

CIVIL
RIGHTS
ENFORCEMENT
UNDER THE
JORDAN
AMENDMENT
Progress Report
1976-1978

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OFFICE OF CIVIL RIGHTS COMPLIANCE
LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
UNITED STATES DEPARTMENT OF JUSTICE

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Office of Civil Rights Compliance
Law Enforcement Assistance Administration
United States Department of Justice

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INTRODUCTION

This report highlights the activities of the Law Enforcement Assistance Administration's (LEAA) Office of Civil Rights Compliance (OCRC) since the Jordan Amendment was implemented by final regulations that became effective February 16, 1977.

OCRC, which is but a small part of LEAA, with a full-time staff of only 20, is responsible for monitoring and investigating over 39,000 recipients of LEAA grant funds. In addition to monitoring the new civil rights enforcement procedures promulgated by the Jordan Amendment, OCRC also has other duties that include providing technical assistance, interacting with State Planning Agencies (SPA) and State Civil Rights Commissions, and coordinating LEAA's civil rights responsibilities. OCRC has no independent administrative enforcement proceedings but recommends hearings and sanctions to the Office of the General Counsel for review and action.

To perform its various functions, OCRC now has a total of 26 staff positions -- the 20 full-time positions and six part-time positions. Due to a hiring freeze, there are currently four vacancies on the staff. Also, when contract compliance functions were transferred to the General Services Administration in 1977, OCRC lost three investigator positions and one support staff position.

The operations of OCRC as well as criticism leveled at LEAA's past performance in civil rights compliance, are addressed in the 11 sections of this report.

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

I. EXECUTIVE SUMMARY

LEAA's Office of Civil Rights Compliance was established to ensure that recipients of LEAA grant funds comply with the nondiscrimination provisions of the Crime Control Act, the Juvenile Justice Act, and the Rehabilitation Act. In fiscal year 1978, LEAA funded 57 block grants and 754 discretionary grants. These, coupled with the subgrants from SPAs, bring the total number of grant recipients to 39,000.

Civil Rights Procedures

• Pre-award reviews:

OCRC reviews grant applications for civil rights concerns in a manner similar to LEAA budget and financial reviews and imposes special conditions on grants where necessary. (Special conditions involve specific assurances given by a recipient to comply with the applicable laws as a condition precedent to draw down funds.) For details, see Section III.

• Processing complaints of discrimination by aggrieved persons:

LEAA regulations require that the complaint be processed within 171 days (or 196 if an on-site review is required). Under present staff configuration, these timeframes are very difficult, if not impossible to meet. For details, see Section IV.

• Compliance reviews:

Systemic reviews of civil rights compliance with Title VI and Title VII (42 U.S.C. 2000 d and e) conducted in a manner similar to a fiscal or management audit. For details, see Section V.

EXECUTIVE SUMMARY

- Results of complaint processing and compliance reviews:

A listing of Cash Settlements, Compliance Agreements and other satisfactory resolutions. For details see Section VI.

- Administrative suspension and termination of funds pursuant to "statutory triggers":

The Crime Control Act provides automatic funding cutoff procedures upon a finding of non-compliance, after notice and opportunity for a hearing, consistent with the Administrative Procedures Act, by any of the following: LEAA/OCRC, a federal or state court, a federal or state administrative agency, as well as initiation of suit by the Attorney General. For details, see Section VII.

Implementing Mechanisms

- Process Automation and the Management Information System:

As part of its effort to meet the strict timeframes imposed by the Jordan Amendment, LEAA/OCRC evaluated its administrative procedures with a view to initiating a computer-oriented, automated processing and information system. Complaint case processing by OCRC's Operations Division has been partially automated and a related Management Information System has been prepared which provides OCRC management with information necessary to evaluate staff performance and to establish accountability in meeting the legislated timeframes. Plans are currently under way to extend the system to other aspects of OCRC compliance activity. For details, see Section VIII.

EXECUTIVE SUMMARY

- Coordination with civil rights agencies:

Memoranda of agreements are being developed to share effectively civil rights enforcement personnel and resources, and to support and coordinate enforcement activities. For details, see Section IX.

- Technical assistance/research:

Utilization of contractors with civil rights expertise to improve minority employment and community service practices of recipients, as well as produce workbooks, manuals, and papers highlighting legal trends and policies. For details, see Section X.

- Future Plans

The Office of Civil Rights Compliance is now run on a management-by-objective (MBO) basis. Accordingly, it has developed specific accomplishments to be achieved in the coming year. For details, see Section XI.

II. HISTORICAL PERSPECTIVE

The Omnibus Crime Control and Safe Streets Act of 1968 established the Law Enforcement Assistance Administration. The Act assigned to LEAA the responsibility of administering a new, major block grant program and several discretionary grant programs; providing technical and academic assistance; and conducting 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 contains 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 on 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 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 the 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, and it came

to be known as the Jordan Amendment. It eliminated agency discretion in initiating the cutoff of funding and provided, instead, "triggers" that would initiate automatically administrative procedures for the cutoff of funding.

By adding the phrase "or denied employment" to the enumerated prohibitions of discrimination, the Jordan Amendment resolved what the USCCR had termed a very important issue: Whether or not 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 now prohibited all employment discrimination based on sex, race, and ethnic origin in LEAA-funded programs. Discrimination proscribed by Title VI was also included.

Rep. Jordan's Amendment 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 published again in the Federal Register (Vol. 43, No. 127, pp. 28794-28804.)

Thus the Jordan Amendment became the most comprehensive civil rights enforcement scheme yet enacted by Congress. It created an interface between Titles VI and VII, codified as 42 USC 2000(d) and 2000(e), by covering not only the provisions of services and benefits, but also, the entire employment process. The regulations issued by LEAA in conjunction with this Amendment provide a mechanism to ensure timely resolution of allegations of discrimination.

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.)

The Office of Civil Rights Compliance, under the direction of Lewis Taylor, now is using this and other resources to correct the deficiencies noted by th U.S. Commission on Civil Rights and by Congress.

III. PRE-AWARD REVIEW

The Office of Civil Rights Compliance reviews grant applications for civil rights concerns in a manner similar to an LEAA financial review and imposes special conditions on grants where necessary. These special conditions are specific condition precedents that affect a draw down of funds.

As the USCCR report noted, the review was originally limited:

Until mid-1973, LEAA officials doubted that they would conduct any pre-award reviews. In October 1973, LEAA took a significant step forward by initiating a program of on-site, pre-award compliance reviews. Nonetheless, the program is restricted in scope. It is limited to a review of potential recipients of discretionary grants of \$750,000 or more.

