

1999 DIRECTOR'S REVIEW CIVIL RIGHTS CROSSCUT

Office of Management and Budget
Housing, Treasury, and Finance Division

November 12, 1998

DIRECTOR'S REVIEW FOR THE FY 1999 BUDGET
CIVIL RIGHTS CROSSCUT
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Section I:
Overview and Summary of Presidential Civil Rights Initiative

CIVIL RIGHTS CROSSCUT DIRECTOR'S REVIEW OVERVIEW

In June 1997, President Clinton launched his President's Initiative on Race (PIR), a campaign to improve race relations in the post-civil rights era by encouraging Americans to "learn together, talk together and act together to build one America" and to "help educate Americans about the facts surrounding issues of race". The seven-member Board agreed at its first meeting July 14 to focus its first initiatives on education and economic opportunity issues. President Clinton and Vice President Gore participated in a second Board meeting on September 30, where the President reiterated his commitment to looking for practical steps that will move the country forward toward common goals. He called on the PIR to consider publishing a compendium of local efforts that address promising practices of diverse communities in successfully promoting tolerance and models of behavior.

This crosscut review has three sections. The first section asks for decision on funding for the six principal civil rights enforcement agencies and the U.S. Commission on Civil Rights. The six enforcement agency proposals discussed in the issue papers comprise a \$56 million "Presidential Civil Rights Initiative", discussed below. The second and third sections are informational only. The second section discusses enforcement programs for which funding decisions are not requested, and programs that have been considered "civil rights" related, but are non-enforcement in nature; decisions for these programs will be made in the context of agency reviews. The third section discusses Administration efforts in a variety of areas that may be considered race-related.

The Domestic Policy Council's Civil Rights Working Group Efforts. The Domestic Policy Council (DPC) and HTF Division staff have been engaged for several months in meeting with both civil rights advocacy group leaders and agency officials to hear their recommendations for improving Federal civil rights efforts. The advocates recommended a range of ideas including improved White House coordination of civil rights policies and stronger enforcement of civil rights laws by and in the Federal Government. All agreed strongly that a coordinated approach to civil rights policies, with a full-time senior person in the White House responsible for civil rights issues, could assist in numerous ways, including: identifying civil rights priorities and focusing resources incrementally in key areas which could aide the Assistant Secretaries in defending their budgets during the appropriations process; focusing the need for Cabinet Secretaries to play a more visible role in advancing the Administration's civil rights agenda; giving strategic attention to Presidential appointments and the timing of major initiatives; and coordinating the fight against discrimination by Federal agencies.

The DPC also conducted a series of meetings with Federal civil rights agencies including the Equal Employment Opportunity Commission (EEOC), the Department of Justice's Civil Rights Division, and the civil rights offices of Education, HHS, Labor, and HUD. These agency meetings were held to discuss ideas for assisting the Administration obtain its civil rights enforcement budgets from the appropriators.

Presidential Civil Rights Initiative. DPC and HTF Division staff believe increased resources are necessary to implement many of the proposals for agencies to conduct business more effectively and efficiently. A Presidential announcement would highlight a \$56 million “Civil Rights Initiative” to assist the key civil rights enforcement agencies:

- to improve compliance;
- to implement greater use of alternative dispute resolution techniques;
- to invest in information systems upgrades; and
- to develop better data collection capabilities.

The increased funding would be more than a symbolic statement about the President’s commitment to civil rights; it would provide the enforcement agencies with badly needed resources. For example, EEOC could invest in technology and implement greater use of mediation to quickly resolve complaints without significant increases in staffing. OFCCP would continue its streamlining and compliance assistance initiatives. And our recommendation for HUD is to develop a targeted, audit-based enforcement initiative that would raise the Nation’s and communities’ awareness of the extent of housing discrimination through focused and publicly released audit results and subsequent enforcement action. Detailed agency proposals are discussed in the subsequent issue papers. The funding levels for each agency are shown in the table below:

Presidential Civil Rights Initiative (Budget Authority, in millions of dollars)					
Agency	FY 1998 Enacted	FY 1999 OMB Guidance	FY 1999 RMO Recomm	Presidential Initiative	Delta: Recomm. Less Guidance
EEOC	240	236	270	+30	+34
HUD	30	34	44	+14	+10
DOJ	65	67	70	+5	+3
OFCCP	62	69	67	+5	-2
Education	62	63	64	+2	+1
HHS	20	20	20	+0	+0
Total:	479	489	535	+56	+46

Civil Rights Information in the President's Budget. Both the advocates community and the civil rights agencies discussed the need for better and more available data on civil rights programs. During President Clinton's first term, there was no discussion on civil rights programs in the annual budget presented to Congress. For the FY 1998 Budget, a brief discussion on overall funding for civil rights activities in housing and employment was included in the short "Highlights of the Federal Budget" document in "Chapter VI, Expanding Economic Opportunity". This contrasts sharply to fuller analyses of civil rights activities that had been an integral part of the President's Budget through FY 1987. The "Special Analysis J" section (see Appendix A) listed budget authority for principal federal civil rights activities and descriptions of the coverage and scope of voting rights, equal employment opportunity, fair housing and equal credit, activities of the U.S. Commission on Civil Rights, and non-discrimination in Federally assisted programs. When the FY 1988 budget was consolidated into a single document, the production of most special analyses ceased. With the resurrection of the Analytical Perspectives component of the President's Budget in _____, all of the previous analysis were again included, with the exception of civil rights activities. OMB may want to include a civil rights section in the FY 1999 Budget as part of an Administration effort to highlight government-wide program and financial information for civil rights activities.

Summary of Civil Rights Enforcement Funding. Most of the Federal dollars that go toward civil rights objectives are provided to agencies for enforcing Federal civil rights statutes. In January 1997, at the request of Wade Henderson of the Leadership Conference on Civil Rights, the Housing, Treasury, and Finance Division developed a post-budget crosscut table of FY 1998 spending for civil rights programs. The President proposed \$608.6 million for Federal civil rights programs, a \$51.7 million or 9.3 percent increase in budget authority over FY 1997. Funding increases were proposed for nearly every civil rights agency, spreading scarce Federal resources over a broad group of agencies and programs. The average increase in enforcement programs was 8.3 percent, with increases ranging from 3 percent for the EEOC to between 10 and 30 percent for Education's civil rights programs, Labor's OFCCP, HUD's fair housing activities, and the U.S. Commission on Civil Rights. Non-enforcement programs were proposed to increase 15.6 percent, primarily reflecting a 38 percent increase in SBA's minority and women small business programs.

This crosscut reviews only the six key civil rights enforcement agencies, plus the U.S. Commission on Civil Rights. Despite the \$503.5 million proposed in FY 1998 for the six principal agencies, Congress is likely to provide \$465.7 million, equal to the FY 1997 enacted level, and \$37.8 million, or 7.5 percent, below the President's request for FY 1998 (see Attachment A). For FY 1999, OMB is proposing \$537.2 million for key enforcement activities, a 4.4 percent increase over the President's FY 1998 request and a 13.2 percent increase over the FY 1998 enacted level. Using a 2.3 percent GDP deflator, the real increase for OMB's recommended level over the FY 1998 budget request is 2 percent, and the real increase over the FY 1998 enacted level is 10.6 percent. Individual agency increases range from 33 percent for fair housing activities, to 8 percent for EEOC and level funding for Education's Office of Civil Rights.

Civil Rights Enforcement Funding
Comparison of FY 1998 Enacted, FY 1999 Agency Request, and FY 1999 RMO Recommendation
(Budget Authority, in millions of dollars)

Summary:

The Agencies requested \$xxx million for FY 1999, a \$xxx million, or xxx percent increase, over the FY 1998 enacted level of \$545 million.
The OMB recommendation provides \$xxx million, \$xx million, or xxx percent, more than FY 1998.
The OMB recommendation is below the Agency Request level by \$xxx million, or xxx percent.

	FY 1998 Enacted	Agency Request	Diff: Agency Request less FY 1998 Enacted	Pctg. Difference	RMO Recomm	Diff: RMO Recomm less FY 1998 Enacted	Pctg. Difference	Diff: RMO Recomm less Agy Request	Pctg. Difference
Principal Civil Rights Enforcement Agencies:									
1. Equal Employment Opportunity Commission.....	240	287	47	19.58%	270	30	12.50%	-17	-7.08%
2. HUD Fair Housing Activities.....	30	47	17	56.67%	40	10	33.33%	-7	-23.33%
3. DOJ: Civil Rights Division.....	65	71	6	9.23%	67	2	3.08%	-4	-6.15%
4. DOL: OFCCP.....	69	72	3	4.35%	67	-2	-2.90%	-5	-7.25%
5. Education: Office of Civil Rights.....	62	70	8	12.90%	64	2	3.23%	-6	-9.68%
6. HHS: Office of Civil Rights.....	19	22	3	15.79%	20	1	5.26%	-2	-10.53%
Total, 6 principal enforcement agencies.....	485	569	84	17.32%	528	43	8.87%	-41	-8.45%
U.S. Commission on Civil Rights:									
7. U.S. Commission on Civil Rights.....	9	13	4	44.44%	9	0	0.00%	-4	-44.44%
Total, 6 principal agencies, plus USCCR.....	494	582	88	17.81%	537	43	8.70%	-45	-9.11%
Other Civil Rights Enforcement Agencies:									
8. EPA: Office of Civil Rights.....	21	21	0	0.00%	21	0	0.00%	0	0.00%
9. Agriculture: Office of Civil Rights.....	15	15	0	0.00%	13	-2	-13.33%	-2	-13.33%
10. DOT: Office of Civil Rights.....	6	7	1	16.67%	6	0	0.00%	-1	-16.67%
11. DOL: Office of Civil Rights.....	5	5	0	0.00%	5	0	0.00%	0	0.00%
Total, Other Enforcement Agencies.....	42	43	1	2.38%	40	-2	-4.76%	-3	-7.14%
Total, Civil Rights Enforcement Agencies.....	536	625	89	16.60%	577	41	7.65%	-48	-8.96%

Section II:
Summary of Agency Request and Recommended Funding Levels

Table A. Civil Rights Enforcement Agencies Reviewed in Issue Papers
Table B. Other Enforcement Agencies and Nonenforcement Programs

TABLE A

CIVIL RIGHTS BUDGET CROSSCUT
CIVIL RIGHTS ENFORCEMENT AGENCIES REVIEWED IN ISSUE PAPERS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>
<u>Equal Employment Opportunity Commission</u>												
Guidance.....	---	---	236	237	235	236	233	234	232	233	238	238
Agency Request.....	242	240	287	280	287	285	287	287	287	287	287	287
FY 1999 Recommended Level.....	---	---	270	270	276	276	283	283	289	289	296	296

Explanation: \$34 million in budget authority over planning guidance is provided as part of a Presidential Civil Rights Initiative. EEOC's goal is to reduce the private sector complaint months in inventory from 9.4 months to 6 months.

Department of Housing and Urban Development: Fair Housing Activities

Guidance.....	---	---	34	33	28	35	28	33	28	29	29	28
Agency Request.....	30	27	47	45	47	45	47	45	47	45	47	45
FY 1999 Recommended Level.....	---	---	44	30	39	35	39	39	39	40	39	39

Explanation: \$10 million in budget authority over planning guidance (\$14 million over FY 1998 level of \$30 million) is provided for HUD as part of a Presidential Civil Rights Initiative. HUD would develop an audit-based enforcement initiative to assist in meeting its goal of promoting equal opportunity in housing.

Department of Justice: Civil Rights Division

Guidance.....	---	---										
Agency Request.....	65	65	71	70								
FY 1999 Recommended Level.....	---	---	67	66	69	69	71	71	73	73	75	74

Explanation: [Include an explanation of the recommended level.]

TABLE A

CIVIL RIGHTS BUDGET CROSSCUT
CIVIL RIGHTS ENFORCEMENT AGENCIES REVIEWED IN ISSUE PAPERS
(in millions of dollars)

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
Department of Labor: Office of Federal Contract Compliance Programs												
Guidance.....	---	---	62	62	62	62	62	62	62	62	62	62
Agency Request.....	69	69	72	72	74	74	76	76	78	78	80	80
FY 1999 Recommended Level.....	---	---	67	67	67	67	67	67	67	67	67	67

Explanation: At \$67M, the recommendation: 1) provides a \$5 million (8 percent) increase over 1998 likely enacted, \$4 million (6 percent) below their request; and 2) continues OFCCP's streamlining and compliance assistance initiatives. The Human Resources Division recommends providing inflation to maintain the FY 1998 requested FTE level.

Department of Education: Office of Civil Rights

Guidance.....	---	---	62	62	62	62	62	62	62	62	62	62
Agency Request.....	62	60	70	66	72	71	73	73	75	75	77	77
FY 1999 Recommended Level.....	---	---	64	62	66	64	67	65	69	67	71	69

Explanation: A \$2 million increase over guidance would provide for investments to information technology capabilities and additional staff to increase productivity. This increase would be part of a Presidential Civil Rights Initiative.

Department of Health and Human Services: Office of Civil Rights 1/

Guidance.....	---	---	20	20	20	20	19	19	19	19	20	20
Agency Request.....	19	20	22	22	22	22	22	22	22	22	22	22
FY 1999 Recommended Level.....	---	---	20	20	20	20	19	19	19	19	20	20

1/ BA includes transfers from Medicare Trust Funds

Explanation: Although significant decreases have been proposed for most of HHS' agencies and programs, the Office of Civil Rights is maintained at its FY 1998 likely level for FY 1999; the outyear estimates follow the pattern of the BRD guidance levels. [Agency request numbers for the outyears are

CIVIL RIGHTS BUDGET CROSSCUT
CIVIL RIGHTS ENFORCEMENT AGENCIES REVIEWED IN ISSUE PAPERS
(in millions of dollars)

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
U.S. Commission on Civil Rights												
Guidance.....	---	---	11	11	11	11	11	11	11	11	11	11
Agency Request.....	9	9	14.11	14.11	11	11	11	11	11	11	11	11
FY 1999 Recommended Level.....	---	---	9	9	9	9	9	9	9	9	9	9

Explanation: Recommend \$9 million, \$2 million below the planning guidance, which provides a cost of operations increase of \$260,000 over the FY 1998 enacted level of \$8.74 million. Encourage the Commission to focus on management reforms for FY 1999.

Total, Principle Enforcement Agencies and the U.S. Commission on Civil Rights:

Guidance.....	---	---
Agency Request.....		
FY 1999 Recommended Level.....		

TABLE B

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL

OTHER ENFORCEMENT AGENCIES:**Environmental Protection Agency: Civil Rights Programs**

Guidance.....	---	---	21	21	21	21	21	21	21	21	21	21
Agency Request.....	21	22	21	21	21	21	21	21	21	21	21	21
FY 1999 Recommended Level.....	---	---	21	21	21	21	21	21	21	21	21	21

Explanation: Funds civil rights and related environmental justice activities throughout the agency.

Department of Agriculture: Civil Rights Programs/Office of Civil Rights

Guidance.....	---	---										
Agency Request.....	13	13	15	15	21	21	21	21	21	21	21	21
FY 1999 Recommended Level.....	---	---	15	15	21	21	21	21	21	21	21	21

Explanation: The Office of Civil Rights, Department of Administration: Funding is included to re-establish an investigations unit for current and future complaints, to establish a workforce planning process and personnel evaluation and assistance program, to increase outreach to minority institutions, and to establish a conflict prevention and resolution center.

Department of Transportation: Office of Civil Rights

Guidance.....	---	---	5	5	5	5	5	5	5	5	5	5
Agency Request.....	6	6	7	7	7	7	7	7	7	7	7	7
FY 1999 Recommended Level.....	---	---	6	6	6	6	6	6	6	6	6	6

Explanation: DOT requests funding for eight additional Full Time Equivalent positions to address a backlog in EEO complaints. The RMO recommends no funding for these FTE in favor of ADR techniques and management training to decrease number of complaints.

TABLE B

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>
<u>Department of Labor: Office of Civil Rights</u>												
Guidance.....	---	---	5	5	5	5	5	5	5	5	5	5
Agency Request.....	5	5	5	5	5	5	5	5	6	6	6	6
FY 1999 Recommended Level.....	---	---	5	5	5	5	5	5	5	5	5	5

Explanation: The Office of Civil Rights requested \$400 thousand to deal with what they believe will be an increased caseload resulting from the upcoming E.O. on discrimination, and to conduct "mini-conferences" on discrimination of delivery of services in programs funded by DOL. The Human Resources Division recommends providing inflation and \$133 thousand and 2 FTEs to deal with increased caseload resulting from welfare-to-work activities and additional training and compliance reviews.

Total, Other Enforcement Agencies:

Guidance.....

Agency Request.....

FY 1999 Recommended Level.....

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	<u>FY 1998</u>		<u>FY 1999</u>		<u>FY 2000</u>		<u>FY 2001</u>		<u>FY 2002</u>		<u>FY 2003</u>	
	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>	<u>BA</u>	<u>OL</u>

NONENFORCEMENT PROGRAMS:**Small Business Administration: Minority Economic Development/8(a) Program**

Guidance.....	---	---	7	7	7	7	7	7	7	7	7	7
Agency Request.....	7	7	23	19	23	23	23	23	23	23	23	23
FY 1999 Recommended Level.....	---	---	12	10	12	12	12	12	12	12	12	12

Explanation: An additional \$5 million over the anticipated FY1998 base of \$7 million is proposed for 7(j) technical assistance grants as a Presidential initiative.

Department of Commerce: Minority Business Development Agency

Guidance.....	---	---	26	27	26	26	26	26	26	26	26	26
Agency Request.....	26	27	29	29	29	29	29	29	29	29	29	29
FY 1999 Recommended Level.....	---	---	26	27	26	26	26	26	26	26	26	26

Explanation: \$26M is provided to either a) fund MBDA at current levels or b) close down the Agency (\$15M) and fund other civil rights initiatives (\$11M).

Department of Transportation: Office of the Secretary/Minority Business Resource Center
Funding for Minority Business Outreach:

Guidance.....	---	---	3	3	3	3	3	3	3	3	3	3
Agency Request.....	3	3	3	3	3	3	3	3	3	3	3	3
FY 1999 Recommended Level.....	---	---	3	3	3	3	3	3	3	3	3	3

Explanation: Minority Business Outreach funds are used to help small/disadvantaged businesses participate more fully in DOT projects and programs.

TABLE B

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
Department of Transportation: Office of the Secretary/Minority Business Resource Center, (continued)												
<u>Funding for Minority Business Resource Center Loans</u>												
Guidance.....	---	---	2	2	2	2	2	2	2	2	2	2
Agency Request.....	2	2	2	2	2	2	2	2	2	2	2	2
FY 1999 Recommended Level.....	---	---	2	2	2	2	2	2	2	2	2	2

Explanation: The Minority Business Resource Center provides short-term loans and lines of credit to minority business enterprises and small disadvantaged businesses in partnership with commercial banks. The goal is to help such businesses participate in Federal procurements. The \$1.9 million in subsidy BA shown in this account supports \$15 million in direct loans.

Department of Agriculture: Direct Farm Loans, Farm Service Agency

Guidance.....	---	---										
Agency Request.....	65	64	34	34	33	33	33	33	33	33	33	33
FY 1999 Recommended Level.....	---	---	34	34	39	39	39	39	39	39	39	39

Explanation: Direct farm loans are targeted to beginning and socially disadvantaged farmers (10% of program). Subsidy BA shown would fund \$585 million in direct loans in FY 1999. Recommended level is higher due to higher loan subsidy rates than those used in agency request.

Department of Agriculture: Cooperative State Research, Education and Extension Service

Guidance.....	---	---										
Agency Request.....	70	70	70	70	70	77	77	77	77	77	77	77
FY 1999 Recommended Level.....	---	---	70	70	70	77	77	77	77	77	77	77

Explanation: Financial assistance to support agricultural research at the 16 Historically-Black Land-Grant Institutions and Tuskegee University.

CIVIL RIGHTS BUDGET CROSSCUT
OTHER ENFORCEMENT AGENCIES AND NONENFORCEMENT PROGRAMS
(in millions of dollars)

	FY 1998		FY 1999		FY 2000		FY 2001		FY 2002		FY 2003	
	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL	BA	OL
<u>Department of Agriculture: Loans and Grants for Migrant Labor Housing</u>												
Guidance.....	---	---										
Agency Request.....	13	12	17	14	29	22	29	25	29	27	29	29
FY 1999 Recommended Level.....	---	---	17	14	32	23	32	26	32	28	32	31
Explanation: Loans and grants to construct housing for migrant farm laborers. BA shown would fund \$40 million in direct loans and \$3 million in grants in FY 1999.												

Department of Agriculture: Natural Resource Conservation Service/Outreach for Socially Disadvantaged Farmers

Guidance.....	---	---										
Agency Request.....	1	1	3	3	10	10	10	10	10	10	10	10
FY 1999 Recommended Level.....	---	---	3	3	10	10	10	10	10	10	10	10
Explanation: Financial assistance to non-profits to assist minority farmers through technical assistance to enhance their ability to operate farming and ranching operations.												

Department of Labor: Women's Bureau

Guidance.....	---	---	8	8	8	8	8	8	8	8	8	8
Agency Request.....	8	8	10	10	10	10	10	10	11	11	11	11
FY 1999 Recommended Level.....	---	---	8	8	8	8	8	8	8	8	8	8

Explanation: The Women's Bureau requested \$2M for initiatives related to welfare-to-work and balancing work and family. The Division recommendation provides for inflation but does not fund either of the requested program increases .

<u>FY 1998</u>	<u>FY 1999</u>	<u>FY 2000</u>	<u>FY 2001</u>	<u>FY 2002</u>	<u>FY 2003</u>
BA OL	BA OL	BA OL	BA OL	BA OL	BA OL

Guidance..... --- ---

Agency Request.....

FY 1999 Recommended Level.....	---	---
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Explanation:

Total, Nonenforcement Programs:

Guidance.....

Agency Request.....

FY 1999 Recommended Level.....

**Section III:
Issue Papers**

Issue #1	Equal Employment Opportunity Commission
Issue #2	Department of Housing and Urban Development, Fair Housing Grant Programs
Issue #3	Department of Justice, Civil Rights Division
Issue #4	Department of Labor, Office of Federal Contractor Compliance Programs
Issue #5	Department of Education, Office of Civil Rights
Issue #6	Department of Health and Human Services, Office of Civil Rights
Issue #7	U.S. Commission on Civil Rights

PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

Issue Paper #1
Equal Employment Opportunity Commission
(In millions of dollars)

ISSUE: Funding level for the Equal Employment Opportunity Commission

	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.....	240	240	287	236	269	-18	+29
OL.....	239	239	285	233	267	-18	+28

Option 1: OMB Guidance provides \$236 million, a \$4 million decrease below FY 1998 enacted.

Option 2: EEOC requests \$287 million, a \$47 million, or 20 percent, increase over FY 1998 enacted.

