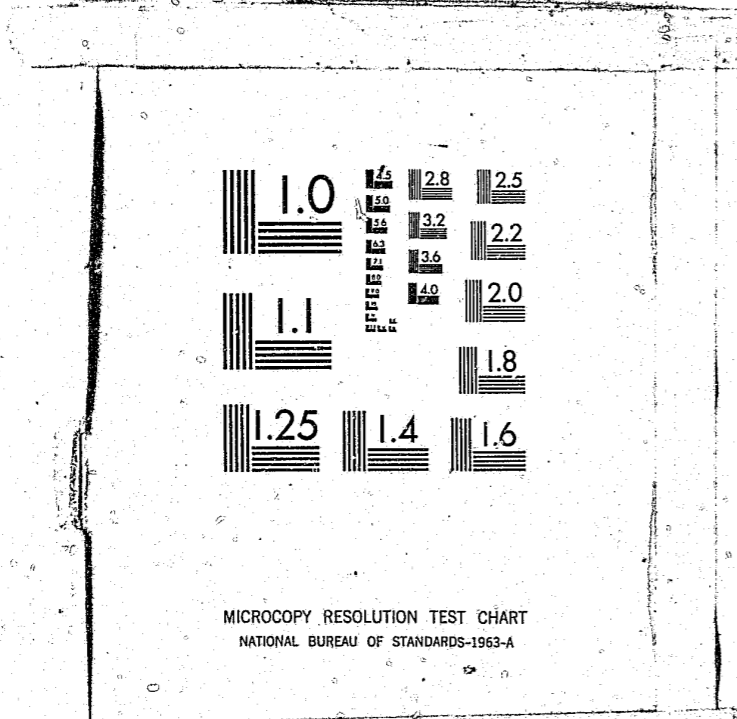


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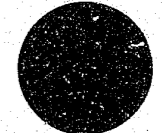
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U.S. DEPARTMENT OF JUSTICE
Office of Justice Assistance, Research, and Statistics



Civil Rights Enforcement Under The Crime Control Act of 1976 And The Justice System Improvement Act of 1979

80325

Progress Report
1976-1980

CIVIL RIGHTS ENFORCEMENT
UNDER THE
CRIME CONTROL ACT OF 1976
AND THE
JUSTICE SYSTEM IMPROVEMENT ACT OF 1979
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U.S. Department of Justice
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U.S. Department of Justice

Office of Justice Assistance, Research,
and Statistics

Washington, D.C. 20531

November, 1980

Federal agencies must go to all lengths necessary to insure that every citizen has equal access to services, opportunities, and assistance which the government provides. Wherever civil rights are denied, through any form of discriminatory activity, it is the responsibility of the government to detect the problem, halt the practice, and provide relief to the aggrieved party.

The Office of Justice Assistance, Research, and Statistics (OJARS) and its sister agencies--the Law Enforcement Assistance Administration (LEAA), National Institute of Justice, and Bureau of Justice Statistics--are deeply committed to meeting responsibilities in this important area. Embodied in the law which created these agencies, the Justice System Improvement Act, is a requirement that a termination of funds be instituted where a recipient has violated Federal prohibitions against discrimination. Though short in wording, this requirement has proven to be long in effect.

By the end of fiscal year 1980, OJARS' Office of Civil Rights Compliance received and docketed more than 1,000 allegations of prohibited discriminatory activity by recipients of OJARS and LEAA funds. By the end of this same fiscal year, the office resolved more than 80 percent of all the cases docketed.

On the pages of this progress report, the reader is provided with an understanding of how the office was created, how it works, and how it succeeds. Clearly, the record presented is one of sensitivity, accomplishment, and effective law enforcement.

A handwritten signature in black ink, reading "Robert F. Diegelman".

Robert F. Diegelman
Acting Director

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INTRODUCTION

This report highlights the activities of the Office of Justice Assistance, Research and Statistics' (OJARS) Office of Civil Rights Compliance (OCRC) since Section 518(c) of the Crime Control Act of 1976 was implemented by final regulations that became effective February 16, 1977.

OCRC is responsible for monitoring and investigating over 39,000 recipients of grant funds from the Law Enforcement Assistance Administration (LEAA), the Bureau of Justice Statistics (BJS), and the National Institute of Justice (NIJ). In addition to monitoring the civil rights enforcement procedures pursuant to Section 815(c), OCRC also has other duties that include providing technical assistance, interacting with State Criminal Justice Councils (SCJC) and State Human Rights Commissions, and coordinating OJARS' civil rights responsibilities. OCRC conducts no independent administrative enforcement proceedings, but recommends hearings and sanctions to the Office of the General Counsel for review and action.

The operations of OCRC, as well as criticism leveled at LEAA's past performance in civil rights compliance, are addressed in the nine sections of this report.

It is hoped that the report will provide insight into the civil rights operations of OJARS.

I. HISTORICAL PERSPECTIVE

The Omnibus Crime Control and Safe Streets Act of 1968 established the Law Enforcement Assistance Administration. The Act assigned to LEAA responsibility to administer a new, major block grant program and several discretionary grant programs; provide technical and academic assistance; and conduct research and development activities.

In 1971 Congress amended the Act that established LEAA, making a number of significant changes in the law. A widespread reorganization of LEAA occurred in the closing weeks of fiscal year 1971. A new Office of Civil Rights Compliance was formed to assume LEAA's enlarged responsibilities to ensure that grantees complied with Federal civil rights legislation, primarily Section 601 of Title VI, codified as 42 U.S.C. 2000(d).

In 1973 Congress adopted Subsection 518(c) of Title I of the Omnibus Crime Control and Safe Streets Act. It contained a broad prohibition against the use of LEAA funds for discriminatory purposes or effects. The intention was to have LEAA seek civil rights compliance by administrative enforcement rather than by relying upon judicial enforcement.

In 1974 the United States Commission on Civil Rights (USCCR) conducted a comprehensive analysis of Federal civil rights agencies with responsibilities under Title VI of the 1964 Civil Rights Act.

The Commission's report, issued in November 1975, was prepared under the supervision of Jeffrey Miller, then Assistant Staff Director for Federal Civil Rights Evaluation. The report concluded that the Federal effort to establish viable equal opportunity programs had been well-meaning but ineffectual. The report directed specific criticisms at LEAA; these are addressed in appropriate sections of this report.

The Commission's basic criticism was reinforced later in the Committee on the Judiciary's Report to the House of May 15, 1976. It noted:

The response of LEAA to the 1973 civil rights amendments has been less than minimal. In December 1975, two years and four months after the enactment of the 1973 amendments, LEAA published in the Federal Register proposed regulations to implement the 1973 amendments.

LEAA has never terminated payment of funds to any recipient because of a civil rights violation. Despite positive findings of discrimination by courts and administrative agencies, LEAA has continued to fund violators of the Act.

Representative John Conyers, who chaired the Subcommittee of the Committee on the Judiciary, expressed the following opinion:

It is my view that the argument surrounding LEAA's performance in the area of civil rights is caused by a fundamental difference in the understanding of the purpose and intent of the remedies contained in the civil rights provisions of the Act. On the one hand, there are those who believe that the termination provisions of the Act, that is the cutoff of Federal funds, should be used freely when evidence of discrimination is found. On the other hand, there are

those who view the LEAA program as one primarily for assistance to State and local criminal justice agencies for use in the long-range fight against crime. This latter school of thought holds that fund termination is the most drastic remedy available and should be used sparingly. Because of these differences and certain ambiguities have arisen in the determination of how the civil rights provisions of the Act should be administered. Therefore, in my view, a clarification of the intent of Congress is needed to establish just when and how the various procedures contained in the Act should be used. (H/9284, Congressional Record, August 31, 1976.)

Representative Barbara Jordan provided not only clarification of the issues but specific timeframes to serve as a remedy for LEAA's inaction. Her approach was to use an amendment to the Crime Control Act, at Section 518(c), and it came to be known as the "Jordan Amendment". Section 518(c) eliminated agency discretion in initiating the cutoff of funding. Instead, the occurrence of certain specified events would automatically initiate administrative procedures which could result in the cutoff of funding.

