charge. The agency's past experience shows that charges successfully resolved through mediation take an average of 171 days, significantly less than the 365 days it takes to resolve a charge through investigation. However, the charges that are not successfully mediated will need to be investigated, and the effects of this on the overall charge processing time are not known.

To realize any of the above goals, however, the EEOC will need to ensure that its mediation program is operational as close to the start of FY1999 as possible, promoted throughout the country, and set up with appropriate internal controls. As a first step, Chairman Igasaki has established an ADR Work Group whose goal is to make

recommendations for a large scale and complex expansion of the agency's current mediation program effective October 1, 1998, if funds are appropriated. While the agency is aware that actual appropriations decisions lie in the future, if timely implementation is to be possible, planning cannot await those decisions. The ADR Work Group is already identifying options to hire internal mediators, contract external mediators, provide training for all mediators, establish standards for mediators, and develop standardized forms to be used by all mediators. This is an ambitious undertaking, but one that is critical for a successful program. These activities will be completed as close to the start of FY1999 as possible.

The agency will also need to publicize the program. The EEOC will expand its education and outreach efforts to increase awareness of the mediation program, as well as promote its advantages and encourage participation. A particular focus will be employers who may be hesitant to enter the program. Potential efforts include a national conference aimed at employers, an educational video, use of existing Technical Assistance Program Seminars (TAPS), posting information on the EEOC web site, and more tailored efforts by field offices to reach local business.

Finally, appropriate internal controls will need to be established and monitored for the agency to properly evaluate and report on its progress. We believe that the EEOC should first establish a statistical baseline from which to monitor and report on its progress. This baseline should reflect the following:

1. The number of mediations offered
2. The number accepted by each party
3. The number of charges mediated and the outcomes
4. Benefits obtained through mediation
5. Average time to mediate a charge
6. The amount of money spent on the mediation program

Customer satisfaction would also be measured through evaluation forms for participants as well as the mediators. This gives every party to the mediation an opportunity to discuss their experience and to offer suggestions for improvement. The evaluations will focus on the participants' and mediators' impressions, observations, and perceptions concerning all aspects of the process, including its fairness.

It is suggested that the EEOC submit a quarterly report to Congress concerning the mediation program. The reports should include the statistical baseline discussed above, and anecdotal information gleaned from the subjective comments of the participants. The report should also include the EEOC's response to these outcomes, including an explanation of what the agency is doing to correct a deficiency, or continue a success.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

OFFICE OF LEGAL COUNSEL

FAX TRANSMITTAL COVER SHEET

DATE: 4-6-98

PLEASE DELIVER TO:

NAME: Julie Fernandez

AGENCY/OFFICE/DEPT: _____

FAX #: 456-5581

TELEPHONE #: _____

THIS MESSAGE IS BEING SENT BY:

NAME Ellen Vargyas

TELEPHONE #: (202) 663-4637

THIS MESSAGE HAS 4 PLUS THIS COVER SHEET.

This Fax # is (202) 663-4639

REMARKS:

Per our conversation

IF YOU HAVE ANY PROBLEMS RECEIVING THIS TELECOPY MESSAGE, PLEASE
CALL THE FOLLOWING # IMMEDIATELY, (202) 663-4637 THANK YOU.

Congress of the United States
House of Representatives
Washington, DC 20515

March 23, 1998

Rep. Bob Livingston
Chairman
Committee on Appropriations
Justice, State,
U.S. Capitol H-218
Washington, DC 20515

Rep. Harold Rogers
Chairman
Subcommittee on Commerce,
and Judiciary
U.S. Capitol H-309
Washington, DC 20515

Dear Mr. Chairmen:

We are writing to you concerning the budget of the Equal Employment Opportunities Commission (EEOC). The Administration has sought a 15% increase (\$37 million) for the EEOC in FY 1999. It is vital that the EEOC, as the nation's leading civil rights enforcement agency, function in a fair, efficient, and effective manner. In order to ensure that the Commission is able to fulfill its mission in such a manner, we support giving it the full amount of money requested provided it institutes reforms that ensure the money is targeted to helping actual victims of discrimination.

We support the Speaker's recent testimony given before the Education and Workforce Committee's Subcommittee on Employer-Employee Relations regarding the future direction of the EEOC. This testimony set out six reforms that, if made by the Commission, would justify its receiving the full 15% increase. The criteria are:

1. Improvements to the investigative and intake processes (including greater supervision of the process by lawyers);
2. A significant reduction to the backlog of cases and the length of time for case processing;
3. A more appropriate allocation of resources to charge processing vis-à-vis litigation;
4. Expanded use of alternative dispute resolution;
5. Clarification of the criteria for litigation by the EEOC; and
6. An agreement by the EEOC not to use its scarce resources for employment testers.

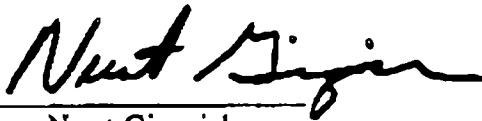
March 23, 1998

Page 2

We ask you to approve the \$37 million increase for the EEOC with these conditions. Please contact the authorizing committee to develop in a timely fashion appropriate accompanying language to ensure that the Commission implements the above reforms as a condition of receiving the money.

Thank you for your continuing service in the important appropriations process.

Sincerely,


Newt Gingrich


Bill Goodling


Harris Fawell

Senate

Ernest Hollings (D-SC) 224-6121
(Ranking Minority Member Commerce, Justice, State Appropriations Subcommittee)

Judd Gregg (R-VT) 224-3324
(Chairman Commerce, Justice, State Appropriations Subcommittee and Member Committee on Labor and Human Resources)

Ted Stevens (R-AK) 224-3004
(Chairman Committee on Appropriations and Member Commerce, Justice, State Subcommittee)

Mitch McConnell (R-KY) 224-2541
(Member Commerce, Justice, State Appropriations Subcommittee and Committee on Labor and Human Resources)

Pete Domenici (R-NM) 224-6621
(Member Commerce, Justice, State Appropriations Subcommittee and Chairman of the Budget Committee)

House

Harold Rogers (R-KY) 225-4601
(Chairman Commerce, Justice, State Appropriations Subcommittee)

David Obey (D-WS) 225-3365
(Ranking Minority Member Committee on Appropriations)

Harris Fawell (R-IL) 225-3515
(Chairman Subcommittee on Employer-Employee Relations)

United States Senate
WASHINGTON, DC 20510

March 18, 1998

Dear Colleague:

We write to enlist your support for improved enforcement of our civil rights laws, and we hope you will sign on to the attached letters in support of increased funding for the Equal Employment Opportunity Commission. Please contact Eric Falls with Senator Robb, 4-8029, or Melody Barnes with Senator Kennedy at 4-7956, by April 27, 1998 to sign on.



Charles S. Robb



Edward M. Kennedy

United States Senate

WASHINGTON, DC 20510

March 18, 1998

The Honorable Ernest F. Hollings
Ranking Member
Subcommittee On Commerce, Justice,
State and Judiciary
Senate Appropriations Committee
Washington, D.C. 20510

Dear Senator Hollings:

All Americans agree that discrimination must be eradicated from the workplace. If we are to achieve that goal, however, we need your support for the full enforcement of our civil rights laws, including a 16 percent increase in funding for the Equal Employment Opportunity Commission (EEOC) in FY99.

As you know, the President has proposed this additional funding to reduce the backlog of cases at the EEOC. The EEOC has made remarkable progress in reducing its backlog, from 110,000 in 1994, to about 65,000 at present. This success occurred as the EEOC's responsibilities were expanded under the Americans with Disabilities Act and the Civil Rights Act of 1991. Even more significant, the reduction was made without additional funding.