(USCCS Report, Vol. VI, p. 348)

Currently, OCRC reviews discretionary grant applications of \$500,000 or more, including the following 10 categorical or discretionary grant applications:

- DF, Part C Discretionary
- ED, Part E Discretionary
- JJ, Juvenile Justice
- NI, National Institute
- SS, Data Systems - Statistical Assistance
- CA, Community Anti-Crime
- TA, Technical Assistance
- CD, Educational Development
- TN, Section 402 Training
- TT, Prosecutorial Training, Section 407

Additionally, the Code of Federal Regulations--28 CFR 42.207(b)--requires that a recipient required by LEAA's Equal Employment Opportunity Guidelines to develop an Equal Employment Opportunity Program (EEO) must provide LEAA with a copy of its EEO when it receives a grant or subgrant award of \$250,000 or more.

While not all grant applications received by OCRC for review are ultimately funded by LEAA, OCRC staff may expend time prior to that decision. For instance, although a program office may be favorably disposed to funding a certain application at one point, subsequent changes in priorities may require that the program office later suspend or reject an application.

LEAA regulations stipulate a 90-day response period for decisions on grant applications. OCRC, therefore, must conduct pre-award compliance reviews with that time constraint.

The following general procedures are followed in performing a pre-award review of an application:

- (1) OCRC reviews computer print-outs from GMIS PROFILE, grant applications received through the GMCD mechanism, and grant applications received directly from SPAs or LEAA program offices to identify grants that are likely to equal or exceed \$500,000 or more. The data from PROFILE is obtained by the OCRC Compliance Review Division.
- (2) Relevant SPA civil rights compliance officers, LEAA program staff, or both, are contacted to obtain copies of grant applications for review and background information on them, including whether or not an application is likely to be funded and, if funding is likely, the proposed funding date.

- (3) The application is reviewed to determine its potential impact on minorities and women. Such evaluations necessarily involve studying the workforce characteristics of the agency and area labor force as well as client population characteristics (e.g. inmates and juveniles).
- (4) OCRC next prepares a checklist incorporating civil rights issues identified in step 3 above and drafts special conditions as necessary.
- (5) After the special conditions appropriate to a particular grant are drafted, discussions take place with the program manager about them.
- (6) Pre-award packages must pass through internal OCRC clearance and be signed by OCRC's director before they are forwarded to appropriate program office heads.
- (7) Pre-award files with copies of grants, relevant memoranda, and special conditions, are retained by OCRC.
- (8) OCRC monitors required reporting data, if any. When monitoring is required, it is necessary to ascertain the award date and establish an appropriate monitoring schedule. When data is not provided in a timely fashion for review, the program manager is notified in writing of the delinquent report. When conditions of the grant are not met, further action may be necessary to obtain compliance.
- (9) Finally, OCRC retires special conditions in accordance with grant processing procedures by forwarding a Grant Adjustment Notice to the appropriate program office when special conditions have been satisfied.

In summary, OCRC does not seek to second guess the program office on project goals. Rather, it makes determinations in two areas. First, if employment is involved, OCRC determines whether or not the employment practices of the recipient appear to ensure that minorities and females have equal employment opportunities. LEAA's Equal Employment Program Guidelines (28 CFR 42.301 et seq., subpart E) require that criminal justice agencies of local state governments that meet certain specific criteria develop Equal Employment Opportunity Programs (EEOs) in line with LEAA Guidelines. Where an agency is required to develop such a program, OCRC determines, during the pre-award compliance review, whether one has been developed. If not, a program must be developed and sent to OCRC for approval prior to a draw down of funds. This process need not delay review of the application. A special condition prohibiting a draw down of funds until receipt of an acceptable EEO will satisfy the requirement.

Second, where services are provided, OCRC determines whether or not there is likely to be discrimination in the delivery of those services by the agency. This can only be determined by thoroughly reviewing the grant application and by talking to persons knowledgeable about the mechanics of the program. This may necessitate on-site review.

It should be noted that not all pre-award compliance reviews involve actual on-site review. Often the facts are relatively clear upon initial review of an application, and special conditions can be agreed upon through a telephone conversation. However, a special condition must be put in writing and included in the instrument of a grant. For, pre-award compliance reviews give notice to LEAA, prior to funding, of possible civil rights issues. Further, the pre-award review allows grants to have special conditions that ensure appropriate compliance with federal law.

IV. OPERATIONS DIVISION

In the preamble to the nondiscrimination regulations, at 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, LEAA does not believe it can shorten the timetables at this time.

A Backlog of Complaints

LEAA had a backlog of complaints at the time the regulations took effect. We promised to treat those complaints in the same manner as new complaints in order not to, in effect, penalize earlier complainants for filing complaints prior to the effective date of the regulations. As a result, the Office of Civil Rights Compliance undertook a "crash program" using all its staff and an additional five persons detailed from other LEAA offices to eliminate the backlog. That effort has been successful.

The "crash program," however, did not permit LEAA to make a realistic prediction of staff capability, nor did it permit accurate measurement of the time periods necessary for the conduct of investigations. LEAA's assessment of its performance was also complicated by the "emergency" use of persons with varying knowledge of investigation technique, civil rights law, and the diversified status of outstanding cases. A final inhibiting factor was the loss of four positions to the General Services Administration as part of the effort to coordinate the government's construction compliance program at a time when there is a hiring freeze.

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 518(c) of the Crime Control Act; Section 262 of the Juvenile Justice Act; or this subpart. No complaint will be investigated if it is received more than one year after the date of the alleged discrimination, unless the time for filing is extended by the Director of OCRC for good cause shown.

The Administration shall conduct investigations of 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 Administration's 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 SPA.

Within 150 days or, where an on-site investigation is required, within 175 days

after the initiation of the investigation, the Administration shall advise the complainant, the recipient, the chief executive(s) of the appropriate unit(s) of government, and the appropriate SPA 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 Administration to engage in voluntary compliance negotiations prior to the Administrator's determination of compliance or noncompliance.

If, within 30 days, the administration's recommendations for compliance are not met, or voluntary compliance is now secured, the matter will be forwarded to the Administrator 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 Administrator makes a determination of noncompliance with section 518(c) of the Crime Control Act, or section 262 of the Juvenile Justice Act, the Administration shall institute administrative proceedings pursuant to §42.210 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 LEAA, and during LEAA's investigation, the trial of that suit would be in progress, LEAA 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 §42.210, the Administration will institute administrative proceedings pursuant to §42.210, et seq.

The time limits listed in paragraph (c)(1) through (c)(5) of this section shall be appropriately adjusted where LEAA requests another Federal agency or another branch of the Department of Justice to act on the complaint. LEAA will monitor the progress of the matter through liaison with the other agency. Where the request to act does not result in timely resolution of the matter, LEAA will institute appropriate proceedings pursuant to this section.