By adding the clause "or denied employment" to the enumerated prohibitions of discrimination, Section 518(c) resolved what the USCCR had termed a very important issue; that is, whether the Crime Control Act's prohibition against discrimination broadly prohibits employment discrimination in LEAA-funded programs. (USCCR Report, Vol. VI, p 280.) With the addition the Crime Control Act clearly prohibited all employment discrimination based upon race, color, religion, national origin or sex in LEAA-funded programs. Discrimination proscribed by Title VI was also included.

Section 518(c) also required LEAA/OCRC to promulgate two sets of new regulations pertaining to investigations and reviews by mid-February 1977. The first established reasonable and specific time limits for LEAA and OCRC to respond to the filing of a complaint, to institute an investigation, to make an appropriate determination, and to advise the complainant of the status of the complaint. The second set of regulations established reasonable and specific time limits for LEAA and OCRC to conduct independent audits and reviews in order to determine recipient compliance with nondiscrimination procedures.

Both sets of regulations were published in the Federal Register of February 16, 1977. (Vol. 42, No. 32, pp. 9492-9503.) They were amended on June 30, 1978, with technical changes only and were republished in the Federal Register (Vol. 43, No. 127, pp. 28794-28804.)

On December 27, 1979, the Crime Control Act was amended by the Justice System Improvement Act. Section 518(c) in the former Act was replaced by Section 815(c) in the new Act, now codified at 42 U.S.C. 3789d(c). The provisions of Section 815(c) are, however, substantially identical to its predecessor.

The Justice System Improvement Act did create the Office of Justice Assistance, Research, and Statistics (OJARS). OCRC is now located in the organizational structure of OJARS wherein it provides civil rights compliance support not only for LEAA, but also for the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS).

Pursuant to the new Act, amended regulations were published in the Federal Register of April 30, 1980. (Vol. 45, No. 85, pp. 28704-28712.)

Thus, Section 815(c) continues in effect the most comprehensive civil rights enforcement scheme enacted by Congress. It creates a combined enforcement approach for Titles VI and VII, codified as 42 U.S.C. 2000(d) and 2000(e), by covering not only the provision of services and benefits, but also the entire employment process. The regulations enforced by OJARS pursuant to Section 815(c) provide a mechanism to ensure timely resolution of allegations of discrimination.

In 1977 the American Civil Liberties Union commented:

The Law Enforcement Assistance Administration similarly is governed by a new statute, the Crime Control Act of 1976, which also sets forth strict requirements for civil rights enforcement. Unlike the ORS response, however, the LEAA response has been positive and effective. First, LEAA promulgated timely proposed regulations. Second, LEAA's final regulations were quite good. (LEAA adopted most of the ACLU comments). Third, LEAA applied the new statute retroactively to all outstanding court orders and administrative complaints. And, fourth, LEAA has sent dozens of noncompliance notices and has suspended funding to approximately ten noncomplying recipients.

("The Carter Administration and Civil Liberties:
The First Six Months", July 20, 1977; ACLU.)

Since the publication by the ACLU of the document quoted above, the Office of Civil Rights Compliance has continued to utilize and refine the resources noted, along with others, in order to streamline its procedures and avoid any recurrence of the problems previously encountered.

II. PRE-AWARD REVIEW

In addition to its obligation concerning the conduct of compliance reviews, the Compliance Review Division has also been involved in the following activities:

1. The Division reviews funding requests for \$500,000 or more from recipients. An applicant for OJARS assistance for \$500,000 or more must submit its Equal Employment Opportunity Program (EEOP) along with its application for funding. The EEOP must be approved by the Division prior to award. Failure on the recipient's part to address this requirement can result in rejection of the proposal. During FY 1979, the Division conducted 237 pre-award reviews. During FY 1978, 86 pre-award reviews were conducted; 44 were conducted in FY 1977.
2. When considering recipients for possible compliance review selection, EEOPs are often requested and evaluated by the Division. During FY 1979, 124 EEOPs were evaluated by the Division for the above reason as well as related matters. During FY 1978, 85 EEOPs were evaluated; 32 EEOPs were evaluated in FY 1977.
3. Upon request, the Division frequently will either provide technical assistance directly to recipients or arrange for one of its contractors to provide the necessary assistance. Most often, such requests involve training in the preparation of an EEOP, the development of a minority/female recruitment program, and/or the

validation of certain recipient employment policies and practices. We have responded to several such requests since 1977.

4. The Division conceptualized and drafted the Equal Service Evaluation Program Guidelines, Subpart I. It assisted the Office of General Counsel in the revision of Subpart D regulations (Nondiscrimination in Federally-Assisted Crime Control and Juvenile Delinquency Programs) and Subpart E Guidelines (EEOP Guidelines).
5. The Division provided the Office of Juvenile Justice and Delinquency Prevention (OJJDP) with the civil rights provision to be included in all future program announcements.
6. The Division provided the Office of Criminal Justice Program (OCJP) with revised language for the civil rights section of the Formula Grant Manual.
7. In addition, the Division has been reviewing other OJARS and LEAA Guidelines and regulations in an effort to assure uniformity and consistency.
8. The Division is currently drafting revised civil rights requirement language for the Agency's Discretionary Grant Manual.

III. OPERATIONS DIVISION

In the preamble to the nondiscrimination regulations, 42 Federal Register 9493, LEAA stated that during the succeeding eight months it would monitor its performance under the new complaint investigation timetables and shorten the time periods if experience demonstrated that such a step was warranted. For the reasons set forth below, OJARS does not believe it can shorten the timetables at this time.

Regulations Governing the Operations Division

The Operations Division is responsible for processing cases under 28 CFR 42.205. The details of that regulation follow.

§42.205 Complaint Investigation. The Administration shall investigate complaints that allege a violation of Section 815(c) of the Justice System Improvement Act; Section 262 of the Juvenile Justice Act; and Section 504 of the Rehabilitation Act of 1973. No complaint will be investigated if it is received more than one year after the date of the alleged discrimination (180 days for Handicap complaints) unless the time for filing is extended by the Director of OCRC for good cause shown.

The Administration shall conduct investigations of both handicap and non handicap complaints, as follows:

Within 21 days of receipt of a complaint, the Administration shall ascertain whether it has jurisdiction under paragraphs (a) and (b) of this

section. If jurisdiction is found, notify the recipient alleged to be discriminating and initiate the investigation.

The investigation will ordinarily be initiated by a letter requesting data pertinent to the complaint and advising the recipient of the nature of the complaint, and, with the written consent of the complainant, the identity of the complainant; the program or activities affected by the complaint; the opportunity to make, at any time prior to the receipt of the OJARS findings, a documentary submission, responding to, rebutting, or denying the allegations made in the complaint; and the schedule under which the complaint will be investigated and a determination of compliance or noncompliance made. Copies of this letter will also be sent to the chief executive of the appropriate unit(s) of government, and to the appropriate SCJC.

Within 150 days or, where an on-site investigation is required, within 175 days after the initiation of the investigation, the OJARS shall advise the complainant, the recipient, the chief executive(s) of the appropriate unit(s) of government, and the appropriate SCJC of its preliminary findings; where appropriate, its recommendations for compliance; and if it is likely that satisfactory resolution of the complaint can be obtained, the opportunity to request the OJARS to engage in voluntary compliance negotiations prior to the OJARS' determination of compliance or noncompliance.

If, within 30 days, the OJARS recommendations for compliance are not met, or voluntary compliance is not secured for non-handicap complaints, the

matter will be forwarded to the Director for a determination of compliance or noncompliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Director makes a determination of noncompliance with section 815(c) of the Justice System Improvement Act, or section 262 of the Juvenile Justice Act, the OJARS shall institute administrative proceedings pursuant to §42.208 et seq.

If, within a reasonable period of time, the OCRC's recommendations for compliance are not met, or voluntary compliance is not secured for handicap complaints investigated, the matter will be forwarded to the OJARS, Office of General Counsel for enforcement proceedings in accordance with regulation at §42.106 et seq.

If the complainant or another party, other than the Attorney General, has filed suit in Federal or State court alleging the same discrimination alleged in a complaint to OJARS, and during OJARS' investigation, the trial of that suit would be in progress, OJARS will suspend its investigation and monitor the litigation through the court docket and contacts with the complainant. Upon receipt of notice that the court has made a finding of discrimination within the meaning of §42.208, the OJARS will institute administrative proceedings pursuant to §42.208 et seq.