While the EEOC has made remarkable progress in reducing its backlog, we have a long way to go before we can truly say our civil rights laws are fully enforced. For that reason, we ask that you support the President's proposed \$37 million increase in the EEOC's budget for FY99. Most of that money would to expand mediation programs to settle discrimination complaints brought by workers against employers. The agency would increase the number of new cases handled through mediation, rather than investigation or litigation. These new funds should reduce the average time it takes to resolve complaints from 9.4 months to six months, and reduce the backlog of cases from 65,000 to 28,000 by the year 2000.

Again, to ensure that the EEOC has adequate funds to enforce the nation's civil rights laws, we urge you to support the President's proposed budget increase for the EEOC in FY99. Thank you for your consideration.

Sincerely,

FAX TRANSMITTAL

Date: March 30

To: Julie Fernandez WH/DPC

Fax #: 456-5581

From: U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Communications and Legislative Affairs

Fax #: (202) 663-4912

Phone #: (202) 663-4900

(202) 663-4494 (TDD)

Brett Brenner
x4906

Subject:

Copy of doc colleague. Let us know if
you need anything else.
B

Pages not including this page: 2

EEOC Legislative Update -- March 8, 1998

EEOC leg. contact -- Bill White 663-4911

WH leg. contact -- Tracey Thornton 456-7557 and Martha Foley (budget) 456-2230

The budget resolution is the big picture. EEOC usually doesn't show up in it as a separate item. Their specifics generally get worked out in the appropriations process. Mark-up of the budget is next week.

Gingrich wrote a letter to the appropriations committee and Goodling that he supports the President's budget request as long as the points in his testimony are complied with.

The conditions would be memorialized either in a **rider** to the appropriations bill (enacted by the appropriations committee) or through **conference report language** (written by the appropriations committee) -- writing what the expectations are. According to Ellen, the fight would be over conference report language.

Authorizers work well with appropriators on this issue.

Appropriations hearing has not been scheduled yet.
Not until **April**

Appropriators

CJS subcommittee

House -- Harold Rogers (R) and Alan Mollohan (D)

Senate -- Judd Gregg (R) and Ernest Hollings (D)

House also includes: Kolbe, Taylor, Regula, and Forbes (R) and Skaggs and Dixon (D)

Senate also includes: Stevens, Hatfield, Domenici, McConnell, and Jeffords (R) and Inouye, Bumpers, Lautenberg and John Kerrey (D).

Authorizers

House

Committee on Economic and Educational Opportunities

William Goodling (R) and William Clay (D)

Subcommittee on Employer-Employee Relations

House -- Harris Fawell (R) and Donald Payne (D)

Senate

Committee on Labor and Human Resources

James Jeffords (R) and Ted Kennedy (D)

Subcommittee on ??? Stevens???

FAX TRANSMISSION

OFFICE OF CONGRESSWOMAN ELEANOR HOLMES NORTON

1424 LONGWORTH HOB
WASHINGTON, DC 20515
PHONE: (202) 225-6050
FAX: (202) 225-3002

To: Julia Fernandez 456-5581

Date: June 17, 1998

From: Erin Prangley

Pages: 7 including this cover sheet.

Subject: CJS APPROPRIATIONS LETTER.

COMMENTS:

ELEANOR HOLMES NORTON
DISTRICT OF COLUMBIA

**COMMITTEE ON
TRANSPORTATION AND
INFRASTRUCTURE**

SUBCOMMITTEES
PUBLIC BUILDINGS AND
ECONOMIC DEVELOPMENT
WATER RESOURCES AND
ENVIRONMENT



**Congress of the United States
House of Representatives
Washington, D.C. 20515**

**COMMITTEE ON
GOVERNMENT REFORM AND
OVERSIGHT**

SUBCOMMITTEE
RANKING MINORITY MEMBER,
DISTRICT OF COLUMBIA

June 17, 1998

Honorable Harold Rogers
Chairman
Subcommittee on Commerce,
Justice and State Appropriations
Washington, DC 20515

Dear Chairman Rogers:

During my recent testimony before your subcommittee, you invited me to supplement my testimony with a plan for the implementation of a new alternative dispute resolution (ADR) approach at the Equal Employment Opportunity Commission (EEOC). You may recall that I testified that based on my own experience as Chair of the EEOC (1977-1981), I believed that early resolution and settlement techniques can greatly increase productivity and reduce the need to continually increase funding as a way to keep backlogs from overwhelming the agency.

As I indicated, we eliminated much of the backlog that had been endemic, but only after Congress appropriated funds allowing us to set up a new early resolution program. Particularly in light of several additional difficult statutes that Congress has since enacted, I recommend that: 1) the subcommittee appropriate the full amount tied specifically to the establishment of an agency-wide early resolution program using multi-purpose investigators, support staff and the technology necessary to achieve productivity gains; and 2) until the sunset of the Balanced Budget Act of 2001, no increase be granted (barring changes in the statute or other unanticipated occurrences beyond the increase in caseloads) except for normal cost-of-living inflation increases.

I caution that my experience shows that establishing an ADR program cannot be done on the cheap. Insufficient training, preparation of manuals and other guidance, and poor monitoring can result in poor settlement rates (settlement rejections by one or the other parties that require more traditional investigations); inappropriate pressure on the parties; or other inappropriate or unprofessional practices that reflect on the reputation of the agency. However, the up-front investment by Congress in 1978 eliminated the need for annual increases based on increased case loads. There is no reason why similar results cannot be achieved today.

ADR was in its infancy when I was at the EEOC, but today it has been universally accepted and has rapidly spread throughout the public and private sectors. In the Administrative Dispute Resolution Act of 1990, Congress required federal agencies to develop ADR policies, and the Act was permanently reauthorized in 1996. Each agency is required to adopt a policy that addresses the use of alternative means of dispute resolution and case management. ADR was defined as any procedure that is used to resolve issues in controversy including, but not limited to, conciliation, facilitation, mediation, fact finding, minitrials, arbitration, and use of ombudsmen, or any combination.

EEOC has concentrated on only one of these procedures, mediation, which is among the most costly and formal. Mediation is useful, especially in complicated matters and has helped to resolve cases at EEOC more quickly than traditional investigations. However, using a combination of few EEOC staff and external volunteer mediators, the agency was able to successfully mediate only 841 cases out of the 106,188 resolutions last year. Both charging parties and employers have praised the effectiveness and quality of this alternative approach to the resolution of charges. Nevertheless, mediation requires the use of third parties, which adds cost and time, requires explicit permission of the parties and is not always cost effective in high volume case systems. Mediation may save time over litigation, but the time and expense involved make it cost effective largely in more complicated cases in order to avoid litigation.

Mediation is most similar to what the Administrative Dispute Resolution statute defines as conciliation, although Congress never envisioned that conciliation at the EEOC would use paid outside professionals. Conciliation occurs after a "cause" finding. Mediation may be beneficial after a "cause" finding, but investigators and lawyers have generally done conciliations at the Commission without outside assistance.

Paying for an outside third party should never be undertaken without weighing the cost against the benefits. For example, EEOC recently announced that mediation succeeded in settling the \$34 million Mitsubishi sexual harassment case, but this was appropriate because it was the largest settlement in the Commission's history. Mediation is not cost effective in simpler cases, such as the average Title VII charge, because mediation requires that an outside mediator be contracted. Moreover, as the Commission's plans indicate, used alone, mediation cannot make a significant difference in its large caseload. EEOC believes it can mediate only 8000 cases out of a caseload of 146,621, only 7% of the case load, in 1999.

