

**NLWJC - Kagan**

**DPC - Box 041 - Folder 012**

**Race-Race Initiative Policy - Civil  
Rights Enforcement [2]**

appropriated

Pursuant to discussions with Committee Members and Staff, the Equal Employment Opportunity Commission confirms that it will not use FY 1999 funds to operate employment tester programs. Testers are individuals who are matched in job relevant respects but differ by the characteristic being tested, e.g., race, age, gender, or ethnicity. Employment tester programs are those in which testers are sent to apply for job openings and the information generated is reviewed to determine whether employment discrimination may have occurred. Existing contractual obligations will be fulfilled. The Commission may expend FY 1999 appropriated funds to analyze the results, including reports, of such contracts.

Is there a litigation unit?

- (a) letter
- (b) CBC
- (c) groups

6-18

EEOC Meeting

ETS - Tues in break  
Wed in House

Only issue left - testers

easy - prohibit <sup>funds</sup> FY99 to employ testers  
other issue - leftover 98 funds

prob ok - engage in testing activity  
other stuff - analysis +  
prosecution

→ use of 99 funds to e.g. analyze  
[as finish] 1 yr pilot, bringing cases back  
on testing.

Symbolism  
issue

Holmes Norton <sup>not as approp</sup> or another cuttes Gulian Dixon

Payne - feels opposite - terrible to cut deal -  
great issue to fight  
don't give in to blackmail

(waters / Shaker /  
Dixon)

Heritance from non-caucus mems -  
could be kind of ugly in House.

Lgr context of bill - allows are very low 1.1 to 1.3 G spent  
in rebo world

prob some caucus fight / legal services fight / e-rate / free TV  
part of end - same negotiati - so if they put rider  
in, it may be poss to take cut  
but it adds to list of difficult things to resolve  
one issue - that we can probably get cut of.

Dixon  
Norton

Payne

Wade  
Nancy

▶ **Julie A. Fernandes**  
06/19/98 07:24:47 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC -- monday meetings

Elena,  
Martha, Broderick and I spoke with Ellen Vargyas from the EEOC re: the Monday meetings. Because Fawell's staffer (apparently empowered to speak for the authorizers, appropriators and Gingrich) has agreed that no "no tester" language will be added during the subcommittee mark-up (b/c EEOC has been working with them in good faith on a possible letter), Ellen does not think that we should try to meet with the staffer in advance of the subcommittee mark-up. Martha and Broderick agree, but want to confirm that there is a deal on not including any language at this stage. Martha has put in a call to Livingston's COS to confirm. She has also put in a call to Dixon to try to stave off a Monday morning "Dear Colleague" letter from the CBC and to set up our other meetings.

Thus, instead of our going to see Fawell's staffer first, Ellen will come here (at 12 noon) to give us all a better sense of her conversations with Fawell's staffer. Martha and Broderick are setting up staff and Member briefings for the afternoon, as we discussed.

Julie

▶ **Julie A. Fernandes**  
06/17/98 04:02:17 PM  
.....

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC

Elena,  
FYI. After a meeting today between civil rights enforcement agencies and the CBC, Eleanor Holmes Norton asked Bill White (leg. affairs from EEOC) why the EEOC had not made a deal with the Republicans on testers. Bill let her know that this was a WH issue. Rep. Norton then indicated that she may want to contact someone here to discuss.  
As you know, the EEOC has worked out agreements with the Reps. on the other five points that Gingrich outlined in his testimony at the oversight hearing. Also, we (EEOC and us -- including Counsel's office and Leg. Affairs) have discussed offering a letter from EEOC to Fawell indicating that the agency would not use FY99 appropriated funds to employ testers. Ellen Vargyas (legal counsel EEOC) has had very preliminary discussions with Fawell's staff about this possibility. Also, Martha Foley and Broderick Johnson have been talking the Dems. over the past couple of days to better determine our strength on this issue.  
Tomorrow morning (Thurs.) at 10am, Broderick, Martha, Eddie Correia, Susan Carr (OMB) and I are having a conference call to finalize where we are with the Dems. and Reps.

Julie

Rau limit policy -  
civil rights enforcement

► Julie A. Fernandes  
05/21/98 03:44:31 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC leg. strategy

Elena,  
FYI. According to the EEOC, Republicans in the House continue to assert that support for the proposed increase in the EEOC budget is contingent upon the EEOC's agreement not to fund the use of employment testers. They were told by Fawell's staff that for Gingrich this is still a "line in the sand." To date, EEOC has not gotten more specific information about the conditions requested by Gingrich.

Next Thursday at 2:00pm in Room 476, I plan to convene a meeting with WH Leg. Affairs (Martha Foley, Tracey Thornton, and Broderick Johnson) and EEOC legal and legislative staff to develop an effective legislative strategy. Eddie Correria from WH Counsel's office will also participate.

Julie

▶ Julie A. Fernandes  
04/15/98 11:45:38 AM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC

Elena,

FYI. Yesterday, I met with folks from the EEOC and WH Leg. Affairs (Tracey Thornton and Martha Foley) to discuss our legislative strategy for obtaining passage of the President's proposed increase in funding for the EEOC. According to both the EEOC and the Leg. folks some of his strings could prove contentious -- depending on the particulars of the language or commitments the Republicans want. Martha expressed concern that the Republicans might want to include limitations on the ability of the agency to bring certain kinds of cases, etc. EEOC staff is meeting with Rogers and Fawell's staff (and possibly some Dems) on Friday to better determine where they are headed. After that meeting, we should know more.

Julie

Race Unit - Civil Rts Leadership  
Embassy Meeting

**LCCR Meeting**  
Draft Agenda  
Friday, March 13, 1998  
1:00 -3:00  
Roosevelt Room

- I. Introductions (3 minutes)
- II. Welcoming Remarks -- Erskine Bowles (2 minutes)
- III. Remarks --Dr. Dorothy Height (4 minutes)
- IV. Remarks from the Chairman -- Dr. John Hope Franklin (3 minutes)
- V. President's Initiative on Race Goals and Future Activities -- Judy Winston (8 minutes)
- VI. Policy Overview (15 minutes)  
  
Franklin Raines, Director of the Office of Management and Budget  
Gene Sperling, Director of the National Economic Council  
Bruce Reed, Director of the Office of Domestic Policy Council
- VII. The President's Report on Race -- Chris Edley (5 minutes)
- VIII. Leadership Conference on Civil Rights Response and Dialogue (40 minutes)
- IX. Next Steps -- Sylvia Mathews and Judy Winston (5 minutes)

Handouts

Promising Practices Summary (Lin)  
Statewide Days of Dialogue fact sheet (Mike W.)  
Campus Week of Dialogue materials (Jacinta)  
Accomplishments/Talking Points (Jacinta)  
Budget Summary (Lin)  
Brochure (Jacinta)  
Invitation to Denver Advisory Board Meeting (Jacinta)  
Vice President's Speech (Jacinta)  
Charter (Jacinta)



## March 13 LCCR Pre-Meeting Summary

March 10, 1998

Attendees: Judith Winston, Minyon Moore, Ted Wartell, Emil Parker, Jacinta Ma, Bob Shireman, Richard Socarides, Maria Echaveste, Ben Johnson, Julie Fernandes, Audrey Hutchinson, Lydia Sermons, Eddy Corriea, Lin Liu, Mike Wenger, Claire Gonzales, Rob Wexler

### Summary of Discussion

The meeting began with a discussion of the PIR proposed agenda for the meeting. The order of speakers was decided.

There was some discussion of what areas Franklin Raines, Gene Sperling, and Bruce Reed would address. There was consensus that Franklin Raines should discuss the budget more generally, perhaps basing his remarks on remarks he made to the Congressional Black Caucus and Hispanic Caucus. Gene Sperling should discuss the High Hopes program and the School Construction program. Bruce Reed or Elena Kagan should discuss other policy initiatives. Ted Wartell, Emil Parker, Julie Fernandes, and Bob Shireman agreed to meet and discuss their principals' roles and what materials we should hand out to LCCR on policy issues. They also agreed to determine how the 15 minutes should be allocated among the three speakers.

We discussed Chris Edley's role in the meeting. There was consensus that PIR staff would ask Chris Edley to give a broad overview on the President's report, describe the process for creating the report, and ask LCCR for input and what key elements they would like to see included in the report to address LCCR's concern about the Advisory Board's role with the final report.

We discussed the proposed agenda faxed to PIR from Wade Henderson which raised topics LCCR would like to discuss. There was a consensus that discussion of their "pressing issues" (e.g., census, African American farmers, Japanese Latin American internees, etc.) would not be appropriate for this meeting and that they could request another meeting to discuss those issues. We agreed to suggest that they schedule a follow-up meeting with Erskine Bowles through Maria Echaveste if they would like to discuss these particular issues. In the section of the proposed agenda entitled "One America Initiative," LCCR brought up the topic of urban poverty and its link to race. It was decided that Gene Sperling or Bruce Reed could address the issue in his remarks.

There was consensus that we should conclude the meeting with specific request for action to support the President and the PIR. We agreed to ask LCCR to assist and support the budget priorities that the President has set forth, identify

additional promising practices, and recruit leaders to sustain the work of the PIR.

There was also some discussion about whether the meeting should be open to the press. There was general consensus that the meeting would be closed to the press, but that it might be possible to share information about the meeting with a selected reporter or newspaper. Lydia Sermons will consult with White House Communications on whether this strategy is appropriate.

The revised draft agenda is attached.

Next Steps:

Judy will call Wade and ask if we should show the youth-oriented PSA that we worked with LCEF to produce. She will also provide him some background on the President's Report and discuss why the pressing issues that they suggested should be on the agenda is not appropriate for this meeting.

Judy will check with Maria to determine who should inform Wade about the purpose of the meeting with leaders of the higher education community.

Anyone who has briefing materials for Erskine Bowles related to the LCCR meeting should deliver them to Jacinta Ma, (Room 3236 NEOB, 5-1023) by COB Wednesday.

Race inir policy -  
civil rts enf

▶ **Julie A. Fernandes**  
03/11/98 11:20:43 AM  
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Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Cathy R. Mays/OPD/EOP  
Subject: EEOC legislative action

Bruce/Elena,  
FYI. I just spoke with Eric Falls from Sen. Robb's office. Robb and Kennedy's offices are putting together a "Dear Colleague" letter in support of the President's EEOC budget request. They should have a draft by the end of the week, which they will fax over to us. They are shooting to get this out early next week.

julie

► Julie A. Fernandes  
03/04/98 06:02:47 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC

Elena,

As a result of yesterday's hearing, EEOC believes that there is an opening to work with Gingrich's staff to secure their budget request. They want to get our leg. person working with them to direct the effort. Who would that be?

Also, there is the knotty question of testing. According to Fawell (in a conversation with Igasaki (Acting EEOC Chair) after the hearing) the Republicans want the agency not to spend any money on testing in FY99. As you know, the EEOC has a testing pilot program that is supposed to be completed by the end of this fiscal year. They had no plans to do any more with this program during FY99, and there is nothing in the President's FY99 budget for testing programs for the EEOC. However, the agency had anticipated spending some time after the pilot is finished analyzing the results and doing long term planning for next steps, if any. So, in addition to leg. help, they want some guidance about the general parameters of our view of making some kind of deal on this.