V. COMPLIANCE REVIEW

With the passage of the Jordan Amendment, a major emphasis was placed on enforcing civil rights compliance among recipients of LEAA funds. To do this, LEAA has increased the use of the civil rights compliance review. Indeed, LEAA's Office of Civil Rights Compliance is presently considering six to 10 recipients per month for possible review. In many respects, such a 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 a determination that the agency's operation is either satisfactory or in need of specific improvement(s).

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

Prior to the new mandate given LEAA by Congress and the Jordan Amendment, OCRC conducted two to three reviews a year on the average. In fact, the USCCR severely criticized LEAA's 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.

(USCCR Reports, Vol. VI, pp. 355-356)

Under its new director, OCRC has sharply increased the number of reviews in order to address the concerns of the USCCR.

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, and North Carolina. Agencies reviewed have included municipal, county, and state law enforcement agencies; a state prison; and a state parole board. In 1979, the Division will conduct its first review of a state court system.

As a result of these reviews, three resolution agreements have been signed and others are in the process of preparation and negotiation. Whereas the early emphasis was on law enforcement agencies, corrections and court systems will receive equal emphasis in the future.

In addition to major reviews, the Division, acting in accord with Congressional intent, is starting to conduct mini-reviews (reviews involving a single issue as opposed to many issues). It is OCRC's intention to conduct nine to 10 major compliance reviews a year and eight to 12 mini-reviews a year with present staff. With a staff increase, OCRC hopes to double this projected annual workload over the next two years.

In all of the above-cited cases, the Division has closely coordinated its field reviews with the appropriate SPAs, and in at least half of the reviews, the SPA staffer responsible for civil rights has worked with the review team during the on-site review.

The Division has also received the full cooperation of the recipients reviewed. A number of the agencies reviewed have commented that the reviews were helpful from a management viewpoint. In addition, recipient officials have complimented the Division on fairness and professionalism during the reviews.

The actual mechanics of a compliance review are as follows:

The first step is to solicit information from current LEAA recipients to use in the process of selecting an agency for review. The primary document requested is the agency's Equal Employment Opportunity Plan. However, other data related to service delivery may also be requested. A refusal or failure to provide the requested information can result in the administrative suspension of funds. Under Section 509 of the Crime Control Act, LEAA has the authority to take such action should an agency demonstrate "a substantial failure to comply" with LEAA's regulations and procedures.

Additionally, other criteria are used in selecting an agency for review. As specifically stated in 28 CFR 42.206(b), the five factors 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 LEAA or other federal agencies;
- 4) The scope of the problems revealed by an investigation commenced on the basis of a complaint filed with the Administration 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 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 large percentage of black and Hispanic clients.

Once an agency has been selected for review, LEAA 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 SPA. 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:

- The practices to be reviewed;
- The programs or activities affected by the review;
- The opportunity to make, at any time prior to receipt of the Administration's findings, a documentary submission responding to the Administration, explaining, validating, or otherwise addressing the practices under review; and
- 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 must be assessed by LEAA and findings forwarded to the recipient and the relevant chief executive and SPA within 150 days from the initiation of the review.

Where an on-site review is deemed appropriate, the Office of Civil Rights Compliance plans two visits. The first is usually a short preliminary review to determine the nature and scope of systems presently in operation, the availability of detailed tracking or source documents, and the community concerns related to service delivery. During the preliminary review, a liaison official will also be identified in the recipient agency.

The second visit is a full review by a team of 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 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 SPA 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 LEAA prior to a determination by the Administrator of compliance or noncompliance with Section 518(c) of the Crime Control Act. This negotiation period is limited to 30 days from the date that any proposed agreement for compliance is made by LEAA. Should an agency choose to comply voluntarily with LEAA recommendations, the resolution agreement must be executed within this 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 LEAA Administrator for a determination of compliance or noncompliance. If the determination of the Administrator is one of noncompliance, LEAA is obligated to forward a formal Notice of Noncompliance which begins the process that may lead to fund termination.

VI. RESULTS

Both the Operations and Compliance Review Divisions of the revised OCRC share one critical difference from their predecessors--they get results. Unlike the state of affairs documented in USCCR's Report, LEAA is taking administrative action to remedy violations of antidiscriminations 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 and compliance agreements and another listing of other satisfactory resolutions achieved by OCRC's Divisions since February 16, 1977.

Cash Settlements And/Or Compliance Agreements 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 resolved 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 (40) 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 conciliation agreement which was 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 that 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 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 is 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 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 \$1,625.00 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 1974 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 cash 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 had 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.

Other Satisfactory Resolutions
Since February 16, 1977

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 of Corrections in meeting Affirmative Action goals and timetables for increasing percentage of minority employees.

Clackamas County, Oregon, Sheriff's Office--The issue was sex discrimination in failure to hire. Complaint resolved by agreement of County of Clackamas Civil Service Commission and Sheriff's Department to adhere to recommendations issued by LEAA.

Des Moines, Iowa, Police Department--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.

Newton, Iowa, Police Department--The issue was sex discrimination in failure to hire. Respondent made offer to Complainant to reapply for employment; however, she failed to respond. 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 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 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 requirement.

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 sexual 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.

Cases Closed by Signed Agreement

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 and is in process of review.

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 EEOF allegation. The Respondent has agreed to develop and submit an adequate EEOP subject for LEAA approval. There is to be no fund draw down by the Respondent pending LEAA's approval of the EEOP.

More Satisfactory Resolutions

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.

VII. STATUTORY TRIGGERS

Another area in which the USCCR criticized LEAA was for failure to initiate administrative procedures to cut off funding to recipients found by a court or agency to have discriminated. This failure has been remedied by the removal of discretion for funding cutoffs whenever one of three statutory "triggers" occurs.

The First Trigger

The Jordan Amendment provides that a cutoff of funding must be triggered upon a determination by LEAA/OCRC that a recipient is in noncompliance with the prohibition against discrimination. This determination is made after an investigation by LEAA/OCRC but before a hearing. The grant recipient has an opportunity to make a documentary submission regarding the allegation of discrimination, however.

Once such a determination is made, LEAA/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 obtains such a preliminary finding within 90 days of the notice or unless the recipient is brought into compliance within 90 days of the notice, LEAA/OCRC 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, LEAA/OCRC must make a finding of compliance or noncompliance. If that finding is one of noncompliance, LEAA/OCRC must notify the Attorney General, terminate the payment of funds and, if appropriate, seek repayment of such funds.

As noted, these administrative procedures, as well as any suspension of funding can be avoided by the signing of a compliance agreement between LEAA and the recipient. Semi-annual compliance reports must be filed with LEAA and copies of the agreement and of the reports must be sent to the complainants.