PROPOSAL

It makes little sense to plunge into a traditional, lengthy, paper and labor intensive investigation regardless of the strength of the case or the principles to be vindicated without at least seeing if the parties are amenable to settlement. In virtually all disputed matters in this country, parties proceed in this manner. Early resolution is particularly appropriate for EEOC

charges because most cases in the EEOC's cost-free administrative process result in a finding of no cause after more than a year of traditional investigation.

EEOC must accept virtually all cases because the statute is worded broadly in order to keep cases from being prejudged without investigation. Some cases may be dismissed soon after filing because they are frivolous, or because with little initial effort by the agency, they are determined to be "no cause" cases. A small number of cases may be significant enough to be vehicles for vindication of important statutory principles. By isolating such litigation vehicles, the Commission often can consolidate complaints that might otherwise have to be investigated individually or clarify principles that can guide in resolving larger numbers of charges in the administrative process in the future.

For cases that are neither dismissed nor ripe for litigation, a resolution conference should be scheduled under the supervision of a staff facilitator. To achieve the necessary volume and quality of settlements, the agency must use trained investigative staff because settlement cannot occur without fact finding in the nature of an investigation, albeit involving oral exchange of information and submission of documents at an early resolution conference. Some cases cannot be resolved at an early stage and will require more extensive or traditional techniques, and others may profit from mediation. However, most cases are ripe for resolution early in a dispute and often harden the longer they remain unresolved. The Commission should attempt early resolution on its own, using its own staff, before resorting to more involved or costly techniques.

It will take training in essential skills to redirect the agency's resources to early resolution. Trained case resolution staff save time and money because they perform several roles. They act as neutrals who control the process, counselors who assist the parties (especially when one has a lawyer and the other does not), and as facilitators who help the parties reach fair and mutually satisfactory settlements. This use of staff in multiple roles capitalizes on the skills of investigators rather than confining them narrowly to lengthy and costly investigations of cases that they could resolve earlier.

Because of its huge case load, EEOC should be among the prime users of ADR. However, because the agency's limited resources have been supporting a continually diminishing level of staff, the EEOC has been unable to dedicate paid staff or resources to ADR significant enough to make a difference in systemic backlog reduction.

Early resolution can produce a "win-win" situation for the parties and save time and funds for the agency. Therefore a premium should be placed on bringing the parties together at the earliest time. To be successful with a large caseload, a form of ADR that stresses informality and makes fair but minimal use of paid outside staff or of lawyers for the parties is necessary to avoid reformalizing ADR into something close to simply another legal process. Most complainants and respondents at the EEOC do not have lawyers. Due process requires that those who bring counsel have the opportunity to confer with their lawyers both in and outside of the room if

necessary. However, EEOC investigators acting as facilitators, not lawyers, who are present for purposes of advising their clients, should control the ADR process.

The earlier that the resolution is attempted, the greater the savings to the complainants, respondents, and the government. For complainants, fresh evidence is often necessary if a remedy is to be achieved. For respondents, early resolution avoids the buildup of back pay. For the government, the savings in staff and other resources can be significant. In contrast, dedicating staff almost entirely to traditional and formal investigation ignores the Administrative Dispute Resolution Act and often misses the optimum point in the process to achieve resolution in many cases.

My own experience indicates that if exposed to concentrated but short term training, investigators are well equipped to facilitate settlement and, where necessary, to proceed to more formal investigation. Combining these roles lowers the cost to the agency and increases satisfaction to the parties. Complainants have a better chance of getting a remedy if resolution is attempted because if left to the investigatory process, most complaints receive no remedies. Employers are accustomed to resolving cases on a cost/benefit basis and almost always prefer to attempt settlement rather than linger in a lengthy investigation process, even when they ultimately are successful. For the government, early resolution cuts costs and avoids backlogs that inevitably develop with the formalism of traditional investigations that includes subpoenas, on-site visits, and the like. Much of the same information if voluntarily brought to the table at a resolution conference, saves investigative time, replacing sedentary paper investigations with a more active discovery of the same information. This information becomes a natural opening to settlement as discussion brings out the facts on both sides. With one or two resolution conferences, EEOC staff can encourage and achieve settlement in large numbers of cases. If settlement is not possible, the settlement techniques have at least moved the investigation along by quickly providing some of the information necessary for further investigation.

Similar techniques produced results that proved satisfactory to both employers and complainants at the EEOC in 1978-80. Complainants were satisfied because a greater number received some beneficial settlement, and the number of monetary benefits rose substantially. At the same time, employers praised the early resolution program, in part because the costs that companies incurred in the traditional case processing system were far greater than the costs of settling a greater number of cases.¹

EEOC*	1977	1980
Percentage of Settlements	14	47
Benefits (Monetary)	3,948,006	43,082,000
Number of people benefitted	2,007	29,251
Time for processing	2 years	140 days

*Chart based on testimony of Nancy Kreiter, Women Employed, at the Equal Employment Opportunity Laws Hearings before the Subcommittee on Equal Employment Opportunities of the House Commission on Education and Labor, 98th Congress, 1st Session, 1983.

A comparison of results from mediation and from early settlement at EEOC indicates why settlement is perhaps the only way to avoid backlog. According to the EEOC, more than 30,000 charges need to be offered for mediation and 16,000 of those charges will need to agree to mediation to reach the goal of 8,000 resolutions, only 7% of projected resolutions in FY1999. However, using early settlement techniques in 1978-80, the percentage of settlements went from 14% in 1977 almost half of all charges or 47% by 1980. Monetary benefits rose substantially from \$3,948,006 to \$43,082,000. I believe that if the subcommittee appropriates sufficient funds tied to a requirement that the money be used chiefly to implement early resolution ADR techniques, similar productivity increases can be achieved today. Mediation should be reserved to a much smaller number of cases that seem headed for litigation or are otherwise unusual or complicated.

PROPOSED CONDITIONS OF THE FULL GRANT

- 1) The full amount should be appropriated to be used during the next 4 years, until 2001 when the Balanced Budget Act sunsets, with no increase in staff except for inflationary purposes. At that point, the subcommittee should review the results and whether, notwithstanding productivity increases, more staff is justified.
- 2) The Commission should implement agency-wide ADR in every district office. Implementation should occur in every office within the next 12-18 months unless the Commission demonstrates why this timetable cannot be achieved. The program should be tested in a limited number of offices to iron out inevitable problems before being implemented system-wide. A plan for the test period should be presented to the Subcommittee for Commerce, Justice, State and Judiciary appropriations within 60 days and for full implementation of the plan within 120 days.
- 3) Funds should be confined to the following:
 - a) Hiring investigators and support staff (such as scheduling and filing clerks) to be used chiefly for ADR. Additional investigators are particularly necessary. Staff without investigative skills will not have the skills to bring matters to early resolution with satisfaction to the parties and without controversy to the agency.
 - b) Early resolution techniques, instructions and manuals for their implementation.
 - c) Expert and rigorous training and re-training of staff in early resolution techniques.
 - d) Technical improvements essential to achieve the benefits of increased productivity expected from early resolution. The EEOC has an outstanding backlog of needed technical improvements, and a system-wide change to ADR will only add to this deficit.
- 4) Early resolution should be available for most cases.

- 5) Mediation should be available for complex or otherwise unusual cases where significant amounts of staff time would otherwise be involved and selected cases that have been conciliated after cause has been found pursuant to the statute.
- 6) A portion of the appropriated funds should be used to develop data and to monitor and ensure feedback so that evaluation takes place and improvements are continuously made throughout the period of implementation.