IV. COMPLIANCE REVIEW

With the enactment of the Crime Control Act of 1976, a major emphasis was placed on enforcing civil rights compliance among fund recipients. To do this, there was an increase in the use of the civil rights compliance reviews. The responsibilities of the Compliance Review Division in part, include the conduct of on-site compliance reviews as well as desk audit reviews.

In many respects an on-site compliance review is similar to a fiscal or management audit. It starts with an analysis of data generated by the recipient; proceeds to an analysis of its policies, practices and procedures; and concludes with detailed determinations that the agency's various operations are either satisfactory or in need of specific improvement(s).

OJARS/OCRC reviews the operations and employment data and practices of a recipient agency in an effort to ensure compliance with EEO law, regulations, and guidelines. This review may be conducted as an OJARS desk audit of data and information provided by the recipient agency, or it may be conducted as an on-site investigation.

Prior to the mandate given OJARS by Congress and the Crime Control Act of 1976, OCRC conducted two to three reviews a year on the average. In fact, the USCRC severely criticized LEAA's (since named OJARS) past performance:

... The existence of this procedure has become irrelevant as LEAA rarely conducts compliance reviews. Although LEAA has thousands of recipients, from the time of its creation through January 1975, OCRC had conducted only 18 postaward compliance reviews. Moreover, at least 14 of these were completed before July 1973 and only one was completed since May 1974. LEAA stated that postaward compliance review activities have been drastically reduced in recent years because of its emphasis on pre-award reviews. This explanation is not fully accurate, since the emphasis on pre-award reviews has been limited to the Compliance Review Division, which is far too small. It is clear from LEAA's allocation of staff between the Compliance Review and Complaint Investigation Divisions that LEAA places little emphasis on pre-award or postaward compliance reviews. Rather, its greatest emphasis is on complaint processing.

The Compliance Review Division has increased the number of reviews, thus addressing the concerns of the USCRC and others.

The Compliance Review Division has divided the country into geographical sections, thereby ensuring that all major areas are visited on a rotating basis. Also, various types of recipient agencies are selected so that a sampling of problems experienced by all categories of recipients is obtained rather than the previous concentration on police departments. Since December 1977, reviews have been conducted in the following states: Connecticut, Tennessee, Missouri, Texas, Utah, Florida, South Dakota, Massachusetts, North Carolina, Arkansas, Nebraska, Washington, Kentucky, Delaware, Arizona, Ohio and Kansas. Agencies reviewed have included municipal, county, and state law enforcement agencies; a state prison; a state parole board; and a state family court system.

As a result of these reviews, eight resolution agreements have been signed covering employment and services issues, and others are in the process of preparation and negotiation. Whereas the early program

emphasis was on law enforcement agencies, corrections and court systems are receiving added emphasis.

In addition to major reviews, the Division, acting in accord with Congressional intent, is conducting mini-reviews (reviews involving a single issue as opposed to many issues).

In all of the above-cited cases, the Division has closely coordinated its field reviews with the appropriate Criminal Justice Councils (CJCs), and in at least a fourth of the reviews, the CJC staff person responsible for civil rights has worked with the review team during the on-site review.

The Division has also received the cooperation of the recipients during the reviews. A number of the agencies reviewed have commented that the reviews were helpful from a management viewpoint.

The actual mechanics of a compliance review are as follows:

The first step is to solicit information from current OJARS recipients to use in the process of selecting an agency for review. The primary document requested is the agency's Equal Employment Opportunity Program (EEO). However, other data related to employment practices and service delivery may also be requested.

Additionally, other criteria are used in selecting an agency for review.

As specifically stated in 28 CFR 42.206(b), the five factors which may be considered are:

- 1) The relative disparity between the percentage of minorities or women, in the relevant labor market, and the percentage of minorities, or women, employed by the recipient;
- 2) The percentage of women and minorities in the population receiving project benefits;
- 3) The number and nature of discrimination complaints filed against a recipient with OJARS or other federal agencies;
- 4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with OJARS against a recipient; and
- 5) The amount of financial assistance provided to the recipient.

In addition to these selection criteria, the Division has attempted to cover all protected classes. For instance, the South Dakota State Prison was selected for review in part because of the large number of Native American inmates incarcerated there and also because of official concern expressed directly to OCRC by LEAA's (since named OJARS)

Minority Advisory Council and the U.S. Civil Rights Commission regarding prison conditions. The Massachusetts Parole Board was selected because the Division had not yet reviewed a parole board and the Massachusetts agency had a significant number of Black and Hispanic clients.

Once an agency has been selected for review, OJARS notifies the recipient in writing. Copies of this selection notification are also sent to the chief executive of the appropriate unit of government and the relevant SCJC. Generally, this notification contains a request for any additional information and data required for the conduct of the review. In all cases, however, it advises the agency of:

- o The practices to be reviewed;
- o The programs or activities affected by the review;
- o The opportunity to make, at any time prior to receipt of OJARS' findings, a documentary submission responding to OJARS, explaining, validating, or otherwise addressing the practices under review; and
- o The schedule under which the review will be conducted and a determination of compliance or noncompliance made.

If the review does not require a site visit, all data will be assessed by OJARS and findings forwarded to the recipient and the relevant chief executive and CJC within 150 days from the initiation of the review.

Where an on-site review is deemed appropriate, the Office of Civil Rights Compliance plans one field visit. This visit is either a mini-review or a full review by a team of either a few or several investigators with experience and background in criminal justice service delivery and public personnel administration. The review team tracks the agency's day-to-day practices for consistency with federal, state and/or local laws, rules and regulations; analyzes the resource utilization; and verifies the reported data. Additionally, the investigation often covers the current "state of the art" in employment referral and selection policies and procedures. The purpose of this latter activity is to help determine whether any Equal Employment Opportunity Program modifications are in order. Findings and any proposed resolution agreement are forwarded to the recipient agency and the relevant chief executive and CJC within the 175-day period from initiation of the review.

The findings of this civil rights compliance review process contain, where appropriate, the proposed resolution agreement for compliance. The recipient is also advised that voluntary compliance negotiations may be requested with OJARS prior to a determination by the Director of compliance or noncompliance with Section 815(c) of the JSIA.

This negotiation period is limited to 30 days from the date that any proposed agreement for compliance is made by OJARS. Should an agency choose to comply voluntarily with OJARS recommendations, the resolution agreement must be executed within its same 30-day period.

Should the situation arise where compliance is not secured in the 30 day timeframe, the matter is then forwarded to the OJARS Director for a determination of compliance or noncompliance. If the determination of the Director is one of noncompliance, OJARS is obligated to forward a formal Notice of Noncompliance which begins the process that may lead to fund termination.

V. RESULTS

Both the Operations and Compliance Review Division of OCRC get results. Unlike the state of affairs documented in USCCR's Report, OJARS is taking administrative action to remedy violations of antidiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968 (as amended, 42 U.S.C. 3701 et seq.) and the Juvenile Justice and Delinquency Prevention Act of 1974 (as amended, 42 U.S.C. 5601, et seq.).

Below is a listing of cash settlements, compliance agreements, and other satisfactory resolutions achieved by OCRC's Divisions since February 16, 1977.

Jacksonville, Florida, Police Department--The issue was failure to hire based on race discrimination. The Respondent entered into a Voluntary Compliance Agreement with the Office of Revenue Sharing that addressed the issues in the LEAA complaint. Separate reporting requirements were established after the Agreement was modified by LEAA to meet reporting requirements deemed necessary to continue monitoring progress by the Respondent. This resolves the complaint issues.

Missouri Highway Patrol and St. Louis, Missouri, Metro Police Department--The issue was race discrimination in hiring qualified Blacks. The Respondents signed Voluntary Compliance Agreements.

1. St. Louis--agreed to take corrective measures regarding: (1) entrance-level testing, (2) physical examination pass/fail rates by monitoring and correcting as appropriate, (3) personnel assignments, (4) equipment assignments, and (5) minimum height requirements.
2. Missouri Highway Patrol--agreed to take necessary corrective measures regarding: (1) minimum height requirements, (2) written examination validation, (3) oral boards, (4) background investigations, (5) forty percent minority in training classes until parity reached, and (6) recruiting practices and recruiting materials.