The Second Trigger

The Jordan Amendment also provides that a cutoff of funding must be triggered 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 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 (unlawful) discrimination. Once LEAA/OCRC has received notice of such a finding, the procedures set forth above come into play.

The Third Trigger

The Jordan Amendment further provides that whenever the Attorney General files a civil action alleging a pattern or practice of 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 such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, LEAA/OCRC then shall suspend further payment of any funds to that specific program or activity.

A listing of the notices issued pursuant to these triggers follows.

Notices Pursuant to Statutory "Triggers"

Cleveland Police Department--On December 10, 1976, LEAA/OCRC sent a 90-day notice as a result of a reported court decision finding racial discrimination in assignment of officers in the department. Approximately \$1.6 million was suspended on March 11, 1977. When the court found compliance, funding was continued on June 2, 1977, subject to an October review of compliance by the court. The case was closed on October 15, 1977.

Iowa Men's Reformatory update--On December 10, 1976, LEAA/OCRC sent a 90-day notice as a result of a reported court decision finding discrimination on the basis of sex in promotions and assignments in the institution; \$22,000 was suspended on March 14, 1977. A Compliance Agreement was negotiated and the suspension of funding lifted on April 29, 1977. (The Iowa Supreme Court subsequently reversed the original finding. Subsequently, a federal district judge found a violation of Title VII on the same facts.

Illinois Department of Corrections--On January 11, 1977, LEAA/OCRC sent a 45-day notice as a result of the filing of a lawsuit by the Attorney General which alleged, among other things, that there was racial discrimination in housing and use of facilities. The court entered an order on February 10, 1977, which stayed any suspension of funds. A Consent Decree was entered on August 3, 1978, closing the case.

Virginia State Police--On January 11, 1977, LEAA/OCRC sent a 45-day notice as a result of the filing of an Attorney General lawsuit that alleged employment discrimination based on race and sex. The court stayed the suspension of funds on February 4, 1977. This order was vacated after appeal on March 2, 1978. LEAA/OCRC suspended funding on March 7, 1978.

City of San Diego (Except Police Department)--On January 19, 1977, LEAA/OCRC sent a 45-day notice as a result of an Attorney General lawsuit that alleged employment discrimination on the basis of race, sex, and national origin. The suspension of funding was stayed by the court. A Consent Decree was entered December 19, 1977, closing the case.

County of San Diego--On January 19, 1977, LEAA/OCRC sent a 45-day notice as a result of an Attorney General lawsuit that alleged employment discrimination on the basis of race, sex, and national origin. The suspension of funding was stayed by the court. A Consent Decree was entered May 6, 1977, closing the case.

San Francisco Police Department--On February 4, 1977, LEAA/OCRC sent a 90-day notice as a result of receipt of a court decision finding racial discrimination in promotions to sergeant. A Compliance Agreement was negotiated within the 90-day period and the case closed subject to monitoring, which is continuing.

Jefferson County, Alabama (County and Six Cities Using Police Officer Test)--On February 25, 1977, LEAA/OCRC sent 90-day notices as a result of a reported court decision finding racial discrimination in selection process. On April 14, 1977, the court found compliance and the case was closed.

New York City Police Department--On April 11, 1977, a 90-day notice was sent as a result of a reported court decision that found discrimination in employment based upon race and national origin. Upon appeal, the finding was vacated, ending LEAA/OCRC action on June 21, 1977.

Wisconsin Council on Criminal Justice--On April 20, 1977, LEAA/OCRC sent a 90-day notice as a result of an investigative finding. The matter was conciliated between the parties and the complaint withdrawn, closing the matter.

Denver Police Department--On May 2, 1977, LEAA/OCRC sent a 90-day notice as a result of a reported court decision finding discrimination in promotional practices based upon national origin. The court found compliance on June 6, 1977, closing the case.

Jefferson County, Alabama, Jail--On June 17, 1977 a 45-day notice was sent as a result of an Attorney General lawsuit that alleged racial discrimination in housing and use of facilities. The court stayed suspension of funding. A Consent Decree was entered January 25, 1978, closing the case.

Los Angeles Police Department--On June 24, 1977, a 45-day notice was sent as the result of an Attorney General lawsuit filed after referral by LEAA/OCRC alleging employment discrimination based upon race, sex, and national origin. The court enjoined fund suspension and all investigative and administrative processes. The order was appealed and oral arguments were heard August 8, 1978. No decision has been rendered.

Alabama Department of Corrections--On July 11, 1977, LEAA/OCRC sent a 90-day notice resulting from a reported court decision finding sex discrimination in the height and weight requirements used for selecting correctional officers. Compliance achieved and case closed October 19, 1977.

Kansas City, Kansas, Police Department--On July 15, 1977, LEAA/OCRC sent a 90-day notice as a result of a court finding of racial discrimination in employment of civilian personnel. A Compliance Agreement was negotiated and the case closed October 13, 1977.

Kentucky State Police--On August 15, 1977, LEAA/OCRC sent a 90-day notice the result of receipt of an administrative finding of the Kentucky Human Rights Commission after a due process hearing, finding sex discrimination in employment. Suspension of funding was ordered on November 15, 1977. An administrative hearing was requested March 15, 1978. Suspension of funding was lifted upon reversal of the finding by a county court. The reversal is on appeal. The LEAA administrative hearing was continued.

Rocky Mount, North Carolina Police Department--On August 28, 1977, a 90-day notice was sent based upon a reported court decision finding sex discrimination in employment. The court found compliance and the case was closed November 11, 1977.

New Orleans Police Department--On September 12, 1977, a 90-day notice was sent based upon an LEAA/OCRC investigative finding of sex discrimination in employment. A Compliance Agreement was secured and the case closed on December 15, 1977.

New York State Police-- On September 27, 1977, a 45-day notice was sent as the result of an Attorney General lawsuit alleging employment discrimination based upon race, sex, and national origin. The court stayed suspension of funding; trial completed July 21, 1978; briefs were submitted. A decision is expected shortly.

Nassau County, New York Police Department--On October 4, 1977, a 45-day notice was sent as the result of an Attorney General lawsuit that alleged employment discrimination based upon race, sex, and national origin. The court stayed suspension of funding.

Des Moines, Iowa, Police Department--On November 7, 1977, a 90-day notice was sent as the result of an LEAA/OCRC investigative finding of sex discrimination in promotion. A Compliance Agreement was secured and the case closed.

Cook County, Illinois, Department of Corrections--On November 11, 1977, a 45-day notice was sent as a result of an Attorney General lawsuit alleging, among other things, racially segregated facilities. The court ordered a stay on suspension of funds. A consent order has been entered resolving the matter.

