

CR 1.2: En 2/2

UNIV OF MD MARSHALL LAW LIBRARY



3 1428 01102478 9

A Report of  
The United States  
Commission on  
Civil Rights  
May 1971

**THE FEDERAL  
CIVIL RIGHTS  
ENFORCEMENT  
EFFORT**



**MONTHS LATER**

KE

4755

.A8

1970b

## U.S. COMMISSION ON CIVIL RIGHTS

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in 1957 and directed to:

Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, or national origin, or by reason of fraudulent practices;

Study and collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution;

Appraise Federal laws and policies with respect to equal protection of the laws;

Serve as a national clearinghouse for information in respect to denials of equal protection of the laws; and

Submit reports, findings, and recommendations to the President and the Congress.

Members of the Commission:

Rev. Theodore M. Hesburgh, C.S.C., *Chairman*

Stephen Horn, *Vice Chairman*

Frankie M. Freeman

Maurice B. Mitchell

Robert S. Rankin

Manuel Ruiz, Jr.

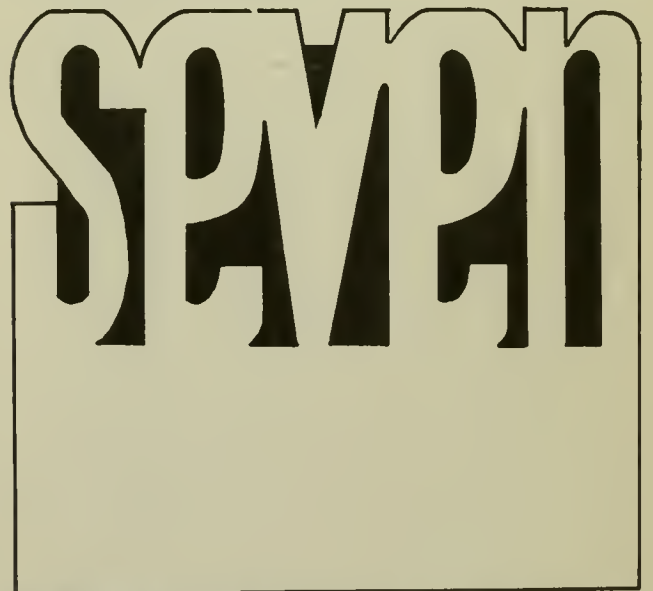
Howard A. Glickstein, *Staff Director*

CR1.2: En2/2

UNIVERSITY OF MARYLAND  
SCHOOL OF LAW  
LIBRARY  
BALTIMORE, MARYLAND

A Report of  
The United States  
Commission on  
Civil Rights  
May 1971

**THE FEDERAL  
CIVIL RIGHTS  
ENFORCEMENT  
EFFORT**



**MONTHS LATER**

## ACKNOWLEDGMENTS

55  
708  
The Commission is indebted to the following staff members of the Federal Evaluation Division, Office of Civil Rights Program and Policy, who participated in the preparation of this report under the direction of Jeffrey M. Miller, Chief of the Division:

Klaire V. Adkins, Jean M. Bankett, Doris Barnes, Maribeth Bibb, Lucille L. Boston, Doris O. Chambers, Ruby T. Daniels, John E. Fleming, Cynthia A. Freeman, Richard A. Gladstone, Cynthia N. Graae, Wallace Greene, Peter N. Gross, Gabriel Guerra-Mondragon, Jr., Karen J. Krueger, Frank E. Leslie, Steve Maurer, Bruce E. Newman, William C. Payne, Barry W. Strejcek, Richard L. Waters, Dorothy P. Williamson.

The Commission is also indebted to the following members of the Office of Information and Publications, who participated in the preparation and dissemination of this report under the direction of Carlos D. Conde, Director of the Office:

Arnold L. Bortz, Louise Lewisohn, Beverly H. Moore, Michael P. O'Connell, Barbara A. Planiczka, Carolyn J. Reid, Edward R. Tonkins, and all other members of the staff of this Office.