Option 3: OMB staff recommends \$269 million, a \$29 million, or 12 percent, increase over FY 1998 likely enacted.

DESCRIPTION OF ISSUE: For the past several years, Congress has denied the Administration's full requests for funding the Equal Employment Opportunity Commission (EEOC) and has provided ~~marginal or no increases~~ from \$233 million in FY 1996 to \$240 million in FY 1997 and \$240 million likely in FY 1998. Because ~~90 percent~~ of the agency's budget is salaries, benefits and overhead, these small increases have barely provided the funding necessary to maintain current staffing levels (at the lowest level in 20 years), and have been insufficient to support upgrades to technology and staff competency. Furthermore, increased enforcement responsibilities resulted in ~~a 47 percent rise in private sector complaints received by the agency during the first half of the decade, from 62,000 in 1990 to 91,000 in 1994. Consequently, the backlog of private sector complaints rose from 73,124 charges at the end of FY 1993 (the highest level of the previous 10 years), to an all-time high of 111,000 in FY 1995.~~

EEOC has tried to address Congressional concerns about the pending backlog and the lack of alternative dispute resolution methods. Despite relatively flat appropriations and increasing Congressional mandates, the agency has, in the past three years under Chairman Gil Casellas, made a fundamental shift in its approach to its business, and has increased its effectiveness. In that time, EEOC has developed a clear statement of its mission and implemented several major changes: the elimination of its full investigation and litigation policies; the implementation of its targeted and prioritized charge processing system for private sector cases; and the development of its National Enforcement Plan and Local Enforcement Plans. For example, two years after implementing the priority charge handling procedures, EEOC reduced its charge inventory 35 percent - - from 111,000 pending charges at the end of the third

quarter of FY 1995 (just prior to implementation) to 72,000 pending charges at the end of the third quarter of FY 1997. EEOC accomplished this while receiving ____ new complaints in FY 1996 and ____ new complaints in FY 1997. However, under EEOC's new charge prioritization system, it is now faced with a caseload that is approximately 70 percent category "B" charges (those needing further investigation to determine whether they have merit) and 20 percent "A" charges (those with potential merit requiring extensive investigation).

Without additional resources to continue procedural reforms, implement greater use of mediation, and invest in technology, the Commission is unlikely to make further progress toward its goal of reducing the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by 2001. DPC and the HTF Division agree that addressing this goal is important to demonstrate the Federal government's commitment to reducing employment discrimination and to assist both complainants and employers by resolving cases quickly.

Option 1: OMB Guidance level of \$236 million. At \$236 million, EEOC's funding would be \$4 million, or 2 percent, below its expected FY 1998 level of \$240 million, and \$10 million below the President's FY 1998 request of \$246 million. Because EEOC is a labor-intensive organization, this funding level would likely result in reducing 150 staff, postponing critical information systems investments, reducing the use of mediation, and reducing staff training. At guidance, caseload inventories would rise as fewer staff were available to investigate; the average time to process a complaint would rise from 9.4 months to 1 year by the year 2001. EEOC is already at its lowest staffing level in 20 years, down from a high of 3,390 FTE in FY 1980 to 2,680 FTE in FY 1997. This funding level would not meet the President's commitment to providing the EEOC with the resources necessary to enforce employment discrimination laws.

Option 2: EEOC request level of \$287 million. At \$287 million, EEOC would increase its private sector and federal sector enforcement staffs by 203 FTE, upgrade its technology, and put more resources into litigation, systemic programs, and an alternative dispute resolution program. The agency would reduce its charge inventory to 6 months by FY 2001. However, we believe EEOC could reach this goal with a lower level of staffing coupled with an enhanced mediation program, as described in Option 3.

Option 3: Recommended funding level of \$269 million. At \$269 million, EEOC would reduce its charge inventory to 6 months by FY 2001 through a combination of investments in information technology capabilities, increased use of mediation, and an increase in staffing by 162 FTEs.

Funding for Information Systems. Several components comprise the agency's three-year, \$25 million initiative to upgrade hardware, communications infrastructure, and the deployment of integrated information systems through the agency. The FY 1999 request of \$10 million would provide a basic communication infrastructure that would allow EEOC to complete the development and procurement of new information systems capabilities. These upgrades will enhance intra- and inter-office communication, eliminate redundant data entry procedures, and provide for greater operational efficiency through the sharing of information and enhanced research capabilities for investigators and attorneys.

Funding for the Alternative Dispute Resolution Program. Voluntary mediation is an effective method of complaint resolution that can be used in enforcement efforts. EEOC currently uses some of its trained investigators to mediate, but this diverts scarce investigative resources from the majority of cases that do not lend themselves to mediation. While volunteers have also been used since the program's inception in FY 1996, EEOC will need to use more experienced and credible mediators in the future. We believe the most viable option for ramping up this program is to provide mediators through contracts. Additionally, using contractors would encourage employer participation by addressing employers' concerns about bias by EEOC staff, and could encourage claimants to elect mediation by addressing claimant concerns about the competency of volunteers.

EEOC's FY 1999 budget request for its mediation program was \$640 thousand. Funding would have provided travel related costs of investigators and limited contract mediators with the goal of mediating approximately 1,250 complaints. Providing an added \$4 million would allow EEOC to mediate about 8,000 cases, or 10 percent of the 80,000 new charges expected in FY 1999.

Funding for Additional for Staffing. Although EEOC's budget request included funding for an additional 203 FTEs, we believe that it would be more cost effective for the agency to implement its technology upgrades and enhanced mediation program, and fund a lower level of staffing. We recommend funding 162 additional FTEs as follows:

- 110 private sector compliance investigators
- 12 field attorneys
- 7 additional staff to implement information technology investments and conduct internal mediation
- 33 Federal hearings attorneys and administrative judges to address the growing caseload of Federal employee complaints

RECOMMENDATION: OMB and White House staff agree with civil rights advocates and the EEOC that additional resources are necessary to meet President Clinton's commitment at his commencement speech at the University of California at San Diego, June 14, 1997, to provide EEOC with the resources "necessary to enforce the law of the land". We recommend that the President announce a performance goal for EEOC of reducing the time it takes to process private sector cases to 6 months by FY 2001, while also implementing alternative and more effective procedures for resolving disputes. The recommendation would achieve this goal through a combination of technology funding, increasing resources for voluntary mediation, and some staffing increases.

In total, the EEOC would receive \$269 million in FY 1999, a \$29 million increase over FY 1998 enacted and a \$33 million increase over guidance. The \$33 million over guidance would be a Presidential initiative that would support \$6.6 million for cost increases, \$8 million for an additional 162 FTEs, \$10 million for technology upgrades and \$4 million for increased use of contract mediation.

PREPARER/EXT: Susan Carr/5-7881

TYPE OF ISSUE: Funding for base programs/Presidential initiative

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 1999					
	FY 1997	FY 1998	Agency	Guidance	Recommended	Change from	Change from
	<u>Actual</u>	<u>Enacted</u>	<u>Request</u>	<u>Level</u>	<u>Level</u>	<u>Request Level</u>	<u>'98 Enacted</u>
BA/OB.....	30	30	47	34	44	-3	+14
OL.....	22	22	25	22	25	0	+3

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, a \$14 million, or 47 percent, increase over FY 1998 enacted; Audit-based Enforcement proposal as a Presidential 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 the per case reimbursement rate 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. While State and local agencies often complain to Congress about the rate they are reimbursed from EEOC to process employment discrimination cases, currently at \$500, 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. 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 communities, 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 could be piloted in 20 communities around the country. \$5 million would provide each of the 20 community-based organizations with \$250,000 to establish an organizational capacity to administer paired testing in the rental and sales markets. An additional \$5 million would provide the 20 communities with sufficient funds to conduct 500 paired audits.

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 marketplace. 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, leading 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 reduce levels of housing discrimination. First, local or HUD-investigated 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 bolder 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.

PREPARER/EXT: John Thompson/ 5-3730

TYPE OF ISSUE: Funding for base programs/Presidential initiative.

Issue Paper #3
Department of Justice: Civil Rights Division
(In millions of dollars)

ISSUE: Should the Civil Rights Division's law enforcement efforts be expanded?

	FY 1997 <u>Actual</u>	FY 1998 <u>Estimate</u>	FY 1999				
			<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.....	62	65	71	67	67	(4)	+2
OL.....	58	65	70	66	66	(4)	+1

Option 1: **Guidance (\$67 million).** The guidance level would fund the base program, but provide no program increases. Alternatively, fund the highest priority increases (see Option 3) from the base by reducing funding for lesser priorities.

Option 2: **Agency request (\$71 million).** The agency is requesting \$4 million in increases for: .

Option 3: **Alternative (\$69 million).** Funds \$2 million for highest priority increases: police misconduct cases and litigation support as a Presidential initiative.

DESCRIPTION OF ISSUE: The Civil Rights Division serves as the chief civil rights enforcement agency of the federal government. It not only has primary responsibility for federal civil rights litigation, but also is charged with coordinating federal civil rights policy. Areas of enforcement include hate crimes, police misconduct, voting rights, employment, housing, education, credit, and public accommodations. While the Division's budget increased by 125 percent from 1989 to 1995 (in nominal terms), it has been held flat since 1995.

ANALYSIS: It is very difficult to quantify the impact of the Civil Rights Division's activities on society. Even if it were possible to measure the overall level of discrimination in America, it is questionable whether the Division can significantly affect this level, in light of other social and economic factors. The Division uses workload statistics and anecdotal evidence, rather than outcome measures, to measure its performance. Thus, while more resources should allow the Division to bring more cases, it has been unable to quantify the benefit to society.

The agency is requesting increases for police brutality and hate crimes (\$0.6 million); ADA enforcement (\$1.3 million); automated litigation support (\$1.5 million); institutionalized persons and pattern and practice of police misconduct cases (\$0.55

million); and redistricting litigation (\$0.4 million). The guidance level would fund the Division's adjustments to base, providing a current services level in 1999, but it would not provide additional resources for program enhancements. Holding the Civil Rights Division to guidance would require the Division to fund priority initiatives by shifting base resources. For example, if the Division wants to step up its efforts to investigate and litigate cases involving a pattern and practice of police department misconduct, or individual charges of police brutality, as many civil rights groups would like, it would have to shift funds away from lesser priorities or areas where complaints are declining. For example, the Criminal Prosecution Section received fewer complaints in 1997 than in 1996.

The alternative level would provide \$1.8 million as a Presidential initiative for the two increases most critical the Division's ability to carry out its mandate, including the requested \$1.5 million for litigation support and the requested \$0.3 million for police brutality and misconduct cases. Improving the Division's litigation support capabilities (including exhibit preparation, customized databases, statistical analysis, and imaging systems) would make the personnel already on board more effective, enhancing the ability of the Division's attorneys to prepare for litigation and make more effective courtroom presentations. In addition, a \$0.3 million program increase would allow the Division to initiate four police misconduct investigations in 1999. The 1994 Crime Act authorized the Attorney General to initiate civil litigation to remedy a pattern and practice of civil rights violations by law enforcement officials, but no program increases have been appropriated for this purpose, although the Division has received allegations of police misconduct from hundreds of sources. The alternative level would not provide additional resources for ADA enforcement, hate crimes, institutionalized persons, and redistricting litigation.

PREPARER/EXT: Debra Bond/ 5-7751
TYPE OF ISSUE: Funding for base program.

Issue Paper ~~#4~~
Office of Federal Contract Compliance Programs
Department of Labor
(In millions of dollars)

ISSUE: What funding level should be requested for the Office of Federal Contract Compliance Programs (OFCCP)?

	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	FY 1999				
			<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.....	59	62	72	69	67	4	5
OL.....	59	62	72	69	67	4	5

Option 1: Recommended funding level of \$67M. At \$67M, the OFCCP would be \$5 million (8 percent) above the FY 1998 likely enacted level and \$1.4 M (2 percent) below guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD recommends providing inflation and maintaining FY 1998 requested FTE.

Option 2: DOL request level of \$72M. At \$72M, the OFCCP would be \$10 million (15 percent) above the FY 1998 likely enacted level and \$3 million (4 percent) above guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives.

Option 3: Guidance level of \$69M. At \$69M, the OFCCP would be \$6 million (9 percent) above the FY 1998 likely enacted level. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. Guidance is the FY 1998 request level. It was developed by HRD; DOL did not provide a guidance level to agencies based on the August targets.

DESCRIPTION OF ISSUE: The Office of Federal Contract Compliance Programs enforces equal opportunity standards and affirmative action for women, minorities, Vietnam era veterans, and persons with disabilities employed by more than 200,000 Federal contractors. OFCCP is emphasizing improved efficiency and effectiveness by streamlining their review process to ease contractor burden while implementing targeted enforcement. The key issue facing OFCCP is the same as other DOL enforcement agencies - - balancing compliance assistance with traditional enforcement. Because the goals of these laws is compliance, the Administration and DOL have tried to shift the enforcement agencies focus away from the traditional "cop on the beat." Although this shift has met with some resistance from the advocates, DOL continues to support and emphasize this change, but without abandoning tough enforcement.

ANALYSIS: In FY 1998, OFCCP began implementing the Fair Enforcement Initiative which involves a three-pronged strategy of:

- (1) regulatory reform which consists of two regulatory projects: (1) implemented a tiered compliance review process (completed 8/19/97), and (2) streamline the Affirmative Action Plans and issue the Affirmative Action Plan Summary (expect a proposed rule in fall of 1998); and,
- (2) Affirmative Action Plan Summary which will be the basis for the tiered compliance review; and,
- (3) tiered compliance review process which leverages current resources by implementing compliance checks, limited and full compliance reviews (versus the old full compliance review in all cases) thus enabling OFCCP to target serious cases. OFCCP anticipates a 10% increase in FY 1999 in the number of compliance reviews conducted. The compliant contractor is only subject to a limited review, thereby decreasing contractor burden. OFCCP also recently instituted compliance checks which allows them to ascertain whether previous information submitted by the contractor is accurate without having to launch a review. When enforcement is necessary, OFCCP uses fixed term and indefinite debarment.

OFCCP Workload Chart						
	FY 1994 Actual	FY 1995 Actual	FY 1996 Actual	FY 1997 Actual	FY 1998 Projected	FY 1999* Projected
FTE	785	775	727	739	788	823
Compliance Reviews	4,179	3,991	3,476	4,100	4,836	5,319
Compliance Investigations	802	566	473	900	900	945
Total Other Compliance Actions**	4,799	4,324	4,097	4,100	4,100	4,500
BA (\$ in millions)	\$56	\$59	\$56	\$59	\$62	\$67

* Division estimates based on limited OFCCP data.

** Including action monitoring letters and consent decrees.

OFCCP plans to establish a baseline measure for compliance in FY 1998. To date, they only have output measures: in FY 1999 the number of compliance reviews are expected to increase by 10% over FY 1998 (due to the new tiered system that prioritizes case investigations), and in FY 1998 OFCCP recovered \$30 million in back pay. OFCCP provided anecdotal information that: 1) their impact is increasing, 2) their level of respect in the contracting universe has increased, and 3) they are beginning to implement creative ideas that will reach their goals. However to date, OFCCP has no information on the percentage of contractors that are in compliance.

OFCCP is proposing a compliance assistance initiative that will enable them to leverage resources and promote self-regulation. This initiative is not new, but simply a continuation of the Fair Enforcement Initiative which began in FY 1998. The initiative includes: research grants for the development of technical assistance guidance, implementation of the annual Affirmative Action Plan Summary Report, research into the best practices used by companies, and continuation of their annual awards to exemplary companies. One part of the initiative relies on OFCCP finalizing a proposed regulation that will reduce contractor burden by 30%. In addition, they are working with other Federal agencies, such as SSA, to identify employment opportunities for persons with disabilities and linking them with Federal contractors. In the past, OFCCP contacted only 3% of the contractor universe. The compliance initiative, added to their tiered compliance approach, will enable OFCCP to reach more of the contractor universe, however we do not know how much more. The disadvantage of this initiative is that it will be viewed as rhetoric because OFCCP has been talking about compliance assistance for years but has not delivered, instead they have continued to rely on traditional "cop on the beat" enforcement measures.

RECOMMENDATION: At \$67M and 823 FTE, the OFCCP would be \$5 million (8 percent) above the FY 1998 likely enacted level and \$1M (2 percent) below guidance. This funding level will enable the agency to continue streamlining and compliance assistance initiatives. HRD estimates that this level will increase compliance reviews by 10%. As OFCCP refines their Fair Enforcement Initiative, it is expected to become more efficient with current resources and thus complete more compliance reviews. HRD recommends providing inflation and maintaining the FY 1998 requested FTE level. HRD's estimates of the OFCCP's resource needs based on more recent information than was available before leads us to believe the agency can maintain the FY 1998 staff request in FY 1999 with fewer dollars than requested in 1998. We believe the personnel costs (category 11 and 12) presented by OFCCP are unnecessarily inflated. The FY 1999 agency request is based on the FY 1998 request, most of which we did not receive. The FY 1999 request does not propose any "new" initiatives, it simply continues FY 1998 request activities with inflation.

PREPARER/EXT: Leslie Mustain, x57768
TYPE OF ISSUE: Funding for Base Program

Issue Paper #5
Department of Education
(In millions of dollars)

ISSUE: Funding for the Department of Education Office for Civil Rights

	FY 1999						
	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	Agency <u>Request</u>	Guidance <u>Level</u>	Recommended <u>Level</u>	Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
BA/OB.....	55	62*	70	63	64**	-6	+2
OL.....	57	60	66	62	62	-4	+2

* Likely Conference outcome as of 10/29/97

** Tentative HRD Recommendation

Option 1: Fund ED OCR at \$64 million. This increase would provide projected increases for personnel compensation and benefits to support the additional FTE OCR plans to hire in FY 1998, support some additional personnel hires (non-attorneys) in FY 1999 and fund some improvements in ADP support. OCR is projected to receive a \$7 million appropriations increase in FY 1998. It plans to use the majority of this increase to hire 40 additional attorneys, reducing its current attorney/case ratio from 1/65 to 1/48. Improvements in ADP support would increase productivity and customer service by funding a new document management system and upgrading the LAN to connect OCR Headquarters and regional offices. **(Tentative HRD recommendation)**

Option 2: Fund ED OCR at the Agency Request level of \$70 million. This increase would enable OCR to hire additional personnel, increase travel, and make all requested improvements to its ADP support.

Option 3: Fund ED OCR at its Guidance level of \$63 million. This level would offset inflation.

DESCRIPTION OF ISSUE: ED seeks \$70 million, an increase of \$8 million over \$62 million likely level for FY 1998. The majority of the increase would fund additional FTE to address rising caseloads, reduce the attorney/case ratio, and perform more compliance reviews, as well as increases in travel and ADP support.

ANALYSIS: The mission of ED's Office for Civil Rights (OCR) is to ensure equal access to education and to promote educational excellence throughout the Nation through vigorous enforcement of civil rights laws and regulations. Priority issues for OCR currently include: over-representation of minorities in special education and remedial courses, under-representation of women, girls, and

minorities in math and science and other advanced placement courses; access to programs for limited English proficient (LEP) students; racial and sexual harassment; admissions/testing/assessment; gender equity in athletics; and higher education and elementary and secondary school desegregation. As the following chart shows, the majority of complaints received are for disability. The compliance reviews are selected by OCR based on field assessments of the greatest problems of unredressed discrimination in the regions. OCR targets those areas where no other action is currently being taken to address the discriminatory practices.

FY 1997 Regular Complaint Receipts and Compliance Review Starts

Basis	Number of Complaints Received	% of Complaints Received	Number of Compliance Review Starts	% of Compliance Review Starts
Disability	2,611	50%	3	2%
Race	946	18%	134	88%
Sex	383	7%	2	1%
Age	51	1%	0	0%
Multiple*	447	9%	4	3%
Other**	791	15%	9	6%

*Combination of the above

** Cases for which OCR does not have jurisdiction -- usually referred to EEOC

OCR is a well-managed organization, having won 3 VP Hammer awards, and continues to make progress in its enforcement efforts in case resolution and in the number and type of active compliance reviews initiated. The following chart shows the number of complaints received and the number resolved for the past 5 years. However, as the chart shows, in FY 1997, OCR expects to reverse its trend of keeping current with case and compliance review resolutions. OCR attributes this decline to increases in cases and case complexity, with basically static or declining resources.

Workload Trends and FTE Levels

Year	FTE Ceiling/Usage	Cases Received	Cases Resolved	Compliance Review Starts	Compliance Resolutions
1993	858 854	5090	4484	101	82
1994	851 821	5302	5751	144	90
1995	833 788	4981	5559	96	178
1996	763 745	4828	4886	146	173
1997	724 681	5229	4900	152	133

OCR plans to hire 40 additional attorneys in FY 1998 based on its projected appropriation level of \$62 million. This will reduce the current attorney/case ratio to 1/48. However, rising caseload projections in FY 1999 will likely increase it to 1/50. OCR feels this is still an acceptable ratio and is not requesting to increase its FTE above the 724 ceiling it plans to reach in FY 1998. Hiring the additional staff in FY 1998, and maintaining it in FY 1999, will enable OCR to continue to invest significant resources in a complex investigation in California, based on a complaint it received, regarding the current higher education admissions process and in higher education desegregation reviews in Texas, Ohio, Florida, and Pennsylvania. It must also complete the Elementary and Secondary Education School Survey, at a projected cost of \$.8 million, which provides data to numerous Federal and other institutions for a variety of purposes such as identifying trends and targeting civil rights problems. Areas OCR would like to emphasize more are building collaborative relationships with parents, students, and educators -- involving parents more in monitoring of civil rights plans - and building partnerships with States to address statewide compliance with civil rights laws and regulations. These approaches require a significant investment in time and resources to provide the necessary technical assistance. OCR has shown anecdotal evidence of statewide improvements in civil rights monitoring using these approaches, which preliminarily show them to be a good use of funds.

Though OCR has made progress in developing its performance indicators, it continues to have difficulty identifying and quantifying data that show the outcome of OCR's efforts. OCR's performance indicators are more outcome than output focused, but they are still in the process of developing data sources, baselines, and the methodology for quantifying their results. However, they have, for example, published a very informative booklet on the statistical impact of the civil rights laws in Education. One area in the booklet -- removing disability barriers to education -- states that in 1975 over 1 million children with disabilities were excluded from public schools and the 4 million children with disabilities attending school were not receiving educational services they needed. Today, 5.5 million children are having their education needs met under the Individuals with Disabilities Education Act (IDEA). OCR needs to

quantify its specific contribution to the improvements achieved through its enforcement of these laws. OCR has some excellent anecdotal success stories where its work has had a significant impact. For example, this past year OCR began investigating a county in Georgia about student selection for Gifted and Talented classes. The selection process -- which was discriminatory to minorities -- was determined to be a statewide problem and OCR and Georgia entered into an agreement that changed the entire state process for selecting students for these programs. The agreement, which had a positive impact on minority students in Georgia, is directly attributable to OCR's actions. It is this type of anecdotal data with which OCR is working to develop a methodology to enable it to systematically quantify its other outcomes and tie them to budget resources.