Cedar Rapids, Iowa, Police Department--On November 16, 1977, a 90-day notice was sent as the result of an LEAA/OCRC investigative finding of racial discrimination in employment. A Compliance Agreement was secured and the case closed February 1, 1978.

Dallas, North Carolina, Police Department--On December 13, 1977, a 90-day notice was sent as the result of an LEAA/OCRC investigative finding of constructive discharge based upon racial association. A suspension order issued on March 17, 1978. An administrative hearing was requested and was conducted on August 17, 1978. No decision has been rendered.

Jackson County, Mississippi, Sheriff's Department--On December 13, 1977, a 90-day notice was sent as the result of an LEAA/OCRC investigative finding of sex discrimination in employment. A Compliance Agreement was secured and the case closed December 27, 1977.

San Francisco Police Department--On January 17, 1978, a 45-day notice was sent as the result of an Attorney General lawsuit alleging employment discrimination based upon race, sex, and national origin. The court stayed any suspension of funding. A Consent Order has been entered resolving the matter.

St. Landry Parish, Louisiana, Jail--The Attorney General intervened in a private party action on January 6, 1978. LEAA/OCRC did not receive timely notice so the 45-day notice was not sent. The court stayed suspension of funding. A Consent Decree is expected to be entered shortly.

Las Vegas Metropolitan Police Department--On March 10, 1978, a 45-day notice was sent as a result of an Attorney General lawsuit alleging, among other things, racial segregation in the jail complex. The court denied preliminary relief and suspension of funding was ordered on April 7, 1978.

Detroit Police Department--On March 22, 1978, a 90-day notice was sent as a result of receipt of racial discrimination in promotions to sergeant. A Compliance Agreement was secured and the case closed on June 15, 1978.

Milwaukee County, Wisconsin, Sheriff's Department--On April 3, 1978, a 45-day notice was sent as the result of an Attorney General lawsuit alleging sex discrimination in employment. The court denied preliminary relief and suspension of funding was ordered on May 1, 1978.

Ohio Department of Rehabilitation and Corrections--On May 30, 1978, a 90-day notice was sent based upon an LEAA investigative finding of sex discrimination in provision of services to technical parole violators. A Compliance Agreement was secured and the case closed on August 31, 1978.

Baltimore County, Maryland--On May 26, 1978, a 45-day notice was sent as the result of an Attorney General lawsuit alleging employment discrimination on the basis of race and sex. The Court ordered preliminary relief as to suspension of funds. Subsequently a consent order was entered resolving the matter.

Schiller Park, Illinois, Police Department--On July 14, 1978, a 45-day notice was sent as the result of an Attorney General lawsuit that alleged sex discrimination in employment. The court allowed preliminary relief, staying suspension of funds. A Consent Decree was entered August 28, 1978, closing the case.

Indianapolis, Indiana, Police Department--On July 17, 1978, a 45-day notice was sent as the result of an Attorney General lawsuit alleging employment discrimination based on race and sex. The court stayed any suspension of funding until October 13, 1978. A Consent Decree as to the racial allegations was entered on July 20, 1978. A Consent Decree as to the sex allegations was entered on January 9, 1979, closing the case.

Niagara Falls, New York, Police Department--On July 26, 1978, a 90-day notice was sent as the result of a reported court decision finding sex discrimination in the department's compensation of police matrons. Compliance was shown and the case was closed.

Rhode Island Department of Corrections--On October 10, 1978, a 90-day notice was sent advising of an investigative finding of sex discrimination involving the assignment of a correctional officer lieutenant. A preliminary hearing was held on December 14, 1978. The administrative law judge ruled that it was likely the respondent would prevail on the merits. No date has yet been set for a full hearing.

✓ Will County, Illinois, Sheriff's Department--A 90-day notice was sent October 17, 1978, advising of a finding of discrimination in employment practices as a result of an investigation. The issue was that the entrance exam had adverse impact on blacks and was not validated. Suspension of funds was ordered January 19, 1979.

Columbus, Ohio, Police Department--A 90-day notice was sent November 6, 1978, as a result of two court decisions finding race and sex discrimination in employment.

Buffalo, New York Police Department--A 90-day notice was sent November 28, 1978, as a result of court decision finding race and sex discrimination in employment. A resolution agreement has been sent by QCRC and unless it is executed, funds will be terminated March 1, 1979.

Fairfax County, Virginia, Government--On January 18, 1979, a 45-day notice was sent as a result of an Attorney General lawsuit alleging racial and sex discrimination in employment. A suspension of funding set for February 2, 1979, was stayed by the court.

Unified Court System, State of New York--In January, 1979, a 45-day notice was sent as a result of an Attorney General lawsuit alleging sex discrimination in employment. A suspension date was scheduled for February 9, 1979, however, a stay has been granted.

VIII. PROCESS AUTOMATION AND THE MANAGEMENT INFORMATION SYSTEM

LEAA regulations promulgated pursuant to the Jordan Amendment set strict timeframes for processing complaints or compliance reviews to ensure that recipients of LEAA funds do not engage in prohibited discriminatory practices. These regulations and the functional delegation of authority assign the major responsibility for ensuring nondiscrimination by LEAA recipients to OCRC. Evaluation of OCRC administrative procedures by OCRC management and by LEAA's Office of Planning and Management indicated that meeting these timeframes would require increased accountability for OCRC staff and automated techniques for case processing.

Process Automation

As part of its efforts to meet the legislated timeframes, OCRC is undertaking a continuing review of all management and administrative procedures designed to find ways of improving efficiency in compliance activities. In recent months, activities of the Intake and Control Unit were evaluated and improved techniques and procedures were developed; these are summarized in the procedures manual for this Unit. The Operations Division's responsibilities, likewise, have been reviewed to standardize activities and improve efficiency. To the extent possible, the operation of these two units has been automated through the use of available Xerox equipment and IBM word-processing typewriters. Plans for more fully automated, computer-oriented processing system are underway.

Management Information System

An important element of OCRC's objective to meet the timeframes has been the initiation of a computerized management information system (MIS)

of 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 recipients of LEAA funds. On a fiscal-year basis, 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:

- To provide summary information for reports by the Director to persons and/or organizations outside OCRC;
- To provide information for managerial decisionmaking within OCRC by identifying timeframes and bottlenecks in the flow of cases and thereby expedite case flow within the timeframes established by regulations;
- To assist managers and investigators in establishing the current status of cases in OCRC;
- To provide information relevant to assigning cases to investigators;
- To provide investigators with current information on the status of cases in their workloads;
- To provide information enabling cost analysis.