Until they complete this year's pilot, the EEOC won't even know if they can run an effective employment testing program. It does not, therefore, seem a big concession to agree that the EEOC will not spend money on testing during FY99, as long as we do not in any way signal that testing is not a legitimate tool for effective civil rights enforcement. Of course, the attack on testing at the EEOC could be the prelude to a similar attack at HUD. HUD does have \$10 million in the FY99 budget to develop and implement a nation-wide housing rental and sales testing program. I have not heard anything about a strategy to go after this.

julie

▶ **Julie A. Fernandes**  
03/02/98 05:40:42 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC hearing

Elena,

By "testing" I did mean the practice of sending in paired testers (each of a different racial or ethnic background, but matched as to other qualities and qualifications) to determine whether they receive equivalent treatment from the prospective employer. The hearing tomorrow is being held by the Employer-Employee relations subcommittee of the House Committee on Economic and Educational Opportunities. The chair of this subcommittee is Harris Fawell (R-Illinois). According to Ellen, Gingrich is to testify first, and then Igasaki (Acting EEOC Chair) and others will sit as a group and make opening statements and respond to questions. The others on the Igasaki panel will include two former EEOC Chairs (both Republicans) and someone who the Acting Chair knows from Chicago (Ellen was unsure who this was).

Julie

Race limit policy -  
civil rights enforcement

▶ **Julie A. Fernandes**  
03/04/98 11:57:11 AM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC hearing

Elena,

At the EEOC hearing yesterday, Gingrich made a very strong statement opposing class actions, pattern or practice cases and testing. Gingrich's rhetorical push was toward using enforcement money to handle cases of "actual victims" of discrimination, rather than "creating cases" (testing) or class actions. He did seem to concede, however, that testing could be warranted where there were strong indications (unclear what the threshold would be) that the employer might be unlawfully discriminating.

Igasaki (acting EEOC chair) made clear that though the agency was in the middle of a small pilot program to determine how best to use testing in the employment context, their FY99 budget request did not include any money for testers.

jf

▶ **Julie A. Fernandes**  
03/06/98 03:11:36 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC

Elena,

I spoke to Peter last night re: EEOC. He said that Tracey Thornton was the right person on the Senate side, and that they have not yet hired a replacement for who is the right person on the House side. I spoke with Tracey this morning. She is going to consult with Martha Foley (leg. budget person on the House side) and get back to me later this afternoon. I asked whether we (leg., us and EEOC) should get together to develop a legislative strategy. She informed me that there is a mark-up next week on the budget resolution, and that this in the relevant context for our making a deal with the Republicans.

Julie

Do you want  
to go to this  
2:00 EEOC  
decision meeting?

▶ **Julie A. Fernandes**  
01/26/98 10:41:46 AM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: OMB mtg. this afternoon re: EEOC reg

Elena,

As you know, this afternoon at 2pm Sally Katzen is having a meeting (that will include Gen Counsel or Dpty Secy from various agencies) re: proposed EEOC federal sector complaint rule. Sally wants you to know that this will be a decision meeting.

There are several outstanding issues that Sally wants to resolve this afternoon. Her strategy is to try to reach middle-ground compromises on each. The following outlines the current rule, the proposed rule and where Sally wants to try to end up.

1. What happens after an AJ decision?

a. Current

Agency can adopt, modify or reject AJ decision. Either the agency or the complainant can then appeal within the EEOC (OFO).

b. Proposed

AJ decision is final. Agency or complainant can appeal within the EEOC (OFO).

c. Middle ground?

Sally will likely advocate for a change in the standard of review for EEOC appeals. Currently, there is de novo for facts and law. The EEOC wants to change it to clearly erroneous on the facts. Sally will likely propose substantial evidence for the facts.

2. Reconsideration

a. Current

Agencies can file a formal motion for reconsideration after an adverse decision by the EEOC appellate group.

b. Proposed

No formal process. Commission can reconsider when it believes there is a miscarriage of justice.

c. Middle ground?

Maintain the formal motion for reconsideration, but place a high standard on accepting. Commission will reconsider if they find the prior decision to have been arbitrary or capricious?

3. Pre-complaint attorneys' fees

a. Current

Attorneys fees cannot be awarded for pre-complaint work



b. Proposed

Fees would be permitted for pre-complaint work. EEOC would issue guidance to the AJs about what is reasonable and how to calculate.

c. Middle ground?

Not a lot. Push hard for agency involvement in developing guidance?

According to OMB, both OPM and Treasury have indicated that they intend to seek an OLC opinion on whether EEOC has the authority to take the agency out of the process of reviewing AJ decisions. According to Ellen Vargyas (EEOC Gen Counsel), the EEOC does not think that OLC has the authority to pass on regulations that EEOC promulgates. She has asked us (the WH) to try to intervene to stop the agencies from going to OLC.

The OMB General Counsel takes the position that since OMB has the authority to review the regs promulgated by the EEOC, these rules should not be considered exempt from OLC legal review. Under the OMB Executive Order, one of the parameters for their review is whether the rule is consistent with the applicable statute or law. Thus, the OMB GC is in favor of the OLC review (if the agencies want it) prior to OMB signing off. According to Ellen, the Commissioners may not want to press for this rule if doing so might open up the question of OLC review of their rules generally. Also, Ellen has stated that she is concerned that referral to OLC will delay the promulgation of the rule.

I would not recommend that we intervene to stop the agencies from going to OLC. Ellen's strongest argument for not doing so is rooted in her assertion that an OLC opinion is irrelevant to their authority. However, OMB seems clear on their authority (or that of the agencies) to seek OLC advise on the legality of the rule. Also, if Ellen is right on the substance (that EEOC has the authority to issue this rule) an opinion from OLC confirming that would be helpful (considering the agency opposition). However, if EEOC is without the legal authority, it would not be good for us to go forward.

If we intend on backing the EEOC on their desire to avoid an OLC referral, OMB would like to know before the 2pm meeting. Thanks.

Julie

▶ **Julie A. Fernandes**  
01/26/98 06:39:07 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Thomas L. Freedman/OPD/EOP, Mary L. Smith/OPD/EOP  
Subject: EEOC federal sector rule

Elena,

At the meeting today, not all issues were resolved, but some amount of consensus was reached. It is Sally's inclination to keep trying to reach consensus, rather than ask OLC to resolve the legal question. An informal opinion will likely not get us very far (in terms of resolution) and a formal opinion will take a long time and is uncontrollable. This does not, of course, prevent one of the agencies from going to OLC if they are unhappy with the resolution.

This is where we are now:

(1) the AJs decision will be final. However, the standard of review of the AJ's decision by the OFO (EEOC appellate) will be less deferential than the "clearly erroneous" standard now advocated by the EEOC. How this standard will be articulated has yet to be determined;

(2) a standard for reconsideration by the Commission will be developed (under the current system, there is a right to de novo reconsideration; the proposed reg allows the Commission to reconsider if they believe there has been a miscarriage of justice). One idea was to allow reconsideration, upon motion, only if the Commission concludes that the decision below was clearly erroneous or if the case is one that has a systemic effect throughout the agency (broader implications);

(3) the question of attorneys' fees is still unsettled. The EEOC had proposed the availability pre-complaint attorneys' fees, with guidance to the AJs about how to calculate it. The agencies still seem opposed to this. They are also resistant to the proposed change to eliminate the "offer of full relief" and create an "offer of resolution." The significant difference between the two appears to be when the offer can be made by the agency (an offer of resolution can only be made after the complaint has been filed). In either case, if the complainant turns down the offer, but doesn't, in the end, recover more than the offer, they are barred from recovering post-offer attorneys' fees. The EEOC has agreed to consider the question of allowing pre-complaint offers of resolution.

Sally is hoping that all of this can be resolved without another meeting. We'll keep you posted.

Julie

Race init policy -  
civil rights enforcement -  
federal employees

▶ **Julie A. Fernandes**  
02/02/98 04:51:28 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC rulemaking -- update

Elena,

I spoke with Danny Werfel at OMB. Two agencies (Treasury and Commerce) have raised concerns to Sally re: the proposed rule. Commerce is still concerned about (1) the provision that allows pre-complaint attorneys' fees and (2) that the offer of resolution does not go as far as the old offer of full relief. They were told that the only thing that would hold up the rule would be a call from the Secretary by COB today. Treasury said they wanted more time for higher level people to consider the changes, and Sally gave them until COB tomorrow. Danny thinks that the rule should be ready to go by the end of this week.

If we wanted to do some sort of roll-out event (highlighting the reforms to the federal sector program at the EEOC as a companion effort to the new money and expanded adr in the budget), that could give Sally an opening to push the agencies faster and, according to Danny, could get the rule published more quickly.

Julie

Raceless Policy -  
Civil Rights Act -  
Federal Employees

▶ **Julie A. Fernandes**  
02/09/98 07:16:36 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC rule

Danny Werfel from OMB called to let me know that Sylvia wants Ellen Vargyas (from EEOC) to brief Judy Winston and Ben Johnson on the federal sector rule before we publish it. She may also be interested in doing some kind of roll-out of the rule linked to the PIR. Because of all this, the rule will likely be delayed at least a week. I will let you know more as I do.

Julie

Race init policy -  
div rts ent

▶ **Julie A. Fernandes**  
03/02/98 01:48:14 PM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: EEOC

Elena,

According to Ellen Vargyas (legal counsel at EEOC), Gingrich will be testifying at the EEOC oversight hearing tomorrow. Her intelligence tells her that Gingrich will speak favorably of the President's package, but will make a strong statement about why EEOC testing programs should not be funded (EEOC now has one small program that has completed its "study" phase -- i.e., how they would do testing -- and is about to implement its first set of tests). Ellen wants to know how strong Igasaki's statement should be in favor of testing as a tool to identify discrimination in hiring. My instinct is that tomorrow's hearing is not the venue to take on Gingrich, but that Igasaki should not shy away (if asked) from stating the Administration's (as well as the EEOC's) strong support for testing as a tool. What do you think? Is there a leg. person that I should talk to? Thanks.

Julie

Race Int Policy -  
Div Rts Enforcement



Claire Gonzales

01/29/98 10:11:12 AM



Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: EEOC Funding Talking Point

FYI -- I inadvertently left you off of the original list.

----- Forwarded by Claire Gonzales/PIR/EOP on 01/29/98 10:10 AM -----



Claire Gonzales

01/29/98 10:10:06 AM



Record Type: Record

To: Sylvia M. Mathews/WHO/EOP, Thomas L. Freedman/OPD/EOP

cc: Judith A. Winston/PIR/EOP, Susan M. Carr/OMB/EOP, Lin Liu/PIR/EOP

Subject: EEOC Funding Talking Point

I must once again voice my concern about the continuing insistence that the principal talking point regarding fully funding the EEOC is the "backlog of 60,000" complaints. (The President's remarks in the State of the Union). After much discussion among the appropriate parties at the White House (DPC), OMB, and the EEOC, I find it hard to understand why this point is still be used. It is factually incorrect to characterize the EEOC's current inventory of pending cases as "backlog." Further, with an average 80,000 cases being filed each year with the EEOC, the pending inventory (or "backlog") simply cannot be brought down as low as the 28,000 number that was released to the press in conjunction with Vice President Gore's MLK day speech.

A thorough discussion and explanation of this point is beyond any e-mail. I just want to go on record that in my opinion, as well as the opinion of both political appointees and career employees at the EEOC (from whom I hear on a routine basis), it is very unwise to base any argument in favor of more funding for the EEOC on this statement. ANY basic investigation by the press or congressional oversight/appropriations staff will quickly show that this representation is not a viable goal for the agency. In short, the focus should be on providing resources to the agency to permit faster **quality** investigations (this means more and better trained intake personnel and investigators), not on simply processing and closing cases. The later is precisely what Eleanor Holmes Norton's Rapid Charge Processing tried to do twenty years ago (when she was EEOC Chair) and it was uniformly rejected by the civil rights community as well as the employer/business community.