The report was prepared under the overall supervision of Martin E. Sloane, Assistant Staff Director, Office of Civil Rights Program and Policy.

**STATEMENT OF  
THE UNITED STATES COMMISSION ON CIVIL RIGHTS  
ON "THE FEDERAL CIVIL RIGHTS ENFORCEMENT EFFORT—  
SEVEN MONTHS LATER"**

Seven months ago, in October 1970, the United States Commission on Civil Rights issued a report evaluating the way more than 40 Federal departments and agencies were fulfilling their responsibilities under the variety of civil rights laws, Executive orders, and judicial decisions which guarantee equal rights for all citizens. The report, entitled "The Federal Civil Rights Enforcement Effort", is one of the most important documents the Commission has issued in its 13-year history. Its basic conclusion was that the great promise of civil rights laws had not been realized, that the Federal Government had not yet fully prepared itself to carry out the civil rights mandate.

Since that report was issued, the Commission has continued to assess the civil rights performances of Federal departments and agencies to determine how they have responded to the report's findings and recommendations. The Commission's conclusion, based on its current assessment, is that the Federal response over the last seven months has been, with a few significant exceptions, a continuation of tentative first steps toward more stringent civil rights enforcement and promises of better performance in the future. The Commission is not satisfied. Neither should the American people be.

The inadequacies of civil rights enforcement mechanisms found seven months ago were across-the-board; they were not unique to particular agencies or programs but, rather, were systemic to the entire Federal establishment. The most commonly found weaknesses in Federal civil rights enforcement were the following:

- Lack of sufficient staff for enforcement;
- Failure to afford agency civil rights officials sufficient status or authority to carry out their functions effectively;
- Failure of agencies to establish clearly defined goals to govern their civil rights activities;

- Isolation of civil rights programs from the substantive programs of the agency;
- Adoption of a passive role in carrying out its responsibilities, such as reliance on assurances of nondiscrimination or complaint processing rather than the initiation of independent compliance investigations;
- Failure to make sufficient use of the available sanctions;
- Inadequate governmentwide coordination and direction of civil rights enforcement efforts.

These findings reflected the one element most characteristic of the Federal Government's civil rights position over several Administrations—lack of aggressiveness. It was so flagrant as to cause the Commission to conclude that the Federal Government had virtually abdicated its responsibility to enforce civil rights laws. Some agencies that should have been in the forefront of the enforcement effort seemed scarcely aware of their obligation; others had made only minimum efforts, evidently satisfied that they had complied with the law. A number of recommendations designed to strengthen the structure and mechanism for civil rights enforcement in Federal departments and agencies was made by the Commission. The most deepseated problems the Commission found, however, were lack of commitment to civil rights goals by Federal officials and hostile or narrow-purposed bureaucracies that view civil rights as a threat to or as outside of their prerogatives, programs, and personal inclinations. To deal with these, the Commission recommended the establishment of a system of accountability and monitoring so that the effectiveness of enforcement would no longer depend upon the attitude of individual Federal officials or the institutional bias of particular Federal bureaucracies.

In seeking to bring about the systemic changes that it believed were necessary, the Commission used the



principal weapon at its command — public reporting. The Enforcement Report received wide attention when it was issued. Government officials, civil rights organizations, and concerned Americans generally, joined in expressing their indignation over the Federal Government's failure to enforce civil rights laws. For many Federal agencies, this was the first time the inadequacies of their civil rights performance had been exposed to the public.

Convinced of the urgency of the report's message and resolved that the initial reaction must be only the first, not the last, word on the subject, the Commission decided to conduct periodic and systematic followup on the Federal Government's response. It recognized that agencies required time to read and digest a report of this magnitude and to institute the necessary changes. In February 1971, five months later, the Commission sent detailed questionnaires to departments and agencies specifically designed to determine what action had been taken.

Originally, an assessment of the progress made was planned for release in April. Leonard Garment, Special Consultant to the President, however, asked for a delay so that he and George Shultz, Director of the Office of Management and Budget (OMB), could analyze the responses and use the influence of their offices to expedite changes in conformity with the Commission's recommendations. The Commission gladly agreed to this request since it was entirely consonant with our original report's basic recommendation regarding White House concern for civil rights progress.