The MIS consists of three parts: (1) an OCRC data base, which is an element of the LEAA 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 LEAA/OCRC regulations. Administratively, this process routinely involves each of OCRC's organizational units in the following order: (1) original docketing, follow-up, and 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 improving management effectiveness, is a system of information reporting that assists the Director of OCRC in informing the LEAA Administrator and others of OCRC performance. It also allows the Director of OCRC to evaluate the internal performance of OCRC in processing cases.

Anticipated Future Developments

OCRC management perceives the compliance activity process to be in a continual state of evolution, moving toward a highly automated system that meets nondiscrimination requirements within the regulatory timeframes. To accomplish this, long-term objective will require regular assessment of the state of OCRC management functions and procedures.

This continuing assessment will result in periodic efforts to improve the system. Current evaluation of the OCRC management system indicates the need for the following improvements in the near future:

- Addition of legal-notice cases to the data base of the management information system, which can be accomplished in the context of the system as it now exists;
- Inclusion of a calendar-counting system into the management information system, which will require assistance from LEAA's Information Systems Division (ISD);
- Addition of compliance review activity to the computerized management information system, which requires design specifications to be developed by OCRC staff and system software design (computer programs) developed and prepared for ISD;
- Initiation of an early warning system of notification of findings by state agencies to trigger LEAA notice actions;
- Study and evaluation by OCRC staff of how to incorporate pre-award activity into the computerized system.

In the more distant future, OCRC will seek to obtain the assistance necessary to develop a computerized word-processing system that will make it possible to incorporate much of the work involved in preparing notice letters, compliance information requests, and evaluation of data into the computerized system.

IX. COORDINATION WITH FEDERAL AGENCIES

Both the Crime Control Act of 1976 and the state and local Fiscal Assistance Amendments of 1976 contained significant new civil rights enforcement provisions. These amendments are similar and in many instances identical. Thus, the Office of Civil Rights Compliance and the Office of Revenue Sharing found themselves proceeding in parallel directions in separate agencies (the Department of Justice and the Department of Treasury, respectively). Since the spirit of the Jordan Amendment was to increase the use of administrative sanctions, as well as take cognizance of agency and court findings of discrimination, LEAA/OCRC has been coordinating its activities with the Office of Revenue Sharing on an informal basis.

Even this ad-hoc arrangement was better than the situation documented by USCCR:

Since the passage of the Equal Opportunity Act of 1972, amending Title VII of the Civil Rights Act of 1964, State and local governments have been prohibited from discriminating in their employment practices, and the Equal Employment Opportunity Commission (EEOC) has been responsible for enforcing this provision through the processing of complaints.

Thus, EEOC and LEAA have an overlapping responsibility for equal employment opportunity in State and local government law enforcement programs. Another Federal agency which also shares with LEAA the responsibility for ensuring equal opportunity in some law enforcement programs is the Office of Revenue Sharing (ORS) of the Department of the Treasury. ORS provides Federal assistance to State and local governments which may be used for a broad range of programs, including police and correctional activities....

Clearly, there is a need for coordination among these agencies. For example, it is confusing to State and local governments to be confronted with different standards or investigators from different agencies reviewing the same matter. Lack of uniformity in either policy or enforcement can only reduce the credibility of Federal agencies and adversely affect the protection of the rights of minorities and women. Yet, LEAA has not agreed with the other two agencies upon a uniform standard of compliance for law enforcement agencies. Moreover, there have been inadequate efforts

between LEAA and ORS and between LEAA and EEOC to share information concerning complaints received, investigations conducted, the results of investigations, and the contents of any compliance agreements. (USCCR Report, Vol. VI, pp. 390-392.)

Under its new leadership, OCRC has now developed, with the Office of Revenue Sharing, a formal memorandum of understanding. This effort is consistent with the entire thrust of the President's Reorganization Plan. The agreement will provide a formal mechanism to transmit changes and complaints from one agency to the other, as well as coordinate efforts where a joint complaint has been filed. Specific individuals will be designated as contact persons and charged with the responsibility to acknowledge and follow through on referrals. Additionally, joint standards of investigation and evidence will enable each agency to accord the other's investigative findings substantial weight. On-site investigations will be coordinated to allow joint teams to make one visit and not subject respondents to sequential and repetitive investigations. Information and resources will thus be maximized to ensure the nondiscriminatory use of federal funds through an aggressive enforcement stance.

Similar agreements are being developed with the Equal Employment Opportunity Commission and the Civil Rights Division of the Justice Department.

A copy of the agreement with ORS is in the appendix. It was signed on February 7, 1979. It will be published in the Federal Register.

X. ASSISTANCE AVAILABLE THROUGH LEAA CONTRACTORS

During the past several years, LEAA's 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 used, 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 alleviate these problems, the OCRC has compiled a list of organizations currently available to increase 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.

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, LEAA, 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 LEAA recipients include but are not limited to the following:

- A. University Research Corporation, 5530 Wisconsin Avenue, N.W., Washington, D.C. 20015. Telephone: (301) 654-8338
Project Title: LEAA Civil Rights Compliance Project
Project Director: Edward A. Griggs

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 SPAs and their subgrantees. 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 SPA Conference Committee on Civil Rights Compliance, and other areas of endeavor.

Presently, the staff is concentrating its capabilities in three areas:

- Accumulating background data for the subsequent production of an explanatory manual for the SPAs so that they can conduct compliance reviews;
- Continuing the production of the Civil Rights Compliance Technical Assistance Bulletin and relevant special issues;
- Conducting training workshops and on-site technical assistance only with specific approval from OCRC. (In-house technical assistance will continue to be delivered as usual.)

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 will include assisting Wisconsin recipients in the development and implementation of the EEOPs they are required to have as pre-conditions for LEAA funding; evaluate and correct their employment practices that contravene LEAA and other 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 SPAs 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 LEAA funds.

C. National Urban League, 500 E. 62nd Street, New York, New York 10021.

Telephone: (212) 644-7475

Project Title: Law Enforcement Minority Manpower Project

Project Director: Lee H. 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. In the past year alone, the project staff has responded to over 25 requests for on-site assistance.

D. University of Chicago, Industrial Relations Center, 1225 East 60th Street, Chicago, Illinois 60637. Telephone: (312) 753-2056

Project Title: Municipal Police and State Highway Patrol Officer
Selection Test Development Project

Project Director: John Furcon

This project has been funded for a three-year period in order to develop and validate a pre-selection test instrument for entrance candidates in police work. Principally, one state police department and one city police department are being used as laboratories for this experimental project. In order to ensure adequate consideration of demographic differences, work relating to development and validation of the test will occur, as necessary, in a number of other state and municipal police departments around the country. This project is no longer funded by OCRC since the completion of the initial test battery. All contact must be made directly with Mr. Furcon. LEAA cannot give a blanket guarantee of the validity of the test for use by all police departments.