I've spent the last eight years studying, working at, and helping to re-invent the EEOC. I strongly believe that it is not in the best interest of either the President or the PIR to continue to use this as the core element of the public argument in favor of increased civil rights funding.

I would be happy to talk or work with anyone interested in improving and strengthening the points to use in making this argument. Thank you.

Race Inir Policy-  
Civil Rts Enhancement

▶ **Julie A. Fernandes**  
01/30/98 10:58:47 AM  
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Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Thomas L. Freedman/OPD/EOP  
Subject: EEOC

Elena,

Ellen Vargyas from the EEOC would like for us to meet with some of the key people in her office to discuss the budget initiative. Her interest is in ensuring that all of the folks over there understand our package and can speak about it positively with the press, staff and others. According to Ellen, this is particularly important with the Acting Chair's staff (Igasaki). Tom and I will likely both attend this meeting, which is tentatively scheduled for Tues. at noon. Thanks.

Julie

Race int policy -  
civ rts enforcement



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

January 17, 1998

MEMORANDUM FOR: DISTRIBUTION  
FROM: Howard Dendurent *Howard*  
Budget Review Branch  
SUBJECT: FY 1999 Budget - *Analytical Perspectives* -  
Transmittal #12

Attached for your review and comment are page proofs of the FY 1999 Budget *Analytical Perspectives* chapter:

**12. Civil Rights Enforcement Funding**

Please provide comments to Susan Carr (room 9201, extension 5-7881) no later than 4:00 p.m., January 20th.

Attachment

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## 12. CIVIL RIGHTS ENFORCEMENT FUNDING

Federal civil rights enforcement agencies are responsible for strengthening Federal guarantees of equal opportunity and enforcing our laws against discrimination. To eliminate discrimination requires both a proactive effort to promote equal opportunity and effective mechanisms for enforcement. Adequate funding is essential to meaningful enforcement of legal protections afforded all Americans. The FY 1999 Budget provides the resources necessary to support vigorous enforcement of those Federal civil rights laws.

Since the Civil Rights Act of 1964 was signed 34 years ago, numerous Federal laws have been put in place that prohibit discrimination in the areas of housing, employment, educational opportunities, public accommodations, voting, and programs receiving Federal financial assistance. Nevertheless, discrimination remains a real and widespread problem. For example, recent cases provide evidence of the breadth of the employment discrimination problem. These cases revealed companies that race-coded their job applications and segregated minorities into low profile and low paying jobs. Other companies terminated workers because of age or disability, without offering reasonable accommodations. Patterns of gender discrimination or of sexual harassment are similarly egregious examples of the need for vigorous enforcement of employment discrimination laws.

Housing discrimination also remains pervasive and real. Recent testing in the Washington, D.C. area housing markets showed that blacks and Hispanics faced substantial discrimination when they tried to buy or rent a home. The studies showed that blacks and Hispanics were discriminated against 36 percent of the time they tried to buy a home, and 42 percent of the time they tried to rent a home. These results are disturbing and unacceptable 30 years after the passage of the Fair Housing Act of 1968. Housing discrimination affects not only a family's economic well-being, but it is frequently the cause of other forms of economic disadvantage, such as limited job opportunities and increased segregation in schools.

The problems of discrimination are not limited to issues of employment or housing. The proportion of complaints based on disability has grown to 50 percent of all educational discrimination complaints received by the Department of Education. Furthermore, thousands of investigations annually determine that the problem of fighting discrimination in our schools remains as important national issue.

As real and pervasive as illegal discrimination appears to be, changing demographic patterns and an American population that is growing increasingly diverse will require even more vigilance in preventing and enforcing laws against discrimination. A renewed

commitment to strong and effective enforcement will help ensure that economic opportunities and progress reach all segments of a diverse American population. For Federal civil rights enforcement agencies, in addition to increased resources, this renewed commitment includes:

- Greater emphasis on prevention and non-litigation remedies to achieve the objectives of Federal civil rights laws;
- Use of additional tools to increase compliance, including the expansion of Alternative Dispute Resolution (ADR) programs;
- Increased use of technology for better management of agency resources and tracking of case-loads;
- Improved statistical methods for measurement and analysis;
- Encouraging the role of the States through increased partnerships in addressing the problems of discrimination; and
- Enhanced coordination by the Department of Justice in addressing Federal civil rights enforcement efforts.

The FY 1999 Budget proposes \$602 million for civil rights enforcement agencies, \$86 million or 16 percent greater than the FY 1998 enacted level of \$516 million, as shown in Table 12-1. Programs and issues in the principal civil rights enforcement agencies, and the U.S. Commission on Civil Rights, are discussed below.

### Enforcing Civil Rights Laws in Employment

The exclusion of people from employment opportunities remains a significant problem facing the workforce today. Approximately 80,000 complaints of employment discrimination are filed annually with the Equal Employment Opportunity Commission (EEOC). Increased statutory responsibilities, including the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991 have increased the number of complaints that are brought each year. Currently, over 20 percent of all complaints brought before the EEOC are based on disability, while race discrimination, totaling 60 percent of all complaints filed, remains the most widespread discriminatory basis.

The Equal Employment Opportunity Commission (EEOC) is charged with promoting equal opportunity through administrative and judicial enforcement of Federal civil rights laws and through education and technical assistance. Established by Title VII of the Civil Rights Act of 1964, the EEOC enforces the principal Federal statutes prohibiting employment discrimination, including: Title VII of the Civil Rights Act of 1964 as amended; the Age Discrimination in Employment Act (ADEA) of 1967 as amended; the Equal Pay Act

Table 12-1. CIVIL RIGHTS ENFORCEMENT FUNDING

(Budget authority, in millions of dollars)<sup>1</sup>

	1997 Actual	Estimate	
		1998	1999
Equal Employment Opportunity Commission .....	240	242	279
Department of Housing and Urban Development, Fair Housing Activities .....	30	30	52
Department of Justice, Civil Rights Division .....	62	65	72
Department of Labor—Office of Federal Contractor Compliance Efforts .....	59	62	68
Department of Education Office of Civil Rights .....	55	62	68
Department of Health and Human Services, OCR <sup>2</sup> .....	20	20	21
Department of Agriculture .....	10	15	19
U.S. Commission on Civil Rights .....	9	9	11
Department of Transportation, Office of Civil Rights .....	6	6	7
Department of Labor, Civil Rights Center .....	5	5	5
<b>Total</b> .....	<b>496</b>	<b>516</b>	<b>602</b>

<sup>1</sup> Numbers may not add due to rounding.<sup>2</sup> Includes Medicare Trust Fund transfers.

(EPA) of 1963; Title I of the Americans with Disabilities Act of 1990 (ADA); and Section 501 of the Rehabilitation Act of 1973, as amended. Taken as a whole, these laws protect workers from illegal discrimination based on race, color, religion, gender, national origin, age, and disability.

In recent years, Congress provided EEOC with only marginal increases that have been insufficient to support upgrades to technology and investment in alternative methods of enforcing the law. At the same time, increased enforcement responsibilities have 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 at the EEOC 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.

Over the past three years, the EEOC has addressed Congressional concerns about the pending backlog and the lack of alternative dispute resolution methods by making a fundamental shift in its approach to its business. Among the most significant changes are: the development of national and local priority issues; the implementation of a targeted and prioritized charge processing system for private sector cases; and the elimination of full investigation of all cases. Two years after implementing the priority charge handling procedures, EEOC has 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 65,000 pending charges at the end of 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.

Finally, the budget proposes \$13 million for an enhanced mediation program that would double the number of complaints eligible for EEOC's alternative dispute resolution program in FY 1999. 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. Through the use of contract mediators, EEOC would encourage employer participation by addressing employers' concerns about bias by EEOC staff, and would encourage claimants to elect mediation by addressing claimant concerns about the competency of volunteers.

Discrimination by federal contractors is the subject of a separate enforcement effort conducted by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). OFCCP is responsible for ensuring nondiscrimination in employment based on race, sex, religion, color, national origin, disability or veteran status by more than 200,000 Federal contractors and subcontractors with a total workforce of approximately 22 million people. It assures that Federal contractors and subcontractors take affirmative action in hiring and the advancement of minorities and women under the authority of Executive Orders 11246 and 11375. It also enforces the affirmative action and nondiscrimination provisions of the Rehabilitation Act of 1973 and, as an agent of the Equal Employment Opportunity Commission, the Americans With Disabilities Act of 1990. It ensures that contractors comply with the provisions of the Vietnam Era Veterans Readjustment Assistance Act of 1974 providing affirmative action by Federal contractors to employ, and advance in employment, special disabled and Vietnam era veterans.

The FY 1999 Budget includes funds to continue OFCCP's Fair Enforcement Initiative which began in FY 1998. The Fair Enforcement Initiative includes a

streamlined tiered compliance review process which reduces contractor burden while enabling the agency to target the most serious violations. The tiered review process also will enable OFCCP to reach more of the contractor universe, resulting in a 10 percent increase in FY 1999 in the number of compliance reviews conducted. In addition, through the completion of various regulatory changes, OFCCP will reduce contractor burden by at least 30 percent. OFCCP will modernize its computer systems in order to streamline internal procedures permitting the agency, for example, to accept electronically submitted reports from contractors. The Fair Enforcement Initiative, which includes technical compliance assistance, will increase the effectiveness and efficiency of the agency while addressing the persistent problem of systemic discrimination in the workplace.

The Department of Labor (DOL) also operates numerous employment and training programs that seek to enhance the skills and abilities of the nation's workforce. To ensure that these programs are administered in a non-discriminatory manner, the Civil Rights Center (CRC) at the Department of Labor is responsible for enforcing the Federal statutes and regulations that prohibit discrimination in all DOL financial assistance programs and prohibit discrimination on the basis of disability by certain public entities and in activities conducted by DOL. CRC employs a proactive approach towards reducing discrimination, by promoting voluntary compliance with existing non-discrimination laws through education and technical assistance to mitigate the number of complaint filings. To further reduce complaint workload, CRC plans to expand the number of technical assistance visits made to the States to ensure voluntary compliance. The CRC also intends to encourage the States to promote the use of alternative dispute resolution in complaint processing programs at the state level. Methods of Administration (MOA) agreements which are signed by the states as a condition of receiving employment and training funds have also been an effective tool in assisting states in addressing discrimination by ensuring that uniform systems are in place to enforce applicable nondiscrimination laws.

#### **Combating Housing Discrimination and Promoting Fair Housing Activities**

Despite 30 years of laws and regulations prohibiting housing discrimination, fair housing audits continue to show high indices of discrimination, and mortgage lenders reject minority applicants at higher rates than white applicants. Builders continue to construct housing inaccessible to disabled persons in violation of the Americans with Disabilities Act.

The Department of Housing and Urban Development (HUD) has overall responsibility for the promotion of fair housing and enforcement of the Fair Housing Act of 1968, as amended, which prohibits discrimination on the basis of race, color, gender, religion, national origin, disability or familial status in the sale or rental,

provision of brokerage services, or financing of housing. The Office of Fair Housing and Equal Opportunity (FHEO) administers two grant programs: the Fair Housing Assistance Program (FHAP), which provides financial assistance to supplement enforcement activities of States and localities which have passed laws substantially equivalent to Federal fair housing laws; and the Fair Housing Initiatives Program (FHIP), which 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. These fair housing activities are designed to ensure citizens the freedom and dignity of choosing where to live.