Sincerely,



Eleanor Holmes Norton

cc: Honorable Alan B. Mollohan,
Ranking Democratic Member

March 3

EEOC Hearing

Fawell → Pleased \$ for backlog; improving invest. process
Support sig. increase — full 15% increase, provided operational changes

Backlog

Not go to new cases where no individual actually discriminated (testing) or to "push the legal envelope"

Key Q: How EEOC allocates resources.

Wants less \$ for litigation.

Lawyers should be involved early in the process.

Greater use of ADR. — ^{screening} good

Confidential; independent; professional
Mediators should not be EEOC staff

No \$ for new initiatives, such as testing.

& contingent upon, among other things, agreement not to use testers.

Payne → Supports US.

Gingrich → Discrim. is bad.
offense against our Creator

Should be
Fair, Professional

Support for increased funding if ~~done well~~ - agency is fair & professional
not cases that seek to break new legal ground.

Until backlog is reduced, EEOC should not be
creating cases through testing.

EEOC discriminating against "single victims" in favor of
testing cases (?) and systematic cases.

Attacking
testers is
part of plan to
undermine disparate
impact analysis

Any new & should go to backlog.
Not initiatives that create new cases.

testing
Commissioner's
charge.

No sacrifice of fairness. No case dumping.

Why seek disenfranchisement "haphazardly" when it's

- ① improve investigation
- ② reduce backlog
- ③ approp. allocation
- ④ clear criteria for lit
- ⑤ ADR
- ⑥ Agreement not to use & for testers.
 - * applicant misrep.
 - * entrapment

Q4. is divided (?)

→ D.C. Cir — Emp. testers w/out standing

Fawell → All in support of increase.
Zero in on ADR; investigation; technology.

Payne → Haphazard? Isn't there a method to how testing programs are developed?

Gingrich → Those who have filed a complaint should have 1st priority.
If agency was more efficient, people would file more cases.

⊕ no need for testers to identify a pattern, ~~the~~ it would show up.
U.S. govt. has skepticism of testing (?) No quality control to ward off entrapment.
Undermines fairness of govt. action.

Payne → making the pt. that people don't always know that they are being discriminated against.

Knollenberg

McCarthy

Petri → Economic boom has done more to end discrimination than federal agencies.

If we cut back on class actions from EEOC, won't private groups and AGs still do it (?)

Turn over cases to Legal Services Corp (?)
C/b/c of large backlog (?)

Gingrich → We should think of what the model is for effective govt. response to charges of discrimination.

* Scott (from full Committee)

better sorting of cases to evaluate caseload (?)

All applicant knows is that he/she didn't get the job. "Discreet bigot"

Testers can develop evidence.

Like if you suspect someone is selling drugs, you send a tester in

Many look for jobs not lawsuits.

* If EEOC says has complaints and wants to investigate further, that could be O.K. (for testers?)

→ G objects to random testing.

Scott → where reasonable suspicion, could test (?)

G → leaves this door open

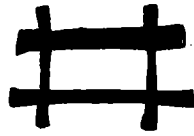
Ballenger → shouldn't we allocate for more investigators and fewer lawyers (?)

Someone needs to make pt. that discrim. is not about whether a person can get a job. Rather, the Q is whether they are discrim. against

Low unemployment ends discrimination. If you lose one job, just go across the street and get another.

is trying to obtain a particular job

6
13
20
27
3
10



Reps. are gearing up
to attack disparate
impact analysis.

Hawaii
(P)

→ Have made backlog progress

Case load increase - impact of ADA.

Testers to develop pattern & practice cases.

Fawell

→ Representation of discharge cases should be left
to the private sector.

Igasaki

→ OK.

Outside mediator (?)

ADR available for all cases (?)

Fawell

→ wasn't aware that some cases would not be
eligible for ADR.

North

WLDF

→ Bush promoted testing as a tool.

SCT granted cert on 4th Cir case

yesterday related to mandatory ADR.

→ Even those who come to attack testing, concede that there needs to be a mechanism to detect discrimination in hiring.

But resist testing, b/c of idea that hiring is more nuanced than ~~hiring~~ housing.

Tierney

→ Separate enforcement for ADA (?)

Fawell

→ Can any case go to mediation if both parties agree (?)

Q: Is mediation only offered to B cases (?)

EEOC

The Administration's 1999 budget contains \$279 million for the EEOC -- \$37 million (15%) more than the enacted 1998 budget. Funds will go to reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by the year 2001 through a combination of investments in information technology, increased use of mediation, and increased staffing.

On March 3, 1998, Speaker Gingrich testified before the Education and Workforce Committee's Subcommittee on Employer-Employee Relations and indicated support for the President's EEOC budget request, conditioned on the agency implementing six "reforms" to its operation: (1) improvements to the investigative and intake processes (including greater supervision of the process by lawyers); (2) a significant reduction of the backlog of cases and the length of time for case processing; (3) a more appropriate allocation of resources to charge processing vis-a-vis litigation; (4) expanded use of alternative dispute resolution; (5) clarification of the criteria for litigation by the EEOC; and (6) an agreement by the EEOC not to use its scarce resources for employment testers. Congressmen Fawell and Goodling subsequently sent a letter to Chairmen Livingston and Rogers supporting Gingrich's position.

On Friday, April 17, 1998, EEOC staff met with Rogers's and Fawell's staff to better determine where they are headed. The EEOC believes that they can come to favorable agreement on the first five "reforms." However, the Speaker has made clear to Fawell and Rogers that the provision related to testers is a "line in the sand."

At this point, we are still unsure of the breadth of the Speaker's suggested reform related to testers. At a minimum, Gingrich wants the EEOC to agree not to spend any money in FY99 on hiring employment testers. Though the EEOC currently has a very small pilot program to explore whether and how the agency could use testers, the program is only funded through the end of this fiscal year, and there are no plans to expand it -- the FY99 budget does not include any money for testers. However, depending on the results obtained from the pilot, we may want to include a testing program as part of a future EEOC budget. Thus, we could likely agree not to spend money on testers in FY99 as long as the agreement would not limit the agency's ability to use or hire testers in the future and did not in any way send a signal that we do not think that testing is an appropriate tool for civil rights enforcement.

However, Gingrich's condition may be broader -- perhaps to include a prohibition on the use of evidence obtained from testers generally (commissioned by non-profits, for example). This would be very difficult for us to agree to. It could be interpreted as questioning the validity of the use of employment testers in the enforcement of anti-discrimination laws. As you know, the use of testers is an established tool for the enforcement of the Fair Housing Act -- HUD now provides grants (through the Fair Housing Initiative Program) to non-profits for the use of testers to gather evidence in housing discrimination cases. Also, the President's FY99 budget includes a new \$10 million for HUD to conduct a nation-wide testing program.

Talking points

- The Administration is committed to working hard to get a 15% increase (\$37 million) for the EEOC in FY99. Though we have been encouraged by the expressed support of Speaker Gingrich and others in Congress on this issue, we are concerned that some of the conditions for their support may inhibit the agency's ability to effectively determine how to allocate resources, set litigation priorities, or utilize effective tools for the enforcement of federal anti-discrimination laws. Most particularly, we are concerned about the Speaker's suggested "reform" that would prohibit the agency from utilizing discrimination testers.
- The EEOC currently has a small pilot program to determine whether and how to use testers as part of their enforcement arsenal. This program ends at the end of this fiscal year. The EEOC's FY99 proposed budget does not include any money for testers.
- Though the EEOC could likely commit to not employing testers in FY99, we are concerned that Gingrich and others may try to statutorily limit the EEOC's ability to use testers in the future or to limit the ongoing use of evidence obtained by outside testers (e.g., those employed by non-profits). This would be a very bad result. Though we have not yet concluded that the EEOC's use of testers is effective and appropriate (the pilot has been operating for approximately 6 months), we do not want to tie the agency's hands.