Costal Area Planning and Development Commission, Brunswick, Georgia--The issue was race and sex discrimination resulting in the Complainant's employment termination. Investigated by LEAA, Department of Commerce, and EEOC. EEOC negotiated the conciliations agreement which were then adopted by LEAA. The agreement provides for a \$909.00 cash settlement for the Complainant. The agreement also provides for adherence to or implementation of improved employment practices regarding hiring, promotion, and other employment conditions. A second EEOC negotiated conciliation agreement adopted by LEAA provides for a \$3,516.00 cash settlement for the Complainant.

Dallas, Ft. Worth, Texas, Regional Airport--Department of Safety-- The issue was race discrimination resulting in the Complainant's dismissal from employment with the Respondent. The Resolution Agreement provides that although Complainant had been employed by the Respondent, his file was to be sealed in its entirety and no employment history was to be provided, except Complainant had been employed by Respondent.

New Orleans, Louisiana, Police Department--The issue was sex discrimination--minimum height requirement disqualified the Complainant from becoming a police officer. During investigation an out-of-court settlement was reached which resulted in \$750.00 cash settlement. The Complainant then withdrew the complaint since she no longer desired employment with the Respondent. Minimum height requirement was dropped. (Individual Complainant). A second similar complaint was filed. After the height requirement was dropped the Complainant received a \$1,200 cash settlement and then withdrew complaint.

Austin, Texas, Police Department--The issue was sex and national origin discrimination based on a failure to promote Complainant. A Consent Decree was entered which brought about a settlement that resulted in a payment of \$7,332.00 to settle the lawsuit and LEAA complaint. The Complainant had been demoted to a lower paying position; through the settlement she was promoted to a senior records clerk position, with appropriate back pay.

Lee County, Florida, Sheriff's Department--The issues were sex discrimination in failure to hire and race discrimination in keeping segregated facilities. The Department admitted to segregated facilities for what is described as the hardened criminal element. They have provided assurances that facilities are now desegregated.

The Resolution Agreement between LEAA and Respondent provides that Complainant's employment application will be processed for Deputy Sheriff position; and assigned to road/patrol duty, using criteria that are sexually nondiscriminatory. Should Complainant succeed through the application process the issue of back pay must be resolved in agreement with LEAA.

Alameda County, California, Department of Probation--The issue was race discrimination--unvalidated promotion test. Respondent agreed to discontinue use of the Deputy Sheriff Probation Officer II test until adverse impact was eliminated and the other minority candidates had an opportunity to qualify for the position as measured by selection criteria demonstrated to be valid and as racially neutral as possible.

Garner, North Carolina, Police Department--The issues were race discrimination, specifically, failure to promote and disciplinary action resulting in being dismissed for filing a complaint. The parties agreed to a cash settlement of \$2,000.00 and release by Complainant of all claims of race discrimination against the police department.

Henderson, North Carolina, Police Department--The issue was sex discrimination--failure to promote and function as a patrol officer although hired for that position. The agreement provides for a monetary settlement of \$1,650.000 in attorney's fees and will allow the Complainant to compete for promotion without any prejudice for having filed a complaint with LEAA and EEOC.

Bristol Township, Pennsylvania, Police Department--The issues were race and sex discrimination in that the entry-level tests discriminated against minorities. The Respondent entered into a Voluntary Compliance Agreement with the Pennsylvania Human Rights Commission, which LEAA adopted after LEAA's investigation determined that the police department was complying with the terms of the agreement.

San Francisco, California, Police Department--The issue was services. The complaint alleged that the LEAA recipient had failed to provide adequate services to the Chinese-speaking community of San Francisco. The OCRC investigation revealed that approximately half of the city's 65,000 Chinese-speaking residents did not speak English and that the recipient's employment figures showed that only five of the Department's 1,670 sworn personnel (0.3%) were bilingual (Chinese-English).

Interviews conducted with Chinese-speaking residents and sworn police officers described the adverse effect of Respondent's absence of bilingual (Chinese-English) officers on services to the Chinese community.

The main issues were related to the inability of the recipient to make timely and meaningful responses to calls for assistance. The Voluntary Compliance Agreement represents twelve (12) areas in which San Francisco Police will improve the services to the Chinese community.

A major significance of successful resolution of this case is that LEAA became the first Federal agency to negotiate an agreement requiring a local government to deliver equitable law enforcement services to a particular segment of a community under Title VI of the 1964 Civil Rights Act.

Harrisburg, Pennsylvania, Police Department and Police Civil Service Board--The issue was race discrimination through the use of an unvalidated test. Investigation was deferred to the Pennsylvania Human Rights Commission. (PHRC). Voluntary compliance agreement was entered into between City of Harrisburg and PHRC. Through the agreement, new testing procedures will be developed by the City with LEAA/OCRC technical assistance; existing hiring lists will be abolished; and within 180 days of agreement a new class of eight men will include five Black officers. The PHRC findings and agreement were adopted by OCRC, consistent with the Federal Administrative Procedures Act as required by LEAA Regulations.

Shawnee County, Kansas, Sheriff's Office--The issue was failure to hire based on the race and sex of the Complainant. A Consent Decree entered by the Shawnee County District Court provides for a case settlement of \$3,500.00 as complete settlement against any and all claims of the Complainant.

Annapolis, Maryland, Police Department--The issue was sex discrimination in employment. The Respondent failed to consider Complainant's application because she did not meet the minimum height standard. Investigation showed that the Respondent had not validated its minimum height standard and failed to sustain a bona fide occupational qualification defense.

The Resolution Agreement provides the Complainant an opportunity to re-enter the hiring process and disallows the use of the current minimum height standard until it has been validated. Respondent is to evaluate Complainant's progress without prejudice and if she successfully completes the process, notify LEAA of the dates of certification and placement on the eligibility list.

State Police Merit Board, Springfield, Illinois--The issue was race discrimination. The Complainant alleged being rejected for employment because of a juvenile arrest record. The complaint, also filed in Federal District Court, was closed as a result of the Court's action in issuing an order which held against the Complainant and subsequent denial of a preliminary injunction was affirmed by the U.S. Court of Appeals.

Brunswick, Georgia, Sheriff's Department--The issue was race discrimination resulting in the Complainant's discharge from employment. By consent of the parties it was ordered that the defendant was enjoined and restrained from discriminating against any person in his employment, specifically including hiring, promotion, and discharge practices and benefits or any other term or condition of employment. The defendant was also enjoined from interfering in free speech and association of employees with a former sheriff of Brunswick County.

Cook County, Illinois, Sheriff's Department--The issues were employment policies and practices that discriminated against Blacks, Hispanics, and women based on race, color, sex and national origin. The parties to the complaint negotiated a Settlement Agreement that was accepted by the Federal District Court and addressed all issues in the complaint. LEAA complaint closed on basis of court action and the independent conciliation of the parties.

Colorado State Penitentiary--The issues were promotion and demotion (specifically against the Complainant) and generally failure to promote, reassign, and place Blacks in management positions and adequately train Blacks based on race. The parties entered into a Voluntary Conciliation Agreement with the Respondent and the Colorado Department of Personnel to resolve all issues in the complaint. The Complainant then withdrew the LEAA complaint.

Ames, Iowa, Police Department--The issue was sex discrimination in failure to hire a qualified female. Department made offer to Complainant to reapply for a patrol officer position. Complainant failed to respond to offer and LEAA closed matter since the Respondent complied with LEAA's terms of resolution.

Wisconsin Fire and Police Commission--The issue was sex discrimination in failure to hire. Consent order was filed resolving the issues against the Fire Department and setting hiring goals for minorities with the U.S. District Court in Milwaukee.

New Rochelle, New York, Police Department--The issue was race discrimination in recruiting, hiring, and promoting. Problems were resolved through the Department's Affirmative Action Program with LEAA's consent and monitoring efforts.

Oklahoma Department of Corrections--The issue was race discrimination in failure to hire. LEAA closed complaint based on agreement by Oklahoma State Merit System to develop and validate new tests, and on progress by Department increasing percentage of minority employees.

Clackamas County, Oregon, Sheriff's Office--The issue was sex discrimination in failure to hire. Respondent made offer to Complainant to reapply for employment; however, she failed to respond to the offer. Consequently, LEAA closed case.