At the State and local government level, agencies with laws equivalent to the Federal Fair Housing Act are estimated to increase from 78 in 1997 to 85 in 1999, and the number of cases processed by these agencies are estimated to increase from 3,797 in 1997 to 6,100 in 1999. FY 1999 funding for the FHAP program is proposed at \$23 million, an \$8 million increase over the FY 1998 level, to support the expected creation of additional State and local fair housing organizations that will meet the needs of currently underserved populations and will be used for joint investigations and enforcement activities.

The FY 1999 Budget also proposes \$10 million for a targeted, audit-based enforcement initiative that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement actions. Paired testing, in which otherwise identical white and minority testers approach realtors or landlords, is a particularly effective method of detecting housing discrimination. This initiative provides for non-profit housing organizations to undertake audit-based fair housing enforcement in 20 areas nationwide to develop local indices of discrimination, to identify and pursue violations of fair housing laws, and to promote new community fair housing enforcement initiatives. The Administration believes that this systematic and focused strategy, replicated across the country, could substantially aid in detecting and reducing levels of housing discrimination. The FY 1999 budget also includes a \$4 million increase in flexible funding for fair housing initiatives, to strengthen Secretary Cuomo's "One America" initiative, including his pledge to double the number of enforcement actions taken by HUD on discrimination complaints. In total, the FY 1999 Budget proposes \$52 million for fair housing activities to enable HUD to meet its goals of reducing discrimination and ensuring equal opportunity in housing.

#### **Enforcing Civil Rights in Education and Health Programs**

Although much progress fighting discrimination in our schools has been made in the past three decades, the reality of discrimination—sometimes flagrant—remains. Investigations in thousands of cases annually by the Department of Education's Office for Civil Rights

reveal that discriminatory tracking and assessment practices continue, to the detriment of hundreds of thousands of minority, limited English proficient, disabled, and female students. Additionally, instances of racial and sexual harassment continue as pervasive problems that must be addressed.

The Office for Civil Rights (OCR) at the Department of Education is charged with ensuring equal access to education and promoting educational excellence throughout the Nation through vigorous enforcement of civil rights laws and regulations. These laws are: Title VI of the Civil Rights Act of 1964 (prohibiting race, color and national origin discrimination); Title IX of the Education Amendments of 1972 (prohibiting sex discrimination); Section 504 of the Rehabilitation Act of 1972 (prohibiting disability discrimination); Age Discrimination Act of 1975; and Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination in State and local government services). Also, OCR enforces civil rights provisions in Title V, Part A, of the Elementary and Secondary Education Act (the Magnet Schools Assistance program), and provides technical assistance to Federal award recipients and beneficiaries, the public and other organizations in an attempt to obtain voluntary compliance with civil rights laws.

OCR's purview currently encompasses a range of issues: discrimination against minorities in special education and remedial courses; discrimination of minorities in math and science and other advanced placement courses; disability discrimination; access to programs for limited English proficient (LEP) students; racial and sexual harassment; discrimination in testing/assessment; gender equity in athletics; and higher education and elementary and secondary school desegregation. Over 50 percent of the complaints OCR receives annually are for disability. On average, OCR receives and resolves over 5,000 discrimination complaints annually. OCR selects its compliance reviews based on field assessments of the greatest problems of unredressed discrimination in the regions. Currently, the greatest percentage of compliance reviews are in the area of race discrimination.

With its increased funding levels in 1998, OCR will hire additional attorneys, reducing its current attorney/case ratio in order to improve the timeliness of its complaint resolutions and increase its compliance reviews. OCR's 1999 budget, an increase of \$6.5 million over FY 1998, will enable it to maintain its increased staffing level, as well as to fund technology improvements and complete the Elementary and Secondary Education School Survey. It will also allow OCR to pursue its goal of building collaborative relationships with parents, students, and educators—focusing on preventing discrimination rather than just remedying it—and building partnerships with States to address statewide compliance with civil rights laws and regulations. A key element of its enforcement strategy involves educating the public about its rights and responsibilities and creating linkages among recipients, beneficiaries, and

community groups for the purpose of achieving the shared goal of civil rights compliance. For example, OCR has encouraged parental involvement in monitoring voluntary action plans. These approaches require a significant investment in time and resources to provide the necessary technical assistance.

Federal health care and social services programs are the responsibility of the Department of Health and Human Services' Office for Civil Rights (OCR). The OCR enforces compliance with Civil Rights statutes to ensure that people have equal access to and do not face discrimination in HHS programs, particularly in the areas of managed care, quality of health care, interethnic adoption, services to limited English proficient persons, and welfare reform. OCR investigates complaints, undertakes pre- and post-grant reviews, and provides outreach and technical assistance. The Civil Rights statutes OCR enforces include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, Title VI and XVI of the Public Health Service Act, parts of the Omnibus Reconciliation Act of 1981 related to non-discrimination within block grant programs, the Multiethnic Placement Act of 1994, and the Small Business Protection Act of 1996 (interethnic adoption provisions).

Over the past few years, HHS' OCR has focused more of its resources on non-complaint activities and increased use of alternative methods to resolve complaints faster. With additional funding in FY 1999, OCR will undertake an increased number of compliance reviews in priority program areas to ensure that discrimination is not occurring within HHS-funded programs and provide more technical assistance and outreach.

### **Government-wide Civil Rights Enforcement and Monitoring**

The Department of Justice, Civil Rights Division, serves as the chief civil rights enforcement agency of the Federal government. It has primary responsibility for Federal civil rights litigation and is charged with coordinating Federal civil rights policy. The Division enforces a number of laws providing civil and criminal protections from discrimination on the basis of race, color, religion, gender, national origin, disability, age, familial status, citizenship status, marital status, and source of income, in such areas as employment, education, public accommodations, housing, lending, and programs receiving Federal assistance.

The Attorney General has delegated to the Civil Rights Division primary litigation authority for enforcement of the Civil Rights Act of 1964, the Fair Housing Act, the Equal Credit Opportunity Act, the Americans with Disabilities Act, the Freedom of Access to Clinic Entrances Act, and a number of criminal and civil statutes, including laws prohibiting police misconduct. The Division also enforces Federal constitutional and statutory rights in institutions covered by the Civil Rights

of Institutionalized Persons Act. The Division has instituted a successful mediation program in its Disability Rights Section (the one area where the Division handles initial complaints, rather than referrals from other government agencies).

The increased funding proposed in the FY 1999 Budget will allow the Civil Rights Division to significantly expand investigations and prosecutions of police brutality and misconduct, including pattern and practice cases, as well as violations of the Americans with Disabilities Act. The Budget includes a \$1 million increase to enhance the Division's coordination of Federal civil rights enforcement, and \$1.5 million for improvements in information technology, trial preparation, and courtroom presentations.

Finally, the U.S. Commission on Civil Rights has a broad ranging mandate to monitor and report on the status of civil rights' protections in the United States. As an independent, bipartisan agency of the Federal Government, the Commission strives to keep the President, the Congress, and the public informed about civil rights issues that deserve concentrated attention, and to appraise Federal laws and policies with respect to

discrimination or denial of protection of the laws because of race, color, religion, gender, age, disability, or national origin, or in the administration of justice. In doing so, it continually reminds all Americans why vigorous civil rights enforcement is in our national interest.

To meet these responsibilities, the agency evaluates Federal civil rights enforcement programs; investigates and studies allegations of discrimination; maintains a network of regional offices and State Advisory Committees that give the Commission a local presence in communities across the country; and educates the public about civil rights. The additional resources being requested for FY 1999 will allow the Commission on Civil Rights to address more fully today's critical, and still evolving, civil rights problems, including police brutality, hate crimes, and disability rights issues. At the same time, the Commission has taken important steps toward improving the efficiency and effectiveness of its operations. These improvements will help to ensure that the FY 1999 resources are more effective in advancing civil rights in the United States.

MEMORANDUM

TO: ELENA KAGAN  
FROM: TOM FREEDMAN, MARY L. SMITH  
RE: EEOC PROPOSED RULE FOR FEDERAL AGENCIES  
DATE: JANUARY 6, 1998

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SUMMARY

The EEOC has proposed a new rule that will change the manner in which discrimination complaints by federal employees are handled. The new rule would require agencies to offer alternate dispute resolution (ADR) at the beginning of the EEO process and throughout the process. The new rule also would eliminate the final agency decision when a complainant has requested a hearing from an EEOC administrative judge.

The EEOC believes that these changes will have minimal costs. In fact, the EEOC anticipates that the proposals will save resources by eliminating steps in the EEO process. One of the main benefits from the rule is that there will be increased impartiality in the EEO process for federal employees.

SECTION-BY-SECTION ANALYSIS

**Alternate Dispute Resolution ( §1614.102)**

The rule would require that agencies establish or make available ADR programs during the EEO pre-complaint process. Agencies would be free to develop ADR programs that would best serve their needs.

**Counseling at the Pre-complaint Process ( §1614.105)**

The proposed changes would require that counselors advise aggrieved persons that they may choose between participation in the ADR program offered by the agency and the traditional counseling activities provided for in the current regulation. If the ADR process does not result in resolution of the dispute, the party will receive a final interview and have the right to file a formal complaint.

**Dismissals (§1614.107)**

The Commission proposes to eliminate the provision that permits agencies to dismiss complaints for failure to accept a certified offer of full relief. This provision has been criticized because it puts complainants in the position of risking dismissal of their complaints if they do not believe the offer of their opposing party is an offer of full relief. The Commission also proposes to add dismissal provisions permitting agencies to dismiss complaints that allege dissatisfaction with the

processing of a previously-filed complaint (commonly referred to as “spin-off” complaints). Finally, the Commission proposes to add a dismissal provision permitting an agency to dismiss a complaint where it finds a clear pattern of abuse of the EEO process. Multiple filings, combined with the nature of the subject matter of the complaints, lack of specificity in the allegations, and allegations involving matters previously raised may be considered in determining whether a complainant has engaged in a pattern of abuse of the EEO process.

### **Fragmentation of Complaints**

The Commission seeks public comment on whether regulatory changes are necessary to correct the problem of fragmented processing of EEO claims.

### **Hearings (§§1614.108, 1614.109)**

The Commission proposes four changes to the hearing process. First, the Commission proposes that complainants, who wish to have hearings on their complaints after the 180 day period for investigations has expired, be required to submit requests for hearings directly to the EEOC, rather than to their agency, as is the current practice. Second, the Commission proposes that administrative judges have the authority to issue dismissals during the hearing process. Currently, administrative judges do not have the authority to dismiss complaints that are in the hearing process, but must refer complaints back to the agency for dismissal. Third, the proposal would permit administrative judges to issue a final decision without a hearing in certain cases. Finally, the Commission proposes that administrative judges issue final decisions on complaints that have been referred to them for a hearing. Complainants or agencies could appeal administrative judges’ final decisions to the EEOC. Agencies would continue to issue final decisions in cases where the complainants request an immediate final decision without a hearing. The Commission believes that this change is particularly important because permitting an agency to reject or modify an administrative judge’s decision is unfair and is a conflict of interest. Historically, agencies have rejected or modified a majority of administrative judges’ findings of discrimination, but have adopted nearly all findings of no discrimination.

