



**U.S. Department of Justice**

Civil Rights Division

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*Coordination and Review Section  
P.O. Box 66560  
Washington, DC 20035-6560*

**TAB 9**

January 13, 1998

Mr. Jonathan Complainant  
27 Short Street  
Anyplace, Missouri 65616

Re: Complaint Number  
Complainant v. Alleged Discriminators PD, Missouri

Dear Mr. Complainant:

This letter responds to your complaint of discrimination against the Alleged Discriminators Police Department (ADPD) on the basis of your race, African-American. Your complaint was received by the Coordination and Review Section, Civil Rights Division, Department of Justice on January 5, 1998. You allege that you were stopped by the police in a white area of town, were arrested, and held overnight without justification. You state that other African-Americans have been treated in a similar manner by the ADPD.

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq., prohibits discrimination on the basis of race, color and national origin in federally funded programs and activities. The Department of Justice (DOJ) enforces Title VI and other civil rights statutes and investigates complaints against recipients of financial assistance from DOJ. The Department's recipients include police departments, sheriff's department's state departments of correction, and other entities.

Based on our review of your complaint, we have determined that the alleged act(s) of discrimination occurred on April 21, 1997. Normally, a complaint must be received by the DOJ within 180 days of the alleged act of discrimination; in the case of your complaint, 180 days from the date of the alleged act(s) of discrimination would be October 19, 1997. Therefore, you have failed to file your complaint in a timely manner.

The Department has the authority to waive the 180-day time period required for filing a complaint if you can demonstrate that your failure to file was based on “good cause.” Generally, DOJ will find good cause in the following circumstances:

The person on whose behalf the complaint was filed did not know of the violation - In this circumstance, the person on whose behalf the complaint was filed could not reasonably be expected to know the act was discriminatory within the 180-days of the occurrence of the alleged discriminatory act. If the complaint was filed within 60 days after the person on whose behalf the complaint was filed became aware of the alleged discrimination, the DOJ may waive the 180-day filing requirement.

The person on whose behalf the complaint was filed was incapacitated - The person on whose behalf the complaint was filed was unable to file a complaint because of illness or other incapacitating circumstances during the 180-day period. If the complaint was filed with 60 days after the period of illness or incapacitation ended, DOJ may waive the 180-day filing requirement.

Use of public entity’s grievance procedures - A delay that is attributable to using a public entity’s grievance procedures is not counted in determining whether a complaint is timely filed. Therefore, if the complaint was not filed sooner because the person on whose behalf the complaint was filed was grieving the matter under the public entity’s grievance procedure, DOJ may waive the 180-day filing requirement.

Continuing violations: If the alleged acts of discrimination are continuing in nature and are part of the public entity’s overall policies and practices, DOJ will normally grant a waiver. For example, an individual who is denied the benefits and services of a public entity’s program or activities because they are located in accessible facilities has a continuing right to file a complaint. In such situations, DOJ would not follow the 180-day filing requirement.

If you wish to request a waiver, please submit a detailed description explaining why you failed to file your complaint within 180 days of the alleged act(s) of discrimination. If you do not seek a waiver within 30 days of your receipt of this letter, we will close our case.

Under the Freedom of Information Act, 5 U.S.C. § 552, we may be required to release this letter and other correspondence and records related to your complaint in response to a request from a third party. Should we receive such a request, we will safeguard, to the extent permitted by the Freedom of Information Act and the Privacy Act, the release of information which could constitute an unwarranted invasion of your or other’s privacy.

If you have any questions concerning this letter, please call Ms. Investigator Outstanding, the investigator assigned to this complaint, at (000) 000-0000 (voice) or (000) 000-0000 (TDD). Please direct any written correspondence regarding this matter to Ms. Investigator at the Coordination and Review Section, Civil Rights Division, Department of Justice, P.O. Box 66560, Washington, D.C. 20035-6560 and reference the Department of Justice complaint number cited above.

Sincerely,

Merrily A. Friedlander  
Chief  
Coordination and Review Section  
Civil Rights Division

# Memorandum



<b>Subject:</b> Request for Waiver of Timeliness Filing Requirement for Mr. Jonathan Complainant v. the Alleged Discriminators PD, Missouri Docket No. 123-98-2694	<b>Date:</b> March 18, 1998
<b>To:</b> Merrily A. Friedlander Chief Coordination and Review Section Civil Rights Division	<b>From:</b> Ms. Investigator Outstanding Investigator

This complaint against the Alleged Discriminators PD (ADPD) was received by COR on January 5, 1998, from Mr. Jonathan Complainant. In his complaint, Mr. Complainant alleges that he was discriminated against on the basis of his race, African-American, on April 21, 1997. He states that the police stopped him in his car while he was driving in a white area of town, was arrested, and was held overnight without justification. He was denied the opportunity to call his family or to contact a lawyer. He also alleges that other African-Americans have been treated in a similar manner by the ADPD.

On January 13, 1998, we wrote to Mr. Complainant to advise him of the timeliness requirement and that his complaint had been untimely filed, *i.e.*, we had received it after October 19, 1997. We explained the reasons the requirement could be waived and offered him the opportunity to request a waiver of the timeliness requirement. We received his response on January 28, 1998. In his request, he provided the following information.

Mr. Complainant filed a complaint with the City of Alleged Discriminators on April 30, 1998, which was investigated by the ADPD's Office of Internal Affairs. On December 12, 1998, he received a letter from the Chief of Police telling him that no violation of procedures had been found and that his complaint had been closed. It also notified him that he could file an appeal with the City Manager. Mr. Complainant filed his appeal on December 14 with the City Manager and received a letter denying his appeal on December 22, 1998. Mr. Complainant subsequently filed his complaint with DOJ on January 3, 1998.

Mr. Complainant filed his complaint with DOJ immediately following his receipt of the response to his appeal to the City Manager of the ADPD's closure of this complaint.

I recommend that the timeliness requirement be waived in this case, because the Complainant was pursuing the internal grievance process provided by the City to address his discrimination complaint. Please let me know if you would like to discuss this recommendation.

\_\_\_\_\_ The timeliness requirement is waived.

\_\_\_\_\_ The timeliness requirement is not waived.

\_\_\_\_\_ The timeliness requirement is not waived, but the issues should be addressed in a compliance review.

\_\_\_\_\_ Let's discuss.

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Merrily A. Friedlander  
Chief  
Coordination and Review Section  
Civil Rights Division

\_\_\_\_\_  
Date