Bi-State Metropolitan Planning Commission (Illinois and Iowa)--The issue was race discrimination in employment practices in general. LEAA endorsed the findings of the Department of Transportation that resulted from a compliance review by that agency. Respondent accepted DOT's recommendations calling for a change in its employment practices.

Des Moines, Iowa, Police Department--The issue was sex discrimination in employment practices in general. Respondent complied with LEAA recommendations to eliminate references to sex in job classifications, etc., give females an opportunity to occupy the radio operator position and have males occupy LENCIR (Law Enforcement Network Central Iowa Region) operator positions.

La Crosse County, Wisconsin, Sheriff's Department--Issues were failure to promote, wages, and conditions of employment because of the sex discrimination. The matter was resolved by a consent decree entered into by both parties and the complaint was withdrawn.

Oklahoma Department of Corrections--Issue was failure to hire on the basis of race. The issue was resolved based on an agreement that the Respondent would develop new tests where present tests were found to be culturally biased.

Wisconsin Department of Health & Social Services, Division of Corrections--The issue was discrimination in hiring practices on the basis of race. The case was closed due to the progress made and good faith efforts demonstrated by the Respondent to increase minority employment.

Ramsey City, Minnesota, Sheriff's Department--The issue was discrimination in employment practices based on sex. The Complainant was hired and the complaint withdrawn.

Yonkers Police Department, New York--The issue was discrimination in employment based on national origin. The resolution was made by a conciliatory agreement and the Respondent amending his Affirmative Action Program.

American Bar Association, Washington, D.C.--The issue was discrimination against women in employment benefits. The complaint was withdrawn when a settlement was reached that resulted in the Association's policies being changed and back pay granted to the aggrieved party.

Wisconsin Department of Health and Social Services--The issue was discrimination in hiring because of race. The Complainant was hired and the complaint was withdrawn.

New York State Police--The issue was discrimination in employment based on race and sex whereby qualified Whites were passed over to select minorities and females. The matter was resolved by decision that no persons would be accepted for training who were ranked lower on the eligibility list than the Complainants (three separate complaints).

Project Intercept, Inc.--The issue was discrimination in employment and discharge based on sex. The matter was resolved through conciliation agreement negotiated on behalf of the Complainant, whereby, she was reinstated, received back pay, and received all benefits that would have accrued had termination not taken place.

Dade County, Florida, Administrative Office of the Courts--The issue was discrimination in employment (promotion) based on sex. The complaint was withdrawn because an acceptable settlement was reached between the parties. The Complainant was promoted and given back pay.

Gwinnett, Georgia, Police Department--The issue was sex discrimination in employment resulting in failure to hire the Complainant. The Respondent agreed to adopt the affirmative action steps recommended by LEAA.

Clark County, Nevada, Juvenile Court Service--The issues were racial discrimination in employment, failure to promote, and job assignments. Complainant was given promotion and training opportunities.

Atlanta, Georgia, Police Department--The issue was sex discrimination in employment resulting in failure to hire. The Respondent eliminated the height requirements.

Union Correctional Institution, Florida--The issues were racial discrimination in employment and facilities. Respondent adopted the recommendations of the LEAA review team and made additions to their Equal Employment Opportunity Program and changed the housing patterns of inmates.

South Carolina Department of Corrections--The issues were racial discrimination, failure to hire Black employees, and unequal disciplinary actions. Respondent complied with LEAA recommendations to increase recruitment and employment of Blacks.

Honolulu, Hawaii, Police Department--The issues were sex discrimination in employment, failure to hire and promote. Voluntary action was taken by the Respondent to promote the Complainant and modify employment practices.

Grenada, Mississippi, Police Department--The issue was racial discrimination in employment and failure to hire. Respondent complied with LEAA recommendations dealing with job recruitment and job placement.

Sarasota County, Florida, Sheriff's Department--The issue was sex discrimination in employment, failure to hire. Respondent eliminated the height and weight requirements. LEAA did not find any disparate impact in hiring practices.

Chicago, Illinois, Police Department--The issue was sex discrimination in employment. Respondent's policy was changed in regard to female employees and Complainant received a monetary settlement.

Plant City, Florida, Police Department--The issues were sex discrimination in employment, failure to hire, and the lack of an Affirmative Action Plan. Respondent adopted the recommendation of LEAA and agreed to submit data concerning recruitment and hiring of minorities and women.

Chicago Volunteer Legal Services Foundation--The issue was sex discrimination by the Respondent in paying female attorneys less than similarly situated male attorneys. The terms of the Resolution Agreement provided that the Respondent award Complainant \$220.00 which represents full remedy for salary differential paid to Complainant and similarly situated males.

Georgia Department of Corrections--The issue was that the Respondent had not implemented its Equal Employment Opportunity Program (EEO). The terms of the Voluntary Resolution Agreement provided that the Respondent submit to OCRC within 30 days, a satisfactory EEO consistent with the requirements of 28 CFR 42.304(g) regarding existing employment policies and practices. The EEO has been received.

New York City Police Department--The issues were discrimination in the NYPD's employment practices and delivery of services. The Resolution Agreement executed by OCRC and Respondent provides that current hiring of new officers will be in a provisional capacity. Individuals will be selectively certified for Spanish-speaking ability. It also provides that the use of the current eligibility list in rank order constitutes a violation of Section 518(c) of the Act. The Respondent agrees to give 30 days notice to LEAA if it intends to use the list in the future. The Agreement also has provisions for the use of female officers, the imposition of discipline, desk appearance tickets and publicizing the existence of the Civilian Complaint Review Board.

Ohio Department of Rehabilitation, Community Reintegration Center Program--The issue was sex discrimination in services and facilities. Respondent withdrew female participation in the Community Reintegration Center while continuing to allow male participation in the program. OCRC made a preliminary finding of cause regarding this issue.

The Resolution Agreement provided for the reinstatement of female participation by the provision of six spaces at the facility should additional spaces be required. Respondent further agreed to the submission of compliance data to OCRC on a semi-annual basis for a two-year period.

Shawnee County, Kansas, Sheriff's Department--The issues were race and sex discrimination in employment. The Respondent failed to hire the Complainant for vacant positions after funding for her position with the Manpower Program terminated. Respondent, however, permanently hired White males whose positions had also terminated under the Manpower Program. OCRC made a preliminary finding of cause after concurring with and accepting the Finding of Fact and Conclusions of Law of the Kansas Commission on Civil Rights.

Respondent and Complainant subsequently entered into an agreement whereby Respondent agreed among other things to pay Complainant the sum of \$3,500 as full and complete settlement of any and all claims by Complainant against Respondent. Respondent further agreed to provide monitoring data to the Equal Opportunity Officer of Shawnee County.

Colorado State Penitentiary--The issues in this complaint involved both the promotion and demotion of the Complainant based on national origin. The Conciliation Agreement, negotiated by the Colorado Civil Rights Commission, provides: (1) to promote the Complainant to the next available position as a Correctional Specialist, (2) to pay the Complainant \$4,888 in gross wages the Complainant would have earned had he not been demoted by the Respondent in October 1976, and (3) to make appropriate financial contributions to the retirement fund for the period since October 1976.

Jersey City Police Department--The issues were failure to recruit and hire and failure to implement an EEOP. No cause determination on the first two (recruiting and hiring). Cause finding made regarding EEOP allegation. The Respondent agreed to develop and submit an adequate EEOP subject for LEAA approval.

Grand Forks, North Dakota, Police Department--U.S. District Court decided that the issue of sex discrimination related to assignments, promotion, and constructive discharge did not constitute sex discrimination since female officer in question was offered ample opportunity for training and police experience to qualify for promotion. Subsequent termination was deemed resignation vis-a-vis constructive discharge under state personnel rules.

American Bar Association, Washington, D.C.--The issue was sex discrimination. The complaint was withdrawn after a settlement had been reached that resulted in both a change in ABA's policy regarding issue of leave while in a maternity status and back pay for the Complainant.

Yonkers, New York, Police Department--The issue was harassment based on female police dispatcher's national origin. The case was investigated by EEOC and resulted in a no cause finding regarding the individual Complainant but in specific relief for other members of the Complainant's same national origin (Puerto Rican). Amendments made in Respondent's Affirmative Action Program and condition that no retaliation would be directed towards any persons because of assistance provided in the investigation.