E. County of Monroe, Rochester, New York (to be subcontracted to the Urban League of Rochester, Inc.) Office of Criminal Justice Planning, 350 East Henrietta Road, Rochester, New York 14620. Telephone:

(716) 428-5885

Project Title: Law Enforcement Minority Manpower Project

Project Director: Dr. Raymond A. Santirocco

The Rochester Urban League, as a subcontractor of the County of Monroe, will provide technical assistance to county and local law enforcement agencies in methods and techniques for minority recruitment. The

Law Enforcement Minority Manpower Project staff of the League will work directly with law enforcement agencies in providing testing programs for the recruitment, placement, and retention of minority men and women in the criminal justice system of Monroe County and the City of Rochester.

F. IAOHRA (The International Association of Official Human Rights Agencies),
705 G Street, S.E., Washington, D.C. 20003.

Project Title: Early Warning System

Contact Person: James Fukumato

International Association of Official Human Rights Agencies will conduct research to develop a system by which state civil rights agencies can notify OCRC of findings of discrimination against LEAA recipients. It is OCRC's experience that the major publishers of Civil Rights Decisions (Bureau of National Affairs and Commerce Clearinghouse) do not publish administrative agency decisions. OCRC's regulations require that funding be terminated pursuant to the statutory triggers described above. Additionally, IAOHRA will develop mechanisms to coordinate the civil rights enforcement effort between OCRC and IAOHRA membership.

G. Illinois Law Enforcement Commission (ILEC), 1205 S. Riverside Plaza,
Chicago, Illinois, 60606. Telephone: (312) 454-1560

Project Title: Continuation of Design and Implementation of Comprehensive
Civil Rights Program

Project Director: Walter J. Ducey

The purposes of this grant are to:

- Provide technical assistance to ILEC grantees, thus enabling them to comply with LEAA and ILEC requirements for equal employment opportunity, and to eliminate or reduce underutilization of minorities and women in their workforce;

- Audit grantees' written EEO programs for compliance with LEAA and ILEC EEO requirements;
- Conduct compliance reviews of grantees' implementation of their EEO programs;
- Provide EEO training to ILEC staff and Regional Planning Unit directors;
- Provide a model SPA civil rights compliance review and complaint investigation methodology and standards; and
- Produce a replicable document/manual relative to all of the above, which can be used by other SPAs and by local, state, and federal agencies responsible for civil rights compliance activities pertaining to LEAA recipients.

H. National Center for State Courts, Denver, Colorado. Telephone:

(612) 222-6331

Project Title: Equal Employment in the Courts: A Research, Training and Technical Assistance Project

Project Director: Edward B. McConnell

This new grant will conduct research and provide 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 classification structures than other criminal justice agencies.

I. NOBLE (National Organization of Black Law Executives).

Project Director: Evelyn Hurt

This organization will provide technical assistance and training to police departments in problem areas that concern minorities. Additionally, they will provide mediation and conciliation of problems arising between the criminal justice system and minorities.

J. Police Foundation, Washington, D.C.

Project Director: Cynthia Sulton

Project Title: Women In Policing

The Police Foundation will conduct research into the status of American women in policing today. The study will determine the number and percentage of female sworn officers in state and municipal police departments, the distribution of female officers by rank and assignment, and the nature of police department recruitment procedures, mobility opportunities, and training practices as they pertain to female officers.

XI. FUTURE PLANS

The Office of Civil Rights Compliance is now run on a management-by-objective (MBO) basis. In addition to the daily functions described in this report, the Office has outlined 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:

- Expanding compliance reviews from police departments to correctional institutions, courts, probation, and parole agencies with emphasis on administrative criteria used
- Publishing regulations for obtaining data on program services by recipients -- Title VI analog to the Title VII EEOP reports (see the first Plan for Regulation in the appendix for details)
- Organizing a technical assistance clearinghouse
- Fully implementing automation of compliance activities and management information system (this issue involves the availability of necessary services from the Information Systems Division)
- Fully implementing the memoranda of understanding with other civil rights agencies
- Organizing a separate administrative unit for full pre-award review of all grants, desk audits of EEOPs and monitoring of compliance agreements
- Improving use of staff (requires evaluation of legal and professional needs in OCRC)
- Developing a relationship between OCRC and other departments and divisions of LEAA (the issue involves internal communication and cooperation)

- Concentrate on systemic discrimination, with deferral of overlapping, individual complaints to EEOC
- Developing new EEO posters (LEAA's new statute and nondiscrimination regulations created a need for updating OCRC's old posters, and new posters have been prepared. Subject to final approval, they will be forwarded to printers for mass production and national dissemination. The two posters recently developed include one in Spanish and one in English. Future posters will be developed in Cantonese, various native American dialects, etc. These posters will be made available to all SPAs and other state and local organizations for dissemination to LEAA recipients and other interested parties.)
- Revising the Equal Employment Opportunity Program Guidelines and developing a model EEOP (see the first Plan for Regulation in the appendix for details)
- Instituting predetermination settlement procedures similar to that of EEOC in order to facilitate complaint processing
- Analyzing and computing the average cost of processing a civil rights complaint
- Expanding the management information system to include the Compliance Review Division and its activities
- Developing a juvenile justice program focusing on discriminatory arrest practices and diversion from the criminal justice system.

APPENDIX

INTER-AGENCY AGREEMENT

BETWEEN THE

OFFICE OF REVENUE SHARING, DEPARTMENT OF THE TREASURY

AND

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

Because it is in the mutual interest of the Office of Revenue Sharing, Department of the Treasury, and the Office of Civil Rights Compliance, Law Enforcement Assistance Administration, to assist each other in carrying out the purposes of the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701, et seq. (Crime Control Act), the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq., (Juvenile Justice Act) and the State and Local Fiscal Assistance Act of 1972, as amended, 31 U.S.C. 1221, et seq., (Revenue Sharing Act), each agency agrees with respect to the other:

1. To furnish data, records or investigative and other files upon request, including, but not limited to, information gathered pursuant to 28 C.F.R. 42.301, et seq., and 31 C.F.R. 51.50, et seq.
2. To exchange and share computer print-outs on actions in progress on a quarterly basis.
3. To furnish program divisions' annual enforcement plans and other planning documents which indicate investigative priorities and objectives.

4. To protect the confidentiality of complainants unless specifically authorized to disclose same.

5. To meet at least quarterly and as otherwise needed to discuss implementation of this Agreement.

6. To designate a specific person within each agency to attend said meetings and maintain interim liaison.

7. To provide notice on a monthly basis of receipt and nature of complaints alleging illegal discrimination within the other's jurisdiction.