Moreover, we do not want to signal that the use of testers is not an appropriate tool for enforcement of the anti-discrimination laws generally. This is particularly true in light of the President's strong endorsement of the use of testers in the housing context, reflected in his request for a new \$10 million for HUD to conduct a nation-wide testing program.

- Our strategy is to continue to meet with Hill staff (both Democratic and Republican) to determine precisely what their bottom line is on the issue of testers. If, in order to get necessary Republican support for our budget request, the agency would need to agree not to employ testers in FY99, we need to assess whether this commitment would somehow institutionalize the limitation, thus making it harder for the agency to use testers in the future. If, however, they want a broader restriction, we need to assess the degree to which such a limitation weakens the agency's ability to effectively enforce the law.

**THE CLINTON ADMINISTRATION ANNOUNCES
NEW CIVIL RIGHTS ENFORCEMENT INITIATIVE**

January 19, 1998

The Vice President today announced a package of civil rights enforcement initiatives that places new emphasis on prevention and non-litigation remedies for discrimination and strengthens civil rights agencies' ability to enforce anti-discrimination law. The plan promotes prevention by providing increased resources for compliance reviews and technical assistance, and offers an alternative to expensive litigation by funding a dramatic expansion of alternative dispute resolution (ADR) mechanisms. The plan also sets specific performance goals for the EEOC to speed processing of complaints and reduce case backlog, and provides for greater coordination across federal agencies and offices. The Clinton Administration's Fiscal Year 1999 balanced budget contains \$602 million for civil rights enforcement agencies and offices -- an increase of \$86 million, or more than 16 percent, over last year's funding.

Equal Employment Opportunity Commission (EEOC)

The Administration's budget proposal expands the EEOC's ADR program over three years to allow as many as 70 percent of all complainants to choose mediation, rather than the lengthy process of investigation and litigation. In the first year of this expansion, the EEOC will provide ADR in a projected 16,000 cases -- 20 percent of all incoming cases and double the number currently sent to mediation. The Administration's budget also sets specific performance goals for the EEOC to reduce its backlog. Through a combination of the increased use of mediation, improved information technology, and an expanded investigative staff, the EEOC will reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months, and reduce the backlog of cases from 64,000 to 28,000, by the year 2000.

In total, the budget requests \$279 million for the EEOC for FY 1999 -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase (\$13 million) goes to expansion of the agency's ADR program.

Department of Housing and Urban Development (HUD)

The Administration's budget proposes an increased emphasis on reducing discrimination and ensuring equal opportunity in housing. The highlight of the HUD budget proposal is a targeted enforcement initiative that will use paired testing -- in which otherwise identical applicants of different races approach realtors or landlords -- to detect and eliminate housing discrimination. This systematic, focused testing strategy will allow more accurate measurement and increased public awareness of housing discrimination, while facilitating enforcement actions against violators of the fair housing law.

The Administration's budget proposes \$52 million for FY 1999 -- \$22 million, or about 70 percent, more than last year's funding -- to enable HUD to meet its goals of ensuring equal opportunity in housing. The new paired testing program is funded at \$10 million.

Key Aspects of the Budget

*** Alternative Dispute Resolution (ADR)**

The plan increases the use of ADR in the Federal government as a voluntary option available to parties that seek a non-litigation solution to their cases. The Administration's budget expands mediation programs in almost every agency, most notably in the EEOC.

*** Prevention Activities**

The plan emphasizes efforts throughout the government's civil rights agencies and offices to prevent discrimination from occurring -- for example, through technical assistance, outreach, and compliance reviews. Offices in which such consultative activities will assume added importance include the Civil Rights Center of the Department of Labor and the Offices of Civil Rights of the Departments of Health and Human Services and Education. The Office of Federal Contract Compliance Programs of the Department of Labor will increase compliance reviews by 10 percent, while reducing burdens on contractors (paperwork, etc.) by at least 30 percent.

*** Improved Coordination**

The plan recognizes the need for enhanced coordination of federal civil rights enforcement policy among agencies by highlighting the lead role of the Department of Justice's Civil Rights Division, under the direction of Bill Lann Lee, and providing additional resources for coordination activities. This emphasis will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.

EEOC Strategy

Claire

TO DO -- January 28, 1998

Final performance goal info from Susan Carr

1. Americanization -- Krista finding out what immigrants get now (fed and state), including what is going on with the office of refugee resettlement at HHS.

2. Policy for Feb. Board meeting

Aida Alvarez

SBA announcements

a. Eddie Mac? Lending testing? Paul to get with Cuomo people?

3. Race & Health event -- \$80 million -- Feb. 21st

21st

20. Steve Warnath re: handed Commerce/Labor mtg go(3)

4. Flight plans for San Jose

5. CRS follow-up

a. Meeting with DOJ and CRS re: having CRS continue to house promising practices?

6. Native American cross cut -- Larry Haas at 405-3814

call Fri. a.m.

7. Coordination of CR enforcement by CRT -- Bill Lee

8. Bob: Where is INS proposal to legislatively fix IRIIRA? Not going anywhere unless we know what is in it -- specifics. OK. Spoke w/ Barbara Staack

9. Interior: recent denial of cert re: taxation

21. Immigration OIA

10. Steve Warnath -- who was included in immigration working group? NSC/NEC/OPI/OMB/Leg Aff/Counsel

by COR Tues.

11. Carla Wiggins in Bob Dingleman's office (307-1800) re: availability to meet with Booz-Allen for a separate interview.

12. David Campt re: March meeting -- media stereotypes

13. Paul Donnelley: 301/559-7812

14. Follow up on Race report??

15. New topics for Board meetings?

16. Andrew: policy decision making?

17. Disparate impact?

18. Jamie Davies O.K. spoke

hooked him up w/ David Campt

One-pagers for Board mtg.

19. Comprehensive Federal Indian Policy Statement (CFIEPS)
Urged by Sen. to issue it.
Needs some response.
Where are we?!

Eric Schwartz
Rob Malley

LC mty.
9-12 am

Susan & Maria Borrero
to get
final math

External Strategy

5 bullets

- ① fast justice — 9.4 to bmo.
- ② tangible perf. goals
- ③ technology (no e-mail)
- ④ caseload increase / resources down
- ⑤ Agency on right track

Internal Strategy

Get EEOC
folks talking
from the same
page

- Press @ EEOC
- Igasaki
- Sylvia Anderson
- Leg. Affairs
- Reg Jones
- (R-Black)

Hill

Leg. Strategy

J.C. Watts

(Reg Jones
to do it)

DeWynne

WH lead strategy

WH process

- Who can do what
to highlight the
need for this

- US
- Lee

- Coordinate w/ leg.
affairs and/or
PIR

Work w/ Gil Casellas

Hearing date (?)

EEOC is briefing Igasaki

Contact Igasaki

New Chair for EEOC
(soon)

(Maria or Ellen)



- 16
20
20

~~10~~
10
10

32

16	8
25	12.5
30	15.0

35.5

48
28

20

20

~~56,000~~
56,000 B Cars

EEOC

Harris
Saewell

March 3rd — oversight hearing

Igasaki

will be grilled

- Ellen Vargyas — Gen Counsel
- Maria Barrero — Exec. Director
- 2 or 3 Igasaki Special Assts.