Louisville, Kentucky, Police Department (Two Complaints)--Complainants alleged race discrimination with respect to reassignment, demotion, promotion and harassment. OCRC Compliance Review Division conducted a compliance review and issued its report, finding the respondent in noncompliance with LEAA nondiscrimination and EEOP regulations and the uniform guidelines. Voluntary resolution agreement was reached between the respondent and OCRC. The Agreement developed by the Compliance Review Division sufficiently resolves these complaints.

New London, Connecticut, Police Department--Complainant alleged sex (male) discrimination with respect to respondent differential height requirement. The Connecticut Commission of Human Rights found cause and entered into an agreement with Respondent to abolish the height requirements. Respondent subsequently revised requirement to be proportionate with weight and age.

Wisconsin Council Criminal Justice (SPA)--Experienced civil rights professional was denied consideration for a position because he was a White male on the basis that a state personnel rule allowed certain positions to be restricted to certain minority groups and females. OCRC held the practice to be discriminatory. A settlement was negotiated between Complainant Attorney and Respondent for several thousand dollars and the matter was closed.

Rockford, Illinois, Police Department--Complainant alleged race (Black) discrimination with respect to respondent's hiring practices. The Office of Revenue Sharing found cause and entered into an agreement with Respondent to set long term goals and timetables for the employment of women and minorities at level representative of the available labor force. Respondent has forwarded a copy of its revised Affirmative Action Program to ORS. OCRC Has adopted the ORS findings and Terms of Resolution agreed to by the respondent as satisfactory resolution of this complaint.

Mobile, Alabama, Police Department (Two Complaints)--Complainants alleged class discrimination (race) in hiring and promotion, a racially hostile working climate, and that a Black officer had been discriminatorily disciplined and terminated. Following a joint ORS/OCRC/LEAA investigation, ORS issued findings sustaining the class allegation but rejecting the individual complaint - for lack of evidence of disparate treatment. LEAA took cognizance of the ORS finding and concurred with the ORS settlement. Agreement requires development of a new Affirmative Action Program for hiring, use of validated hiring/promotion exams, and development of a plan to investigate harassment complaints with disciplinary action where appropriate.

New Haven, Police Department--Complainants alleged race (Black) discrimination with respect to hiring, promotion, and work assignments. OCRC found cause regarding the promotion allegation and found Respondent in violation of EEOP Guidelines. Respondent agreed to eliminate the adverse impact the promotion exam had on Blacks tested or validate the selection process. Respondent further agreed to future negotiations for proper relief for Blacks discriminated against on the 1974 exam. Respondent also agrees to submit a copy of its EEOP.

St. Petersburg, Florida, Police Department--Complainant alleged race discrimination (Black) in discipline, assignments, and harassment. The OCRC found Complainant was assigned duties identical those of a White operator, however Complainant was suspended for work inadequacy while attending a grievance meeting, the subject of which was racial discrimination. Testimony revealed that Complainant supervisor had a prejudiced attitude and adversely treated the only two permanent Black employees.

Respondent agreed to pay Complainant backpay for 3 1/2 days suspension, clear Complainant's file of any derogatory references and that no derogatory references would be given to potential employers of Complainant.

Asheville, North Carolina, Police Department--Complainant alleged sex discrimination (female) in not being hired for the position of police officer. Case was incorporated into a compliance review and investigation sustained the charge. The Respondent signed a settlement agreement requiring offers of backpay to the complainant and four other females, an offer of employment to one of the females, and an invitation to become an applicant to another.

Jackson County, Mississippi, Sheriff--Complainant alleged sex (female) discrimination in hiring. Settlement involves hiring of complainant; backpay of \$4,671.50; starting salary of \$806.00 monthly; and Affirmative Actions by Respondent.

Youngstown, Ohio, Police Department--Complainant alleged race discrimination (Black) on behalf of himself and others similarly situated in Respondent work assignment, transfer, and disciplinary practices. No cause found regarding assignment allegation. Because of lack of information sufficient to make a determination, no finding made as to the transfer and discipline allegations. A proposed resolution agreement requires that Respondent provide an EEOC to this office within six months of issuance of the findings for review and approval, and to submit updated EEOC's for a four year period for monitoring.

Worland, Wyoming, Police Department--Complainant alleged that she was terminated from her position as a sworn police officer and that she was treated differently because of her sex. The Office of Revenue Sharing found cause based on an investigation conducted by the Wyoming Fair Employment Practice Commission. Subsequently a \$3000.00 cash settlement was made to Complainant causing the ORS to close the complaint as having been satisfactorily resolved. LEAA adopted the ORS finding and, based on the case settlement, also determined that the matter had been satisfactorily resolved.

Rhode Island, Department of Corrections--The issue was sex discrimination in that Complainant was denied a lateral transfer as supervising lieutenant at one of Respondent's all male facilities because she is female. OCRC found cause and the matter was brought to public hearing, where it was determined that Respondent would prevail on the merits. Prior to full hearing, Respondent offered Complainant position of Lieutenant at the minimum security facility which Complainant accepted. In resolving complaint LEAA stipulated that Complainant not be discriminated against in her new position stating that any determination by LEAA of discrimination would bring about a resumption of the administrative process commencing with her acceptance of the new position.

Wisconsin Department of Health and Social Services (Three complaints)--Complainants alleged sex (female) discrimination in that Respondent established male only and female only institutional positions which had an adverse effect on their rights to transfer. Respondent entered into an agreement with The Wisconsin Department of Employment Relations to submit an amended plan for staffing of male and female positions. Respondent also agreed that 50% of all such position shall be female and 50% male.

Michigan Department of Corrections (Marquette Branch)--The issue was discrimination based on religion. The Resolution Agreement executed by OCRC and Respondent requires Respondent to redefine its policy regarding outside guests at special banquets and to establish written rules/regulations on the subject within 90 days. It further requires Respondent to publish and distribute the rules/regulations to each religious and ethnic group. Respondent is required to take appropriate corrective action if the new banquet rules result in adverse impact and agrees to take no retaliatory action against Complainant or other members of Complainant's religious group (Bahai) for having filed the discrimination complaint.

Glen Clove, New York, Police Department--The issue was unequal pay based on sex. The Respondent and Complainant entered into a negotiated settlement in November 1978 resulting in the Complainant's reinstatement to the Detective Division, effective October 15, 1978.

Nacogoches County, Texas, Sheriff's Office--The issue was unequal pay based on sex. Complainant was a sworn deputy and performed the same duties as male deputies. Complainant and Respondent entered into a Pre-determination settlement with EEOC which provided for the promotion of Complainant to Deputy Sheriff job classification with equal pay effective 9/1/78. OCRC adopted the signed agreement as satisfactory resolution of the complaint.

Camden County, New Jersey, Prosecutors Office--The issues were discrimination in hiring practices and promotional competition. No cause on hiring practices due to lack of applicant data. Cause was found regarding the promotion issue. The Respondent has agreed to promote the Complainant and adjust the seniority rights effective April 17, 1978.

Jasper County, South Carolina, Sheriff's Department--Complainant alleged sex discrimination (female) with respect to salaries paid to male deputies. ORS negotiated a settlement agreement which provided for offer of deputy sheriff position, backpay at 6% interest, mileage allowance for distance driven to and from work between 1/1/77 to 11/18/77, and to recruit and employ females as deputys sheriff.

Philadelphia, Pennsylvania, Department of Corrections--Complainant alleged handicap discrimination in that she was eliminated from the selection procedure because of a medical report which inferred a past history of depression and suicidal ideation. Respondent had no record to substantiate the report or their actions. ORS found respondent in noncompliance and secured an agreement which allowed Complainant to be reinstated and complete the selection process. LEAA credited the allegation based on a perceived mental handicap and adopted the agreement made between ORS and the Respondent.

New Haven, Connecticut, Police Department (Three Complaints)--Complainants reached a settlement with Respondent resulting in their hire, backpay in the amount of \$3,900, counsel fees, and restored seniority.