RECOMMENDATION: Funding for OCR needs to be considered in the context of the overall strategy for Education, which is not yet complete.

PREPARER/EXT: Melany Nakagiri 5-4926
TYPE OF ISSUE: Funding for Base Programs

Issue Paper #6
Department of Health and Human Services
(In millions of dollars)

ISSUE: Funding Level for HHS' Office for Civil Rights

	FY 1999						
	FY 1997 <u>Actual</u>	FY 1998 <u>Enacted</u>	Agency <u>Request</u>	Guidance <u>Level</u>	Recommended <u>Level</u>	Change from <u>Request Level</u>	Change from <u>'98 Enacted</u>
BA/OB.....	19.5	19.7	22.4	19.7	19.7	-2.7	0
OL.....	20.0	19.6	20.4	19.7	19.7	-0.7	0

Option 1: Funds the HHS' Office for Civil Rights (OCR) at its FY 1998 Likely level of \$19.7 million.

Option 2: HHS requested \$22.4 million for OCR to expand its existing activities (more compliance reviews and investigations) and to undertake new management initiatives (e.g., staff training, information technology investments).

Option 3: Same as Option 1.

DESCRIPTION OF ISSUE: Basis for recommended funding level for the Office for Civil Rights in FY 1999

ANALYSIS:

Funding Considerations: OCR is one of the activities within the \$200 million HHS Office of the Secretary accounts, and the funding level for FY 1999 is determined within the context of the other activities within the Office of the Secretary. Therefore, while decreases are being proposed for the other Office of the Secretary activities, OCR is maintained at the FY 1998 Likely level, indicating the importance of this office relative to other programs within the Office of the Secretary.

Current Activities: HHS' Office for Civil Rights (OCR) enforces compliance with Civil Rights statutes¹ to ensure that people have

¹The Civil Rights statutes that OCR is responsible for enforcing include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act on 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, Title VI and XVI of the Public Health Service Act, and the Small Business Protection Act of 1996 (inter-ethnic adoption provisions).

equal access to HHS programs and the opportunity to participate in and receive services from all HHS programs without facing unlawful discrimination. The priority areas OCR focuses on include: 1) enforcement of the inter-ethnic adoption provisions of the Small Business Job Protection Act of 1996; 2) medical redlining in home health care agencies; 3) discrimination in Medicaid and Medicare managed care; 4) allegations of discrimination of people with HIV/AIDS; 5) compliance with Title VI for Hill-Burton hospitals, and 6) providing government-wide guidance and assistance on non-discrimination in the TANF program.

Streamlining Efforts: OCR is trying to front-end more of its work by streamlining the amount of time processing complaints to focus more of its resources on outreach and technical assistance activities to prevent discrimination from occurring in the first place. OCR now “triages” complaints by preliminarily reviewing cases and making an initial assessment of how much resources should be devoted to a particular case so that they direct most of their resources towards high priority areas (e.g., adoption, HIV/AIDS, managed care). OCR is also trying to resolve complaints earlier through alternative methods such as ADR.

Performance measures: OCR has done a good job linking their performance plan to their budget proposal. Both the budget and performance plan focus on the high priority issues for OCR. The performance plan primarily includes output or process measures. However, OCR plans to develop baselines for its performance measures in FY 1998 and will try to develop more outcome measures once they better understand how their activities help reduce and prevent discrimination in HHS programs through enhanced data collection activities.

RECOMMENDATION: Maintain OCR at its FY 1998 Likely level. This will encourage OCR to absorb some of its costs, but by sparing it the average 4% reduction taken by other HHS discretionary activities at recommended levels, recognizes OCR’s importance in civil rights enforcement.

PREPARER/EXT: Susan Carr/5-7881
TYPE OF ISSUE: Funding for base programs

Issue Paper #7
U.S. Commission on Civil Rights
(In millions of dollars)

ISSUE: What funding level should be proposed for the U.S. Commission on Civil Rights?

		FY 1999					
	FY 1997	FY 1998	Agency	Guidance	Recommended	Change from	Change from
	<u>Actual</u>	<u>Enacted</u>	<u>Request</u>	<u>Level</u>	<u>Level</u>	<u>Request Level</u>	<u>'98 Enacted</u>
BA/OB.....	8.7	8.7	13.8	11.0	9.0	-4.8	+0
OL.....	8.6	8.6	13.8	11.0	9.0	-4.8	+0

Option 1: Provide the OMB Guidance level of \$11 million, a \$2 million, or 22 percent, increase over FY 1998 enacted.

Option 2: The Commission requests \$13.8 million, a \$5.06 million, or 58 percent, increase over FY 1998 enacted.

Option 3: Provide the Commission \$9 million, a \$2 million, or 22 percent, decrease below guidance.

DESCRIPTION OF ISSUE: It appears that the bipartisan decision-making body of the Commission has been unable in recent years to obtain from its staff competent and reliable information about its operations. Without a clear and accurate breakdown of cost estimates associated with each of the projects the Commission undertakes, it has been difficult for OMB to assess the Commission's operations, and it is unclear what funding level would optimize the Commission's performance. Confirming this assessment was a GAO report issued in July 1997, titled, "U.S. Commission on Civil Rights - - Agency Lacks Back Management Controls". The report concluded that the Commission appears to be "an agency in disarray, with limited awareness of how its resources are used". At the House Judiciary Subcommittee hearing, Chairwoman Mary Frances Berry noted that the Commission would address the problems raised in the report and implement GAO's recommendations. However, promised reforms by Chairwoman Berry need to be reviewed and their impact assessed before OMB can undertake a serious evaluation of alternative funding scenarios on Commission projects.

ANALYSIS:

Option 1: Fund at the OMB guidance level of \$11 million. The guidance level provides an increase to the Commission that could be used to fund staffing increases; however the Commission is a dysfunctional agency unable at the present time to demonstrate its ability to manage its resources wisely. The Commission's focus for FY 1999 needs to be on addressing the management deficiencies described in the GAO report. Although the Administration proposed \$11 million in each of the past two years, further increases at this

time are an unwise use of Federal resources. Civil rights advocates would view a subsequent \$11 million for FY 1999 as a continued commitment by the Administration in the civil rights area. However, recent Congressional concerns about the Commission's operations indicate it is unlikely Congress will provide the Commission with additional funding.

Option 2: Fund at the Commission request level of \$13.8 million. The Commission's request for FY 1999 is \$13.8 million, \$5.06 million more than its current level of \$8.74 million. The Commission would increase funding for civil rights projects by 92 percent from \$1.9 million to \$3.6 million, increase program support by 56 percent from \$3.2 million to \$5 million, and provide increases for State Advisory Committee activities and Information activities. Staffing would increase by 35 FTE over its current FTE level of 97; staffing costs comprise \$2.275 million, or 45 percent, of the \$5.06 million requested increase.

The Commission proposes an ambitious projects agenda, but it is highly unlikely the Commission could manage a 58 percent increase in its budget over 1998. Although \$13.8 million could arguably allow the Commission to complete more projects with more staff, the Commission has historically undertaken too many projects for its appropriated resource level resulting in numerous project delays. It is also highly unlikely that Congress would provide significant increases in funding.

Option 3: Fund at \$9 million, \$2 million below guidance. This level provides the Commission with a \$260 thousand increase for inflation. The Commission needs to focus its attention on improving its project costing and management, personnel management, and financial reporting systems. The Commission should also prioritize its projects and undertake only those projects it can complete timely and competently within its appropriated funding levels.

Civil rights advocates would argue that this recommendation is counter to the Administration's commitment to addressing the resource concerns of civil rights enforcement agencies. The civil rights advocates community believe that the Commission could be a valuable resource for information and Federal government enforcement. HTF Division staff also believe that the Commission stands in a unique position, as a bipartisan agency, to provide leadership in efforts to promote national discussions about matters related to civil rights. However, the Commission is a poorly managed organization that needs to resolve its operational deficiencies before increased funding is warranted. The Commission's focus for FY 1999 needs to be on management reform. If it is unable to succeed, it should be disbanded. If it succeeds, the Administration could then recommend the Commission undertake a project that evaluates and recommends measures of discrimination to use in addressing public policy issues.

RECOMMENDATION: Provide \$9 million for the Commission, and recommend in passback that the Commission focus its attention in FY 1999 on addressing management reform issues. Whatever decision is made, OMB's recommendation should be fully vetted with White House/EXOP staff and probably should be underscored by a call from an OMB policy official to Commissioner Berry.

Section IV:
Other Enforcement Agencies and Nonenforcement Programs

The following section is informational only. It describes key activities and proposed FY 1999 initiatives for civil rights enforcements agencies and nonenforcement programs. Decisions on FY 1999 funding for these agencies and programs need to be made in the context of agency budget reviews.

Funding Summary

Other civil rights enforcement agencies:

Environmental Protection Agency, Office of Civil Rights
Department of Agriculture, Office of Civil Rights
Department of Transportation, Office of Civil Rights
Department of Labor, Office of Civil Rights

Nonenforcement programs:

Small Business Administration, Minority Business Program
Department of Commerce, Minority Business Development
Department of Transportation, Minority Business Resource Center
Department of Agriculture, Civil Rights Programs
Department of Labor, Women's Bureau
Department of Justice, Community Relations Service

**Other Enforcement Agencies and Civil Rights Nonenforcement Program Funding
Funding Summary**
Comparison of FY 1998 Enacted, FY 1999 Agency Request, and FY 1999 RMO Recommendation
(Budget Authority, in millions of dollars)

	FY 1998 Enacted	Agency Request	Diff: Agency Request less FY 1998 Enacted	Pctg. Difference	RMO Recomm	Diff: RMO Recomm less FY 1998 Enacted	Pctg. Difference	Diff: RMO Recomm less Agy Request	Pctg. Difference
Other Civil Rights Enforcement Agencies:									
1. EPA: Office of Civil Rights.....	21	21	0	0.00%	21	0	0.00%	0	0.00%
2. Agriculture: Office of Civil Rights.....	15	15	0	0.00%	13	-2	-13.33%	-2	-13.33%
3. DOT: Office of Civil Rights.....	6	7	1	16.67%	6	0	0.00%	-1	-16.67%
4. DOL: Office of Civil Rights.....	5	5	0	0.00%	5	0	0.00%	0	0.00%
Total, Other Enforcement Agencies.....	42	43	1	2.38%	40	-2	-4.76%	-3	-7.14%
Nonenforcement Programs:									
1. Small Business Administration	6.9	22.7	15.8	228.99%	11.9	5	72.46%	-10.8	-156.52%
2. Commerce: Minority Business Development.....	26.4	28.7	2.3	8.71%	26.4	0	0.00%	-2.3	-8.71%
3. Transportation: Minority Business Resource Center...	10	12	2	20.00%	12	2	20.00%	0	0.00%
4. Agriculture: Civil Rights Programs.....	139	170	31	22.30%	179	40	28.78%	9	6.47%
5. Labor: Women's Bureau.....	7.7	9.8	2.1	27.27%	10	2.3	29.74%	0.2	2.60%
6. DOJ: Community Relations Service.....	5	10	5	100.00%	6	1	20.00%	-4	-80.00%
Total, Nonenforcement Programs.....	195	253.2	58.2	29.85%	245.3	50.3	25.79%	-7.9	-4.05%
Total, Civil Rights Enforcement Agencies and Nonenforcement Programs.....	237	296.2	59.2	24.98%	285.3	48.3	20.34%	-10.9	-18.41%

Other Civil Rights Enforcement Agencies

**ENVIRONMENTAL PROTECTION AGENCY
CIVIL RIGHTS PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
21	21	21	21	21	

Key civil rights programs:

- The EPA-wide Office of Civil Rights provides policy direction and guidance on equal employment opportunity, civil rights and diversity issues, as well as external enforcement of the Civil Rights Act of 1964 in programs and activities receiving financial assistance from EPA.
- Several EPA programs provide funds for Historically Black Colleges and Universities, to address environmental concerns within their communities and to encourage students to pursue careers in environmental science.
- EPA's environmental justice programs, including the EPA-wide Office of Environmental Justice, identify and address disproportionately high and adverse human health or environmental effects on minority populations.

An assessment of how well they are doing: EPA has strong internal EEO and civil rights programs. The Office of Civil Rights conducts extensive training for managers and employees on issues of discrimination, sexual harassment and cultural diversity. The Office also resolves approximately 80 internal discrimination complaints per year.

It is too early to assess EPA's environmental justice activities. Among other things, the Office of Environmental Justice has convened an interagency working group to coordinate implementation of E.O. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations." Many EPA programs have environmental justice components. EPA and other agencies have undertaken a few small place-based initiatives specifically because of the environmental threats to minority populations. They have also held public meetings to discuss environmental justice issues. A Federal Advisory Committee, the National Environmental Justice Advisory Council, provides overall guidance. EPA and other agencies are studying how environmental programs should consider minority and low-income populations who subsist on seafood and may receive dangerous levels of exposure through what they catch from contaminated waters. There are no quantitative performance measures for any of these activities.

An assessment of current enforcement efforts: The Agency is making some progress with regard to its external compliance activities. EPA's Office of Civil Rights is currently investigating thirteen administrative complaints filed under Title VI of the Civil Rights Act alleging discrimination in State environmental programs. An additional nine administrative complaints are under consideration for investigation if they meet jurisdictional requirements. Twenty-two complaints have been rejected since 1993. The Office is also developing a separate plan to enforce Title IX of the Educational Amendments of 1972 in EPA-assisted programs, as well as an ongoing compliance review of State programs that will include all of the civil rights statutes.

EPA and DOJ have targeted a few enforcement actions to address environmental justice concerns. They are also working together to evaluate legal tools for enforcing Title VI in an environmental context. There are no performance measures for these activities.

Proposed civil rights initiatives in the agency's FY 1999 budget request: EPA is requesting an increase of \$0.5 million for its Office of Civil Rights, to enhance the external civil rights compliance programs. There is no change in funding for environmental justice. Among its new environmental justice initiatives, EPA plans to work closely with the Department of Housing and Urban Development (HUD) to determine whether any HUD activities and projects are near known environmental hazards.

Prepared By/Date: Zach Church (5-6944), October 28, 1997

DEPARTMENT OF AGRICULTURE
Centrally Administered Programs (Including Enforcement)

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Agency Request	FY 1999 RMO Recommendation
10	14	21	21

1. **Key civil rights programs:** These civil rights programs are funded under the Office of the Assistant Secretary for Administration and include portions of several areas, the largest of which is the Office of Civil Rights (OCR). The OCR is responsible for investigating internal employee (EEO) complaints and issuing policy guidance to the Department. In addition, in FY 1998 it received additional funding to re-establish the unit that will investigate current and future civil rights complaints directed at program operations. In addition, in FY 1997 the Office also included funding for civil rights counselors, who were largely located in field offices, to advise employees who had complaints (funds for counselors are transferred to program bureaus in FY 1998). Other civil rights responsibilities include reducing and eventually eliminating under representation of minorities in the workforce, increasing workforce diversity, increasing outreach to minority programs, such as the 1890's universities, and small and disadvantaged businesses, and improving internal conflict resolution operations.
2. **An assessment of how well they are doing:** A major problem which the Department has identified in its Civil Rights Action Team (CRAT) report was the large backlog of program complaints by programs such as the farm loan programs administered by the Farm Service Agency (formerly the Farmers Home Administration). A 1965 U.S. Commission on Civil Rights first identified discrimination problems in the farm loan programs. This report has been followed by similar reports in 1982 and 1990 and the current discrimination complaints in 1996 and 1997. In September 1997, the USDA OIG has found that FSA had a backlog of 474 discrimination complaints. In addition, USDA's OCR has a backlog of 984 complaints (including the 474 related to the FSA). The unit which had the responsibility of investigating program-related civil rights complaints was abolished in 1983.

3. **An assessment of current enforcement efforts:** Current enforcement efforts are marginal at best. In response to complaints by minority farmers in December 1996, Secretary Glickman appointed the CRAT, which was a team of USDA leaders to investigate the discrimination complaint backlog and make recommendations for change. This Civil Rights Action Team (CRAT) produced a report with recommendations to the Secretary in February 1997. The Secretary supports nearly all of the 92 recommendations in the report. Many of the recommendations have not yet been implemented.

In addition, the Department is attempting to settle discrimination complaints against it filed by minority farmers, but has an insufficient number of complaint investigators. To date, five claims out of 71 have been settled and paid for \$2 million. The potential liability to USDA from all known complaints is roughly \$100 million. OCR is currently taking steps to hire complaint investigators and to have investigations performed through contracts with private firms.

4. **Proposed civil rights initiatives in the agency's FY 1999 budget request:** In response to the CRAT report, the Secretary has proposed increases of \$7.8 million in the programs mentioned above, as well as an FY 1998 supplemental of \$7.8 million. This would directly address the backlog of discrimination cases, improve oversight and outreach efforts within the Department, and improve conflict resolution. The recommendation reflects the proposed funding increases for both years.

Prepared By/Date: Stephen Frerichs/Noah Engelberg (5-4763), November 4, 1997

**DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
CIVIL RIGHTS ENFORCEMENT PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
6	6	5	7	6	

Key civil rights programs: The civil rights enforcement functions within the Office of the Secretary of Transportation act to enforce the rights of Departmental employees. The Office of the Secretary also manages programs and additional funding for the Minority Business Resource Center, which is discussed in a separate paper under "Nonenforcement Programs".

An assessment of how well they are doing: The average time to investigate an EEO case in FY 1997 was 323 days, as compared with the statutory limit of 180 days. At the end of the first half of FY 1997, nearly half of DOT'S's EEO compliance investigations were more than 180 days old. At the same time, the office was able to close more than 77% of the cases it received in the first eight months of 1997.

An assessment of current enforcement efforts: The Departmental Office of Civil Rights is undertaking a pre-complaint counseling process aimed at reducing the number of personnel matters before they become complaints. The Office plans to implement a pilot program built on this process and Alternative Dispute Resolution in FY 1998.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Department of Transportation's Office of Civil Rights requests additional funding to hire eight EEO Specialists to investigate and process EEO complaints. This funding would be directed to reduce case back-logs and address an anticipated increase in complaints.

Prepared By/Date: Jonathan Ball (5-3100), October 8, 1997

**DEPARTMENT OF LABOR
OFFICE OF CIVIL RIGHTS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
4.5	4.6	4.6	5.2	4.8	

Key civil rights programs: The Office of Civil Rights (OCR) is responsible for ensuring compliance with a variety of civil rights laws for programs receiving or benefiting from DOL financial assistance. OCR is also responsible for monitoring and evaluating DOL's Affirmative Employment Program and EEO complaint system.

An assessment of how well they are doing: OCR primarily responds to complaints. They have not had the resources to do many compliance reviews of grant recipients. OCR receives and closes about 1,300 complaints yearly for Title VI of the Civil Rights Act relating to programs receiving DOL funds. They receive and close about 150 complaints from DOL employees or applicants.

An assessment of current enforcement efforts: In FY 1999, OCR would like to increase the number of compliance reviews from 4 to 8, and increase the number of training sessions from 8 to 16. OCR is participating in a DOL Alternative Dispute Resolution pilot.

Proposed civil rights initiatives in the agency's FY 1999 budget request: OCR requested an increase of \$333 thousand and 5 FTE to handle what they believe will be a larger caseload resulting from the anticipated Executive Order addressing discrimination in Federally conducted education programs. The request also would increase compliance reviews and training activities. The Human Resources Division (HRD) does not believe the E.O. will significantly add to OCR's workload. HRD's recommendation includes inflationary increases and provides \$133 thousand and 2 FTE to address the new caseload from welfare-to-work grants and to provide additional compliance reviews and training.

OCR requested \$100 thousand "in support of the President's racial reconciliation initiative" to conduct "mini-conferences" to determine the impact of discrimination on DOL-financed programs' services, and to develop strategies to address identified problems. HRD believes this would not significantly contribute to the President's initiative.

Prepared By/Date: Lori Schack (5-3263), October 28, 1997

Nonenforcement Programs

**SMALL BUSINESS ADMINISTRATION
MINORITY ECONOMIC DEVELOPMENT PROGRAM**

FUNDING SUMMARY
(budget authority in millions of dollars)

	FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
MED/8(a)	3.8	4.3	4.3	5.1	4.3	
7(j) Tech. Assistance	2.7	2.6	2.6	17.6	7.6	

Key civil rights programs: SBA's Minority Economic Development Program (MED) has two related civil rights components. The 8(a) business development program helps disadvantaged businesses establish themselves and become more competitive through providing special access to federal procurement activities. The 8(a) program does not operate as a race-based set-aside program. It operates as a business development program, and firms must qualify under size standards to show a need for assistance.

In addition, participating 8(a) firms are also eligible for specialized technical assistance through the agency's 7(j) program. This assistance usually takes the form of week-long business training programs at schools like Dartmouth University and Howard University.

An assessment of how well they are doing: SBA's 8(a) program has been heavily criticized recently. Certain House members (Cox, R-CA) have argued that the program is unconstitutional. However, we believe this is not the case. The Department of Justice (DOJ) has made preliminary determinations that SBA's 8(a) program meets the "strict scrutiny" and "narrow tailoring" requirements set forth by the Supreme Court in Adarand Constructors, Inc. v. Peña.

The program also has had difficulty developing performance measures and data to show how successful participating firms are after they are graduated from the 9-year program. If the program is to continue to meet the new DOJ legal requirements, substantial improvements likely will be needed in performance measures. The program also may have to be targeted to industries in which disadvantaged firms are under represented in Federal contracting.

Proposed civil rights initiatives in the agency's FY 1999 budget request: SBA is requesting a \$15 million increase in 7(j) technical assistance funding above the likely FY 1998 appropriated amount of \$2.6 million. The agency also has requested \$5.1 million for MED/8(a) administrative expenses in FY 1999. (The President's FY 1998 budget requested \$9.2 million for both 8(a) and 7(j) activities.)

Prepared By/Date: Bill Wiggins (5-1098), October 8, 1997

**DEPARTMENT OF COMMERCE
MINORITY BUSINESS DEVELOPMENT AGENCY**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
28	26.4	26.4	28.7	26.4*	

Key civil rights programs: MBDA's primary responsibility is to coordinate minority business programs for the Federal government and to assist minority businesses in obtaining access to market and resource opportunities. The Agency provides access to market and resource opportunities through Minority Business Development Centers, Minority Business Opportunity Committees, and Business Resource Centers jointly developed with the Small Business Administration to conduct these activities.

An assessment of how well they are doing: MBDA continues to struggle to develop outcome measures for their activities. Minority entrepreneurs and the Congressional Black and Hispanic Caucuses have been generally supportive of MBDA activities. Most of this support, however, seems to center on the need for a clear Federal presence in the minority business sector as opposed to support for MBDA activities in particular.