### **Class Complaints (§1614.204)**

The rule also includes four changes to the class complaint procedures. First, the Commission proposes that a complainant may move for class certification at any reasonable point in the process. Second, the Commission proposes to authorize administrative judges to issue final decisions on class certification. Currently, administrative judges make recommendations to agencies on class certification. Third, the Commission proposes requiring that administrative judges approve class settlement agreements under the “fair and reasonable” standard, even when no class member has asserted an objection to the settlement. Finally, the Commission seeks to clarify the burdens of proof applicable to individual class members who believe they are entitled to relief. Under the proposed standard, where there is a finding of discrimination, there is a presumption of discrimination as to every individual who can show he or she is a member of the class and was affected by the discrimination during the relevant period of time. Agencies would then be required to show by clear and convincing evidence that any class member is not entitled to relief.

**Appeals (§§1614.403, 1614.404, 1614.405, 1614.407)**

The rule makes changes to the appellate procedures to provide agencies with the right to appeal an administrative judge's final decision, to revise the appellate briefing schedule to the EEOC, to establish different standards of review for agency final decisions and administrative judges' final decisions, and to eliminate the right to request reconsideration of a decision on appeal.

**Attorney's Fees (§1614.501)**

The rule would amend the remedies section of the regulation to permit administrative judges to award attorney's fees and to provide for payment of attorney's fees for all services provided by an attorney throughout the EEO process, including any ADR process.



Final  
EEOC  
VP event  
paper

**THE CLINTON ADMINISTRATION ANNOUNCES  
NEW CIVIL RIGHTS ENFORCEMENT INITIATIVE  
January 19, 1998**

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

**Equal Employment Opportunity Commission (EEOC)**

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

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

**Department of Housing and Urban Development (HUD)**

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

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

## **Key Aspects of the Budget**

### **\* Alternative Dispute Resolution (ADR)**

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

### **\* Prevention Activities**

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

### **\* Improved Coordination**

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

**BUDGET FACTS AND FIGURES ON CIVIL RIGHTS AGENCIES  
CLINTON ADMINISTRATION FISCAL 1999 BUDGET  
DRAFT January 19, 1998**

**Summary**

The Clinton Administration's Fiscal Year 1999 budget contains \$602 million for civil rights enforcement agencies, \$86 million or more than 16 percent than was enacted in last year's budget.

**Equal Employment Opportunity Commission (EEOC)**

The Administration's 1999 budget contains \$279 million for the EEOC, or 15 percent more than the enacted 1998 budget. Funds go to reduce the average time it takes to resolve private sector complaints from over 9.4 months to 6 months by the year 2000 through a combination of investments in information technology, increased use of mediation, and increased staffing. The proposal dramatically expands Alternate Dispute Resolution (ADR) programs, doubling the number of complaints eligible for ADR in 1999 to 16,000 cases, or 20 percent of incoming cases. The Administration seeks \$40 million over 3 years for ADR expansion, with \$13 million requested in 1999. The budget also allocates \$10 million for new information technology.

**Department of Housing and Urban Development (HUD)**

The Administration's budget proposes \$52 million, or an over 70 percent increase from last year for HUD's efforts to reduce housing discrimination. The budget requests \$29 million, or almost double, for the Fair Housing Initiatives Program (FHIP), which provides funding to private fair housing groups to assist in enforcement of the Fair Housing Act. The HUD budget proposal allocates \$10 million of FHIP funding for a targeted, audit-based initiative in 20 areas nationwide that will use paired testing, in which otherwise identical applicants of different races approach realtors or landlords, in order to detect and eliminate housing discrimination. The Administration proposal also seeks \$23 million, or an \$8 million increase, for the Fair Housing Assistance Program, to support the creation of additional State and local housing organizations to meet the needs of currently under-served populations and to aid joint investigations and enforcement activities.

**Department of Justice, Civil Rights Division**

The President's 1999 budget provides \$71.6 million, more than a 10 percent increase over the 1998 level of \$64.7 million. One component of the Department of Justice initiative is \$1 million to enhance coordination of Federal civil rights enforcement among all the Federal civil rights agencies. This coordination will lead to more consistent enforcement of civil rights laws, improved data collection, and allow agencies to compare and improve program effectiveness in areas such as technical assistance. New funding will also permit the Department of Justice to significantly expand investigation and prosecutions of police misconduct as well as violations of the Americans with Disabilities Act.

**Department of Labor, Office of Federal Contract Compliance Programs (OFCCP).**

The Administration's request of \$68 million for OFCCP includes funds to expand the Fair Enforcement Initiative. OFCCP programs will increase by 10 percent the number of compliance reviews conducted in FY 1999. OFCCP will also modernize its computer systems in order to permit the agency to accept electronically submitted reports from contractors.

**Department of Education, Office for Civil Rights**

The President's budget proposal of \$68 million provides an increase of \$6.5 million over the 1998 enacted budget to improve data collection and increase productivity. These additional funds will also enable the Department of Education to continue to invest sufficient resources in higher education desegregation reviews and to focus on building partnerships with States to address statewide compliance with civil rights laws.

**Department of Health and Human Services (HHS), Office of Civil Rights**

The Administration is requesting \$21 million for HHS's Office of Civil Rights to continue its focus on preventive activities such as compliance reviews and technical assistance to ensure that persons do not encounter discrimination in HHS programs, including in the areas of managed care, inter-ethnic adoption, limited English proficient services, and welfare reform.

**U.S. Department of Agriculture (USDA)**

The President's budget proposal increases funding for USDA's civil rights programs from \$15 million to \$19 million to increase human resources management, outreach to under-represented customers, involvement of small and disadvantaged businesses in USDA programs, conflict resolution activities, and processing complaints brought by employees and customers.

**The Department of Labor, Office of Civil Rights**

The President's budget maintains the current \$5 million of funding for the Department of Labor's Office of Civil Rights to enforce the Federal statutes and regulations that prohibit discrimination in all Labor Department financial assistance programs. With this funding, the office will promote voluntary compliance with existing non-discrimination laws through education and technical assistance. The office will also use the resources to encourage States to promote the use of alternative dispute resolution techniques.

**Department of Transportation, Office of Civil Rights**

The Administration budget contains \$7 million for Transportation's Office of Civil Rights to improve its investigation and processing of EEO complaints. A \$1 million increase will fund additional activities directed to reduce case back-logs and address new complaints.

**U.S. Commission on Civil Rights**

The President's budget includes \$11 million for the Commission in order to carry out its mission in conducting investigations, educating the public on civil rights matters, and operating programs that address both local and national civil rights interests and concerns.

**Q&A for Civil Rights Enforcement Initiative**  
**January 19, 1998**

**Q: What did the Clinton Administration announce with regard to civil rights enforcement?**

**A:** The Clinton Administration announced its Fiscal Year 1999 budget proposal of \$602 million for civil rights enforcement agencies -- this is \$86 million or more than 16 percent greater than the FY 1998 budget. The President's proposal places new emphasis on preventive measures and non-litigation strategies while also strengthening the ability of federal agencies to enforce existing civil rights laws. The Administration's budget provides for increased use of voluntary Alternative Dispute Resolution (ADR), especially in the Equal Employment Opportunity Commission, so parties can have their cases resolved more easily, cheaply, and promptly. The combination of additional resources and reforms will enable the EEOC to reduce the average time it takes to resolve a complaint from over 9 months to 6 months, and reduce the current backlog from 64,000 to 28,000, by the year 2000.

**Q: Why is the President proposing these actions?**

**A:** This budget keeps the President's commitment to ensure equal opportunity for all Americans: that no one should be denied such essentials as a job, a home or a chance at an education because of the color of their skin, a disability, their gender or their religion. One of the key observations John Hope Franklin, Chairman of the President's Initiative on Race, made in his November 30, 1997 letter to the President was that the budgets of civil rights agencies have not kept pace with their increased responsibilities. This budget seeks to provide sufficient resources and promote management reforms to allow civil rights agencies to do their jobs.

**Q: How does this budget relate to the President's Initiative on Race?**

**A:** John Hope Franklin and the rest of the Race Initiative's Advisory Board urged the President to focus on this issue and recommend some specific reforms. Of course, the Administration has a consistently strong record in this area, but the Initiative on Race made this an especially appropriate year in which to propose systemic reforms to, and strengthening of, the nation's civil rights agencies and offices.

**Q: What other agencies are part of the Civil Rights Enforcement Initiative?**

**A:** The President's budget encourages the use of ADR, prevention activities such as education and technical assistance, and improved enforcement across the major civil

rights agencies and offices. It includes funding for the following agencies involved in civil rights enforcement:

**Civil Rights Enforcement Funding  
(Budget authority, in millions of dollars)**

	<b>1997 Actual</b>	<b>1998 Enacted</b>	<b>1999 Request</b>
Equal Employment Opportunity Commission	240	242	279
Department of Housing and Urban Development, Fair Housing Activities	30	30	52
Department of Justice, Civil Rights Division	62	65	72
Department of Labor, Office of Federal Contractor Compliance Efforts	59	62	68
Department of Education, Office of Civil Rights	55	62	68
Department of Health and Human Services, Office of Civil Rights	20	20	21
Department of Agriculture	10	15	19
U.S. Commission on Civil Rights	9	9	11
Department of Transportation, Office of Civil Rights	6	6	7
Department of Labor, Civil Rights Center	5	5	5

**Q: What does the President's budget propose with respect to the Civil Rights Division at the Department of Justice?**

**A:** The Administration's 1999 budget proposes more than a 10 percent increase for the Department of Justice -- from \$65 million in FY 1998 to \$71.6 million in FY 1999. This funding will permit the Department to continue its efforts in enforcing the laws that provide civil and criminal protections from discrimination, including the Civil Rights Act of 1964, the Fair Housing Act, and the Americans with Disabilities Act. The budget also includes funds specifically to enhance the Civil Rights Division's role in coordinating

federal civil rights enforcement across agencies. This enhanced coordinating role, which will be undertaken by Bill Lann Lee, will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.

**Q: The Congressional Research Service has recently stated that the appointment of Bill Lann Lee as Acting Assistant Attorney General for Civil Rights is illegal under the Vacancies Act. How can you appoint Lee to this position?**

**A:** The Department of Justice has reviewed this question closely and has determined that the Attorney General has the authority to make this appointment.

**Q: What actions is the President taking with respect to appointing a new Chairman of the Equal Employment Opportunity Commission?**

**A:** After the departure of Chairman Gilbert Casellas at the end of last year, the President reappointed Paul M. Igasaki to the Equal Employment Opportunity Commission, and named him Acting Chairman. Currently, three of the five positions on the Commission are filled, which is enough for a quorum. The fourth member to be appointed is for a Republican slot, and Senate Majority Leader Trent Lott (R-Miss.) has already indicated his choice for the position. The President is working as expeditiously as possible to nominate a fifth member of the Commission.

**Q: What does the President's plan do to improve performance at the EEOC?**

**A:** This plan creates specific goals and invests in new technology and procedures that will significantly improve EEOC performance. The initiative's reforms will reduce the average time it takes to process a complaint from over 9 months to 6 months, and the current backlog from 64,000 to 28,000 cases, by the end of 2000. This reduction will be achieved in part through technology improvements and in part through a dramatic expansion of the Agency's Alternative Dispute Resolution (ADR) program. The Administration's budget proposal expands the EEOC's ADR program over three years to allow as many as 70 percent of all complainants to choose mediation, rather than the lengthy process of investigation and litigation. In the first year the EEOC will provide ADR in a projected 16,000 cases -- 20 percent of all incoming cases and double the number currently sent to mediation.