Press @ EEOC

Did strategic plan last Fall

~~Review~~

Performance plan

1999 plan
in sync w/ budget
proposals

There is

reduce from
9.4 — 6 mo.

doubling # of complaints
eligible for mediation

[investigators]

Purpose is how to operationalize the proposal
\$13 million

Not ready to meet

Need projections

Develop different models.

Best & most complete info possible.

Wed. afternoon COB

98		
4,000	6,000	6,000
	(16)	

THURS

44

16

Feb 1989

Maria Berrero

Working on tables for 7 one week tables based on assumptions

original tables for \$270 under Casellas

Igasaki has diff. views

— productivity level

— concerned

did a no table resources table for him on Friday, and didn't like them (b/c inventory goes up.)

Igasaki said tables ready Thurs

→ \$13 million/year for mediation

Originally, \$40 million in one year when \$13 million

Mediation program now \$4 → \$13 million

some of ↑ has to be used for staff to manage the program.

\$500/change in first scenarios

Chair concerned that too low

— \$200/change

was \$500/change

under workload tables that we have

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	To Julie Fernandez from Ellen J. Vargyas re: Attendees for Tuesday Meeting (partial, DOB, SSN) (1 page)	01/30/1998	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17176

FOLDER TITLE:

EEOC [Equal Employment Opportunity Commission]: FY99 Budget [3]

2017-1120-S
ry2230

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

January 30, 1998

*March 3rd
 Igasaki hearing
 approps.*

TO: Julie Fernandez
 Domestic Policy Council
 The White House

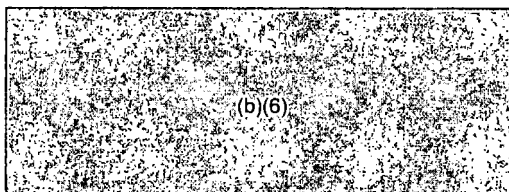
FROM: Ellen J. Vargyas *EJV*
 Legal Counsel
 Equal Employment Opportunity Commission

SUBJECT: Attendees for Tuesday Meeting

The following is the list of attendees for Tuesday's meeting with their Social Security numbers and dates of birth.

<u>NAME</u>	<u>DATE OF BIRTH</u>	<u>SOCIAL SECURITY NUMBER</u>
Maria Borrero		
Ellen J. Vargyas		
<i>Chairman</i> - Jason Hegy		
" - Ken Morse		
William White, Jr.		

Communication



[001]

Let's talk Monday to go over further details.

C O V E R

FAX

S H E E T

To: Julie Fernandez**Fax #:** 456-5581**Subject:****Date:** January 30, 1998**Pages:** 1 page, including this cover sheet.**COMMENTS:**

From the desk of...

Benita Lucy
Confidential Assistant to Legal Counsel
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L STREET, NW
WASHINGTON, D.C. 20507

202/663-7197
Fax. 202/663-7176

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. memo	To Julie Fernandez from Ellen J. Varygas re: More Names for Tomorrow's Meeting (partial, DOB, SSN) (1 page)	01/30/1998	b(6)

COLLECTION:

Clinton Presidential Records
Domestic Policy Council
Irene Bueno
OA/Box Number: 17176

FOLDER TITLE:

EEOC [Equal Employment Opportunity Commission]: FY99 Budget [3]

2017-1120-S

ry2230

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

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

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

RR. Document will be reviewed upon request.



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

January 30, 1998

TO: Julie Fernandez
Domestic Policy Council
The White House

FROM: Ellen J. Vargyas
Legal Counsel *ELV*
Equal Employment Opportunity Commission

SUBJECT: More Names for Tomorrow's Meeting

Listed below are the names of two additional attendees for tomorrow's meeting.

NAME

DATE OF
BIRTH

SOCIAL SECURITY
NUMBER

[002]

Gen Counsel
C. Gregory Stewart
Mark Wong

(b)(6)

C O V E R**FAX****S H E E T**

To: Julie Fernandez
Fax #: 456-5581
Subject:
Date: February 2, 1998
Pages: , including this cover sheet.

COMMENTS:

From the desk of...

Benita Lucy
Confidential Assistant to Legal Counsel
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
1801 L STREET, NW
WASHINGTON, D.C. 20507

202/663-7197
Fax: 202/663-7176

First make sure
Susan & Marcie

facsimile
TRANSMITTAL

to: Julie Fernandez
fax #: 202-456-5581
re: EEOC Pending Inventory
date: January 27, 1998
pages: 2, including this cover sheet.

After Ellen Vargyas faxed you the attached table showing the FY 1997 final pending charge inventory, Susan Carr from OMB asked for the same information but she wanted to use the data for the **first quarter FY 1998**, which is higher than the fourth quarter level. I have annotated the sheet to show the FY 1998 pending charge inventory as of the first quarter.

Ellen asked that I fax this to you. If you have any questions, please given Ellen or me a call.

From the desk of...

Linda Lawson
Operations and Policy Specialist
EEOC - Office of Field Programs
1801 L Street, N.W.
Washington, D.C. 20507

202-663-4898
Fax: 202-663-7190

Table 1

EEOC Charge Processing Activity

	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
Pending End	73124	96945	98269	80890	64576 *
Percent Change		32.6%	1.4%	-19.2%	-18.7%
Avg. Age of Chgs. in Days	201	249	334	373	340
Over 540 Days Old	4.6%	14.6%	19.4%	26.4%	20.1%
Under 180 Days Old	55.5%	45.5%	34.0%	38.4%	43.9%
Charge Receipts	87942	91189	87529	77990	80625
Percent Change		3.7%	-4.0%	-10.9%	3.4%
Resolutions	71716	71563	91774	103467	106188
Percent Change		-0.2%	28.2%	12.7%	2.6%
Avg. Proc. Time in Days	294	328	353	383	365

*-Pending charge inventory at end of FY 97- 64,576

-Pending charge inventory at end of 1st QTR FY98- 65,658

**Executive Office of the President
Office of Management and Budget**

Housing, Treasury, and Finance Division

Facsimile Cover Sheet

Date: January 27, 1998

To: Julie Fernandez
6-5581

From: Susan Carr

Subject: EEOC pending inventory numbers

Pages to follow: 1

Comments:

Per your request.

FROM:

Susan M. Carr
Policy Analyst
Office of Management and Budget
NEOB 9201
725 17th Street, NW
Washington, D.C. 20503

phone: (202) 395-7881
fax: (202) 395-6889
e-mail: carr_s@o1.eop.gov

Table:

EEOC Charge Processing Activity

	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
Pending End	73124	95945	98209	80890	84576*
Percent Change		32.6%	1.4%	-19.2%	-18.7%
Avg. Age of Chgs. in Days	201	249	334	373	340
Over 540 Days Old	4.6%	14.8%	19.4%	26.4%	20.1%
Under 180 Days Old	55.5%	45.5%	34.0%	38.4%	43.9%
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Avg. Proc. Time in Days	294	328	353	383	365

*-Pending charge inventory at end of FY 97- 64,576

-Pending charge inventory at end of 1st QTR FY98- 65,658

Percent Change

→ Julie,
The President's Budget will quote 64,000 at EOY FY97.
Susan

Table 1

EEOC Charge Processing Activity

	FY 1993	FY 1994	FY 1995	FY 1996	FY 1997
Pending End Inventory	73124	96945	98269	80890	64576*
Percent Change		32.6%	1.4%	-19.2%	-18.7%
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Over 540 Days Old	4.6%	14.6%	19.4%	26.4%	20.1%
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Resolutions	71716	71563	91774	103467	106188
Percent Change		-0.2%	28.2%	12.7%	2.6%
Avg. Proc. Time in Days	294	328	353	383	365

* This was the
inventory at the
end of FY '97

FAX TRANSMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

1801 L STREET, N.W.
WASHINGTON, D.C. 20507
(202) 663-4637
FAX: (202) 663-4639

To: Julie Fernandez
Date: January 27, 1998
Fax #: 456-5581
Pages: 2, including this cover sheet.
From: Ellen J. Vargyas
Subject: EEOC Charge Data

COMMENTS:

I've attached a chart which gives the basic outline of the information you've requested. If I can be of any further assistance, either in explaining this information or getting you additional information, you know how to find me!