Over the past five years Congressional criticisms that MBDA activities are ineffective and/or largely duplicate SBA activities have led to a 40% reduction in the MBDA budget. Both OMB and the DOC IG have expressed concern with the apparent lack of management and policy guidance within the Agency and in a 1997 report CBO recommended the elimination of MBDA as an option to reduce the deficit.

Proposed civil rights initiatives in the agency's FY 1999 budget request: No new civil rights initiatives are proposed in MBDA's 1999 Request. MBDA is requesting \$600 thousand over the 1999 estimated base to implement recommendations of a DOC internal management review. Recommendations include a reorganization to minimize the impact of leadership turnover at the Agency, improvement of staff skills to provide better assistance to MBDA stakeholders, and increased partnerships with other Federal agencies that provide technical business assistance.

Both OMB and the DOC IG have long advocated management reforms at MBDA. The merits of the 1999 proposal are unclear, however, as details surrounding the budget request (what recommendations will be implemented on what time schedule) are ambiguous.

Recommendation: Currently, the GGF recommendation for MBDA is \$26.4 million although MBDA's activities and performance do not merit these resources. Close-out costs for the Agency have been estimated at \$15 million. The additional \$11 million recommended for MBDA could be used to fund other civil rights initiatives, although we recognize the political difficulty of such a decision.

Prepared By/Date: Rob Nabors (5-5604), November 6, 1997

**DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY/MINORITY BUSINESS RESOURCE CENTER**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
5	5	5	5	5	

Key civil rights programs: In addition to functions Office of Civil Rights functions related to enforcing the rights of Departmental employees the Office of the Secretary is responsible for enhancing the opportunities for minority enterprises and small and disadvantaged businesses to participate in federally funded transportation programs and projects through its minority business outreach and loans programs. Minority Business Outreach funds are used to help small and disadvantaged businesses participate more fully in DOT projects and programs. The Minority Business Resource Center provides short-term loans and lines of credit to minority business enterprises and small disadvantaged businesses in partnership with commercial banks. The goal is to help such businesses participate in Federal procurements.

An assessment of how well they are doing: This office provided no evidence of success or failure in the provision of its programs with its FY 1999 budget request. Absent adequate performance metrics, an assessment of their programs is impossible.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Department does not request any new initiatives for this program.

Prepared By/Date: Jonathan Ball (5-3100), October 8, 1997

**DEPARTMENT OF AGRICULTURE
CIVIL RIGHTS PROGRAMS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
162	139		170	179	

Key civil rights programs: The Department of Agriculture administers several programs that are wholly or partially targeted toward minorities (The Department's Natural Resource Conservation Service, Outreach for Socially Disadvantaged Farmers, is discussed as a separate paper under Nonenforcement Programs). These include: financial assistance to the 16 historically-black land-grant institutions and Tuskegee University to encourage careers as agricultural scientists and professionals; grants and loans to construct housing for migrant farm laborers; farm loans to minorities for operating and ownership purposes; and grants to non-profits to assist small and minority farmers with technical assistance to enhance their ability to operate farming and ranching operations. In addition, the Department's Office of Civil Rights (OCR) is tasked with reducing and eventually eliminating under representation of minorities in the workforce, increasing workforce diversity, and aggressively working to eliminate discrimination in the delivery of USDA programs.

An assessment of how well they are doing: By most accounts the programs that are targeted to minorities are largely successful, with the exception of the farm loan programs and USDA's own internal employee complaints. The farm loan programs (formerly administered by the Farmers Home Administration, now the Farm Service Agency) have a checkered past. A 1965 U.S. Commission on Civil Rights first identified discrimination problems in the farm loan programs. This report has been followed by similar reports in 1982 and 1990 and the current discrimination complaints in 1996 and 1997. In September 1997, the USDA OIG has found that FSA had a backlog of 474 discrimination complaints. In addition, USDA's OCR has a backlog of 984 complaints (including the 474 related to the FSA).

An assessment of current enforcement efforts: Current enforcement efforts are marginal at best. In response to complaints by minority farmers in December 1996, Secretary Glickman appointed a team of USDA leaders to investigate the discrimination complaint backlog and make recommendations for change. This Civil Rights Action Team (CRAT) produced a report with

recommendations to the Secretary in February 1997. The Secretary supports nearly all of the 92 recommendations in the report. Many of the recommendations have not yet been implemented.

In addition, the Department is attempting to settle discrimination complaints against it filed by minority farmers, but has an insufficient number of complaint investigators. To date, five claims out of 71 have been settled and paid for \$2 million. The potential liability to USDA from all known complaints is roughly \$100 million. OCR is currently taking steps to hire complaint investigators and to have investigations performed through contracts with private firms.

Proposed civil rights initiatives in the agency's FY 1999 budget request: In response to the CRAT report, the Secretary has proposed increases in the programs mentioned above. In addition, the Secretary is requesting an FY 1998 supplemental (\$7.8 million) to directly address the backlog of discrimination cases and to improve oversight and outreach efforts within the Department.

Prepared By/Date: Stephen Frerichs (5-4796), September 29, 1997

**DEPARTMENT OF AGRICULTURE
NATURAL RESOURCE CONSERVATION SERVICE
OUTREACH FOR SOCIALLY DISADVANTAGED FARMERS**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Enacted	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
1	3		10		

Key civil rights programs: The Natural Resource Conservation Service's (NRCS) Outreach for Socially Disadvantaged Farmers is aimed at offering small and minority farmers technical assistance and agricultural education to enhance their ability to operate farming and ranching operations. The program works by establishing cooperative agreements with different non-profit entities, including 1890/1862 Land Grant Institutions, American Indian community colleges and community-based organizations for them to provide the farmers intensive training and management assistance. Each farmer is visited 1 to 3 times a month by a farm specialist.

An assessment of how well they are doing: The program has established cooperative agreements with 28 organizations in 21 States.

Proposed civil rights initiatives in the agency's FY 1999 budget request: Additional funds will allow greater numbers of farmers to participate and more geographic outreach for the program.

Another option would be to use these funds for sociological analysis of an area before project implementation begins. NRCS's programs have been criticized as frequently rewarding the same large producers, the same town leaders and innovators. Outreach to smaller, more isolated and poorer landowners has been limited. Similarly, strategies to examine what types of technologies the different landowners want (divided by size of land holdings, land tenure arrangements, wealth, cultural inclination, among other considerations). By examining preferences, USDA should be able to assist the broader community and improve overall conservation benefits.

Prepared By/Date: Stuart Kasdin (5-4649), September 29, 1997

**DEPARTMENT OF JUSTICE
COMMUNITY RELATIONS SERVICE**

FUNDING SUMMARY
(budget authority in millions of dollars)

FY 1997 Enacted	FY 1998 Estimate	FY 1999 Guidance	FY 1999 Agency Request	FY 1999 RMO Rec.	FY 1999 Director's Rec.
5	5		10	6	

Key civil rights programs: The Community Relations Service (CRS) provides assistance to communities and persons in the prevention and resolution of disputes, disagreements, and difficulties relating to perceived discriminatory practices based on race, color, or national origin.

An assessment of how well they are doing: The CRS budget has declined from \$29 million in 1994 to \$5.3 million in 1997, resulting in staff reductions (41 employees) and a decline in the number of cases handled by CRS (800 cases in 1996). CRS reports that all regional offices maintain backlogs exceeding their present capability to respond, forcing them to decline or postpone requests for services. CRS does not have quantitative performance indicators which measure the effect of their activities on the racial climate in American communities. It does have anecdotal evidence of successes. For example, CRS has provided services to over 150 communities affected by church burnings over the last couple years. CRS claims that this effort has reduced racial polarization in these communities.

Proposed civil rights initiatives in the agency's FY 1999 budget request: The Community Relations Service is requesting a \$4.4 million increase in 1999 to address heightened community racial tensions. Increased funding would allow CRS to expand the delivery of conciliation and conflict resolution services. To the extent that some local disputes are the result of hate crimes, increased funding for CRS is part of the Attorney General's hate crimes initiative. It is not clear on what basis CRS is predicting increased racial tensions in 1999.

Prepared By/Date: John Thompson (5-3730), October 29, 1997

**Section V:
Federal Race-Related Initiatives for a Civil Rights Agenda**

The following section provides a compilation of potentially new, Federal race-related initiatives that are either currently under consideration in agency budget reviews or through White House working groups, or have been recently announced at the November 10 White House Conference on Hate Crimes. These initiatives provide an idea of what could be incorporated into a larger, Administration civil rights agenda, if desired. The proposals are in various stages of development; FY 1999 RMO funding is provided, where available.

The list is purely informational only. Decisions on these initiatives need to be made in the context of agency budget reviews and through other White House working groups.

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO
Recommendation
(\$ millions)

Department of Housing and Urban Development

1. **Hate Crimes - Make 'em Pay Initiative**

\$0

HUD has developed an initiative to assist victims of hate crimes and discrimination in housing seek monetary damages from the perpetrators. HUD has created a unit that will bring civil suits on behalf of residents of public and private housing who have suffered hate crimes and other discrimination. This initiative was announced by the President at the November 10 White House Conference on Hate Crimes.

2. **Housing Mobility Programs - Regional Opportunity Counseling**

\$20

HUD's budget submission includes \$20 million for regional opportunity counseling to encourage wider geographic dispersion of subsidy holders. The DPC/NEC working group on community empowerment is considering proposals for urban areas that will include housing mobility proposals. HUD's strategic objectives include not only ensuring equal housing opportunity but also reducing isolation of low-income groups. Thus, it seems a housing mobility initiative would fit multiple policy agendas.

3. **Diverse Neighborhoods Initiative**

N/A

A work in progress developed by HUD and the Domestic Policy Council, this initiative is to develop stronger links between HUD's fair housing efforts, local block grant planning efforts, and Community Reinvestment Act efforts. Through this coordination we could achieve more diverse neighborhoods. Budgetary impact and performance measures have not yet been developed..

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO
Recommendation
(\$ millions)

Department of the Treasury/Department of Housing and Urban Development/Department of Justice

1. **Fair Lending/Fair Housing Initiative**

N/A

The DPC/NEC working group on community empowerment is considering a Department of Treasury proposal to ensure equitable access to the credit markets. This initiative could include: 1) an examination of the impact of credit scoring loan systems and risk-based pricing on lower-income and minority individuals; 2) a presidential initiative urging the banking regulators to obtain more data on reasons for home mortgage denials; 3) a presidential request to the GSEs to retain loan denial data for further analysis of lending patterns; 4) increased funding for DOJ/HUD "testing" of how applicants are treated; 5) public education accompanying the 30 year anniversary of the Fair Housing Act.

Department of Health and Human Services

1. **"Healthy Life" Initiative to Address Racial Disparities in Health**

\$30

At the request of the Domestic Policy Council, HHS has drafted a possible FY 1999 initiative called "Healthy Life" to address current disparities in health status among racial groups. Using the Health Resources Services Agency's Healthy Start Infant Mortality Demonstration program as a model, this initiative would grant a total of \$360 million (BA) over 5 years to 30 communities to address current health disparities in one of the six health areas cited below. In theory, five communities would address one of the six goals.

- | | | |
|--------------------------------|------------------------------|-------------------|
| (1) Infant Mortality | (3) Heart Disease and Stroke | (5) AIDS |
| (2) Breast and Cervical Cancer | (4) Diabetes | (6) Immunizations |

Of this total, \$30 million would be for grants in FY 1999 to the 30 communities (\$1 million per community). In the first year, each community would establish baseline data and set goals to eliminate racial disparities in one of these health areas over a five year period. In the following years, the state and local health departments would work with representatives from the community to establish priorities and fund health services directed to minority populations. **This initiative was not included in HHS' original FY 1999 submission in September, and according to HHS these funds are not officially requested in the Department's submission to OMB.**

Federal Race-Related Initiatives for a Civil Rights Agenda

**FY 1999 RMO
Recommendation
(\$ millions)**

Department of Justice: Hate Crimes

1. **Expand the Federal Hate Crimes Statute** **\$0**
Expand the Federal Hate Crimes statute to prohibit crimes on the basis of gender, sexual orientation, and disability. This was announced at the November 10 White House Conference on Hate Crimes.

2. **Prosecution and Enforcement Initiatives** **\$0**
DOJ is proposing federal-state-local partnerships that would coordinate the prosecution of hate crimes, which would be centered in the approximately 100 U.S. Attorney Offices throughout the country. Members of the "National Hate Crimes Working Group" would include: the U.S. Attorneys' offices, the FBI, state and local law enforcement, state and local prosecutors, schools, and advocacy groups. In addition to prosecuting hate crimes, the groups would seek to increase enforcement of hate crime laws, to maximize reporting of hate crimes, and to educate the public about hate crimes. These efforts would be funded in part with \$13 million for 130 additional FBI personnel, including assigning over 30 FBI agents and prosecutors to the task of hate crimes enforcement, and \$181 thousand for Town Hall meeting. The RMO recommendation is for DOJ to fund these priority activities within its overall planning ceiling.

Other prosecution and enforcement efforts would include encouraging police academies nationwide to include hate crime as part of their basic training and providing funding so that state and local law enforcement can attend federal training on hate crimes; developing a best practices guide to local law enforcement organizations (see Civil Rights Analytical Center, below); and surveying 800 district attorneys offices to identify the policies and practices prosecutors use in hate crimes cases. These initiatives have been announced at the November 10 White House Conference on Hate Crimes.

3. **FBI - Civil Rights Analytical Center** **\$0**
The FBI has proposed additional funding in the FY 1999 budget for a new Civil Rights Analytical Center (CRAC), which will analyze trends and practices in hate crimes/civil rights. The CRAC would also develop a best practices guide for local law enforcement organizations. The CRAC would be staffed with six FTEs. The RMO

Federal Race-Related Initiatives for a Civil Rights Agenda

FY 1999 RMO Recommendation (\$ millions)

recommendation is for DOJ to fund this program out of its base. This initiative has been announced at the November 10 White House Conference on Hate Crimes.

4. **Additional Reporting, Outreach, and Training**

\$2

DOJ has submitted a budget enhancement of \$1 million for FY 1999 to further the participation and technical abilities of local law enforcement agencies to collect and report hate crime data. DOJ will also incorporate hate crime questions in existing crime surveys. In addition, DOJ is requesting \$1.25 million to: complement the proposed U.S. Attorney Hate Crimes Task Force; develop State, local, and Federal partnerships to prevent and respond to hate crimes; and provide training in every U.S. District. A small amount of the \$35 million requested by DOJ for the National Incident-Based Reporting System would also be used to improve hate crime reporting.

Other initiatives regarding statistics include adding hate crime inquiries as part of the annual National Crime Victimization Survey conducted each spring and a study aimed at improving collection of statistics on hate crimes and methods to improve reporting. These initiatives have been announced at the November 10 White House Conference on Hate Crimes.

Department of Education: Hate Crimes

1. **Educational Initiatives**

\$0

These initiatives have been announced at the November 10 White House Conference on Hate Crimes.

- a teacher's guide for hate crimes awareness,
- a national survey to gather statistical information on the occurrence of hate-based violence in public schools,
- a manual that would catalog all available resources to assist school administrations,
- a middle school curriculum entitled "Healing the Hate", and
- a Hate Crimes Internet site.

Total, Federal Race-related Civil Rights Initiatives..... \$52

Civil Rights

THE WHITE HOUSE
WASHINGTON

February 24, 1999

TO: MARIA ECHAVESTE
CHUCK RUFF
BEN JOHNSON
MINYON MOORE
SYLVIA MATHEWS
JOSH GOTBAUM
ELENA KAGAN
SHIRLEY SAGAWA
EDDIE CORREIA
PETER RUNDLET - *counsel*
TERRY EDMONDS
FELICIA WONG
PETER MALI
LISA BROWN

FROM: CLARA SHIN

SUBJECT: CIVIL RIGHTS COORDINATING COUNCIL STRATEGY MEMOS

As you know, Maria Echaveste and Chuck Ruff held an interagency civil rights coordinating council meeting on Tuesday, February 9. Agencies represented on the council include DOJ Civil Rights Division, HUD Office of Fair Housing and Equal Opportunity, EPA Office of Environmental Justice, DOL Office of Federal Contract Compliance Programs, DOE Office for Civil Rights, EEOC, HHS Office for Civil Rights, and DOT General Counsel's Office. At this meeting, we asked the agency participants to submit strategy memos outlining their civil rights goals and priorities for the next two years so as to identify administration priorities and better coordinate our efforts.

In this document, I have summarized the strategy memos submitted by the agencies. I have organized the goals outlined by the agencies into six thematic categories: (1) enforcement; (2) regulatory reform; (3) legislative reform; (4) legal/policy guidance and technical assistance; (5) public outreach and education; and (6) data collection. Note that the agencies were not asked to formulate their goals according to these categories. In addition to this summary, I have attached the agencies' complete submissions.

Please review the goals identified by the agencies with three questions in mind: (1) whether the goals identified by the agencies are the right priorities; (2) whether there are gaps and if so, what they are; and (3) how we should focus the efforts of the civil rights coordinating council. We will be discussing these questions at the internal civil rights enforcement meeting scheduled for Monday, March 1. A follow-up civil rights coordinating council meeting will be scheduled for later in the week. If you have any questions, do not hesitate to contact me at 6-5506.

Make copies for OLC
staff

Bruce/Inez -

Let's all look this
over and discuss
where we think this
either should be
heading.

Elena

ENFORCEMENT GOALS

Disabilities	• <i>ADA</i>. To enforce ADA, particularly in the context of public accommodations, through technical assistance, an expanded mediation program, and litigation (DOJ). • <i>Disability Insurance Benefits</i>. To ensure that the receipt of SSA disability insurance benefits does not preclude individuals from pursuing a claim under the ADA or the Rehabilitation Act by revising SSA application forms (EEOC). • <i>Air Carrier Access Act</i>. To enforce the civil rights of air travelers with disabilities by strengthening the Air Carrier Access Act, beefing up DOT's enforcement unit, and working with airlines on training (DOT).
Law Enforcement ✓	• <i>Hate Crimes</i>. To develop a national strategy for combating hate crimes: (1) create local hate crime working groups in each U.S. Attorney's District; (2) expedite law enforcement's response to hate crimes; (3) develop a formal statement on engaging local law enforcement in investigative planning discussions; and (4) create three new hate crime resource guides for teachers, law enforcement personnel, and state and local prosecutors, as well as a model hate crimes curricula for various levels of local law enforcement officers (DOJ). • <i>Clinic Violence</i>. To fight violence against reproductive health care providers: (1) assist local officials in the investigation and prosecution of clinic violence and coordination of national investigative efforts; (2) enhance the safety and protection of reproductive health care providers; (3) support the work of the U.S. Attorney's local working groups on clinic violence; (4) coordinate the training of federal, state, and local law enforcement agencies on clinic-related violence; and (5) coordinate the federal civil investigation and litigation of abortion-related violence (DOJ). • <i>Police Misconduct</i>. To sustain the efforts of the Police Misconduct Initiative: (1) conduct pattern and practice investigations into the use of excessive force and racial profiling as well as administrative investigations into discriminatory policing; (2) pursue criminal cases involving local, state, and federal police officers and corrections personnel; (3) support and carry out education and training programs aimed at preventing police misconduct; (4) participate in a civil rights review of federal agency practices; (5) address law enforcement integrity issues; and (6) reach out to law enforcement civil rights groups and the public to explain the nature of DOJ's work and objectives (DOJ).
Employment ✓	• <i>Worker Exploitation</i>. To identify, investigate, and prosecute cases of worker exploitation, ✓ through regional worker exploitation task forces, and to develop a manual to help investigators from all agencies identify worker exploitation cases and locate necessary evidence (DOJ). • <i>Wage Gap</i>. To reduce the wage disparity between men and women by developing a strategic litigation plan (EEOC). ✓ • <i>EEO Backlog</i>. To put our federal house in order: (1) vigorously implement the new EEOC regulations and ensure that we have viable ADR programs in all federal agencies; (2) identify a discrete number of agencies or programs with egregious backlogs; and (3) make sure that civil rights goals and performance measures are part of every Department's Performance Plan (DOT). • <i>DOT's Backlog</i>. To eliminate DOT's EEO backlog by the end of 1999 (DOT). • <i>Diverse and Skilled Workforce</i>. To develop a diverse, skilled workforce for transportation in the next century by launching an effort with government, labor, and industry (DOT).

Lending	<i>Commercial and Residential Lending.</i> To eradicate discrimination from commercial and residential lending: (1) increase the number, scope, and timeliness of referrals from bank regulatory agencies; (2) respond to the Federal Reserve Board's proposed rulemaking for Regulation B (which governs enforcement under the Equal Credit Opportunity Act) and Regulation C (which governs Home Mortgage Disclosure Act) - particularly the proposal to allow lenders to voluntarily collect racial and ethnic data for loans other than mortgages; and (3) address predatory lending practices in the subprime mortgage credit market (DOJ).
Race-Based Programs	• <i>Education Admissions.</i> To defend diversity in educational institutions: (1) file amicus briefs in cases involving K-12, undergraduate, and graduate admissions; and (2) work with the Department of Education on providing technical assistance and information to schools struggling with these issues (DOJ). • <i>Contracting.</i> To successfully implement a mended DBE program (DOT).
Language Rights	<i>Language Rights.</i> To formulate a federal civil rights task force that will focus on enforcing and promoting language rights (EEOC).
Health and Human Services	• <i>Access and Quality of Health Care.</i> To reduce racial disparities in access to health care and quality of care by more widely investigating federally funded providers that deny access to persons on the basis of race, color or national origin. Focus areas include medical redlining, persons with HIV/AIDS, disparate quality of services, and managed care in relation to differential provision of services, differential availability of services, and the steering of minorities and persons with disabilities away from managed care plans (HHS). • <i>LEP.</i> To ensure that LEP populations have meaningful access to health and human services through technical assistance, compliance reviews, investigation of complaints, community outreach, and partnerships with local governments (HHS). • <i>Adoption and Foster Care.</i> To reduce discrimination in adoption or foster care placements by enforcing the interethnic provisions of the Small Business Job Protection Act of 1996 (HHS).
Environmental Justice	<i>Executive Order 12898.</i> To fully achieve the goals of Executive Order 12898, "Federal Actions to Address Environmental Justice for Minority Populations and Low-Income Populations," by the White House reinvigorating the Interagency Working Group, tracking the federal agencies' activities, and sponsoring local environmental justice forums to replicate the interagency task force model (EPA/DOT).
Housing	• <i>Fair Housing.</i> To double, in President Clinton's second term, the number of fair housing enforcement actions taken during his first term (HUD). • <i>Housing Choice.</i> To expand housing choice and promote school desegregation (HUD).