**Q: Is the President's budget simply a way to increase funding for affirmative action programs?**

**A:** No. The President's budget is aimed at preventing and eliminating discrimination through emphasizing compliance with and enforcement of the various existing civil rights laws, such as the Civil Rights Act of 1964, the Fair Housing Act, and the Americans with

Disabilities Act. Affirmative action programs are only one tool (and not the most widely used tool) of civil rights enforcement.

- Q. What does this budget do to improve USDA programs for minority farmers?**
- A.** The President's budget proposal increases funding for USDA's civil rights programs from \$15 million to \$19 million to increase human resources management, outreach to under-represented customers, involvement of small and disadvantaged businesses in USDA programs, conflict resolution activities, and processing complaints brought by employees and customers.



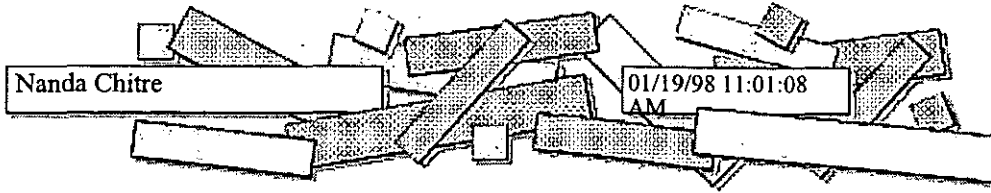
Race Inir Policy-Civ Rts Ent

## TALKING POINTS

### DESIGNATION OF BILL LANN LEE AS ACTING ASSISTANT ATTORNEY GENERAL AND COUNSELOR TO THE ATTORNEY GENERAL

- For the past 50 years, Attorneys General -- in both Democratic and Republican Administrations -- have used the Justice Department's statutory authority to appoint acting assistant attorneys general and other acting officials. By statute, nearly all the functions of the Department of Justice are vested in the Attorney General (28 U.S.C. §509). The Attorney General may -- again by statute -- authorize "the performance by an officer, employee, or agency of the Department of Justice of any function of the Attorney General." (Id. § 510). That is what was done here.
- With the President's support and approval, Bill Lann Lee was appointed Principal Deputy Assistant Attorney General in the Civil Rights Division and Counselor to the Attorney General for Civil Rights. The Attorney General then issued an order under 28 U.S.C. §§ 509 and 510, assigning him the functions of the Assistant Attorney General for the Division. A 1971 opinion of the Office of Legal Counsel upholds the practice of bringing someone into the Department and immediately appointing him or her an Acting Assistant Attorney General, and it notes four prior examples. The Bush Administration used the same procedure in 1992.
- Mr. Lee is not serving pursuant to the Vacancies Act, 5 U.S.C. §§ 3345-49. As noted, the longstanding practice of the Department of Justice, under both Republican and Democratic Administrations, is to use sections 509 and 510, rather than the Vacancies Act, to designate acting officials.
- Nevertheless, if the Vacancies Act did apply, Mr. Lee, as the first assistant in the Civil Rights Division could act as Assistant Attorney General so long as the President nominated someone within 120 days. 5 U.S.C. §§ 3346, 3348. The fact that Mr. Lee's predecessor served for more than 120 days before Mr. Lee was first nominated is irrelevant. The Vacancies Act specifically provides that if a first or second nomination to fill a vacancy has been submitted, an acting official may serve until the Senate confirms or rejects the nomination. **The President intends to resubmit Mr. Lee's nomination promptly.**
- The Senate thus will have the opportunity to vote on Mr. Lee. Any concerns about Mr. Lee's status as Acting Assistant Attorney General can be easily resolved by confirming him in the position.

mediate  
preventive  
mediation



Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Final one pager and q&a on vp's announcement today

**THE CLINTON ADMINISTRATION ANNOUNCES  
NEW CIVIL RIGHTS ENFORCEMENT INITIATIVE  
January 19, 1998**

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

**Equal Employment Opportunity Commission (EEOC)**

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

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

**Department of Housing and Urban Development (HUD)**

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

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

### **Department of Justice Civil Rights Division**

The Administration's 1999 budget proposes more than a 10 percent increase for the Civil Rights Division -- from \$65 million in FY 1998 to \$71.6 million in FY 1999. This funding will permit the Department to continue its efforts to enforce the laws that provide civil and criminal protections from discrimination, including the Civil Rights Act of 1964, the Fair Housing Act, and the Americans with Disabilities Act. The budget also includes funds specifically to enhance the Civil Rights Division's role in coordinating federal civil rights enforcement across agencies. This enhanced coordinating role, which will be undertaken by Bill Lann Lee, will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.

### **Key Aspects of the Budget**

#### **\* Alternative Dispute Resolution (ADR)**

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

#### **\* Prevention Activities**

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

#### **\* Improved Coordination**

The plan recognizes the need for enhanced coordination of federal civil rights enforcement policy among agencies by highlighting the lead role of the Department of Justice's Civil Rights

Division, under the direction of Bill Lann Lee, and providing additional resources for coordination activities. As noted above, this emphasis will lead to more consistent enforcement of civil rights laws, broader dissemination of best practices, and improved data collection.



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Nathan B. Naylor/OVP @ OVP

**Q&A for Civil Rights Enforcement Initiative  
January 19, 1998**

**Q: What did the Clinton Administration announce with regard to civil rights enforcement?**

**A:** The Clinton Administration announced its Fiscal Year 1999 budget proposal of \$602 million for civil rights enforcement agencies -- this is \$86 million or more than 16 percent greater than the FY 1998 budget. The President's proposal places new emphasis on preventive measures and non-litigation strategies while also strengthening the ability of federal agencies to enforce existing civil rights laws. The Administration's budget provides for increased use of voluntary Alternative Dispute Resolution (ADR), especially in the Equal Employment Opportunity Commission, so parties can have their cases resolved more easily, cheaply, and promptly. The combination of additional resources and reforms will enable the EEOC to reduce the average time it takes to resolve a complaint from over 9 months to 6 months, and reduce the current backlog from 64,000 to 28,000, by the year 2000.

**Q: Why is the President proposing these actions?**

**A:** This budget keeps the President's commitment to ensure equal opportunity for all Americans: that no one should be denied such essentials as a job, a home or a chance at an education because of the color of their skin, a disability, their gender or their religion. One of the key observations John Hope Franklin, Chairman of the President's Initiative on Race, made in his November 30, 1997 letter to the President was that the budgets of civil rights agencies have not kept pace with their increased responsibilities. This budget seeks to provide sufficient resources and promote management reforms to allow civil rights agencies to do their jobs.

**Q. How does this budget relate to the President's Initiative on Race?**

**A.** John Hope Franklin and the rest of the Race Initiative's Advisory Board urged the President to focus on this issue and recommend some specific reforms. Of course, the Administration has a consistently strong record in this area, but the Initiative on Race made this an especially appropriate year in which to propose systemic reforms to, and strengthening of, the nation's civil rights agencies and offices.

**Q. What other agencies are part of the Civil Rights Enforcement Initiative?**

**A.** The President's budget encourages the use of ADR, prevention activities such as education and technical assistance, and improved enforcement across the major civil

rights agencies and offices. It includes funding for the following agencies involved in civil rights enforcement:

**Civil Rights Enforcement Funding  
(Budget authority, in millions of dollars)**

	<b>1997 Actual</b>	<b>1998 Enacted</b>	<b>1999 Request</b>
Equal Employment Opportunity Commission	240	242	279
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**A:** The Department of Justice has reviewed this question closely and has determined that the Attorney General has the authority to make this appointment.

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# ONE AMERICA IN THE 21<sup>ST</sup> CENTURY

The President's Initiative on Race

Race Initiative Policy -  
Civil Rights Unit

The New Executive Office Building  
Washington, DC 20503  
202/395-1010

November 30, 1997

President William J. Clinton  
The White House  
Washington, DC 20503

Dear Mr. President:

Since our appointments, your Advisory Board members have received many reports containing information about discrimination and racial disparities in several key areas including education, housing, employment, health and in the administration of justice. You may recall that on September 30, 1997, the Advisory Board discussed and reviewed research about the nature, extent and manifestation of contemporary racism. On November 10th, a number of Advisory Board members participated in the White House Hate Crimes Conference and discussed major shortcomings in hate crimes data collection and enforcement of civil rights laws related to hate crimes prosecution.

More recently, the Initiative staff provided, at my request, a summary of key racial discrimination and civil rights enforcement research material. This material formed part of the Advisory Board meeting held on November 19, 1997 at the University of Maryland. While there is much more that we need to know and discuss about race and national origin discrimination, there are several areas upon which the Board would like to provide recommendations to you.

The data we have received and reviewed indicate that actionable illegal discrimination on the basis of race and national origin is still active and the source of harmful consequences to men, women, and children who are the targets of this discrimination. Such discrimination in education, housing, and employment contribute to growing isolation and feelings of alienation. They further impede our ability to live, work, and grow together as One America, free from prejudicial, stereotypical thinking and discriminatory behavior.

Information we have received also make clear that for the last two decades, civil rights enforcement agencies have had their budgets and staffing reduced while many of their responsibilities have been increased. While there have been some increases in funding in recent years, often the funding level has not kept pace with the increasing volume of cases or the need for careful compliance investigations.

The increasing demands on civil rights enforcement agencies make it particularly difficult, in the view of the Advisory Board, for these agencies to devote sufficient time and attention to training staff and providing technical assistance to recipients of Federal funds to recognize and act to prevent discrimination. This is especially true for the increasingly subtle and complex forms of contemporary discrimination which have largely supplanted more blatant forms of discrimination typically found in earlier decades.



Page 2 - President William J. Clinton

November 30, 1997

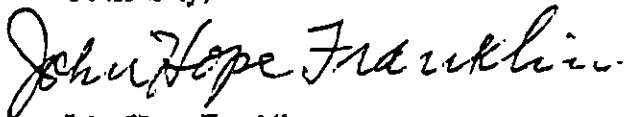
On behalf of the entire Board, I recommend the following actions to you for further attention:

- **Strengthening civil rights enforcement throughout the United States:** in the FY 1999 budgets, help create partnerships with States and localities that enforce comparable laws to those that operate at the Federal level, with the goal of strengthening all of the agencies' capacity to effectively enforce the civil rights laws they administer;
- **Expanding and strengthening the Federal government's ability to collect, analyze, and disseminate reliable data on the nature and extent of discrimination based upon race and national origin, not of course to the exclusion of data collection on other protected classes.** A well-designed and coordinated process of generating relevant indicators would then become part of an annual report covering such areas as education, health, employment, housing, and the administration of justice. Such a report would not only assist policy makers but help to increase cooperation among the various Federal agencies involved in civil rights enforcement and education. The information will also aid the public by identifying trends, and these reports and indicators can be replicated with data for local areas. Central to our concerns is the need to significantly improve the level of information about *all* minority groups.
- **Implementing fully the series of bold new initiatives announced at the White House Hate Crimes Conference aimed at better data collection, enforcement, and prevention.** Improved hate crimes prosecutions along with HUD's initiative to assist victims of hate crimes obtain money damages from their attackers are necessary complements to an improved capacity at the FBI to identify and track trends in hate violence.

I expect that the Board will address these issues again in subsequent meetings, and I look forward to reporting back to you on our findings and further recommendations. I would, of course, be pleased to discuss these recommendations with you.

My best wishes.

Yours truly,



John Hope Franklin

## 12. CIVIL RIGHTS ENFORCEMENT FUNDING

Federal civil rights enforcement agencies are responsible for strengthening Federal guarantees of equal opportunity and enforcing our laws against discrimination. To eliminate discrimination requires both a proactive effort to promote equal opportunity and effective mechanisms for enforcement. Adequate funding is essential to meaningful enforcement of legal protections afforded all Americans. The FY 1999 Budget provides the resources necessary to support vigorous enforcement of those Federal civil rights laws.