Ellen J. Vargyas

\$1.288 - 2000
\$1.34 2000

**PRIVATE SECTOR EEOC ENFORCEMENT
COMPLIANCE PROJECTED ACTIVITY
(WITH ADDITIONAL STAFF TO REDUCE THE INVENTORY TO 6 MONTHS BY FY 2000)
(50% ADR SUCCESS RATE)**

COMPLIANCE ACTIVITY												
Workload/ Workflow	FY 1997 Actual	FY 1998 Estimate	FY 1999 Estimate	FY 2000 Estimate	FY 2001 Estimate	FY 2002 Estimate	FY 2003 Estimate	FY 2004 Estimate	FY 2005 Estimate	FY 2006 Estimate	FY 2007 Estimate	FY 2008 Estimate
Total Pending Charges/Complaints	80,890	84,098	65,018	58,716	48,072	44,524	43,341	43,341	43,341	43,341	43,341	43,341
Total Receipts	80,865	80,665	80,665	80,665	80,665	80,665	80,665	80,665	80,665	80,665	80,665	80,665
Net FEPA Transfers/Deferrals	8,835	8,835	8,835	8,835	8,835	8,835	8,835	8,835	8,835	8,835	8,835	8,835
Total Work Load	170,398	183,898	184,818	148,216	137,872	134,824	132,841	132,841	132,841	132,841	132,841	132,841
Staffing												
Investigators Available	795.1	795.1	804.6	874.0	874.0	874.0	874.0	874.0	874.0	874.0	874.0	874.0
Investigators Assigned	828.0	828.0	910.2	910.2	910.2	910.2	910.2	910.2	910.2	910.2	910.2	910.2
Resolutions												
Successful Mediations	823	1,111	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000
Administrative Enforcement Resolutions	105,477	87,461	91,802	96,144	89,048	89,048	89,048	89,048	89,048	89,048	89,048	89,048
Total Resolutions	106,300	88,572	95,802	100,144	93,048	93,048	93,048	93,048	93,048	93,048	93,048	93,048
Charges/Complaints Forwarded	64,890	64,818	68,716	48,072	44,524	43,341	43,341	43,341	43,341	43,341	43,341	43,341
Charge/Complaint Inventory (Months)	7.3	8.9	7.7	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0	6.0
Case Load per Available Investigator	80.6	81.8	70.4	55.0	50.9	49.6	49.6	49.6	49.6	49.6	49.6	49.6

* Pending beginning adjusted to reflect refinements in charge process reports.

Notes:

- (1) FY 1997 figures are taken from unreported 4th Quarter data
- (2) The workload calculations assume \$4M annually for contract ADR work, at \$500 per case, beginning in FY 1999.
The ADR success rate is assumed to be 50%.
- (3) Charge resolution activity for FY 1997 is the actual value, 132.7. Resolution activity for FY 1998 - FY 2000 is assumed to be 110.0.
Charge resolution activity for the following years, 101.9, is calculated to keep inventory constant at six months.
- (4) EEOC receipts and net FEPA transfers/deferrals are projected to remain level through FY 2008.
- (5) Workload totals above include charges originally received by EEOC and charges transferred into EEOC's workload from FEPA's. Workload totals do not include charges received and maintained for processing by FEPA's.
- (6) The above table reflects a total staff increase of 110 in fiscal year 1999, broken down as follows:
(investigators productive for 1/2 year in FY-99 to allow for hiring and training)

Investigators	82
Clericals	16
Supervisors	12

11/04/97

Source: ORIP

\$275,154,000

ID:

JUN 18 '98

1:01 No.001 P.12

Equal Employment Opportunity Commission

PRIVATE SECTOR EEOC ENFORCEMENT COMPLIANCE PROJECTED INVENTORY (WITHOUT ADDITIONAL STAFF)

COMPLIANCE ACTIVITY												
WORKLOAD/ WORKFLOW	FY 1997* Estimate	FY 1998 Estimate	FY 1999 Estimate	FY 2000 Estimate	FY 2001 Estimate	FY 2002 Estimate	FY 2003 Estimate	FY 2004 Estimate	FY 2005 Estimate	FY 2006 Estimate	FY 2007 Estimate	FY 2008 Estimate
Total Pending Charge/Complaints	79,448	68,019	68,689	69,359	70,029	70,700	78,230	85,760	93,290	100,821	108,351	115,881
Total Receipts	79,999	79,999	79,999	79,999	79,999	79,999	79,999	79,999	79,999	79,999	79,999	79,999
Net FEPA Transfers/Deferrals	9,003	9,003	9,003	9,003	9,003	9,003	9,003	9,003	9,003	9,003	9,003	9,003
Total Workload	168,449	157,020	157,690	158,360	159,031	159,701	167,231	174,761	182,292	189,822	197,352	204,881
Charges/Complaints Resolved	125.1 100,431	110 88,331	110 88,331	110 88,331	110 88,331	101.5 81,471	101.5 81,471	101.5 81,471	101.5 81,471	101.5 81,471	101.5 81,471	101.5 81,471
Charges/Complaints Forwarded	68,019	68,689	69,359	70,029	70,700	78,230	85,760	93,290	100,821	108,351	115,881	123,411
Charge/Complaint Inventory (Months)	8.1	9.3	9.4	9.5	9.6	10.6	11.7	12.7	13.7	14.7	15.7	16.8

Pending beginning adjusted to reflect refinements in charge process reports.

- (1) Fiscal year 1997 figures are projected from third quarter data.
- (2) Charge resolution activity for fiscal year 1997 is the actual value as of third quarter fiscal year 1997; 125.1. Resolution activity for fiscal year 1998 through fiscal year 2001 is assumed to be 110. Charge resolution activity for the following years is projected to decline to 101.5.
- (3) EEOC receipts and net FEPA transfers/deferrals are projected to remain level through fiscal year 2008.
- (4) Above workload totals include charges originally received by EEOC and charges transferred into EEOC's workload from FEPAs. Workload totals do not include charges received and maintained for processing by FEPAs.

Table may not add due to rounding.

investigations = 803?

ID:

JAN 18 '98

1:41 No.002 P.02

PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

*See page 2+3 for details
of paired - voting.*

Issue Paper #2
Department of Housing and Urban Development
Fair Housing Grant Programs
(In millions of dollars)

ISSUE: Should HUD's fair housing initiatives be expanded? If so, what form should they take?

	FY 1997	FY 1998	FY 1999				
	<u>Actual</u>	<u>Enacted</u>	<u>Agency Request</u>	<u>Guidance Level</u>	<u>Recommended Level</u>	<u>Change from Request Level</u>	<u>Change from '98 Enacted</u>
BA/OB.....	30	30	47	34	44	-3	+14
OL.....	22	22	31	33	30	-1	+8

Option 1: OMB Guidance provides \$34 million, a \$4 million, or 13 percent, increase over FY 1998 enacted.

Option 2: HUD requests \$47 million, a \$17 million, or 57 percent, increase over FY 1998 enacted.