REGULATORY REFORM GOALS

Employment	<i>EEO Complaint Process.</i> To expedite the EEO complaint process by implementing the proposed regulations (EEOC).
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LEGISLATIVE REFORM GOALS

Criminal Justice	• <i>Hate Crimes.</i> To enact a Hate Crimes Prevention Act and thereby amend section 245 of title 18 in two ways: (1) in cases involving racial, religious, or ethnic violence, prohibiting the intentional infliction of bodily injury without regard to the victim's participation in a "federally protected activity;" and (2) in cases involving violent hate crimes based on the victim's sexual orientation, gender, or disability, prohibiting the intentional infliction of bodily injury whenever the incident involves or affects interstate commerce (DOJ). • <i>Worker Exploitation.</i> To address legal barriers to the successful prosecution of worker exploitation cases through the 1999 Crime Bill: (1) expand the coverage of federal law beyond the narrow interpretation of "involuntary servitude" in current anti-slavery statutes to encompass traffickers who subject workers to serious labor law violations under coercive conditions; and (2) create a new nonimmigrant visa classification that would permit the provision of temporary legal status to aliens who have been severely victimized by trafficking or similarly egregious offenses (DOJ).
Education	<i>Sexual Harassment.</i> To enact legislation in response to <i>Gebser v. Ago Vista School District</i> so that students' protections from sexual harassment under Title IX are as strong as the protections available to workers under Title VII, and to restore the availability of damages under Title IX once unlawful harassment is proven (DOJ).
Nursing Home Facilities	<i>Nursing Home Resident Protection Act.</i> To enact the Nursing Home Resident Protection Act in order to address complaints about egregious conditions in private nursing home facilities through civil and criminal penalties (DOJ).
Title II	<i>Title II.</i> To amend Title II in three ways: (1) extend anti-discrimination protections to places of public accommodation beyond motels, hotels, restaurants, gas stations, theaters, sports arenas, stadiums, and other places of entertainment or exhibition; (2) authorize DOJ to seek monetary damages for proven violations; and (3) include gender as a protected classes (DOJ).

~~Employment~~ Non-Discrimination ~~Act~~ Employment Act

LEGAL/POLICY GUIDANCE AND TECHNICAL ASSISTANCE GOALS

Education	• <i>Disparate Resources.</i> To issue Title VI legal guidance regarding disparate resources among school districts associated with race or national origin (DOE). • <i>Race-Based Admissions.</i> To defend diversity in educational institutions by developing a policy statement regarding the use of race in admissions, publishing a self-assessment guide to assist schools using race in admissions, and providing technical assistance and information to educational institutions (DOE/DOJ). • <i>High-Stakes Testing.</i> To develop a multi-faceted education strategy for policymakers and educators regarding appropriate test use practices and to confirm legal baselines, including a focus on LEP students' access to high quality education (DOE).
Employment	<i>Contractors.</i> To develop a protocol to encourage contractor self-audits of their pay and employment practices (DOL).

PUBLIC OUTREACH AND EDUCATION GOALS

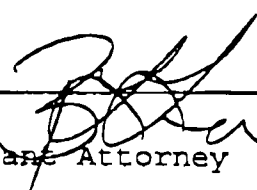
Education	• <i>Civil Rights</i>. To hold a national conference of educators and policymakers to identify current civil rights issues in education, frame challenges for future work, and to highlight promising practices and models (DOE). • <i>Race-Based Admissions</i>. To defend diversity in educational institutions by participating in a Georgetown Law School conference on diversity in the legal profession (DOJ).
Employment	• <i>Wage Gap</i>. To convene, on April 13, 1999, an EEOC meeting to address the issue of pay discrimination as well as a conference, co-sponsored by the Department of Labor and 9 to 5: The National Association of Working Women, on pay equity (EEOC). • <i>LEP</i>. To develop a multi-lingual web-site for people seeking information about their civil rights at the workplace (EEO). • <i>Promising Practices</i>. To encourage proactive practices by the private and public sectors subject to federal civil rights laws by establishing a White House-level recognition program to encourage practices above and beyond EEO/Civil Rights compliance (modeled after DOL's Exemplary Voluntary Efforts Awards Program) (DOL).
Race and National Origin	• <i>National Origin</i>. To raise awareness on national origin discrimination issues, including language discrimination, by holding a public Commission Meeting (EEOC). • <i>Promising Practices</i>. To promote racial understanding and healing at the local level by providing community grants to promising practices and sharing best practices (DOT).
Housing	• <i>Fair Housing Act</i>. To educate immigrants, people with disabilities, rural residents, and homeless persons of their Fair Housing Act rights; to educate the public on their Fair Housing Act rights via the National Education and Outreach Campaign; and to conduct a year-long celebration of the Fair Housing Act's 30th Anniversary through regional conferences and possibly, a national summit on Fair Housing (HUD). • <i>Best Practices</i>. To develop and implement methodologies that can be used nationwide as models for responding to challenges that arise from persons exercising their rights of equal housing choice under the Fair Housing Act (HUD). • <i>Recognition</i>. To present awards for best practices in fair housing and fair lending via a Best Practices Awards Conference (HUD). • <i>Public Awareness</i>. To make the public more aware of the extent of housing discrimination today, and to encourage those who have experienced discrimination to come forward, by making weekly announcements on enforcement actions (HUD).

DATA COLLECTION GOALS

Employment	• <i>EEO Enforcement Activities</i>. To benchmark the level of EEO enforcement activities by surveying federal agencies (EEOC). • <i>Contractors</i>. To better target contractors that are in non-compliance, and to make more efficient use of agency and contractor resources, by measuring the gender and minority wage gap between contractor workforces and non-contractor workforces (DOL).
Housing	• <i>Housing Rental and Sales</i>. To complete an independent study of racial and ethnic discrimination in housing rental and sales -- including sales agents' selective provision of information regarding mortgage lending options (HUD). • <i>Mortgage Lending</i>. To measure the extent of mortgage lending discrimination by documenting unlawful practices that treat white applicants far more favorably than racial minority applicants in order to close the "homeownership gap" that divides suburbs from cities and whites from minorities (HUD).

Memorandum



Subject: Civil Rights Division 1999 Priorities	Date: February 22, 1999 
To: Maria Echaveste Deputy Chief of Staff White House	From: Bill Lann Lee Acting Assistant Attorney General Civil Rights Division

This memorandum briefly describes the 1999 priorities of the Civil Rights Division. On the legislative front, we are working to enact bills addressing Hate Crimes, Worker Exploitation, Abuse of Nursing Home Residents, Sexual Harassment of Students, and the limited coverage of Title II of the Civil Rights Act of 1964. Two of these areas — Hate Crimes and Worker Exploitation — are also among the Division's highest policy priorities. In addition, we are emphasizing enforcement and education in the areas of Fair Lending, the Americans With Disabilities Act ("ADA"), Police Misconduct, Violence Against Reproductive Health Care Providers, and Diversity in Educational Institutions.

I. Legislation

Hate Crimes Prevention Act. It is clear from hate crime statistics reported to the FBI and state and local law enforcement that we face a significant hate crimes problem. Section 245 of title 18, the principal federal hate crimes statute, is deficient in two respects. First, it requires the government to prove that the defendant committed an offense not only because of the victim's race, color, religion or national origin, but also because of the victim's participation in one of six narrowly defined "federally protected activities" specifically enumerated in the statute. Second, the current statute provides no protection against violent hate crimes committed because of the victim's sexual orientation, gender, or disability. The Hate Crimes Prevention Act would amend § 245 to address both of these problems. First, in cases involving racial, religious, or ethnic violence, the bill would prohibit the intentional infliction of bodily injury without regard to the victim's participation in a "federally protected activity." Second, in cases involving violent hate crimes based on the victim's sexual orientation, gender, or disability, the bill would prohibit the intentional infliction of bodily injury whenever the incident involved or affected interstate commerce. These amendments would permit the federal government to work in partnership with state and

local officials to investigate and prosecute hate-based violent crimes.

*Protections?
Call Steve*

Worker Exploitation. The Civil Rights Division has proposed two provisions for inclusion in the 1999 Crime Bill to address legal barriers to the successful prosecution of worker exploitation cases. The first would expand the coverage of federal law beyond the narrow interpretation of "involuntary servitude" in current anti-slavery statutes to encompass traffickers who subject workers to serious labor law violations under coercive conditions. The second would create a new nonimmigrant visa classification that would permit the provision of temporary legal status to aliens who have been severely victimized by trafficking or similarly egregious offenses. This would encourage victimized aliens to report abuses, and facilitate the investigation and prosecution of traffickers. Finally, the provision would allow the Attorney General to convert nonimmigrants under this section to permanent status when justified on humanitarian grounds or the national interest.

Nursing Home Resident Protection Act. We have long been concerned about our inability to address complaints about egregious conditions in private nursing home facilities. The Civil Rights of Institutionalized Persons Act ("CRIPA") vests us with jurisdiction to protect the constitutional and federal statutory rights of persons residing in public nursing homes and other public residential health care facilities. However, CRIPA gives the Division only limited authority to protect the rights of individuals in private facilities, which make up approximately 95% of nursing homes, 66% of psychiatric hospitals and mental retardation institutions, and 95% of group homes. The Nursing Home Resident Protection Act would fill the gap in the Department's current enforcement efforts. We are working together with the other participants in the Department's Nursing Home Resident Working Group to draft legislation to impose criminal and civil penalties against persons (including corporate entities) who engage in a pattern of violations of Federal laws, regulations or rules, or State laws when those violations affect the health, safety, or care of individuals residing in a residential health facility and where such pattern results in physical or mental harm to one or more such residents.

Title IX "Gebser fix" legislation. The Supreme Court's recent decision in Gebser v. Lago Vista School District significantly limited the circumstances under which a student who has been sexually harassed may recover damages in a private action under Title IX. The Court held that damages cannot be recovered in a private action under Title IX unless a school district official with authority to institute corrective measures on the district's behalf has actual notice of and is deliberately indifferent to the teacher's misconduct. Gebser thus undermines the incentive for school districts to implement effective preventive and corrective policies, encourages school districts to insulate themselves from

actual knowledge of harassment allegations to avoid damages liability, and imposes a difficult burden on victims to determine to whom they should report harassment. For all of these reasons, legislation is necessary to make clear that students' protections from sexual harassment under Title IX are at least as strong as the protections available to workers under Title VII, and to restore the availability of damages under Title IX once such unlawful harassment is proven.

Title II Amendments. The Civil Rights Division has received numerous reports of discrimination in the provision of everyday goods and services by establishments with respect to which we presently have no jurisdiction to act, such as complaints from customers who were denied service or harassed by retail establishments because of their race or national origin. Because of the restrictive statutory definition in Title II, the covered "public accommodations" essentially include only motels, hotels, restaurants, gas stations, theaters, sports arenas, stadiums, and other places of entertainment or exhibition. Moreover, we lack the authority to seek monetary damages or civil penalties. Finally, existing federal public accommodations law provides no protection against sex discrimination. Our limited authority discourages individuals from bringing important complaints to our attention and undercuts our ability to redress and deter discrimination. The Division supports extending anti-discrimination protections to these places of public accommodation, authorizing the Department to seek monetary damages for proven violations, and adding gender to the list of protected classes.

II. Other Priorities.

Hate Crimes Initiative. In 1997, the Attorney General asked the Division, the FBI, and the Executive Office of United States Attorneys ("EOUSA") to develop a coordinated national strategy for combating hate crimes more effectively. The centerpiece of the Department's Initiative on Hate Crimes is the creation of local hate crime working groups in each United States Attorney's District. In addition, the Division, in coordination with the Office of the Deputy Attorney General, has developed and begun implementing a plan to speed up the law enforcement response to hate crimes, both through increased efficiency in our Criminal section and through more extensive and aggressive outreach to community groups and local law enforcement. The Division has worked with the FBI to develop a formal statement on engaging local law enforcement in investigative planning discussions immediately after sensitive incidents occur. The Department also is spearheading the creation of three new hate crime resources guides for teachers, law enforcement personnel, and state and local prosecutors, and a model hate crimes curricula for various levels of local law enforcement officers.

Preventing Worker Exploitation. Together with the Solicitor of the Department of Labor, the Civil Rights Division chairs an inter-agency Worker Exploitation Task Force ("WETF") charged with identifying, investigating and prosecuting cases of worker exploitation. We have established regional worker exploitation task forces throughout the United States to help the U.S. Attorneys and regional investigators from the Immigration and Naturalization Service ("INS") and Labor coordinate their efforts. We have also written an extensive WETF manual to help investigators from all agencies identify these cases and locate necessary evidence.

Fair Lending Enforcement. Eradicating discrimination from commercial and residential lending is among our highest priorities. In addition to pursuing cases arising from investigations initiated by our Housing section, we are actively seeking to increase the number, scope, and timeliness of referrals from bank regulatory agencies. We also will work with the Department of Treasury and the Department of Housing and Urban Development ("HUD") to respond to the Federal Reserve Board's proposed rulemaking for Regulation B, which governs enforcement under the Equal Credit Opportunity Act, and Regulation C, which governs the Home Mortgage Disclosure Act. Of particular interest to the Division is a proposal to allow lenders voluntarily to collect racial and ethnic data for loans other than mortgages, including business loans. Finally, we are moving to address predatory lending practices in the subprime mortgage credit market. The cost of a subprime mortgage is significantly higher than that of an "A" market mortgage, usually by as much as two to seven percentage points. Unlike banks and thrifts in the "A" market, the non-depository institutions that extend most subprime loans are not subject to regulation by the four federal bank regulatory agencies. Statistics indicate that minority borrowers, especially in urban areas, are disproportionately represented in the subprime market.

Increasing access under the ADA. Architectural and communication barriers impede the independence and integration of people with disabilities into the mainstream of American society. Accessibility to public accommodations is one of the most significant impediments in the daily lives of people with disabilities. Through technical assistance, an expanded mediation program, and litigation, our ADA enforcement will focus on removing barriers in public accommodations such as hospitals, restaurants, stores, motion picture theaters, hotels and transportation facilities that are integral to daily life.

Police Misconduct Initiative. The Division's Police Misconduct Initiative is entering its fourth year. Our efforts are focused on six areas. First, we have established a civil enforcement program to conduct pattern and practice investigations into the use of excessive force and racial profiling and administrative investigations into discriminatory policing. Second, we actively

pursue criminal cases involving local, state, and federal police officers and corrections personnel, focusing particular attention on officers engaging in a pattern of criminal conduct and problem departments. Third, the Division supports and carries out education and training programs aimed at preventing police misconduct. Fourth, the Division is participating in civil rights reviews of federal agency practices, including those related to the use of race, national origin, and religion in Department law enforcement activities and Federal Aviation Administration passenger screening programs. Fifth, we are working closely with other Department components that address law enforcement integrity issues. Finally, we have made it a priority to reach out to law enforcement, civil rights groups, and the general public to explain the nature of our work and our objectives.

Fighting violence against reproductive health care providers.

I chair the National Task Force on Violence Against Health Care Providers that was created by the Attorney General in November, 1998 following the murder of Dr. Barnett Slepian in Amherst, New York. Staffed by lawyers from the Civil Rights Division, along with investigators from the FBI, ATF, U.S. Marshals Service, and U.S. Postal Inspection Service, the task force assists local officials in the investigation and prosecution of clinic violence and coordinates national investigative efforts, focusing on connections that may exist between individuals involved in criminal conduct. The Task Force also works to enhance the safety and protection of reproductive health care providers; assists the work of the U.S. Attorneys' local working groups on clinic violence; coordinates the training of federal, state, and local law enforcement agencies on clinic-related violence; and coordinates the federal civil investigation and litigation of abortion-related violence.

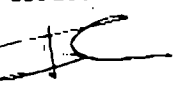
Defending Diversity in Educational Institutions. Legal challenges to the use of race in school admissions have risen sharply in the last few years. The Division will continue to vigorously defend, in appropriate cases, the compelling interest of educational institutions in achieving the educational benefits of diversity, as enunciated in the Supreme Court's Bakke decision. This effort includes filing amicus briefs in cases involving K-12, undergraduate and graduate admissions. In addition, the Division is planning to address diversity in the legal profession as part of a day long conference on June 8, 1999 at Georgetown Law School. The debate regarding limiting affirmative efforts for achieving diversity in law schools has centered on the effects of a diverse student body on the educational experience. The impact on the legal profession at large, however, has not been examined. This conference will expose and inform an influential group of the nation's lawyers of the Administration's support for diversity in the profession. Finally, we will continue to work with the Department of Education on technical assistance and information for schools struggling with these issues.



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

February 19, 1999

To: Clara Shin
Office of the Chief of Staff
The White House

From: Ida Castro 
Chairwoman

Re: EEOC Action Forecast

REVISED
COPY

INTRODUCTION

The pursuit of an active civil rights agenda is necessary to promote increased efficiency, higher productivity, good morale, and ultimately, good government. Achieving the President's goal of "Building One America" requires the full participation of all members of society. Because the EEOC is the Federal agency charged with giving life to this nation's promise of equal employment opportunity, its performance should focus on the agency's promise to fulfill its primary mission, using all available tools at its disposal to identify, stop, and deter discrimination. The EEOC is prepared to undertake the task of establishing a targeted set of priorities and delivering achievements over the next ten months that would move the agency closer to achieving the goals and principles of good governance outlined by the President and Vice President.

► **FEDERAL SECTOR INITIATIVE**

ISSUE: A complex, duplicative, and unwieldy process for addressing complaints within the Federal sector has resulted in an unacceptable delay in having these complaints adjudicated. Private sector employees can expect to have their charges processed on average in 310 days, versus their Federal sector counterparts who do get through the final agency decision on average in no less than 659 days.

STRATEGY: One of the Commission's priorities is to implement the proposed regulations to revamp the federal sector EEO complaint process. Consequently, the implementation of these new regulations will significantly improve the process. Revision of the regulations, with the following federal sector initiatives, provides the potential for federal sector EEO as a significant civil rights initiative and provides the Administration with a platform to hold themselves up as a model employer.

Action: With accelerated approval by OMB and after the period for public comment has ended, an announcement of the implementation of the revision could occur within 60 days of the final stages. The earliest announcement date is expected the end of FY 1999.

Impact: Quicker and more effective investigation and adjudication of complaints will be accomplished by prohibiting interlocutory appeals. Under the new

procedure, the inefficiencies resulting from the fragmented process will be eliminated. In addition, enforcement will be strengthened by the Commission's use of its sanctions authority. Sanctions may be employed when one of the parties is recalcitrant in implementing an EEOC order.

Action: The National Partnership for Reinventing Government and EEOC are jointly sponsoring a task force which will survey Federal agencies to benchmark the level of EEO enforcement activities. The goal is identification of best practices. Achieving a streamlining of federal sector EEO process. Benchmarking is now expected to be completed by FY 2000.

Action: The complex federal sector EEO complaint process will undergo a "plain language" review to make the process more understandable. The current process description will be online at the Commission's website May 1999.

► **DISABILITY**

ISSUE/ITEM: EEOC's Chairwoman serves as the chair of the Civil Rights Committee for the President's Task Force on Employment of Adults with Disabilities. The Committee has several short term goals including:

Action: Initiating outreach pilot projects to remove discriminatory barriers to targeted underserved communities, such as disabled welfare-to-work recipients or people with disabilities in public housing.

Action: EEOC will work with the Social Security Administration to revise application forms for SSA's disability insurance to ensure that receipt of benefits does not preclude an individual from being able to pursue a claim under the ADA or the Rehabilitation Act. This promotes greater civil rights protections for people with disabilities.

► **WAGE DISCRIMINATION/GLASS CEILING ISSUES**

ISSUE: There are nearly 60 million working women in the U.S. and they constitute nearly half of all workers. Today, women earn only 75% of men's weekly earnings. For women of color, the gap widens - black women earn 63% and Hispanic women take home 53% of white men's earnings. By expanding access to the global bounty, everyone in America wins. In the President's State of the Union Address, he highlighted this key issue that affects families in all segments of American society.

STRATEGY: Wage discrimination often remains undetected due to unavailability of pay data and the increasing complexity of pay structures and job classifications. The Commission has worked closely with the White House Democratic Policy Council and the advocacy community to explore possible solutions. The Administration's proposal envisions a multilateral collaboration among the principal civil rights enforcement agencies. The EEOC is involved in on-going activities that can increase visibility and public awareness about the issue.

Action: On April 13, 1999, EEOC will convene a Commission meeting in Philadelphia to address the issue of pay discrimination. Following the Commissioners' meeting, there is a joint conference, sponsored by the Women's Bureau of the U.S. Department of Labor; the U.S. Equal Employment Opportunity Commission and 9 to 5: The National Association of Working Women, entitled "Pay Equity: Taking Control, Making it Happen". The day-long event will feature a distinguished panel of guest speakers and encourage broad participation by women from all segments of society to generate interest and mobilize public support for this issue.

Impact: The Commission is creating a public forum for residents and activists to bring forward their concerns in this area. The EEOC will also announce its enforcement strategy and FY 2000 Budget Request. The EEOC's General Counsel will develop a strategic litigation plan by examining the existing filings for cases which tells the story about on-going wage discrimination in the workplace.

► **NATIONAL ORIGIN/LANGUAGE RIGHTS**

STRATEGY: The Commission will be focusing its attention on national origin discrimination in the form of "language" issues such as speak-English-only rules and discriminatory employment practices based on accent. These practices affect a wide range of people suffering from discriminatory treatment by virtue of the way they speak.

Action: The EEOC also plans to hold a public Commission Meeting in the fall, outside the Washington, D.C. area, at a relevant location (perhaps Florida, California or New York) where the Commission will hear from guest panelists about national origin discrimination issues, including language discrimination. The EEOC will coordinate this meeting with any federal, state and local entities and stakeholders as may be appropriate to promote meaningful dialogue and provide informational services.

Action: EEOC proposes that the White House take the lead in formulating a federal civil rights task force that will focus on the development of strategic enforcement and promotion of language rights. The Commission has already begun a collaborative effort with the Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, to begin joint efforts for cross-training and outreach to communities which speak languages other than English and a Memorandum of Understanding to this effect will be prepared and made public by September 1999.

Action: EEOC will announce its First Phase toward a multilingual website during the Fall. The website will supplement our efforts to expand our reach beyond traditional language barriers to governmental access. Content included in the EEOC's Internet web site, such as fact sheets, charge processing information, issue-based questions-and-answer documents, and information for small businesses will be made available in at least one other language to maximize the use of the site by people seeking information about their civil rights at the workplace.

CONCLUSION

The Equal Employment Opportunity Commission has mapped out an achievable course of action over the next ten months, deliverable achievements that lends credibility to the Administration's civil rights agenda for the coming year. The priorities identified by the Commission enhances the EEOC's strategic mission and goals. The EEOC will maximize existing resources and forge collaborative relationships with their partners in the civil rights community and beyond. The Agency's activities goes hand in hand with the Administration's efforts to promote effective civil rights outreach and enforcement policies.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-2000

FEB 19 1999

OFFICE OF THE ASSISTANT SECRETARY
FOR FAIR HOUSING AND EQUAL OPPORTUNITY

Ms. Maria Echaveste
Deputy Chief of Staff
The White House
Washington, DC 20502

Dear Ms. Echaveste:

Maria

At your request, I am submitting for your consideration civil rights initiatives which the Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity has undertaken or will undertake during President Clinton's second term.