Since the Civil Rights Act of 1964 was signed 34 years ago, numerous Federal laws have been put in place that prohibit discrimination in the areas of housing, employment, educational opportunities, public accommodations, voting, and programs receiving Federal financial assistance. Nevertheless, discrimination remains a real and widespread problem. For example, recent cases provide evidence of the breadth of the employment discrimination problem. These cases revealed companies that race-coded their job applications and segregated minorities into low profile and low paying jobs. Other companies terminated workers because of age or disability, without offering reasonable accommodations. Patterns of gender discrimination or of sexual harassment are similarly egregious examples of the need for vigorous enforcement of employment discrimination laws.

Housing discrimination also remains pervasive and real. Recent testing in the Washington, D.C. area housing markets showed that blacks and Hispanics faced substantial discrimination when they tried to buy or rent a home. The studies showed that blacks and Hispanics were discriminated against 36 percent of the time they tried to buy a home, and 42 percent of the time they tried to rent a home. These results are disturbing and unacceptable 30 years after the passage of the Fair Housing Act of 1968. Housing discrimination affects not only a family's economic well-being, but it is frequently the cause of other forms of economic disadvantage, such as limited job opportunities and increased segregation in schools.

The problems of discrimination are not limited to issues of employment or housing. The proportion of complaints based on disability has grown to 50 percent of all educational discrimination complaints received by the Department of Education. Furthermore, thousands of investigations annually determine that the problem of fighting discrimination in our schools remains as important national issue.

As real and pervasive as illegal discrimination appears to be, changing demographic patterns and an American population that is growing increasingly diverse will require even more vigilance in preventing and enforcing laws against discrimination. A renewed

commitment to strong and effective enforcement will help ensure that economic opportunities and progress reach all segments of a diverse American population. For Federal civil rights enforcement agencies, in addition to increased resources, this renewed commitment includes:

- Greater emphasis on prevention and non-litigation remedies to achieve the objectives of Federal civil rights laws;
- Use of additional tools to increase compliance, including the expansion of Alternative Dispute Resolution (ADR) programs;
- Increased use of technology for better management of agency resources and tracking of case-loads;
- Improved statistical methods for measurement and analysis;
- Encouraging the role of the States through increased partnerships in addressing the problems of discrimination; and
- Enhanced coordination by the Department of Justice in addressing Federal civil rights enforcement efforts.

The FY 1999 Budget proposes \$602 million for civil rights enforcement agencies, \$86 million or 16 percent greater than the FY 1998 enacted level of \$516 million, as shown in Table 12-1. Programs and issues in the principal civil rights enforcement agencies, and the U.S. Commission on Civil Rights, are discussed below.

### Enforcing Civil Rights Laws in Employment

The exclusion of people from employment opportunities remains a significant problem facing the workforce today. Approximately 80,000 complaints of employment discrimination are filed annually with the Equal Employment Opportunity Commission (EEOC). Increased statutory responsibilities, including the Americans with Disabilities Act of 1990 and the Civil Rights Act of 1991 have increased the number of complaints that are brought each year. Currently, over 20 percent of all complaints brought before the EEOC are based on disability, while race discrimination, totaling 60 percent of all complaints filed, remains the most widespread discriminatory basis.

The Equal Employment Opportunity Commission (EEOC) is charged with promoting equal opportunity through administrative and judicial enforcement of Federal civil rights laws and through education and technical assistance. Established by Title VII of the Civil Rights Act of 1964, the EEOC enforces the principal Federal statutes prohibiting employment discrimination, including: Title VII of the Civil Rights Act of 1964 as amended; the Age Discrimination in Employment Act (ADEA) of 1967 as amended; the Equal Pay Act

Table 12-1. CIVIL RIGHTS ENFORCEMENT FUNDING

(Budget authority, in millions of dollars)<sup>1</sup>

	1997 Actual	Estimate	
		1998	1999
Equal Employment Opportunity Commission .....	240	242	279
Department of Housing and Urban Development, Fair Housing Activities .....	30	30	52
Department of Justice, Civil Rights Division .....	62	65	72
Department of Labor—Office of Federal Contractor Compliance Efforts .....	59	82	68
Department of Education Office of Civil Rights .....	65	62	68
Department of Health and Human Services, OCR <sup>2</sup> .....	20	20	21
Department of Agriculture .....	10	15	19
U.S. Commission on Civil Rights .....	9	9	11
Department of Transportation, Office of Civil Rights .....	6	6	7
Department of Labor, Civil Rights Center .....	5	5	5
<b>Total</b> .....	<b>496</b>	<b>518</b>	<b>602</b>

<sup>1</sup> Numbers may not add due to rounding.<sup>2</sup> Includes Medicare Trust Fund transfers.

(EPA) of 1963; Title I of the Americans with Disabilities Act of 1990 (ADA); and Section 501 of the Rehabilitation Act of 1973, as amended. Taken as a whole, these laws protect workers from illegal discrimination based on race, color, religion, gender, national origin, age, and disability.

In recent years, Congress provided EEOC with only marginal increases that have been insufficient to support upgrades to technology and investment in alternative methods of enforcing the law. At the same time, increased enforcement responsibilities have 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 at the EEOC 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.

Over the past three years, the EEOC has addressed Congressional concerns about the pending backlog and the lack of alternative dispute resolution methods by making a fundamental shift in its approach to its business. Among the most significant changes are: the development of national and local priority issues; the implementation of a targeted and prioritized charge processing system for private sector cases; and the elimination of full investigation of all cases. Two years after implementing the priority charge handling procedures, EEOC has 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 65,000 pending charges at the end of 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.

Finally, the budget proposes \$13 million for an enhanced mediation program that would double the number of complaints eligible for EEOC's alternative dispute resolution program in FY 1999. 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. Through the use of contract mediators, EEOC would encourage employer participation by addressing employers' concerns about bias by EEOC staff, and would encourage claimants to elect mediation by addressing claimant concerns about the competency of volunteers.

Discrimination by federal contractors is the subject of a separate enforcement effort conducted by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). OFCCP is responsible for ensuring nondiscrimination in employment based on race, sex, religion, color, national origin, disability or veteran status by more than 200,000 Federal contractors and subcontractors with a total workforce of approximately 22 million people. It assures that Federal contractors and subcontractors take affirmative action in hiring and the advancement of minorities and women under the authority of Executive Orders 11246 and 11375. It also enforces the affirmative action and nondiscrimination provisions of the Rehabilitation Act of 1973 and, as an agent of the Equal Employment Opportunity Commission, the Americans With Disabilities Act of 1990. It ensures that contractors comply with the provisions of the Vietnam Era Veterans Readjustment Assistance Act of 1974 providing affirmative action by Federal contractors to employ, and advance in employment, special disabled and Vietnam era veterans.

The FY 1999 Budget includes funds to continue OFCCP's Fair Enforcement Initiative which began in FY 1998. The Fair Enforcement Initiative includes a

streamlined tiered compliance review process which reduces contractor burden while enabling the agency to target the most serious violations. The tiered review process also will enable OFCCP to reach more of the contractor universe, resulting in a 10 percent increase in FY 1999 in the number of compliance reviews conducted. In addition, through the completion of various regulatory changes, OFCCP will reduce contractor burden by at least 30 percent. OFCCP will modernize its computer systems in order to streamline internal procedures permitting the agency, for example, to accept electronically submitted reports from contractors. The Fair Enforcement Initiative, which includes technical compliance assistance, will increase the effectiveness and efficiency of the agency while addressing the persistent problem of systemic discrimination in the workplace.

The Department of Labor (DOL) also operates numerous employment and training programs that seek to enhance the skills and abilities of the nation's workforce. To ensure that these programs are administered in a non-discriminatory manner, the Civil Rights Center (CRC) at the Department of Labor is responsible for enforcing the Federal statutes and regulations that prohibit discrimination in all DOL financial assistance programs and prohibit discrimination on the basis of disability by certain public entities and in activities conducted by DOL. CRC employs a proactive approach towards reducing discrimination, by promoting voluntary compliance with existing non-discrimination laws through education and technical assistance to mitigate the number of complaint filings. To further reduce complaint workload, CRC plans to expand the number of technical assistance visits made to the States to ensure voluntary compliance. The CRC also intends to encourage the States to promote the use of alternative dispute resolution in complaint processing programs at the state level. Methods of Administration (MOA) agreements which are signed by the states as a condition of receiving employment and training funds have also been an effective tool in assisting states in addressing discrimination by ensuring that uniform systems are in place to enforce applicable nondiscrimination laws.

#### Combating Housing Discrimination and Promoting Fair Housing Activities

Despite 30 years of laws and regulations prohibiting housing discrimination, fair housing audits continue to show high indices of discrimination, and mortgage lenders reject minority applicants at higher rates than white applicants. Builders continue to construct housing inaccessible to disabled persons in violation of the Americans with Disabilities Act.

The Department of Housing and Urban Development (HUD) has overall responsibility for the promotion of fair housing and enforcement of the Fair Housing Act of 1968, as amended, which prohibits discrimination on the basis of race, color, gender, religion, national origin, disability or familial status in the sale or rental,

provision of brokerage services, or financing of housing. The Office of Fair Housing and Equal Opportunity (FHEO) administers two grant programs: the Fair Housing Assistance Program (FHAP), which provides financial assistance to supplement enforcement activities of States and localities which have passed laws substantially equivalent to Federal fair housing laws; and the Fair Housing Initiatives Program (FHIP), which 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. These fair housing activities are designed to ensure citizens the freedom and dignity of choosing where to live.

At the State and local government level, agencies with laws equivalent to the Federal Fair Housing Act are estimated to increase from 78 in 1997 to 85 in 1999, and the number of cases processed by these agencies are estimated to increase from 3,797 in 1997 to 6,100 in 1999. FY 1999 funding for the FHAP program is proposed at \$23 million, an \$8 million increase over the FY 1998 level, to support the expected creation of additional State and local fair housing organizations that will meet the needs of currently underserved populations and will be used for joint investigations and enforcement activities.

The FY 1999 Budget also proposes \$10 million for a targeted, audit-based enforcement initiative that would raise the Nation's and communities' awareness of the extent of discrimination through focused and publicly released audit results and subsequent enforcement actions. Paired testing, in which otherwise identical white and minority testers approach realtors or landlords, is a particularly effective method of detecting housing discrimination. This initiative provides for non-profit housing organizations to undertake audit-based fair housing enforcement in 20 areas nationwide to develop local indices of discrimination, to identify and pursue violations of fair housing laws, and to promote new community fair housing enforcement initiatives. The Administration believes that this systematic and focused strategy, replicated across the country, could substantially aid in detecting and reducing levels of housing discrimination. The FY 1999 budget also includes a \$4 million increase in flexible funding for fair housing initiatives, to strengthen Secretary Cuomo's "One America" initiative, including his pledge to double the number of enforcement actions taken by HUD on discrimination complaints. In total, the FY 1999 Budget proposes \$52 million for fair housing activities to enable HUD to meet its goals of reducing discrimination and ensuring equal opportunity in housing.

#### Enforcing Civil Rights in Education and Health Programs

Although much progress fighting discrimination in our schools has been made in the past three decades, the reality of discrimination—sometimes flagrant—remains. Investigations in thousands of cases annually by the Department of Education's Office for Civil Rights

reveal that discriminatory tracking and assessment practices continue, to the detriment of hundreds of thousands of minority, limited English proficient, disabled, and female students. Additionally, instances of racial and sexual harassment continue as pervasive problems that must be addressed.