Option 3: HTF staff recommends \$44 million, \$10 million, or 33 percent, over planning guidance to support an audit-based enforcement proposal as part of a Presidential civil rights initiative.

"It's clear to me now that there is more housing discrimination in America than I have thought there was when I became President, and that that has been kept alive too long in too many neighborhoods, keeping, among other things, too many families from sending their children to the schools of their choice."

- - President Clinton in Remarks to the President's Race Advisory Board Meeting, September 30, 1997.

DESCRIPTION OF ISSUE: The Office of Fair Housing and Equal Opportunity (FHEO) administers two grant programs that each received \$15 million for FY 1998. The *Fair Housing Assistance Program (FHAP)* provides financial assistance to supplement enforcement activities of States and localities which have passed laws substantially equivalent to Federal fair housing laws. The *Fair Housing Initiatives Program (FHIP)* is a competitive grant program that provides funding to private fair housing groups to carry out activities that assist in enforcement and furthering compliance with the Fair Housing Act. The issue is what strategy and funding level would enable HUD to meet its goals of reducing discrimination and ensuring equal opportunity in housing, and assist the President in his recently announced Federal crackdown on housing discrimination?

Option 1: Guidance level of \$34 million. At \$34 million, HUD's fair housing grants would be \$4 million, or 13 percent, above the

FY 1998 enacted level of \$30 million. HTF Division staff would recommend that the FHIP program be increased from \$15 million to \$19 million, with level funding of \$15 million provided for the FHAP program. The increase in FHIP funding would enable the Department to support existing organizations with marginal increases in funding and create new private fair housing groups in underserved areas. However, civil rights advocates may view this level as inconsistent with the Administration's stated commitment to civil rights in light of both the FY 1998 budget request of \$39 million and the President's recent statement.

Option 2: HUD request level of \$47 million. For FY 1999, HUD proposes an "Anti-Discrimination in Housing Initiative", and requests \$17.4 million above the \$30 million appropriated in FY 1998, all of which is directed at increasing enforcement activity by State and local agencies and private fair housing groups to enable HUD to reach its goal of doubling the number of enforcement actions during the President's second term. HUD requests \$23 million for FHAP, an \$8 million, or 53 percent, increase above the \$15 million appropriated in FY 1998, primarily to increase from \$1,700 to \$1,800 the per case reimbursement rate and pay for additional post-charge costs to substantially equivalent agencies. HUD also requests \$24.4 million for the FHIP program, a \$9.4 million, or 63 percent, increase above the FY 1998 enacted level of \$15 million, to fund new private fair housing groups in underserved areas, fund increased testing and other investigative activities, fund programs that focus on systemic issues of discrimination, and fund support education and outreach programs.

HTF Division staff recommend no increase for the FHAP program. HUD reports that there have been no strong objections to the rate it reimburses for agencies to process housing discrimination cases. Further, HUD historically overestimates the expected number of complaints received by FHAP agencies. We expect FHAPs to process 5,100 in FY 1999, on par with the level of complaints processed when the FHIP program was last funded at \$26 million, its highest level ever. For the FHIP program, while it is important for HUD to continue developing the capacity of local non-profits in underserved areas and provide some additional resources to equal housing organizations to enhance their testing and investigative services, HTF Division staff believe that HUD should also develop a more focused and targeted approach to identifying and eliminating housing discrimination, as discussed in Option 3.

Option 3: Propose \$44 million and an audit-based enforcement initiative. This option would provide a combination of increased funding and a new way of addressing HUD's responsibility to enforce the Fair Housing Act. *We believe that Federal dollars would be more wisely spent by HUD on a targeted, audit-based enforcement initiative*, piloted in several metropolitan areas, that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement action. An audit-based enforcement initiative using paired testers could be piloted in 20 metropolitan areas around the country. \$5 million would provide each of the 20 non-profit organizations with \$250,000 to establish an organizational capacity to administer paired testing in the rental and sales markets, develop comparable indices of discrimination, and provide for analysis and public dissemination of audit results. An additional \$5 million would provide the 20 metropolitan areas with sufficient funds to conduct audits using 500 pairs of testers.

This proposal could be modeled on the recent work of the Fair Housing Council of Greater Washington's (FHCGW) Fair Housing Index. Community analyses of impediments to fair housing have seldom tried to identify an overall level of illegal discrimination in the marketplace. In fact, the FHCGW's Fair Housing Index was the first serious attempt by a community-based organization to

develop an index of discrimination in a metropolitan area. Partially using FHIP grant funding, FHCGW determined that blacks and Hispanics face discrimination more than 40 percent of the time when they try to rent an apartment in the Washington area. In the sales market, blacks experienced discrimination 33 percent of the time, and Hispanics 42 percent of the time. These results received substantial publicity and led to numerous enforcement actions. DC-area counties pledged more resources to address illegal housing discrimination. Montgomery County, for example, pledged \$400,000 for a two-year initiative to perform its own "tests" of the market and enforce housing discrimination laws against landlords and real estate agents who use discriminatory practices.

Replicated across the country, this strategy could substantially aid in detecting and reducing levels of housing discrimination. First, HUD or Department of Justice enforcement actions could result, which are an important tool in changing people's behavior. Second and more important, communities could use the results to attract additional local resources to address the problem of discrimination. Third, HUD could use its voluntary fair housing agreements with local lenders and housing organizations in a proactive approach to promote equal housing opportunities where those communities have initiated programs to confront discrimination.

RECOMMENDATION: Option 3: Fund fair housing activities at \$44 million. A Presidential initiative to support fair housing enforcement is timely and desirable, but it should be more creative and systematic than simply providing more money for HUD's existing approaches. Increasing HUD's fair housing resources by \$10 million for a new audit-based enforcement initiative and \$4 million for ongoing efforts demonstrates a renewed and serious Administration effort in this area. FHIP would be funded at \$29 million, \$14 million over the FY 1998 enacted level of \$15 million. An increase of \$10 million would fund an audit-based enforcement initiative, and HUD could allocate the additional \$4 million across ongoing programs. FHAP would remain constant at \$15 million.

EEOC

Susan M. Carr

01/17/98 12:48:14 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP

cc: Alan B. Rhinesmith/OMB/EOP, Francis S. Redburn/OMB/EOP

Subject: EEOC

Without talking with EEOC about fine tuning the specifics, here is how I think they will get to processing private sector charges on average in 6 months by the end of FY 2000:

Staffing Increases: Hire 110 additional investigative staff in FY 1999 (out of the 162 additional staff proposed in the budget). This will reduce the number of cases each investigator has to handle from 81 cases annually (FY 1997 actual figure) to 55 cases annually, per investigator. The fewer the number of cases each investigator has, the faster they can process the charges.

ADR program: The processing time also assumes 4,000 successful mediations each year (out of 80,000 new cases filed), or a 25 percent mediation success rate out of the 16,000 mediations that the \$13 million mediation budget could pay for. Of course, if the mediation success rate is higher, say 50 percent success rate, then EEOC could potentially meet its goal earlier.

Technology funding: It's harder to quantify the impact of better technology on case processing time; suffice it to say, if the staff had e-mail, they may do a faster job. Also, if investigators could pull up information on how a case was handled in a different regional office, the investigator may spend less time "reinventing the wheel" in case development, and this could also lead faster resolution and to more consistency among the way cases are handled around the country.

Summary of budget components:

FY 1998 current enacted level: \$242 million

Add:

Cost of continuing operations:	\$8 million
Cost of add'l 162 staff	\$6 million
Cost of mediation	\$13 million
Cost of technology	\$10 million

Total 1999 budget: \$279 million