Doubling Enforcement Actions. As part of his One America Initiative, President Clinton has directed the Department of Housing and Urban Development (HUD), in the second term of his administration, to double the number of fair housing enforcement actions taken during his first term. The Department has taken 800 enforcement actions so far this second term, and at an accelerating pace which indicates that it will achieve its goal of 2170 enforcement actions by the end of the term.

National Housing Discrimination Audit. In support of President Clinton's One America Initiative, the Department will contract for an independent study of racial and ethnic discrimination in housing rental and sales--including sales agents' selective provision of information regarding mortgage lending options. The study will build on and expand HUD's twenty-year history of using matched-pair audit research methodologies and will provide statistically valid national estimates of discrimination against African Americans, Hispanics, American Indians and Asian Americans in both rental housing and housing sales markets and the steering of these groups to certain neighborhoods, particular types of lending institutions and less favorable loan products. HUD has solicited proposals from contractors to design a study involving up to sixty communities over the next three years. The Department expects results from the first phase, covering twenty communities - large and small, urban and rural - as early as the end of 1999.

Lending Report. By the end of this year, HUD will issue its first definitive report on the extent of mortgage lending discrimination in America based on a HUD-commissioned study by the Urban Institute (UI) which utilized testing to document unlawful practices that treat white applicants far more favorably than minority applicants. HUD commissioned the study as part of the President's initiative to close the "homeownership gap" that divides suburbs from cities and whites from minorities.

The importance of the UI study and the imminent HUD report is highlighted by a U.S. Conference of Mayors report issued in February 1998. This report, titled "America's Homeownership Gap," said statistics collected by the Federal Reserve Board show that "minority households applying for mortgage credit were much more likely to be rejected than white households with similar income." For example, the data showed that only 10 percent of white applicants with incomes between 100 and 120 percent of the area median are denied conventional mortgages. The denial rate for Hispanics with the same income range jumps to 19.6 percent, and more than doubles to 22.8 percent for African Americans.

Echoing the concerns of the mayors, Harvard Law Professor and Presidential Adviser, Christopher Edley stated: "A comprehensive study in this area (mortgage lending discrimination) is long overdue. It would be part of the picture of where America is on the challenges of color."

Fighting Segregation in Housing and Education. HUD and the Department of Justice will join forces on a "Schools and Housing Opportunity Initiative," an effort to develop and implement remedies that expand housing choice and promote school desegregation. The link between housing and school segregation is well known -- segregated neighborhoods lead to segregated schools. The remedies being considered include housing counseling programs, home buyer and renter clinics, public education campaigns, subsidized housing mobility programs, mortgage credit programs and other remedies that expand housing choice.

Community Challenges. The Department has awarded a \$1.5 million grant to the Leadership Conference Education Fund to develop and implement methodologies that can be used nationwide as models for preventing and responding to challenges that arise from persons exercising their rights of equal housing choice under the Fair Housing Act. The implementation of these methodologies involves sending facilitators to work with groups in HUD-selected communities to prevent or respond to the emergence of such community challenges.

Best Practices Conference. HUD is planning a Best Practices Awards Conference in July 1999 and will, for the first time, present awards for best practices in fair housing and fair lending. The conference is expected to showcase at least 500 best practices, perhaps 50 to 100 in the area of fair housing, before approximately 3,000 participants from all parts of the country. The Department expects to provide awards for private, nonprofit fair housing enforcement practices, housing industry organizations for affirmative sales, rental, lending and homeowners insurance practices and local governments for progressive fair housing planning practices.

Announcements of Housing Discrimination Enforcement Actions. On an almost a weekly basis, the Department announces an enforcement action it has taken somewhere in the country. These case announcements further the President's One America Initiative by making the public more aware of the extent of housing discrimination today. Moreover, the Department expects that the publicity that these cases generate will encourage others who have experienced discrimination to come forward and contribute to the Department's effort to double the number of enforcement actions it brings during the second term of the Clinton Administration.

Reaching Out to Underserved Communities. During the second term of the Clinton Administration, the Department, for the first time, has set aside money in the Fair Housing Initiatives Program to focus enforcement activities and education and outreach on underserved communities, such as recent immigrant populations, people with disabilities, rural residents and homeless persons. Many in these populations remain unaware of their rights under the Fair Housing Act and face language, cultural, and other barriers that currently limit the utility of these laws to address persistent housing discrimination.

National Education Campaign. The Department recently awarded \$2 million for the development and implementation of the Department's most high-profile, National Education and Outreach Campaign to educate the public on their Fair Housing Act rights and responsibilities. The intent of this campaign and the follow-up campaign for which the Congress appropriated funds in FY 1999 is to make it common knowledge in households nationwide that individuals who face discrimination can take their claims to HUD for redress.

30th Anniversary of the Fair Housing Act. Last year, FHEO announced that HUD would conduct a year-long celebration of the 30th Anniversary Title VIII of the Civil Rights Act of 1968 (the Fair Housing Act). This celebration began in April, 1998 and is scheduled to end sometime during the month of May, 1999. This past year, as part of this celebration, each of FHEO's offices hosted regional conferences throughout the country. To conclude this memorable year, HUD is considering a national summit on Fair Housing which will be the culmination of the regional conferences and will set the tone for the enforcement of the Fair Housing Act into the 21st century.

If you have any questions concerning the information provided, please contact me at (202) 708-4252.

Sincerely,



Eva M. Plaza
Assistant Secretary for Fair Housing
and Equal Opportunity



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

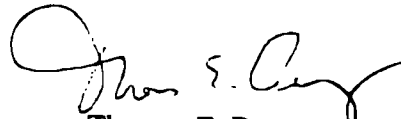
Director
Office for Civil Rights
Washington, D.C. 20201

FEB 23 1999

MEMORANDUM FOR MARIA ECHAVESTE

In response to your request for information about OCR's enforcement priorities for the next 12 - 18 months, attached are OCR's priority issues as follows:

- (1) access to health care and social services or persons with limited English proficiency (LEP);
- (2) disparities in health care for minorities;
- (3) discrimination in adoption and foster care.



Thomas E. Perez

Attachment

1. Limited English Proficiency

Access to quality health care should be a fundamental right. Yet, such access is frequently illusory for the millions of people with limited proficiency in English (LEP). A major focus of OCR's enforcement activities center on ensuring that LEP populations have meaningful access to health and human services. OCR is addressing this need for access to services through a number of means:

- technical assistance
- compliance reviews
- investigations of complaints
- broad outreach to communities
- formation of partnerships with local governments

Examples of these activities include:

- technical assistance to an Atlanta metro area county health department and community groups to ensure the availability of bilingual staff and interpreter services in public health clinics. As a result of this effort, a major area medical center opened a 24 hour outpatient center staffed by bilingual medical and administrative staff to serve the growing population of Hispanic and Asian persons with limited English proficiency living in the area.
- A presentation to the Governor of Maine and his Cabinet on the LEP guidance developed for OCR staff in 1998 for use in the review of cases involving LEP issues.

OCR will continue to work with health care and social services providers, state and local agencies and HHS partners, to ensure that LEP persons are not discriminated against on the basis of national origin. For FY 99, OCR has planned over 190 reviews and investigations and approximately 40 outreach/technical assistance projects to examine the LEP issue and to enhance recipient understanding of the requirements of Title VI. In the compliance reviews and investigations a cross-section of providers will be reviewed, including home health agencies, hospitals, community health centers, managed care programs, nursing homes and Head Start programs.

2. Racial Disparities in Access to Health Care and Quality of Care

Numerous studies have documented the problem of access to health care for minorities, and quality of care for minorities. OCR has the jurisdiction under a number of statutes to investigate recipients of Federal funding that deny access to persons on the basis of race, color or national origin. This jurisdiction supports in a significant way several Presidential and Secretarial initiatives currently underway. The following sections describe programs and issues on which OCR will focus its resources.

A. Redlining

The scourge of redlining is not limited to the housing context. OCR has uncovered instances in which health care providers have engaged in medical redlining. In such cases, home health care agencies had policies that discouraged or prohibited visits to what they determined to be "high crime" areas. Such policies had a disproportionate adverse impact on minority populations. The result was lack of access to such care for racial and ethnic minorities. OCR negotiated agreements with two national home health care chains to prevent such discriminatory practices. OCR initiatives in ensuring nondiscrimination in availability of home health care are essential as this cost-saving service expands in both the Medicare and Medicaid programs. OCR intends to pursue redlining allegations aggressively, with particular focus on major metropolitan areas with large concentrations of minorities.

B. HIV/AIDS

HIV/AIDS is affecting minority populations at an increasing rate. OCR will continue to be vigilant in investigating allegations of discrimination against persons with HIV/AIDS. During the past several years, a significant proportion of these allegations have concentrated on nursing home and home health care access issues. OCR has found that many homes have policies that have effectively denied access to persons with HIV or AIDS. For example, in one case, OCR found that a home's requirement of a large deposit and naming of a guardian for a person with HIV were more extensive requirements than for non-HIV patients. The policy resulted in delayed admission and additional expenses for the patient's family. Corrective action in this case included: changes in policies to ensure that persons with communicable diseases, including AIDS, would be admitted in accordance with state health department rules, deposit requirements that are consistent for all patients regardless of disability, and reimbursement to the family for unnecessary additional expenses.

C. Managed Care

The rapid expansion of managed care raises a host of civil rights issues. OCR is focusing considerable resources on examining the effect of managed care on access to health care for minorities and individuals with disabilities. The potential civil rights issues under examination include:

- differential provision of services
- differential availability of services
- steering of minorities and persons with disabilities away from managed care plans.

The focus will be on conciliation, not confrontation. OCR will be actively engaged in helping to resolve the problems of access and quality of care noted above. These activities will include technical assistance and outreach activities. An estimated 40 percent of the compliance activity increase is projected to support the Secretary's initiative on quality of health care by focusing on civil rights compliance in managed care plans and access to care for minorities, persons with limited English proficiency and persons with disabilities.

D. Disparate Treatment of Minorities

There is a growing concern that in some communities, minorities receive inferior health care as a result of discrimination. One type of allegation is that in some communities, non-minority residents receive a "Cadillac" array of treatment options, while minorities receive the "Yugo" array of options and services. Thus far, such allegations have not been proven, and will indeed be difficult to prove. However, these allegations raise fundamental questions about treatment of minorities in the health care system that merit careful examination.

3. Adoption and Foster Care (MEPA, Section 1808)

Implementation of Adoption Nondiscrimination Requirements

Since the passage of the Multiethnic Placement Act (MEPA) and the interethnic provisions of the Small Business Job Protection Act of 1996 (SBJPA), OCR has reviewed the statutes, regulations and published policies of all 50 states. Section 1808 of SBJPA, entitled "Removal of Barriers to Interethnic Adoption", affirms and strengthens the prohibition against discrimination in adoption or foster care placements. OCR will continue to receive and investigate complaints related to SBJPA, and in addition will conduct independent reviews to test compliance within the states. OCR will work closely with the Administration for Children and Families (ACF) in ensuring compliance.



U.S. Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

February 23, 1999

400 Seventh St., S.W.
Washington, D.C. 20590

MEMORANDUM FOR MARIA ECHAVESTE
ASSISTANT TO THE PRESIDENT AND DEPUTY CHIEF OF STAFF

FROM: Nancy E. McFadden

As requested, the following are some thoughts regarding a civil rights agenda for the next two years.

Public Initiatives:

1. Improved enforcement efforts:

Internal complaints: There should be continued focus on putting our federal house in order. Working with the EEOC and DOJ, we should vigorously implement the new EEOC regulations and ensure that we have viable ADR programs in all federal agencies. Identify discrete number of agencies or programs with egregious backlogs and make targeted effort to address with goals, timelines, etc. At DOT, the General Counsel's Office and the Office of Civil Rights are working cooperatively to eliminate our backlog by the end of 1999. Make sure that civil rights goals and performance measures are part of every Department's Performance Plan.

External complaints: Identify key flagship enforcement initiatives much like we targeted lending discrimination at the beginning of the Administration. At DOT, we have identified the civil rights of air travellers with disabilities (see attached press release). This is very important to the disabled community and our enforcement efforts to date have not been very strong. Our initiative will focus on strengthening the Air Carrier Access Act (aviation is not covered by the ADA), beefing up our enforcement unit and working with the airlines on training.

2. Diverse and Skilled Workforce for the 21st Century:

The Secretary of Transportation has begun speaking recently about launching an effort with government, labor and industry to promote the development of a diverse, skilled workforce for transportation in the next century. This needs fleshing out but there may be the seed of a broader Administration initiative here. It also builds on other Administration initiatives (e.g. welfare to work).

3. One America Local Action Grants:

This idea comes from one of the individuals who worked with us on the DBE program. The idea would be to authorize a small amount of money for community grants to promote racial understanding, healing, etc. at the local level. Evaluations should be conducted to learn from the projects and share the best practices.

4. Environmental Justice:

As we have discussed, this is an important but difficult issue. While I believe there are other issues that could bear more fruit in the next two years, the President did issue the Executive Order and the CBC has identified this as a priority issue. There are numerous points of view and varying levels of commitment on this issue within the Administration. Thus, I would recommend that some attention be paid to what is a reasonable course of action on this issue over the next two years.

5. Implementation of the DBE Program:

For the DOT (as well as the Administration), one of our most important efforts will be the successful implementation of a "mended" DBE program, for the beneficiaries of the program as well as to put our best case forward in litigation.

Non-public:

1. I applaud your efforts and support some sort of continued focussed effort on race and civil rights -- with an emphasis on results. We also, of course, need such a group to play defense on some of these issues as well.
2. I would like to talk about affirmative action and applying and building on some of the lessons learned during the DBE debate. Example: Working with congressional allies, we deliberately and strategically built a legislative record with an eye toward what we needed in litigation. Are we building a legislative record for affirmative action in education, diversity as a compelling interest, etc?

Congress and the Administration should take advantage of this opportunity to put an end to years of lax enforcement and inconsistent practices. Now is the time to fulfill the promise of equal access to the skies," Bristo added.

As part of its Disability Civil Rights Monitoring Project, NCD is currently conducting a multi-year study to evaluate the enforcement and implementation of ACAA, the Individuals with Disabilities Education Act, the Americans with Disabilities Act, and the Fair Housing Act. In March, NCD will release its report *Enforcing the Civil Rights of Air Travelers with Disabilities: Recommendations for the Department of Transportation and Congress*. This report will be the first in a series on enforcement of federal laws protecting the rights of people with disabilities.

For more information, contact NCD general counsel Andrew J. Imperato at 202-272-2112 (410-467-5695 home) or public affairs specialist Mark S. Quigley at 202-272-2008 (301-390-0930, or visit NCD's Web page (<http://www.ncd.gov>).

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QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

1

BACKGROUND:

On February 11, 1994, President Clinton issued Executive Order 12898, "Federal Actions To Address Environmental Justice for Minority Populations and Low-Income Populations," which had three goals:

- to focus federal agency action on the environment and human health conditions in minority communities and low-income communities;
- to promote non-discrimination in federal programs that substantially effect human health and the environment; and
- to provide minority communities and low-income communities greater access to information on, and opportunities for public participation in, matters relating to human health and the environment.

The Executive Order created an Interagency Working Group on Environmental Justice to ensure cross-agency coordination and to stimulate cooperation. On April 11, 1995, the thirteen final environmental justice strategies were sent to the President. In April 1996, twelve agencies submitted reports on their first year's implementation of their environmental justice strategies to the Interagency Working Group as required by the Executive Order. In April 1998, updates to these implementation reports were requested by the Council on Environmental Quality and the Domestic Policy Council. EPA submitted a report pursuant to this request.

PROBLEM:

The Interagency Working Group was successful in creating a process for each Federal agency to complete the required environmental justice strategies and establish communication links among the agencies at the headquarters level. However, if the goals of the Executive Order are to be fully realized, implementation of the Executive Order must occur at the local level, through interagency partnerships.

CURRENT STATUS:

In July 1998, the Council on Environmental Quality convened a meeting in Los Angeles between various federal agencies and the community. At that meeting, various federal agencies and the community made the following commitments:

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

2

Clinton Administration Commitments to the Community

1. The Clinton Administration will establish, on a trial basis of at least 6 months, an interagency task force (ITF) focused on environmental, public health, and environmental justice concerns in Los Angeles. The ITF will be responsible for: (1) monitoring progress on the commitments; (2) providing a "one-stop" reporting facility for community concerns; and (3) developing recommendations for further action and commitments by Federal, State, and Local governments that are responsive to issues raised by the community. The Environmental Protection Agency (EPA) shall have lead responsibility for convening the ITF.
2. Federal agencies will investigate and report to the community on jurisdiction and authority to investigate and respond to concerns about the exposure of children to toxics in local schools identified during the meeting. EPA shall have the lead in this investigation and report.
3. Federal agencies shall convene a meeting at which the community will have the opportunity to identify those specific facilities and other sources of human health or environmental risks that they believe should be subject to enforcement or other response actions. EPA shall have the lead, and shall include other agencies as suggested by the ITF.
4. Federal agencies shall investigate ongoing concerns about potential sales of contaminated fish, particularly in Asian communities. The National Oceanic and Atmospheric Administration (NOAA) shall have the lead in this investigation, and shall enlist the consultation of the Food and Drug Administration (FDA).
5. The Department of Housing and Urban Development (HUD) shall provide training to community groups on how to participate effectively in HUD's decisions concerning Community Development Block Grants (CDBGs).
6. The Department of Transportation (DOT) shall convene a meeting between community groups and the Regional Administrator of the Federal Highway Administration to hear and address concerns related to transportation improvements along the Alameda, California corridor.
7. The DOT shall provide technical assistance to community groups regarding how to apply for transportation and community enhancement grants available through DOT.
8. The Department of Agriculture shall establish a children's forest area in the Angeles Forest, California, and promote access by members of the community.
9. EPA and HUD will conduct joint training for interested community members on Title VI.

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

3

10. The DOT will provide any interested community groups with training under its "Safe Community Program" for highway safety.
11. The DOT will convene a meeting between interested community groups and its safety committee on transportation crossings.
12. The Administration will convene follow-up dialogues among the community, local businesses and industry, and state and local government officials on the issues raised during the course of the community meeting.

Community Commitments to the Clinton Administration

1. Community-based environmental justice groups will lead interested local business and industry representatives on a tour identifying the conditions that were presented to federal officials.
2. Community-based environmental justice leaders will engage in follow-up dialogue with local business and industry leaders, other constituencies, and state and local officials to identify opportunities for cooperative work and further dialogue on issues of concern.
3. Concerned Citizens of South Central Los Angeles and other interested groups will assist the Korean Youth Community Center and any other interested groups with organizing efforts concerning environmental justice.

In addition, the following continuing commitments were made:

Continuing Clinton Administration Commitments to the Community

1. The Administration will continue to advocate and defend the "polluter pays" principle in legislation and enforcement.
2. The Administration will continue to pursue new resources for communities, like President Clinton's proposal for EPA to create local brown fields revolving loan funds, to fund cleanup where those responsible for toxic or hazardous waste are insolvent or defunct.

Since that meeting in Los Angeles, the ITF has continued to work with the community on a variety of issues that have been raised subsequently.

In sum, the ITF concept has been a resounding success.

QUERY: "How Can The White House Lead The Administration's Environmental Justice Efforts Over The Next 2 Years?"

4

Because of the resounding success in Los Angeles, the Council on Environmental Quality will convene a similar meeting in New York City on March 5-6, 1999. The ITF concept will be duplicated in order to address the concerns of the community in New York City.

The Council on Environmental Quality has given no indication that it will continue these meetings in other cities.

REQUEST:

For the White House to reinvigorate the Interagency Working Group for the purpose of, among other things, identifying other locations for holding local environmental justice forums such as those held in Los Angeles and New York City. Through these forums regional interagency relationships can be strengthened to address cross-cutting environmental justice concerns in local communities for both the near-term and the long-term.

PROPOSAL

- Request that the White House renew its involvement in overseeing the federal agencies' implementation of Executive Order 12898.
- Request that the White House continue sponsoring local environmental justice forums each year over the next two years. Request that a target of three meetings per year be established.
- Request that the White House reinvigorate the Interagency Working Group for the purpose of organizing these additional local environmental justice forums. Through these forums, the White House should encourage the development of formal and lasting local interagency infrastructures so that agencies in different locations can work together on local projects.
- Request that the White House oversee the preparation of annual reports to the President outlining the discrete, concrete actions that have taken place and how the needs and concerns of the affected communities were addressed for both the near-term and the long-term.

Activities Toward the Year 2000

DOL
DRAFT

1. Data Collection Initiative:**Objectives:**

Collect relevant data to measure the gender/minority wage gap between contractor workforces and non-contractors workforces.

Analyze relevant data to facilitate better targeting of contractors that are in non-compliance and more efficient use of agency and contractor resources.

Methods:

Create a database through the AAP Summary or some other instrument such as an EEO-1 supplemental form to enable salary data collection and analysis at early stages in the compliance activity process.

Commission surveys/studies through BLS if possible, or through research grant process.

2. Voluntary Compliance Partnership Initiative (Partners in Compliance - PIC):

Objective: Develop a protocol to encourage contractor self-audits of their pay/employment practices.

Methods:

Develop a quantitative model that contractors can use to conduct their own audits and post-audits and any consequent corrective action including back pay and salary adjustments. Contractors would be expected to submit the data to OFCCP for certification. Once certified, they would be exempt from compliance reviews for two years, barring any significant complaint activity or other compelling reasons.

Establish a Pay Equity Council, composed of industry, academics, stakeholder organizations et al., to gather a database, identify and promote best practices, and encourage regional and local PICs.

Include educational information on OFCCP's Web Site, and through Public Service Announcements.

3. White House Civil Rights Recognition Initiative

Objective: Raise awareness for civil rights issues and encourage proactive practices by the private and public sectors subject to Federal civil rights laws.

Method:

Establish a White House-level Recognition Program to encourage practices above and beyond EEO/Civil Rights compliance by all private and public sectors. The program could be modeled after the Department of Labor's Exemplary Voluntary Efforts Awards program, and could be named for a distinguished civil rights leader such as ***Rosa Parks***. The program should include all Federal civil rights agencies, with each agency's program tailored to its particular stake holders (employment, education, housing, etc.), and it should provide "best practices" incentives through recognition. This recognition program would serve as part of the follow-up to the President's Initiative on Race.

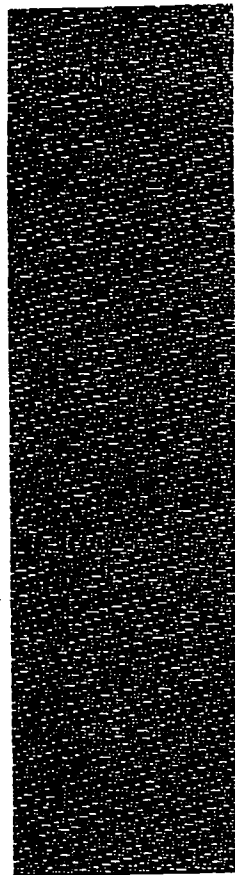
NOTE: The Department of Labor's Employment Standards Administration/OFCCP continues to consider other avenues or vehicles that would memorialize in law a "bold initiative" to strengthen the protections of equal employment opportunity and that would extend beyond the President's term.