The Office for Civil Rights (OCR) at the Department of Education is charged with ensuring equal access to education and promoting educational excellence throughout the Nation through vigorous enforcement of civil rights laws and regulations. These laws are: Title VI of the Civil Rights Act of 1964 (prohibiting race, color and national origin discrimination); Title IX of the Education Amendments of 1972 (prohibiting sex discrimination); Section 504 of the Rehabilitation Act of 1972 (prohibiting disability discrimination); Age Discrimination Act of 1975; and Title II of the Americans with Disabilities Act of 1990 (prohibiting disability discrimination in State and local government services). Also, OCR enforces civil rights provisions in Title V, Part A, of the Elementary and Secondary Education Act (the Magnet Schools Assistance program), and provides technical assistance to Federal award recipients and beneficiaries, the public and other organizations in an effort to obtain voluntary compliance with civil rights laws.

OCR's purview currently encompasses a range of issues: discrimination against minorities in special education and remedial courses; discrimination of minorities in math and science and other advanced placement courses; disability discrimination; access to programs for limited English proficient (LEP) students; racial and sexual harassment; discrimination in testing/assessment; gender equity in athletics; and higher education and elementary and secondary school desegregation. Over 50 percent of the complaints OCR receives annually are for disability. On average, OCR receives and resolves over 5,000 discrimination complaints annually. OCR selects its compliance reviews based on field assessments of the greatest problems of unredressed discrimination in the regions. Currently, the greatest percentage of compliance reviews are in the area of race discrimination.

With its increased funding levels in 1998, OCR will hire additional attorneys, reducing its current attorney/case ratio in order to improve the timeliness of its complaint resolutions and increase its compliance reviews. OCR's 1999 budget, an increase of \$6.5 million over FY 1998, will enable it to maintain its increased staffing level, as well as to fund technology improvements and complete the Elementary and Secondary Education School Survey. It will also allow OCR to pursue its goal of building collaborative relationships with parents, students, and educators—focusing on preventing discrimination rather than just remedying it—and building partnerships with States to address statewide compliance with civil rights laws and regulations. A key element of its enforcement strategy involves educating the public about its rights and responsibilities and creating linkages among recipients, beneficiaries, and

community groups for the purpose of achieving the shared goal of civil rights compliance. For example, OCR has encouraged parental involvement in monitoring voluntary action plans. These approaches require a significant investment in time and resources to provide the necessary technical assistance.

Federal health care and social services programs are the responsibility of the Department of Health and Human Services' Office for Civil Rights (OCR). The OCR enforces compliance with Civil Rights statutes to ensure that people have equal access to and do not face discrimination in HHS programs, particularly in the areas of managed care, quality of health care, interethnic adoption, services to limited English proficient persons, and welfare reform. OCR investigates complaints, undertakes pre- and post-grant reviews, and provides outreach and technical assistance. The Civil Rights statutes OCR enforces include Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Title II of the Americans with Disabilities Act of 1990, Title VI and XVI of the Public Health Service Act, parts of the Omnibus Reconciliation Act of 1981 related to non-discrimination within block grant programs, the Multiethnic Placement Act of 1994, and the Small Business Protection Act of 1996 (interethnic adoption provisions).

Over the past few years, HHS' OCR has focused more of its resources on non-complaint activities and increased use of alternative methods to resolve complaints faster. With additional funding in FY 1999, OCR will undertake an increased number of compliance reviews in priority program areas to ensure that discrimination is not occurring within HHS-funded programs and provide more technical assistance and outreach.

#### Government-wide Civil Rights Enforcement and Monitoring

The Department of Justice, Civil Rights Division, serves as the chief civil rights enforcement agency of the Federal government. It has primary responsibility for Federal civil rights litigation and is charged with coordinating Federal civil rights policy. The Division enforces a number of laws providing civil and criminal protections from discrimination on the basis of race, color, religion, gender, national origin, disability, age, familial status, citizenship status, marital status, and source of income, in such areas as employment, education, public accommodations, housing, lending, and programs receiving Federal assistance.

The Attorney General has delegated to the Civil Rights Division primary litigation authority for enforcement of the Civil Rights Act of 1964, the Fair Housing Act, the Equal Credit Opportunity Act, the Americans with Disabilities Act, the Freedom of Access to Clinic Entrances Act, and a number of criminal and civil statutes, including laws prohibiting police misconduct. The Division also enforces Federal constitutional and statutory rights in institutions covered by the Civil Rights

of Institutionalized Persons Act. The Division has instituted a successful mediation program in its Disability Rights Section (the one area where the Division handles initial complaints, rather than referrals from other government agencies).

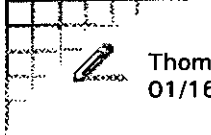
The increased funding proposed in the FY 1999 Budget will allow the Civil Rights Division to significantly expand investigations and prosecutions of police brutality and misconduct, including pattern and practice cases, as well as violations of the Americans with Disabilities Act. The Budget includes a \$1 million increase to enhance the Division's coordination of Federal civil rights enforcement, and \$1.5 million for improvements in information technology, trial preparation, and courtroom presentations.

Finally, the U.S. Commission on Civil Rights has a broad ranging mandate to monitor and report on the status of civil rights' protections in the United States. As an independent, bipartisan agency of the Federal Government, the Commission strives to keep the President, the Congress, and the public informed about civil rights issues that deserve concentrated attention, and to appraise Federal laws and policies with respect to

discrimination or denial of protection of the laws because of race, color, religion, gender, age, disability, or national origin, or in the administration of justice. In doing so, it continually reminds all Americans why vigorous civil rights enforcement is in our national interest.

To meet these responsibilities, the agency evaluates Federal civil rights enforcement programs; investigates and studies allegations of discrimination; maintains a network of regional offices and State Advisory Committees that give the Commission a local presence in communities across the country; and educates the public about civil rights. The additional resources being requested for FY 1999 will allow the Commission on Civil Rights to address more fully today's critical, and still evolving, civil rights problems, including police brutality, hate crimes, and disability rights issues. At the same time, the Commission has taken important steps toward improving the efficiency and effectiveness of its operations. These improvements will help to ensure that the FY 1999 resources are more effective in advancing civil rights in the United States.

Recruit Policy -  
Civil Rts Enf



Thomas L. Freedman  
01/16/98 07:21:16 PM

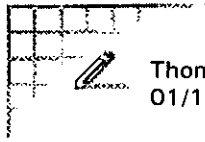
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: 5 out years

Here are the numbers we have so far for 5 years.

	1999	2000	2001	2002	2003
EEOC	279	288	298	308	319
HUD	52	33	33	33	34
HHS	21	21	20	20	21
Civil Rts Comm.	11	11	12	12	12
DOT OCR	7 million each year, 1999-2003				
DOJ Civil Rights Division	72 million each year 1999-2003				
Education OCR	68 million each year 1999-2003				

Rae Hunt Polyzos  
Civ Rts Enf



Thomas L. Freedman  
01/16/98 08:03:09 PM

Record Type: Record

To: Robert B. Johnson/WHO/EOP

cc:

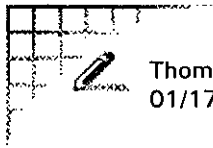
Subject: Civil Rights Budget

We are cranking on a draft one-pager. This information is closely held for Monday's event.

Its crucial parts are:

- \* FY'99 budget for civil rights agencies goes up 14%, an increase of 86 million to \$602 million.
- \* EEOC goes up 15% in budget and has a crucial program to improve the promptness with which cases are heard. By the year 2000, a private sector complaint should be heard on average within 6 months. This backlog issue was emphasized by Henderson. \$10 million is allocated for improved technology.
- \* HUD's office is increased by 70%, including \$10 million for a paired testers program.
- \* The budget also contains his suggestion on improving the coordinating ability of DOJ civil rights by creating a special \$1 million fund to improve coordination.
- \* There is an increased emphasis on providing voluntary mediation options, including a program at EEOC which will expand voluntary mediation in the first three years so that by the year 2000 it will be available to any employers and employees who want it. It does not include those cases that are the highest priority or have public policy interest.
- \* There are increases in the budget at Education, USDA, Civil rights commission, DOJ CRD (10%) and Labor.





Thomas L. Freedman  
01/17/98 11:41:37 AM

Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: Testers

Julie Fernandes has figured out the best way to deal with the number of testers question: HUD says some tests are done by the same people-- you should talk about the number of tests not the number of people doing them. This new program is about 500 tests nationwide (an average of 25 per area). HUD urges this be a new number because this program is essentially "taking the temperture" of housing discrimination around the country and can't be compared to prior programs.

When pushed, they said there are 50 programs/organizations they fund that may be doing testing now, but it is complaint driven and they don't know how many tests an individual organization does.

THE WHITE HOUSE  
WASHINGTON

Stena-

This is a revised version of the CRS proposal. I asked them to focus more on identifying "promising practices" that are aimed at bringing people together to solve concrete problems (communities not in crisis but working together across racial/ethnic lines to solve a common problem). This proposal is more general than the last, but is closer to what I was looking for.

John

Race Initiative Policy -  
Civil Rights Unit

**ONE AMERICA IN THE 21st CENTURY:  
SUSTAINING THE PRESIDENT'S INITIATIVE ON RACE**

**A Proposal Submitted by  
the Department of Justice, Community Relations Service**

This proposal outlines a comprehensive strategy to help bring about racial reconciliation in America, building on the momentum, interest and community actions initiated by the President's Initiative on Race. It envisions an integrated approach which includes: identifying, testing and replicating promising practices in racial reconciliation, and conducting constructive race dialogues - a problem-solving approach to identify and resolve issues that cause racial divides.

**I. Identifying, Testing and Conducting Best and Promising Practices in Racial Reconciliation** **\$3,000,000**

In Fiscal year <sup>99</sup>1998, CRS proposes to initiate a comprehensive program to test promising practices in jurisdictions across the country. An identification, screening and selection process will be designed and implemented to determine promising practices for replication at model sites.

Race relations experts agree that constructive dialogue is widely accepted as one of the most effective "promising practices" in addressing race relations. A "How to Dialogue Kit," supplemented by training and technical assistance to groups conducting dialogues, will be implemented as part of this proposal, including "train the trainer" sessions. By this program, an infrastructure to coordinate and sustain community race dialogues will be institutionalized.

**II. Promising Practices Replication: Technical Assistance, Field Training and Technology Transfer** **\$2,150,000**

Independent of the model sites, CRS will survey and disseminate on-site training and technical materials to local officials and community representatives on promising practices. Whether from urban, suburban or rural communities, planning teams will be provided on-site training at field sites in communities where innovative programs in race relations have improved race relations and the quality of life. After visiting model communities, these teams will return to their own community and be provided hands-on training and technical assistance by selected trainers from the model communities. This program will address the diverse needs of different communities across the country, based on differences in demographics, size, and issues.

**III. Sharing and Promoting Promising Practices: Information Dissemination** **\$1,000,000**

State-of-the-art information will be developed and made available through Internet, the print media, video tapes, and other media. There is presently no national archive available to collect and disseminate information and materials addressing race relations and different avenues of promoting racial harmony. Information would be sent distributed through Internet, print, and other media. As appropriate, satellite conferences would be offered as an economical and expedient manner of communications.

**TOTAL COSTS:** **\$6,150,000**

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