Lancaster County, South Carolina, Sheriff's Department--The complainant alleged that the Respondent discriminated against her on the basis of sex, in that she was not hired as a deputy sheriff. To resolve the matter, the Respondent agreed to a financial settlement in the amount of \$20,000. In exchange, the complainant agreed to withdraw the complaint of sex discrimination.

Illinois, Department of Corrections--The complainant alleged race discrimination in the denial of his selection for a clerk's job, not using Black males as medical technicians or guards in the hospital, and restricting Black inmates to menial, non-clerical jobs in the prison hospital. Evidence supported only the latter allegation. The Respondent agreed to assure equal access to all hospital jobs regardless of race. Reporting requirements on staffing patterns run for three years.

Des Moines, Iowa, Police Department--Complainant alleged discrimination on the basis of handicap in that she was denied entry to the respondent's municipal building because of the inaccessibility to wheelchair individuals. After investigation, a cause determination was made and OCRC proposed that the respondent post signs informing the public of rear entrance accessibility, eliminate any other obstructions for wheelchair individuals, and notify LEAA when the long-range remodeling plans for handicap accessibility to the municipal building is completed. Respondent fully agreed to and signed these proposed terms of resolution.

New York City, Police Department (Eight Complaints)--The complainants alleged discrimination on the basis of race and/or national origin with respect to an examination given for selection of police officers by the Respondent. The Court found that the examination had an adverse impact on minority candidates and was not properly validated. The Order of the Court provided that the results of examination 8155 could be used as a pool from which to select police officers so long as 50% of those appointed were qualified Black and Hispanic candidates. The 50% interim hiring goal was modified to 33 1/3% by the U.S. Court of Appeals. The District Court also provided that at a later appropriate proceeding, it would consider individual relief for members of the plaintiff class.

Arapahoe County, Colorado, Sheriff's Department--The Complainant alleged discrimination on the basis of sex (female) in Respondent's promotion practices. Complainant also alleged that she was treated differently from similarly-situated males in Respondent's sworn force in terms and conditions of employment. OCRC's investigation was suspended after the U.S. District Court's review of these same issues, and the complaint of two male officers who were dismissed for supporting the Complainant. The Court found cause as regards the liability of named Respondents and ordered a monetary settlement of \$47,742.00 for the Complainants. Additionally, the Court dismissed the case with prejudice stating that the Complainants could bring no further charges against the Respondent emanating from her employment with the Respondent.

Illinois American Bar Association--The Complainant alleged race discrimination regarding the Respondent's hiring, promotion, and training practices. The OCRC was advised by official notice from the U.S. District Court for the Northern District of Illinois that the case was settled and dismissed by stipulation. The action was dismissed with prejudice with each party to bear its own costs of the suit.

Plano, Texas, Police Department--The Complainant alleged sex discrimination regarding the Respondent's employment practices that resulted in her termination. The Respondent contended that the Complainant's inability to pass the physical agility test resulted in the termination. To resolve the issue, the Respondent and Complainant agreed to a \$20,000.00 cash settlement and the withdrawal of the sex discrimination allegation by the Complainant.

Raleigh, North Carolina, Police Department (Two Complaints)--Complainants alleged discrimination on the basis of race (Black) in Respondent's transfer and promotion practices. More specifically, Complainants alleged that they were not transferred to Respondent's Selective Enforcement Unit (SEU) because of their race and that they were not promoted because of Respondent's racially discriminatory sergeant's test. After investigation, a cause determination was made regarding the transfer allegation and a no-cause determination was reached regarding the promotion allegation. The Respondent and OCRC entered into an agreement which renders one of the Complainants immediately eligible for SEU testing and training. If this Complainant is among the top two candidates finishing training, he will be transferred into an SEU vacancy. If not, OCRC and the Respondent will conduct further negotiations regarding his status. If Complainant fails to complete the process, Respondent must document the reasons and forward documentation to OCRC. The second Complainant, because of prior disciplinary problems, will not be eligible for transfer until after December, 1980. Respondent also agreed to a 50% transfer goal for Black applicants and will select the highest rated Black officer to fill one of two SEU vacancies. Respondent further agreed to fill both vacancies with Black officers if they are the two highest rated.

Illinois, Department of Corrections--Complainant filed charges of religious discrimination with our office and the State of Illinois Fair Employment Practices Commission (FEPC). In June, 1980, the FEPC negotiated an agreement which addressed all issues relative to Complainant's allegations. These issues have been resolved to the satisfaction of both parties.

Ft. Wayne, Indiana, Police Department--The Complainant alleged discrimination on the basis of race (Black), sex (female), and national origin (Hispanic) in the Respondent's hiring, promotion, and transfer practices. OCRC's investigation was suspended pursuant to notification that an investigation by the Office of Revenue Sharing (ORS) of identical charges was underway. ORS found cause regarding hiring and promotion and recommended goals and timetables, data collection and maintenance regarding hiring/promotion tests and analysis of hiring and promotion selection criteria. OCRC made no determination regarding the transfer allegation. OCRC closed its complaint based upon the ORS resolution.

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VI. STATUTORY MANDATES

Another USCCR criticism regarding LEAA, prior to the passage of the Crime Control Act of 1976, involved the agency's past failure to initiate administrative procedures to cut off funding to recipients found by a court or agency to have discriminated. This failure was remedied by the mandatory, statutory removal of discretion for funding cutoffs whenever one of the events occurs.

The First Mandate

Section 815(c) of the Justice System Improvement Act provides that action must be taken to institute a cutoff of funding upon a determination by OJARS/OCRC that a recipient is in noncompliance with the prohibition against discrimination. This determination is made after an investigation by OJARS/OCRC, but before a hearing. The grant recipient does have an opportunity to make a documentary submission regarding the allegation of discrimination.

Once such a determination is made, OJARS/OCRC, within 10 days, must notify the chief executive of the State and the chief executive of the unit of general local government about the civil rights noncompliance and will request each chief executive to secure compliance.

Within 90 days of the notice, the recipient may request an expedited preliminary hearing by an administrative law judge in order to determine whether it is likely that the recipient would prevail on the merits in a full hearing. Unless the recipient prevails at such a preliminary hearing within 90 days of the notice, or unless the recipient is brought into compliance within 90 days of the notice, funding must be suspended.

Regardless of and without affecting any suspension of funding already made, a recipient may request a full administrative hearing within 120 days of the initial notice, and that hearing must be held within 60 days of the request. Within 30 days of the conclusion of the hearing, OJARS must make a finding of compliance or noncompliance. If the finding is one of noncompliance, OJARS must notify the Attorney General, terminate the payment of funds, and, if appropriate, seek repayment of such funds.

These administrative procedures, as well as any suspension of funding, can be avoided by the execution of an acceptable compliance agreement between OJARS and the recipient. Then semi-annual compliance reports must be submitted to OJARS, and copies of the agreement and of the reports must be sent to the complainant(s).

The Second Mandate

Section 815(c) also provides that action must be taken to institute a cutoff of funding upon receipt of notice of a finding (after notice and an opportunity for a hearing consistent with the Administrative Procedures Act by a Federal court - other than in an action brought by the U.S. Attorney General - or a State court or by a Federal or State administrative agency) to the effect that there has been a pattern or practice of prohibited discrimination. Once OJARS/OCRC has received notice of such a finding, the procedures as set forth above are followed.

The Third Mandate

Section 815(c) further provides that whenever the U.S. Attorney General files a civil action alleging a pattern or practice of prohibited discriminatory conduct in any program or activity of a State government or unit of local government, and neither party within 45 days after such filing has been granted preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, OJARS/OCRC then shall suspend further payment of any funds to that specific program or activity.

VII PROCESS AUTOMATION AND THE MANAGEMENT INFORMATION SYSTEM

OJARS regulations set strict timeframes for processing complaints or compliance reviews to ensure that fund recipients do not engage in prohibited discriminatory practices. These regulations and the functional delegation of authority assign the major responsibility for ensuring nondiscrimination by fund recipients of OCRC. Evaluation of OCRC administrative procedures by OCRC management and by OJARS' Office of Planning and Management reveals that meeting these timeframes requires continued accountability for OCRC staff and automated techniques for case processing.