2/19/99

The United States Department of Education Office for Civil Rights, Selected Priorities, 1999-2000.

Initiative	Interdistrict Equity Guidance	Race and Education Millenium Summit	Excellence and Equity Strategic Plan	Affirmative Action Guide and Policy Statement
	Title VI legal guidance regarding disparate resources among school districts associated with race or national origin. • Critical access to high standards education gaps exist, based on race and national origin. • The opportunity to positively influence litigation, including Powell v. Ridge.	National conference of educators and policymakers to identify current civil rights issues in education, frame challenges for future work, and to highlight promising practices and models. • Significant gaps in understanding regarding legal and educational underpinnings of 'second generation' pipeline issues. • Concerns that good work of OCR is not widely known. • Key opportunity to hallmark issues on the eve of a new century.	A multifaceted education strategy for policymakers and educators regarding appropriate test use practices and to confirm legal baselines. Includes focus in the area of LEP students' access to high quality education. • The 'national crusade' for high standards has led to increasing use of high-stakes tests and revealed a dearth of needed legal and educational guidance. • A window of opportunity to focus on prevention of discrimination through multiple collaborations.	A statement of educational policy regarding the use of race in admissions and the publication of a self-assessment guide to assist schools using race in admissions. • The need for clearly articulated policy regarding the use of race in admissions to address misperceptions. • Passionate requests from members of the higher education community for more help. • The opportunity to positively influence litigation.

02/18/99 11:18 AM

	Summer/Fall 1999	Winter 1999-2000	Ongoing, including	Summer 1999
			• BoTA Forum begins March 1999 • Work with Presidents Initiative on Educational Excellence for Hispanic Americans begun in Fall of 1998 with planned activities through Fall 1999	
	Positive	Positive	Positive	Positive
	• Urban Centers • The Council of the Greater City Schools • Civil rights advocates	• Civil rights advocates • Researchers • Educators • States	• Educators • State policymakers • The testing community • Some civil rights advocates	• Higher education community
	Negative		Negative	Negative
	• Some States		• Some civil rights advocates	• Affirmative action opponents • Segments of the higher education community



Irene Bueno

03/24/99 11:56:37 AM

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Civil
Rights

Record Type: Record

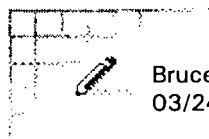
To: Bruce N. Reed/OPD/EOP
cc: See the distribution list at the bottom of this message
bcc: Irene Bueno/OPD/EOP
Subject: Re: Civil Rights Coordinating Council Subgroups Reports

I appreciate the reminder that the Civil Rights Coordinating Council (CRCC) subgroups is focused on enforcement activities and not on policy issues and will make the appropriate changes to the reports. I just received copies of the reports from other subgroups written by Counsel's office staff and these reports do raise some policy issues. Based on these reports, I think there is some confusion by the subgroup leaders what they should be doing since they include policy issues. I will make copies for you, Elena and other DPC staff (Paul, Tom, Tanya, and Jon). *-See attachments*

Speaking as a DPC staffer (not as the lead of these subgroups), I think that there are some policy issues that we should explore in the areas of worker exploitation and language rights. As a DPC staff person, I would like to begin a process to explore policies in these areas. I may work with the some subgroup members but I will be very clear that I am exploring these policy issues as a DPC staff and not the lead of the CRCC subgroup.

Please let me know if you have any questions or concerns. Thanks.

Bruce N. Reed



Bruce N. Reed

03/24/99 10:26:37 AM

Record Type: Record

To: Irene Bueno/OPD/EOP
cc: Elena Kagan/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP
Subject: Re: Civil Rights Coordinating Council Subgroups Reports

Those reports seem fine, but these subgroups are supposed to focus on enforcement activities, not developing legislative proposals or communications strategies. We need to protect the policy councils' prerogative to develop policy, and remind everybody involved that the Coordinating Council is not a policy council.

Message Copied To: _____

Elena Kagan/OPD/EOP
Paul J. Weinstein Jr./OPD/EOP
Thomas L. Freedman/OPD/EOP
Tanya E. Martin/OPD/EOP
Jonathan H. Schnur/OPD/EOP
Laura Emmett/WHO/EOP

THE WHITE HOUSE

WASHINGTON

March 22, 1999

MEMORANDUM FOR CHARLES RUFF AND MARIA ECHAVESTE

FROM: PETER RUNDLETT *PR*

SUBJECT: Status Report on Civil Rights Priorities

You have asked for strategy memos from the subgroups formed to advance our specific civil rights priorities. Because of the difficulty in finding a time for all of the agencies to meet combined with my absence due to attending the charter schools conference last week, this is more in the nature of a status report on where each of the subgroups are on the issues we are grappling with, as we have not advanced far enough to create detailed strategy memos. I will forward more detailed proposals once we have reached agreement.

Community Reinvestment Act/Commercial and Residential Lending

Today, I met with representatives from Justice, Treasury, HUD, and OMB. Paul Weinstein from the DPC is out of town, and Sarah Rosen, of the NEC, did not feel it was necessary for her to attend, as her focus has been on the financial services legislation described below. I will update both of them on the status of our work, however.

As you know, neither Justice nor HUD have a role in enforcing the Community Reinvestment Act (CRA). The bank regulatory agencies monitor CRA compliance and they rely on community groups to file complaints. From an enforcement standpoint, therefore, Justice and HUD are more properly focused on promoting fair lending through enforcement of the Equal Credit Opportunity Act (ECOA), the Home Mortgage Disclosure Act (HMDA), and the Fair Housing Act. Their efforts to enforce these laws, however, are relevant to the CRA in the near-term because there is a current battle on the Hill over the continued relevancy of the CRA, which is taking place in the context of financial services modernization legislation.

More specifically, Senator Gramm would like to significantly weaken the CRA by: (1) exempting banks with assets totaling less than \$100 million (38% of all banks) from CRA's requirements, and (2) by creating a safe harbor for institutions that currently have a satisfactory CRA rating (approximately 98% of all banks), which would conclusively establish CRA compliance unless a public comment provides substantial verifiable information to the contrary (thereby eviscerating the need to *maintain* CRA compliance). Sen. Gramm has also threatened to add an anti-extortion amendment to the bill that would criminalize normal, legitimate arms-length transactions and cooperation between banks and community groups (e.g., bank grants to support community groups' home ownership counseling programs) -- the very sort of activity that the CRA seeks to foster. The DPC and NEC, along with Treasury

and Justice, have taken the lead in the fight to maintain the relevancy of the CRA in the context of financial services modernization.

Although the enforcement of the Fair Housing Act (with respect to lending discrimination) and the Equal Credit Opportunity Act are distinct from the CRA, it is important that our short-term enforcement efforts do not undermine our legislative goal of protecting the CRA. Because the financial services legislation is on the fast track, this should not present much of a barrier to our enforcement efforts.

Although Justice and HUD intend to “actively seek to increase the number, scope, and timeliness of referrals from bank regulatory agencies,” my sense is that this is a perennial effort and will be difficult to actualize absent some new enforcement impetus by the regulatory agencies. Similarly, we must depend on the Federal Reserve to actually propose some important changes to Regulation B (which governs enforcement of ECOA) and Regulation C (which governs enforcement of the Home Mortgage Disclosure Act). HUD, Justice, and Treasury have been urging the Fed to drop the current prohibition in Regulation B against financial institutions being able to record *voluntarily* race and gender information in their business loan applications. Similarly, the Fed has been urged to propose changes to Regulation C that would require financial institutions to memorialize their reasons for denying loans to applicants. My understanding is that the Fed has been close to proposing these changes, but have recently put these efforts on hold until June. These changes would be welcomed by the civil rights community, but HUD, Justice, and Treasury can only be persuasive in this area, and we may not want to push too hard until the financial services legislation is finished.

These limitations aside, there were some ideas discussed that are in need of further development. Again, any ideas that would harm our legislative goals vis-a-vis the CRA would be pursued in a low-profile way for the interim, to avoid confusing issues. HUD, in particular, has committed to drafting more detailed proposals on the following:

- Creating an inter-agency task force to curtail predatory lending practices that occur in the subprime mortgage and commercial lending markets. Such an effort would involve the FTC, Justice, HUD, Treasury, and the bank regulatory agencies. At the beginning of the Administration, there was a functioning and effective working group that addressed these issues, but their efforts slowed when the Republicans won Congress in 1994.
- Work with industry and the civil rights community to create a voluntary code of conduct for lenders designed to eliminate abusive and discriminatory lending practices.
- Undertake a detailed study of the impact on minority borrowing of the more recent lending practices of credit scoring and automated underwriting. There is much suspicion that these practices have a discriminatory effect, but more study is needed to assess the impact. All agencies agreed that this effort would be important in advancing our goals, given the prevalence of the practices.

- Improve HMDA reporting. Apparently, 20% lenders fail to report HMDA data. Look into creating or increasing civil penalties for failure to report data completely. Identify ways to improve oversight by Fannie Mae and Ginnie Mae.
- Once the HUD-commissioned study of mortgage lending discrimination is completed, develop guidance on proper lending discrimination audits and distribute it to Fair Housing Initiatives Program (FHIP) grantees (typically, fair housing resource centers) around the country in order to improve and -- to the extent practicable-- standardize lending audit practices. Similarly, explore ways to allow for lending discrimination testing beyond the pre-application stage of the application process.

Authoritative Data Collection

Under the current leadership of Becky Blank of the CEA and following on the heels of a joint effort under the auspices of the President's Initiative on Race to develop the Race Factbook, a significant effort is underway to initiate a coordinated research agenda designed to expand and improve our current statistical ability to measure and track discrimination in five key sectors of U.S. society (labor markets, education, housing, criminal justice, and health services). In addition to the White House and OMB, the Departments of Labor, Education, Justice, HUD, and HHS are involved. An initial project description drafted by Becky Blank is attached to this memo.

This effort is proceeding on two tracks. First, the National Research Council is creating a Roundtable with these agencies and outside academics to help us develop a methodology for accurately determining the presence or absence of discrimination based on what we know about racial disparities in different sectors. Second, each of these agencies has received an additional \$500,000 in their FY2000 budgets to improve immediately our measures of discrimination, based on what we know now. Because the money will not be received until October, the agencies are in the process of developing work plans to implement upon receipt of the money. Our work group will review and discuss each agency's plan.

On Wednesday, I will meet with Becky Blank, Ben Johnson, and Kathleen Wallman (the Director of OMB's Office of Statistical Policy) about how to move this forward in the short- and long-terms (Becky will leave the CEA this summer). Becky and I will also soon meet with some researchers from Rutgers University to discuss their recently completed, Ford Foundation-funded "report card" on employment discrimination.

Higher Education Admissions and K-12 Civil Rights Issues

Because of the large number of participants, most of whom are the same for both of these issues, we have scheduled a three hour meeting on Tuesday, March 22 to discuss the issues described briefly, below. Some of these issues (e.g., charter schools and their relationship to a

number of civil rights issues) will require additional, separate meetings, and these are noted, below.

I. Higher Education Admissions

Affirmative Action Guidance. Everyone agrees that the current environment makes it more important than ever to distribute guidance to higher ed institutions on the current state of the law with regard to voluntary affirmative action in admissions. On Tuesday, QCR will present for our discussion an outline for a proposed redraft designed to address some of the civil rights community's concerns with the last version while remaining true to the law. Assuming we reach agreement, we will then meet with the civil rights and higher education communities later in the week or early next week to discuss our proposal *before* engaging in the lengthy redrafting to attempt to come to an agreement about what the guidance will do. Initial discussions with all of the interested parties lead me to believe that agreement will be possible. Next, OCR will rewrite the guidance, we will vet it, and create a distribution plan.

Use of standardized tests. Both the OCR investigation at the University of California at Berkeley and the recent NCAA case striking down the use of the SAT in NCAA eligibility require us to make some policy decisions on how to use properly standardized tests in assessing merit for admissions to higher education. We will only briefly discuss these cases on Tuesday because: (1) according to OCR, more information on the facts of the Berkeley case is needed, and (2) we need to have a separate meeting to discuss this internally. I will organize such a meeting for later this week or early next week, depending on your schedules.

Higher Education Leaders' Efforts to Promote Diversity. This slow moving process is, apparently, still moving. I spoke with ACE and Harvard and have learned that the Presidents of seven highly selective universities each brought a corporate CEO to a meeting to discuss a joint effort by these universities and corporations to create a workplan to promote the importance of diversity in higher education. They have promised to share the details of their workplan once the principals approve the final version. Their effort, should it result in action, will be welcome, but probably not enough. I will update you as I learn more.

II. K-12 Civil Rights Issues

OCR Guidance on Resource Comparability Issues. Pursuant to our discussions during our deliberations on the *Powell* (Pennsylvania resource comparability) case, OCR has drafted guidance for SEAs and LEAs on resource comparability issues. We will discuss how to vet the guidance and set deadlines for completion. Also, OCR will raise the possibility of involvement in another resource comparability case, supposedly with better facts. I will update you on this.

OCR Guidance on High-Stakes Testing. In the context of our increased emphasis on accountability and voluntary standards, OCR has drafted guidance on the proper use of high stakes tests. Justice has signed off, but we need to discuss further vetting internally and with our

friends, and the possibility of releasing the guidance in mid-April at the same time we issue guidance on Accountability. Related to this issue is the need to begin to think about how we will respond to anticipated situations in which high percentages of minorities will not pass high-stakes tests (*i.e.*, the use of the New York Regents's exam this year) and therefore be held back.

The use of voluntary affirmative action in magnet and charter schools. Justice, in the *Eisenberg* and *Tuttle* cases has supported the use of narrowly-tailored affirmative action. Should we issue guidance that could be distributed more broadly to magnet schools? Can and should we promote or allow the use of voluntary, narrowly-tailored, race-based affirmative action in charter school admissions? At present, we do not allow weighted lotteries to promote voluntary affirmative action in admissions to charter schools. This appears inconsistent with our support for voluntary affirmative action in the magnet schools context. This issue will require a meeting with your and DPC participation. We may be able to address this issue at a related charter school meeting (see below), which is tentatively scheduled for this Friday at 3:00, depending on your availability.

OCR/Education Guidance for charter schools. Prior to last week's charter school conference, the DPC and Education clashed on the issuance of guidance for charter schools that addressed desegregation plans, resource comparability issues, single-sex schools and classrooms, and religious affiliation. We will discuss these issues briefly tomorrow, but at greater length at a planned meeting for Friday, at 3:00, depending on your interest and availability in attending.

Title IX and single-sex education. We will not discuss at length on Tuesday. An internal meeting is needed to discuss our position. Eddie Corriea has agreed to call this meeting soon, although I have background materials if you are interested.

Following these meetings, I will update you with our specific plans for moving forward.

cc: Eddie Correia
Irene Bueno
Clara Shin

Expanding Our Statistical Ability to Track Discrimination in Key Sectors of Society

This proposal builds on the work by the President's Initiative on Race and is designed to further our understanding of the role of discrimination in U.S. society. There is nearly universal agreement, even among those who disagree strongly about such policies as affirmative action, that equal opportunity to participate as a full and functioning member of American society is vitally important. Evidence of racial and ethnic discrimination -- exclusion based primarily on race or ethnicity -- suggests that equal opportunity has not yet been fully achieved; such evidence can be important in motivating policy design, implementation and enforcement.

Unfortunately, the presence or absence of discrimination is not something we can easily deduce simply by looking at existing data. Observed differentials by race and ethnicity by themselves may or may not signal discrimination. For instance, lower average wage levels for one group may result from lower education levels, providing no evidence of labor market discrimination due to race or ethnicity, *per se*. To deduce whether and how much of a statistical differential is due to discrimination requires a *methodology* that allows separation of discriminatory behavior from other differences that should validly affect outcomes. Such analysis is typically difficult; there are strengths and weaknesses associated with all commonly-used methodologies to deduce the presence of discrimination. This area has received too little attention in recent years and can benefit from a sustained commitment by the government to improve and extend the measurement and tracking of discrimination.

The three tiers of this proposal would do the following:

Tier 1: Initiate a coordinated research agenda, designed to expand and improve our current statistical ability to measure and track discrimination in key sectors of U.S. society.

Tier 2: Provide a fund available to agencies to begin immediately tracking discrimination where they believe there are credible methodologies already available.

Tier 3: Provide additional funding to HUD to expand their current system of tracking housing discrimination through housing audit studies.

As a starting point, five key areas will be considered for funding:

- Labor markets and employment relationships;
- The educational system;
- Housing markets and access to credit;
- The criminal justice system; and
- Health services and treatment.

Tier 1: Creating a Coordinated Research Agenda to Improve the Measuring and Tracking of Discrimination

Step 1: The development of a Workplan.

The National Research Council (NRC) sponsored a major two-day Conference on Racial Trends in the U.S. in mid-October, at the behest of the PIR and funded by 16 Federal agencies. This event provides an excellent opportunity to use the information garnered to jumpstart a process in which the NRC works jointly with key federal agencies to develop a Workplan for a coordinated research agenda on the measurement and tracking of discrimination. The goal of the Workplan will be to expand existing knowledge on appropriate and credible ways to measure the presence of discrimination, and to support empirical studies that measure the scope of discrimination using new and existing techniques and data.

The NRC will create a Roundtable, including prominent academic scholars as well as key government agency representatives. The charge to the Roundtable will be to develop a research agenda and Workplan that government agencies can implement to carry out needed research in each of the five topical areas. It is likely that many of the Workplan specifics will be overseen and coordinated by the federal agencies, but the research may be performed by outside researchers under a contractual or grant mechanism. This first step should take no more than one year, and should start immediately to take advantage of the momentum gained by the recent Conference.

Step 2: Implementing the Workplan

Federal agencies would have 3-4 years to implement the research Workplan. This will almost surely involve setting up an oversight process within each agency to coordinate work on this project; assessing available data for its usefulness to this enterprise and, where appropriate, encouraging the assembly of new data; and commissioning research by outside scholars. The NRC should be encouraged to reconvene the Roundtable regularly while the Workplan is being implemented, so agencies can share their questions and their wisdom from this process.

Step 3: A Final Report

At the end of the process, each agency should be asked to produce a final report on the progress made in this project. The NRC should be asked to convene a final conference at which agencies present what they have accomplished and discuss the changes that remain.

Costs and Timeline:

This entire project should take no more than five years.

In FY 2000: \$500,000 for Step 1.

Over the entire project: \$2-3 million in each of the five topical areas should be made available to the agencies to implement the Workplan, with another \$500,000 to the NRC to oversee and coordinate the implementation process and to sponsor the final conference. This means a total budget appropriation of \$11 to \$16 million over a 4 to 5 year period.

Tier 2: Encouraging Agencies to Begin to Immediately Track Discrimination

While further work is mandatory to better understand how to appropriately measure discrimination in many sectors of society, there are a variety of areas where well-established research methodologies are already available. In these areas, agencies should be encouraged to immediately begin to more formally track and regularly report on measures of discrimination.

While HUD is well-launched on such an enterprise (see Tier 3), agencies covering the other four relevant topical areas (education, labor markets, health, and criminal justice) are not as far along on this process. Tier 2 proposes to establish a fund available to the agencies which oversee these four areas. This fund should be drawn upon to implement the regular collection and analysis of data to track discrimination in key sectors; and to design and publish regular reports on the findings. It is expected that this work will occur simultaneously with the research Workplan laid out in Tier 1, and the two will draw upon and reinforce each other.

Costs:

In FY 2000: \$2 million dollars would launch this enterprise.

Over 4-5 years: Around \$6-8 million might be available to implement tracking and reporting systems by Labor, Education, HHS, and Justice.

Tier 3: Provide funding for HUD to expand their current tracking system of housing discrimination through housing audit studies.

HUD has already started a multi-year program to expand its ability to track discrimination in the housing market. A recent conference on their housing audit methodologies underscored the advantages of this technique for tracking discrimination in housing markets. HUD has already received \$7.5 million for this project in FY 1999 and has requested more funding for FY 2000 to test for discrimination in an initial set of 20 out of 60 metropolitan and rural markets. Since HUD is already engaged in this process, it can serve as a model and an advisor to other agencies as they launch their own projects.

Costs:

In FY2000: HUD has requested an additional \$7.5 million.

Reporting Back from Tiers 2 and 3:

While Tier 1 expands our knowledge about how to credibly measure the presence of discrimination, Tiers 2 and 3 are designed to collect actual measures of discrimination and to disseminate the findings. Each agency should use some of its funds from Tiers 2 or 3 to design a regular report on discrimination, using the best available current measures. The final conference, scheduled at the end of the Workplan discussed in Tier 1, should include both a "Report Card" by the agencies on what they have found in their work on current measures of discrimination, as well as a discussion of new sources of data and new forms of data analysis that might have been developed as part of the Tier 1 work.

THE WHITE HOUSE

WASHINGTON

March 22, 1999

MEMORANDUM FOR: CHARLES RUFF, COUNSEL TO THE PRESIDENT
MARIA ECHAVESTE, DEPUTY CHIEF OF STAFF

FROM:  EDDIE CORREIA, SPECIAL COUNSEL FOR CIVIL RIGHTS

RE: STATUS REPORT ON CIVIL RIGHTS INITIATIVES

You asked for a status report on the civil rights initiatives identified by the Civil Rights Coordinating Council. This memo addresses three of these initiatives -- eliminating hate crimes, closing the wage gap, and increasing diversity in the workforce.

Hate Crimes

The Hate Crimes Prevention Act of 1999 has been introduced in both the House and Senate. Kennedy and Specter are the leaders in the Senate. Conyers, Morella and Forbes will be leaders in the House. There were 106 original cosponsors in the House, up from about 30 last Congress. Several Members participated in the introduction event, including Kennedy, Specter, Leahy, Conyers, Gephardt, Smith of Oregon and others. White House and DOJ staff have been very involved in drafting the bill and organizing support for it.

We have a number of challenges, including increasing support by state and local law enforcement and addressing federalism and First Amendment concerns. Unfortunately, the ACLU has written a highly critical letter. We meet with ACLU representatives on March 23 to try to resolve their concerns. There will be some type of White House event in early April, probably a radio address for broadcast on April 3. OPL has been helpful in planning the event and in reaching out to possible supporters, including the religious community.

We might want to extend this effort to include harassment, in addition to violent hate crimes. OCR has published a well-received guide on harassment in schools, and I will include them in any expanded effort in this area.

Wage Gap

Both the Equal Pay Act and Title VII can be used to challenge pay discrimination by employers. However, these cases, which usually focus on differences in pay for specific individuals, are difficult to prove. A broader policy concern is that employers may adopt policies (perhaps some of them unconsciously) that result in unfair wage differences between men and women or between minorities and non-minorities. There is now no regular collection of wage

data by any federal agency. Consequently, we do not have an adequate basis for monitoring wage patterns by individual employers or by industry as a whole. At the very least, such data could be useful in conducting research. Depending on how it is provided and the limitations placed on it, it could be used for enforcement efforts as well.