A number of positive changes have occurred since publication of the Commission's report. The President's budget request for Fiscal Year 1972, submitted to Congress early this year, seeks to meet the need for adequate staff and other resources for effective civil rights enforcement by calling for a substantial across-the-board increase in budget for civil rights. The Commission has commended the President for this action and is particularly encouraged by the sizable budget increases for the Office of Federal Contract Compliance and the Equal Employment Opportunity Commission, which share responsibility for ending discrimination in private employment.

The Commission is also encouraged by the fact that some agencies which, in the past, have barely acknowledged a civil rights responsibility are now not only showing signs of acknowledging it but have begun to take steps to fulfill it. The Securities

and Exchange Commission has agreed to require that information on pending legal proceedings concerning violations of civil rights laws or regulations must be disclosed in registration statements. Other regulatory agencies, such as the Interstate Commerce Commission and the Civil Aeronautics Board, plan to institute formal proceedings which may result in a rule prohibiting employment discrimination in the industries they regulate. The Federal Home Loan Bank Board — responsible for supervising savings and loan associations, which are the Nation's major mortgage lending institutions — is now actively considering a regulation which will require member institutions to keep records by race of all loan applications. This will include those rejected as well as those approved and will be a means of checking on discrimination in mortgage lending.

Other encouraging developments involve actions by key Federal agencies in response to the Commission's findings and recommendations. For example, the Office of Management and Budget and the Department of the Army — two of the most influential agencies in Government — have instituted programs by which specific numerical goals for increasing their own minority employment have been established, as well as definite timetables for their achievement. The Civil Service Commission (CSC) has approved the actions of the Army and OMB as entirely consistent with Federal personnel policy, and just recently informed all agencies that it considers the goals and timetables approach an acceptable management tool for achieving equality of opportunity in Government employment.

The Department of Justice is responsible for coordinating the activities of departments and agencies under Title VI of the Civil Rights Act of 1964, which assures nondiscrimination in federally assisted programs. It has been seriously understaffed for this task. The Department is reassigning six additional attorneys to its Office for Title VI. Under the proposed budget for Fiscal Year 1972 an additional six attorneys will be added to that Office, more than tripling its size since the issuance of our report.

Of special significance are the actions taken to strengthen overall coordination and direction of the Federal civil rights enforcement effort. Following one of the Commission's major recommendations, the recently created Council on Domestic Affairs, charged, under the President's 1970 Reorganization Plan, with responsibility to coordinate policy formu-

lation in the domestic area, is establishing a permanent Committee on Civil Rights. Further, and again in accord with a major Commission recommendation, George Shultz, Director of the Office of Management and Budget, which is responsible for determining how well agencies carry out the various programs and activities within their jurisdictions, has acknowledged a leadership role in civil rights enforcement. Mr. Shultz has instructed OMB constituent units, including budget examiners, to identify and deal with civil rights issues.

These are among the encouraging developments that have taken place since the Commission's report was issued. Moreover, the picture the Commission described last October was not a totally bleak one. A number of agencies were making good faith efforts to improve aspects of their civil rights performance. In most cases, these efforts have continued and have even accelerated. For example, the Department of Agriculture, which initiated an ambitious civil rights training program in the fall of 1969, has now trained some 41,000 program personnel in an effort to develop staff awareness and sensitivity to civil rights concerns. The Department of Health, Education, and Welfare (HEW), which was one of the few agencies which collected data on minority participation in a variety of its programs, continues to do so on a regular and systematic basis.

Despite these positive actions, it would be a mistake to assume that strong civil rights enforcement is now assured or even that we have turned the corner in eliminating the many weaknesses that were found to exist. Some of the new mechanisms that have been established appear only in skeletal form, and their effectiveness cannot be gauged until flesh is added to the bones. Thus, the value of the new Committee on Civil Rights of the Council on Domestic Affairs cannot be determined until its specific duties and its role in the development of civil rights policy and practice are defined, and their results evaluated.