Intake and Control Unit

OCRC continually monitors all management and administrative procedures seeking ways to improve efficiency in compliance activities. A vital element of this process is the Intake and Control Unit. The unit serves as the focal point of entry which triggers the activities of the Operations and Compliance Review Divisions and the focal point of exit in case closing. In addition, the unit is responsible for the application of a broad knowledge of all of the various program responsibilities of OCRC. This is used in determining whether allegations are within the jurisdiction of OCRC and in managing the timeframes within which allegations must be processed for forwarding to program divisions.

The Intake and Control Unit is also responsible for the management and implementation of OCRC's management information system.

Management Information System

An important element in OCRC's procedures to meet the timeframes has been the utilization of a computerized management information system (MIS) in Operations Division case processing. The fundamental purpose of the MIS is to provide information necessary for making decisions and evaluating performance in meeting OCRC's delegated responsibility to ensure nondiscrimination by fund recipients. This means that the system provides information to assist OCRC management to meet the fiscal-year management-by-objectives plan and the objectives of program planning. On a shorter-term basis, its purpose is to provide information at regular intervals concerning OCRC performance. Viewed from the perspective of OCRC management, major additional purposes of the system are:

- o To provide summary information for reports to persons and/or organizations outside OCRC;
- o To provide information for managerial decision making within OCRC by identifying timeframes and bottlenecks in the flow of cases and thereby expediting case flow within the timeframes established by regulations;

- o To assist managers and investigators in establishing the current status of cases in OCRC;
- o To provide information relevant to assigning cases to investigators;
- o To provide investigators with current information on the status of cases in their workloads; and
- o To provide information enabling cost analyses.

The MIS consists of three parts: (1) an OCRC data base, which is an element of the PROFILE data system into which data are encoded on OCRC discrimination cases; (2) a set of computer programs that operate the information system; and (3) information retrieved in the form of standard reports, recurring reports, and responses to specific queries prepared by OCRC staff.

The MIS is designed to provide continuous tracking of the progress of OCRC cases through a series of data entries designated as milestones. These milestones represent the process through which a typical discrimination case is likely to progress in accordance with the guidelines established by OJARS/OCRC regulations. Administratively, this process routinely involves each of OCRC's organizational units in the following

order: (1) original docketing, follow-up, a data entry by the Intake and Control Unit; (2) complaint investigation by the Operations Division; (3) legal advice and follow-up through the noncompliance review procedures by the Legal Advisor; and (4) evaluation of periodic progress reports necessary to achieve compliance by the Compliance Review Division.

The major product of the MIS, in terms of maintaining management effectiveness, is a system of information reporting that assists OCRC in informing the Director of OJARS and others of OCRC performance. It also allows OCRC to evaluate its internal performance in processing cases.

VIII ASSISTANCE AVAILABLE THROUGH OCRC CONTRACTORS

During the past several years, the Office of Civil Rights Compliance has awarded several grants and contracts in order to provide recipients with assistance in specific areas of concern or need. Sometimes the expertise of the contractors was not fully utilized, as criminal justice agencies were not aware of the contractors' capabilities or availability. The problems still existed in the criminal justice system, but the respective agencies did not know who could help provide solutions.

In order to address these problems, the OCRC has compiled a list of organizations currently available to augment OCRC's service delivery and the quality of the recipients' employment policies and practices. The assistance and informational materials available from these organizations are free or of nominal cost and can be obtained directly from the individual agencies.

Response to requests for on-site assistance vary with each contractor or grantee, so initial contact should be made with Paul Barnes, Director of the Compliance Review Division, OJARS, U.S. Department of Justice, Office of Civil Rights Compliance, 633 Indiana Avenue, N.W., Washington, D.C. 20531, for further information.

The organizations available to assist recipients include, but are not limited to, the following:

- A. University Research Corporation, 4340 East-West Highway, Bethesda, Maryland 20014. Telephone: (301) 654-9300

Project Title: Civil Rights Compliance Project

Project Director: Rose W. Boyd

This project has been funded since 1976 and has undergone many modifications in its scope of work. Basically, the project staff has been offering training and technical assistance in developing EEOPs to State agencies and other recipients. Training has ranged from a few hours of presentation to the development and conduct of workshops of several days. Technical assistance has included in-house and on-site aid, the development of a slide/tape presentation on Subpart D, administrative support to the State Conference Committee on Civil Rights Compliance, and other areas of endeavor.

- B. Wisconsin Council on Criminal Justice, 102 W. Washington Avenue, Madison, Wisconsin 53703. Telephone: (608) 266-3323

Project Title: A Proposal to Fund a Model Technical Assistance Program for Implementing and Monitoring the Wisconsin Council on Criminal Justice Equal Employment Opportunity/Affirmative Action Policy for Recipients

Project Director: Nathaniel Robinson

The purpose of this project is to provide technical assistance and training to operational criminal justice agencies in the State of Wisconsin. Activities include assisting Wisconsin recipients in the development and implementation of the EEOPs they are required to have as pre-conditions for funding; evaluate and correct their employment practices that contravene EEO laws; and generally assist, train, and evaluate recipients relative to the federal, state, and local civil rights/EEO laws and regulations with which they must comply.

A most important component of the project is that its activities and program be replicable in order to formulate a model that can be used and transferred to other state agencies around the country. This aspect of the project will provide a broader impact and scope than the anticipated results of an improved compliance posture for Wisconsin recipients of funds.

C. National Urban League, 500 E. 62nd Street, New York, N.Y. 10021
Telephone: (212) 644-7475

Project Title: Law Enforcement Minority Manpower Project

Project Director: Lee Reynolds

The objective of this project is to provide technical assistance to criminal justice and law enforcement agencies in the attraction, recruitment, retention, and advancement of minorities and women. Such technical assistance consists of training bulletins, films, on-site seminars, surveys and consultation in the above areas of specialization.

D. National Center for State Courts, Denver, Colorado.

Telephone: (612) 222-6331

Project Title: Equal Employment Opportunity in the State Courts

Project Director: Cynthia Sulton

This grant will provide research, technical assistance, and training to induce and assist state courts throughout the country in providing equal employment opportunities and practices for minorities and females.

It is OCRC's perspective that courts tend to lag behind the other components of the criminal justice system in the implementation of effective EEO practices and procedures. Additionally, courts tend to have a greater number of "exempt" positions within their classifications structures than other criminal justice agencies.

E. Police Foundation, 1909 K Street, N.W., Washington, DC 20006
Telephone: (202) 833-1460

Project Title: National Information and Research Center on Women in Policing.

Project Director: Dr. Roi Townsey

The Police Foundation has developed a clearinghouse for information regarding women in policing. They provide technical assistance through printed materials, analyses of court decisions, review of employment selection criteria, development of issue papers, and other materials pertinent to the issues.

IX OUTLOOK

The Office of Civil Rights Compliance operates on a management-by-objective (MBO) basis. In addition to the daily functions described in this report, the office has identified further areas of concern. Naturally, all plans are subject to staff and financial constraints. At present, the list of major issues or areas of concern include:

- Regulations for obtaining data on program services by recipients (the Title VI counterpart to the Title VII EEO reports) have been drafted and circulated internally. Publication is expected during 1980.
- Full implementation of the automation of compliance activities and the management information system will proceed.
- Full implementation of the memoranda of understanding with other civil rights agencies will progress pursuant to the Justice System Improvement Act and Executive Order 12067.
- Pursuant to an internal management study conducted during 1980, utilization of staff and resources will be improved with a goal of increased efficiency.
- OCRC continues to improve its internal communication and cooperation with other departments and divisions of OJARS, LEAA, NIJ, and BJS.

OCRC will continue to disseminate its information, which has been developed in both Spanish and English, to other interested parties in order to meet current legal requirements. Consideration is being given to developing further policies in other languages and other program areas.

- In line with the revised Equal Employment Opportunity Program Guidelines, a manual and workbook is being developed to assist applicants in the preparation and maintenance of their files.
- OCRC intends to analyze and compute the average time of processing a civil rights complaint and to review and improve the efficiency of the existing processing timeframes.
- In view of the current budgetary trend, OCRC will expand its emphasis and assistance towards the juvenile justice system, examining both employment practices and discriminatory practices and diversion from the criminal justice system.
- OCRC has begun to conceptualize, and hopes to implement, a program to develop a positive public attitude and approach towards civil rights concerns in an effort to avoid and eliminate the "victim pill" reaction frequently encountered among recipients.

END