Most of the effort within the White House regarding wage gap issues has been coordinated by DPC. One question has been whether to support comparable worth legislation, sponsored by Senator Harkin. DPC and most of the agencies involved in the review oppose the Harkin bill. DPC and the agencies are continuing to discuss alternative legislation, sponsored by Senator Daschle, which would require additional data collection. There appears to be a consensus that industry-wide data collection should be mandated by legislation rather than by administrative action, for example, an EEOC regulation. However, there is no consensus, at least yet, about what data collection requirements the Administration would support in the Daschle bill.

A remaining issue is whether we should require additional data from government contractors. OFCCP in DOL has recommended a revision of its current data collection requirements. The revised form would reduce the burden on contractors in some ways, but for the first time it would also require contractors to provide wage data by race and gender. The proposal is now pending in DOL where there is concern about the opposition such a requirement would generate. I believe that the OFCCP proposal is worth discussing within the White House. A summary of the proposal is attached. If you wish to pursue this matter, I would suggest a discussion on the issues involved in implementing this proposal with interested persons within the White House, Shirley Wilcher, Kitty Higgins, and possibly the Secretary.

Diversity in the Workforce

We are proceeding in three areas: 1) increasing diversity in the science, technology and engineering (ST&E) workforce; 2) increasing opportunities for disabled Americans; and 3) eliminating job barriers stemming from discrimination based on sexual orientation. Our first efforts have focused on the ST&E workforce.

The working group has identified a number of possible administration actions: 1) reaching out to high-tech firms; 2) improving recruiting efforts by federal agencies; 3) holding an EEOC Commission meeting to highlight the lack of minorities and women in some job categories; and 4) calling attention to an upcoming report by the Office of Science and Technology on the lack of diversity in the ST&E workforce. All of these steps have promise and can be done in the near term, without the need for legislation or additional funding. In my view, the most important and effective effort we can make involves reaching out to high-tech firms to call on them to make substantial efforts to increase the number of minorities and women who pursue ST&E careers.

Meeting with High-Tech Firms

The working group's tentative recommendation is for the President or the Vice-President to meet with industry leaders in about two months with the expectation that he could announce a number of commitments by industry. These commitments could include: 1) setting aside funds for scholarships; 2) forming partnerships with HBCU's, Hispanic Serving Institutions, inner-city schools, state and local governments, or others; 3) developing corporate internship programs; and 4) establishing a permanent industry-funded organization to promote these kinds of opportunities in the future. (There is now an effective industry-funded organization to promote minority engineers, but we envision a parallel organization with a broader focus.)

A number of high-tech firms make substantial contributions to achieve these goals now, such as AT&T, United Technologies. Other very successful firms do little. Our plan is to identify a small groups of industry leaders who are sympathetic with our efforts and to seek their advice in reaching out to other firms. We would then meet with a larger group of firms with the hope that we could obtain some commitments about their expanded efforts. We envision presentations by agencies that have particular opportunities for linkages, such as the Gear Up program. In addition, we can arrange presentations by outside groups such as HBCU's. I would appreciate your thoughts as to whether and how these meetings should proceed.

I realize that we cannot make an advance commitment to an event with the President. However, after some initial conversations with private firms, we will be in a better position to judge the feasibility of significant industry commitments. At that point, it would be very useful to determine if such an event can occur.

cc: Peter Rundlet
✓ Irene Bueno
Clara Shin

60-2 Affirmative Action Program Summary

The regulations pertain to federal contractor obligations under Executive Order 11246. Current OFCCP regulations at 41 CFR § 60-2.14 require that federal contractors summarize and update their affirmative action program annually. This helps contractors conduct self-audits, that prevent discrimination.

Section 60-2.14 further provides that the program summary shall be prepared in a format prescribed by the Director (Deputy Assistant Secretary), and submitted to OFCCP each year on the anniversary of the AAP. Although the AAP summary has been included in the Part 60-2 regulations since 1979, it has yet to be implemented through the establishment of a prescribed format.

The 60-2 proposal would implement the AAP Summary requirement. Proposed § 60-2.31 would require that contractors prepare and annually submit to OFCCP an AAP Summary for each of their establishments. The AAP Summary would contain information about the hiring and advancement of minorities and women, and the contractor's affirmative action performance as of the end of each calendar year. The AAP Summary requirement would apply to every contractor that is required by § 60-2.1 to develop an AAP.

Proposed paragraph (b) describes the contents of the AAP Summary. The proposed AAP Summary consists of the following parts: Part A — Establishment Identification and Background Data; Part B — Personnel Activity Summary; Part C — Goal Summary by Job Groups within EEO-1 categories; Part D — Salary Data Summary, and Part E — Certification. The proposed regulation would require contractors to prepare their AAP Summaries in accordance with the format specified in proposed Appendix A.

Thus, except as provided in proposed paragraph (c), a contractor would be required to annually report in the AAP Summary: demographic data on the incumbents and

individuals who were hired, terminated, or promoted during the preceding calendar year in each EEO-1 category; the number of job groups in each EEO-1 category for which placement goals were established during the preceding calendar year; and data concerning the median salaries or wages paid to minorities and women under its compensation system during the preceding calendar year. Proposed paragraph (c) provides that when a contractor becomes subject to the requirements of the Executive Order after June 1, information about personnel activity and the number of job groups with goals need not be provided for the initial calendar year.

Proposed paragraph (d) establishes the submission deadline for the AAP Summary no later than March 15 of the succeeding year. Paragraph (d) also would encourage contractors to submit their AAP Summaries in electronic format. Submission in electronic format should result in savings for many contractors. It also will greatly expedite OFCCP's receipt and analysis of submitted data.

A recurring concern of contractors is that information submitted to OFCCP may be disclosed to competitors or the public under the Freedom of Information Act (FOIA). Proposed paragraph (e) states that OFCCP will treat information contained in the AAP Summary as confidential to the maximum extent the information is exempt from public disclosure under FOIA. OFCCP explains in proposed paragraph (e) that it considers contractor data to be confidential such that disclosure would subject the contractor to commercial harm, and indicates that its practice is not to release data where the contractor still is in business.

The AAP Summary would be phased in gradually to allow contractors that are smaller employers, those with fewer than 150 employees, more time to comply. A gradual phase-in would also allow OFCCP more time to provide any needed technical assistance. During the first year the regulation is effective, the requirement to file an annual AAP Summary would apply only to contractors with 150 or more employees. Beginning the second year after the effective date of the regulations all contractors would be required to file an annual AAP Summary.

OFCCP believes that implementation and enforcement of the AAP Summary requirement will benefit contractors, women and minorities, and the agency. The data reported in the AAP Summary would enable OFCCP to perform a basic audit of each contractor's compliance each year. Historically, only 3 to 4 percent of the covered contractor establishments are identified for compliance evaluation or complaint investigation each year. In addition, the data reported in the AAP Summary would enable OFCCP to develop more refined methods of selecting contractor establishments for compliance evaluations, thus enhancing the agency's ability to target its enforcement resources on those establishments most likely to be out of compliance. Finally, an AAP Summary requirement would engender heightened contractor awareness of each establishment's equal employment opportunity performance, including with regard to pay disparities. OFCCP expects that the heightened awareness of performance, along with increased compliance presence, will improve the level of compliance.

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MAR-16-99 TUE 05:15 PM DOL/ESA/OFCOP FAX NO. 2022196195 P. 05

SALARY DATA SUMMARY

Instructions: Based on the company's existing compensation system structure, identify the salary/wage rate band, grade, or group (whatever is appropriate) and its low to high range. The number of incumbents and the median salary/wage rate must also be reflected for each of the listed groups.

Incumbent Employees As Of:

[illegible]

THE WHITE HOUSE

WASHINGTON

March 22, 1999

MEMORANDUM FOR: CHARLES RUFF, COUNSEL TO THE PRESIDENT
MARIA ECHAVESTE, DEPUTY CHIEF OF STAFF

FROM: *EC* EDDIE CORREIA, SPECIAL COUNSEL FOR CIVIL RIGHTS

RE: STATUS REPORT ON CIVIL RIGHTS INITIATIVES

You asked for a status report on the civil rights initiatives identified by the Civil Rights Coordinating Council. This memo addresses three of these initiatives -- eliminating hate crimes, closing the wage gap, and increasing diversity in the workforce.

Hate Crimes

The Hate Crimes Prevention Act of 1999 has been introduced in both the House and Senate. Kennedy and Specter are the leaders in the Senate. Conyers, Morella and Forbes will be leaders in the House. There were 106 original cosponsors in the House, up from about 30 last Congress. Several Members participated in the introduction event, including Kennedy, Specter, Leahy, Conyers, Gephardt, Smith of Oregon and others. White House and DOJ staff have been very involved in drafting the bill and organizing support for it.

We have a number of challenges, including increasing support by state and local law enforcement and addressing federalism and First Amendment concerns. Unfortunately, the ACLU has written a highly critical letter. We meet with ACLU representatives on March 23 to try to resolve their concerns. There will be some type of White House event in early April, probably a radio address for broadcast on April 3. OPL has been helpful in planning the event and in reaching out to possible supporters, including the religious community.

We might want to extend this effort to include harassment, in addition to violent hate crimes. OCR has published a well-received guide on harassment in schools, and I will include them in any expanded effort in this area.

Wage Gap

Both the Equal Pay Act and Title VII can be used to challenge pay discrimination by employers. However, these cases, which usually focus on differences in pay for specific individuals, are difficult to prove. A broader policy concern is that employers may adopt policies (perhaps some of them unconsciously) that result in unfair wage differences between men and women or between minorities and non-minorities. There is now no regular collection of wage

data by any federal agency. Consequently, we do not have an adequate basis for monitoring wage patterns by individual employers or by industry as a whole. At the very least, such data could be useful in conducting research. Depending on how it is provided and the limitations placed on it, it could be used for enforcement efforts as well.

Most of the effort within the White House regarding wage gap issues has been coordinated by DPC. One question has been whether to support comparable worth legislation, sponsored by Senator Harkin. DPC and most of the agencies involved in the review oppose the Harkin bill. DPC and the agencies are continuing to discuss alternative legislation, sponsored by Senator Daschle, which would require additional data collection. There appears to be a consensus that industry-wide data collection should be mandated by legislation rather than by administrative action, for example, an EEOC regulation. However, there is no consensus, at least yet, about what data collection requirements the Administration would support in the Daschle bill.

A remaining issue is whether we should require additional data from government contractors. OFCCP in DOL has recommended a revision of its current data collection requirements. The revised form would reduce the burden on contractors in some ways, but for the first time it would also require contractors to provide wage data by race and gender. The proposal is now pending in DOL where there is concern about the opposition such a requirement would generate. I believe that the OFCCP proposal is worth discussing within the White House. A summary of the proposal is attached. If you wish to pursue this matter, I would suggest a discussion on the issues involved in implementing this proposal with interested persons within the White House, Shirley Wilcher, Kitty Higgins, and possibly the Secretary.

Diversity in the Workforce

We are proceeding in three areas: 1) increasing diversity in the science, technology and engineering (ST&E) workforce; 2) increasing opportunities for disabled Americans; and 3) eliminating job barriers stemming from discrimination based on sexual orientation. Our first efforts have focused on the ST&E workforce.

The working group has identified a number of possible administration actions: 1) reaching out to high-tech firms; 2) improving recruiting efforts by federal agencies; 3) holding an EEOC Commission meeting to highlight the lack of minorities and women in some job categories; and 4) calling attention to an upcoming report by the Office of Science and Technology on the lack of diversity in the ST&E workforce. All of these steps have promise and can be done in the near term, without the need for legislation or additional funding. In my view, the most important and effective effort we can make involves reaching out to high-tech firms to call on them to make substantial efforts to increase the number of minorities and women who pursue ST&E careers.

Meeting with High-Tech Firms

The working group's tentative recommendation is for the President or the Vice-President to meet with industry leaders in about two months with the expectation that he could announce a number of commitments by industry. These commitments could include: 1) setting aside funds for scholarships; 2) forming partnerships with HBCU's, Hispanic Serving Institutions, inner-city schools, state and local governments, or others; 3) developing corporate internship programs; and 4) establishing a permanent industry-funded organization to promote these kinds of opportunities in the future. (There is now an effective industry-funded organization to promote minority engineers, but we envision a parallel organization with a broader focus.)

A number of high-tech firms make substantial contributions to achieve these goals now, such as AT&T, United Technologies. Other very successful firms do little. Our plan is to identify a small groups of industry leaders who are sympathetic with our efforts and to seek their advice in reaching out to other firms. We would then meet with a larger group of firms with the hope that we could obtain some commitments about their expanded efforts. We envision presentations by agencies that have particular opportunities for linkages, such as the Gear Up program. In addition, we can arrange presentations by outside groups such as HBCU's. I would appreciate your thoughts as to whether and how these meetings should proceed.

I realize that we cannot make an advance commitment to an event with the President. However, after some initial conversations with private firms, we will be in a better position to judge the feasibility of significant industry commitments. At that point, it would be very useful to determine if such an event can occur.

cc: Peter Rundlet

✓ Irene Bueno

Clara Shin

60-2 Affirmative Action Program Summary

The regulations pertain to federal contractor obligations under Executive Order 11246. Current OFCCP regulations at 41 CFR § 60-2.14 require that federal contractors summarize and update their affirmative action program annually. This helps contractors conduct self-audits, that prevent discrimination.

Section 60-2.14 further provides that the program summary shall be prepared in a format prescribed by the Director (Deputy Assistant Secretary), and submitted to OFCCP each year on the anniversary of the AAP. Although the AAP summary has been included in the Part 60-2 regulations since 1979, it has yet to be implemented through the establishment of a prescribed format.

The 60-2 proposal would implement the AAP Summary requirement. Proposed § 60-2.31 would require that contractors prepare and annually submit to OFCCP an AAP Summary for each of their establishments. The AAP Summary would contain information about the hiring and advancement of minorities and women, and the contractor's affirmative action performance as of the end of each calendar year. The AAP Summary requirement would apply to every contractor that is required by § 60-2.1 to develop an AAP.

Proposed paragraph (b) describes the contents of the AAP Summary. The proposed AAP Summary consists of the following parts: Part A — Establishment Identification and Background Data; Part B — Personnel Activity Summary; Part C — Goal Summary by Job Groups within EEO-1 categories; Part D — Salary Data Summary, and Part E — Certification. The proposed regulation would require contractors to prepare their AAP Summaries in accordance with the format specified in proposed Appendix A.

Thus, except as provided in proposed paragraph (c), a contractor would be required to annually report in the AAP Summary: demographic data on the incumbents and

individuals who were hired, terminated, or promoted during the preceding calendar year in each EEO-1 category; the number of job groups in each EEO-1 category for which placement goals were established during the preceding calendar year; and data concerning the median salaries or wages paid to minorities and women under its compensation system during the preceding calendar year. Proposed paragraph (c) provides that when a contractor becomes subject to the requirements of the Executive Order after June 1, information about personnel activity and the number of job groups with goals need not be provided for the initial calendar year.

Proposed paragraph (d) establishes the submission deadline for the AAP Summary no later than March 15 of the succeeding year. Paragraph (d) also would encourage contractors to submit their AAP Summaries in electronic format. Submission in electronic format should result in savings for many contractors. It also will greatly expedite OFCCP's receipt and analysis of submitted data.

A recurring concern of contractors is that information submitted to OFCCP may be disclosed to competitors or the public under the Freedom of Information Act (FOIA). Proposed paragraph (e) states that OFCCP will treat information contained in the AAP Summary as confidential to the maximum extent the information is exempt from public disclosure under FOIA. OFCCP explains in proposed paragraph (e) that it considers contractor data to be confidential such that disclosure would subject the contractor to commercial harm, and indicates that its practice is not to release data where the contractor still is in business.

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DRAFT

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Incumbent Employees As Of:

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THE WHITE HOUSE

Office of the Vice President

For Immediate Release

January 18, 1999

VICE PRESIDENT GORE ANNOUNCES ADMINISTRATION
WILL SEEK \$663 MILLION FOR CIVIL RIGHTS ENFORCEMENT

Proposal Would Increase Funding for
Civil Rights Enforcement by 15 Percent

Washington, DC -- Vice President Gore announced today that the Clinton-Gore Administration will seek \$663 million for civil rights enforcement, a 15 percent increase over last year's funding levels.

"I am proud to announce today that as part of the balanced budget we will be submitting to Congress next month, we are proposing to invest \$663 million for civil rights enforcement," Vice President Gore said. "These funds will help ensure that no American is denied a job, a home, or an education because of their race, color, creed, gender, or religion; instead we will help ensure equal opportunity for all Americans."

Specifically, the Vice President announced today:

Increased Funding for the Equal Employment
Opportunity Commission (EEOC)

The Administration's 2000 budget provides \$312 million for the EEOC, 12 percent more than the enacted 1999 budget. Funds will go to support, among other things, the agency's effort to reduce the backlog of private sector cases to 28,000 by the end of 2000, through a combination of investments in information technology, increased use of mediation, and increased staffing.

Increased Funding for the Department of Justice's
Civil Rights Division

The President's 2000 budget provides \$82 million, a 19 percent increase over the 1999 enacted level of \$69 million. This represents the largest increase for the Civil Rights Division in nine years. The proposed funding will permit the Department of Justice to significantly expand investigations and prosecutions of criminal civil rights cases (including hate crimes and police misconduct), fair housing and lending cases, and violations of the Americans with Disabilities Act. This increase will also allow the Division to prepare for the review, required by the Voting Rights Act, of numerous redistrictings that will follow the 2000 Census, and to obtain necessary technology improvements.

Funding for Civil Rights Enforcement Partnerships
at the Department of Justice

State attorneys general have a vital role to play as partners in eliminating discrimination through civil rights enforcement. The President's Budget proposes \$5 million for the Civil Rights Enforcement Partnership, which will provide competitive grants to help build the capacity of states to address specific enforcement issues within their jurisdictions by hiring additional staff.

Increased Funding for the Department of Labor's

Office of Federal Contract Compliance Programs (OFCCP)

The Administration's budget requests \$76 million for OFCCP -- an \$11 million or 17% increase over the FY 1999 enacted level. The request includes funds to expand the compliance assistance strategy to encourage Federal contractor compliance through increased outreach, education, and technical assistance, including providing contractors with the necessary tools to evaluate their equal employment practices.

Increased Funding for the Department of Housing and Urban Development's (HUD) Fair Housing Initiatives

The Administration's budget proposes \$47 million, or an over 17 percent increase from last year, for HUD's efforts to reduce housing discrimination. The budget requests \$27 million, a 15 percent increase, for the Fair Housing Initiatives Program (FHIP), which provides funding to private fair housing groups to assist in enforcement of the Fair Housing Act. This includes \$7.5 million to fund the second year of a three-year audit-based enforcement initiative. The Administration proposal also seeks \$20 million, a 21 percent increase, for the Fair Housing Assistance Program, to support the creation of additional State and local housing organizations to meet the needs of currently underserved populations and to aid joint investigations and enforcement activities.

Increased Funding for the United States Department of Agriculture's Office of Civil Rights

The President's budget proposal increases funding for USDA's civil rights programs from \$16 million to \$19 million. USDA's civil rights programs will emphasize outreach to disadvantaged farmers, involve small and disadvantaged businesses in USDA programs, increase conflict resolution activities, and more effectively process complaints brought by employees and customers.

Increased Funding for the Department of Education's Office for Civil Rights

The President's budget proposal of \$73 million provides an increase of \$7 million over the 1999 enacted budget to fund staff training and technological improvements to ensure the resolution of civil rights issues. The additional funds will enable OCR to work with State Educational Agencies to address statewide compliance with civil rights laws, fund a comprehensive demographic survey of the universe of elementary and secondary public school districts, and keep pace with increased customer and stakeholder expectations for information and involvement in civil rights problem solving.

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Week 2

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FY 2000 Appropriations
Priority Funding for Civil Rights Enforcement Agencies
(Discretionary Budget Authority, in millions of dollars)

Subcommittee/Agency/Account	FY 1999 Enacted	FY 2000			
		Request	Latest House Action	Latest Senate Action	Enacted
Agriculture/Rural Development					
Department of Agriculture: Civil Rights Programs.....	16	19	19	18	0
Commerce/Justice/State					
Department of Justice:					
Civil Rights Division.....	69	82	0	71	0
Civil Rights Enforcement Partnerships.....	0	5	0	0	0
Equal Employment Opportunity Commission.....	279	312	0	279	0
U.S. Commission on Civil Rights.....	9	11	0	9	0
Labor/HHS/Education					
Department of Education: Office for Civil Rights	66	73	0	0	0
Department of Health and Human Services:					
Office of Civil Rights.....	21	22	0	0	0
Department of Labor:					
Office of Federal Contract Compliance Programs.....	65	76	0	0	0
Civil Rights Center.....	5	6	0	0	0
Transportation					
Department of Transportation: Office of Civil Rights.....	7	8	6	7	0
VA/HUD/Independent Agencies					
Department of Housing and Urban Development:					
Fair Housing Activities Grants.....	40	47	0	0	0
[Fair Housing Audits].....	[7.5]	[7.5]	0	0	0
Environmental Protection Agency: Office of Civil Rights.....	2	2	0	0	0
TOTAL.....	579	663	27	384	0

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Civil Rights

FY 2000 Appropriations
Priority Funding for Civil Rights Enforcement Agencies
(Discretionary Budget Authority, in millions of dollars)

Subcommittee/Agency/Account	FY 1999 Enacted	FY 2000			
		Request	Latest House Action	Latest Senate Action	Enacted or Conference
Agriculture/Rural Development					
Department of Agriculture: Civil Rights Programs.....	16	19	19	18	18
Commerce/Justice/State					
Department of Justice:	69	82	74	71	72
Civil Rights Division.....	0	5	0	0	5
Civil Rights Enforcement Partnerships.....					
Equal Employment Opportunity Commission.....	279	312	279	279	282
U.S. Commission on Civil Rights.....	9	11	9	9	9
Labor/HHS/Education					
Department of Education: Office for Civil Rights	66	73			71
Department of Health and Human Services:					
Office of Civil Rights.....	21	22			22
Department of Labor:					
Office of Federal Contract Compliance Programs.....	65	76	65	76	70
Civil Rights Center.....	5	6	5	6	5
Transportation					
Department of Transportation: Office of Civil Rights.....	7	8	8	7	7
VA/HUD/Independent Agencies					
Department of Housing and Urban Development:					
Fair Housing Activities Grants.....	40	47	38	40	44
[Fair Housing Audits].....	[7.5]	[7.5]	[2]	[2]	[6]
Environmental Protection Agency: Office of Civil Rights.....	2	2	2	2	2
TOTAL	579	663	498	508	607

Draft 11/12