8. To share civil rights enforcement personnel and resources and to support and coordinate enforcement activities and efforts in appropriate cases.

9. To conduct joint investigations where practical.

10. To accord the other's findings, whether as a result of complaint investigation or compliance review, due consideration in its determination of the recipient's compliance or noncompliance, provided that a determination by one agency shall not preclude the other from making a separate determination of compliance or noncompliance with respect to laws under its jurisdiction.

11. To determine the lead agency responsible for processing, investigating and settling complaints filed with both agencies after consideration of:

- (a) governing timetables
- (b) initial receipt
- (c) agency experience
- (d) staff resources

12. To provide a listing of all current compliance agreements upon request.

13. To assist each other in monitoring compliance with such agreements during new investigation of affected recipients.

14. To coordinate compliance reviews to avoid duplication of efforts, and upon request, to conduct joint compliance reviews where practical.

15. To provide copies of any findings of illegal discrimination (issued after opportunity for a hearing consistent with the Administrative Procedures Act) made by a Federal, State, or local administrative agency, Federal or State court, or Federal administrative law judge against a recipient and to take appropriate action as authorized or required by the Crime Control Act, Juvenile Justice Act, or the Revenue Sharing Act.

16. To provide immediate notification of any formal administrative actions instituted against a recipient alleging a violation of any Federal civil rights statute or regulations and to take appropriate action as authorized or required by the Crime Control Act, Juvenile Justice Act, or the Revenue Sharing Act.

17. To provide appropriate and timely written documents such as letters to recipients expressing support for the enforcement efforts of the other agency.

18. To review and evaluate this agreement one year after its execution.

Bernadine Denning, Director
Office of Revenue Sharing
Department of Treasury

Henry S. Dogin, Deputy Administrator
for Policy Development
Law Enforcement Assistance Administration
Department of Justice

PLAN FOR REGULATION SCHEDULED TO BE IN DEVELOPMENT OR UNDER

REVIEW PRIOR TO SEPTEMBER 1, 1979

Office of Civil Rights Compliance

Equal Service Program Guidelines

A. Description of the Regulation

This Regulation will provide guidance for recipients of LEAA funds in collecting and maintaining data relative to their obligation of non-discriminatory provision of services to all elements of their service population. These guidelines will parallel the Equal Opportunity Programs Guidelines (28 CFR 42.301, et seq.) in outlining the form and analysis necessary to ascertain whether the recipient is in compliance. Major issues to be considered include but are not limited to:

(1) The manner in which services are or will be provided by the program in question, and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination;

(2) The population eligible to be served, by race, color, and national origin;

(3) Data regarding covered employment, including use or planned use of bilingual public-contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English;

(4) The location of existing or proposed facilities connected with the program and related information adequate for determining

whether the location has or will have the effect of unnecessarily denying access to any persons on the basis of prohibited discrimination;

(5) The present or proposed membership, by race, color, and national origin, in any planning or advisory body which is an integral part of the program;

(6) Where relocation is involved, the requirements and steps used or proposed to guard against unnecessary impact on persons on the basis of race, color, or national origin;

(7) Additional data, such as demographic maps, the racial composition of affected neighborhoods or census data as necessary or appropriate.

B. Need and Alternatives

Although the Office of Civil Rights Compliance requires recipients to ensure that they provide their services equitably, the recipients do not maintain nor collect data sufficient to enable a determination of compliance. This data cannot be compiled retroactively upon receipt of a complaint.

The alternative would be to investigate each recipient and tailor an individual collection system. The small staff size of the Civil Rights Office and the large number of recipients make this impractical.

The other alternative would be not to investigate complaints of discrimination in services or else always issue findings of "insufficient data." This is unacceptable.

C. Legal Basis

42 U.S.C. 3751.

D. Plan for Public Involvement

Standard LEAA policy on contacting all interested groups, both public and private.

E. Target Dates

Development of internal draft. June 1979. Publication of Proposed Regulations in the Federal Register, July 1979 with a 60-day comment period. Final Regulations issued in October 1979.

F. Knowledgeable Official

Lewis W. Taylor

Director, Office of Civil Rights Compliance

(202) 633-2215

G. Regulatory Analysis

To be determined by OPM.

H. Signature of Certifying Office Head

Lewis W. Taylor

Date

PLAN FOR REGULATIONS SCHEDULED FOR INITIAL REVIEW

Regulation:

Equal Employment Opportunity Program Guidelines 28 CFR 42.301 et seq.

A. Description of the Regulation

LEAA's Equal Employment Opportunity Program Guidelines delineate the responsibility of LEAA recipients to formulate and maintain an Equal Employment Opportunity Program (EEOP). The EEOP is a written and documented evaluation of a recipient's employment system's utilization of women and minorities. It requires identification and analysis of hiring, selection practices, testing procedures, disciplinary actions, promotions, transfers and terminations based upon data collected and maintained by the recipient, and classified by race, ethnic origin, and sex of employees by job category. It also requires racial, ethnic and sex data on the population of the community, the work force, and the unemployed population, as well as specific minority recruitment programs.

Major issues to be considered include but are not limited to:

- (1) Coordination with other federal agencies reporting forms.
- (2) Coordination with the recipient's unit of government's Affirmative Action Plans.
- (3) Requiring submission of EEOP as condition precedent for grant applications.
- (4) Standardization of documentation and format of EEOP.
- (5) Inclusion of checklist.

B. Needs and Alternatives

LEAA is required by law to determine recipients' compliance with the prohibition of employment discrimination of its enabling statutes. Absent such data as required by the EEOP, no such determination is possible.

An alternative would be to simply rely upon the data gathered by the Equal Employment Opportunity Commission. This has been considered and rejected by the United States Commission on Civil Rights which stated, "The employment categories used by EEOC, however, are of limited use in analyzing the adequacy of minority and female utilization in police departments." (The Federal Civil Rights Enforcement Effort, Volume VI, page 337-8.)

The other alternative would be not to investigate complaints of employment discrimination or else always issue findings of "insufficient data." This is unacceptable.

C. Legal Basis:

42. U.S.C. 3751

D. Plan for Public Information:

Standard LEAA policy on contacting all interested groups, both public and private.

E. Target Dates:

Initial meeting with Office of General Counsel scheduled for March. Initial meeting with Equal Employment Opportunity Commission scheduled in March. Initial report and recommendation to Office of General Counsel scheduled for April. Formal review scheduled for June 1979

Proposed revisions published in Federal Register in August. Sixty (60) day period for comments. Final form in November 1979, published in the Federal Register.

F. Knowledgeable Official:

To be determined by Lewis W. Taylor, Director, Office of Civil Rights Compliance.

G. Regulatory Analysis:

To be determined.

END