While many agencies have adopted some of the recommendations the Commission addressed to them, they have also declined to adopt other, and in some cases equally important, recommendations. Thus, the new emphasis on civil rights announced by George Shultz is a step of potentially special significance. But Mr. Shultz has declined to establish a Division on Civil Rights within OMB, staffed with persons who have civil rights experience, to

provide guidance and direction to the staff, as recommended by the Commission. He prefers to assign this responsibility to one of the existing OMB divisions and to assign civil rights responsibilities to all OMB units as part of their regular staff duties. This approach is not indefensible, but it is not enough. In short, the Commission has serious reservations as to how well that agency, almost totally inexperienced in civil rights matters, will be able to carry out its new mandate in the absence of continuing guidance from a division whose *sole* responsibility is civil rights.

In addition, a number of actions announced by agencies represent steps that they either propose to take or are actively considering, rather than steps already taken. Thus the Federal Home Loan Bank Board has not yet established its data collection system; it is only considering that step. By the same token, the beginning of proceedings by the Interstate Commerce Commission (ICC) and the Civil Aeronautics Board (CAB) to determine whether to issue a rule prohibiting employment discrimination in the industries they regulate means that actual issuance lies well in the future, if, indeed, a rule is to be issued at all. Through long experience, the Commission has learned to wait and see what action actually results before offering its congratulations. In these cases, we would be delighted to offer congratulations at an early date and even to apologize for our battle-scarred skepticism if given the opportunity.

Of special concern to the Commission is the fact that a number of departments and agencies, including some that play key roles in the Federal civil rights enforcement effort, have done little or nothing to improve their civil rights performance since the Commission's report was issued.

The activities of agencies with responsibilities under Title VI of the Civil Rights Act of 1964 continue to be inadequate. Few collect and use information concerning their programs to determine if they are in compliance with Title VI. Even fewer have undertaken enforcement actions to eliminate violations. As an example, the Extension Service of the Department of Agriculture has yet to take enforcement action against discrimination in its State programs, six years after documenting such discrimination, and has indicated that it has no present plans to do so. The basic step of amending Title VI regulations on a governmentwide scale to improve their coverage and effectiveness still has



not been taken, although four years have elapsed since the need for corrective action was recognized. The Department of Justice has informed the Commission that amended regulations will be submitted to the Attorney General for approval on June 15.

There are also some agencies which, over the past seven months, appear to have regressed in the vigor with which they are enforcing civil rights laws. In August 1970, the Department of Housing and Urban Development (HUD) informed the Commission that its goal in administering Title VIII of the Civil Rights Act of 1968, the Federal fair housing law, was "the creation of open communities which will provide an opportunity for individuals to live within a reasonable distance of their job and daily activities by increasing housing options for low-income and minority families." By April 1971, however, the Department had retreated from this stance and now states that it is opposed to use of Federal leverage to promote economic integration. The harsh facts of housing economics, however, suggest that *racial* integration cannot be achieved unless *economic* integration is also achieved. Thus, the change in HUD's "open communities" policy may not only represent a narrowing of that agency's view of its fair housing responsibilities, but may also mark the beginning of the Federal Government's withdrawal from active participation in the effort to eliminate residential segregation.

Finally, leadership is still lacking in agencies that should be playing dominant roles in the Federal civil rights effort. The Civil Service Commission is charged by Presidential Executive order with responsibility for overseeing the Federal equal employment opportunity program. Despite recent actions to facilitate more equitable representation of minorities in the Federal service, the agency still is not exercising sufficiently vigorous leadership. It is not enough for the Civil Service Commission to acquiesce when some agencies adopt numerical goals and timetables for increased minority employment. Nor is it enough to provide assistance to other agencies in developing their own goals and timetable programs. Rather, the agency should insist on the adoption of such goals and timetables by every Federal department and agency, beginning with the Civil Service Commission itself. This it has not done.

By the same token, the Department of Justice, also charged with responsibility by Presidential Executive order to coordinate enforcement of Title

VI of the Civil Rights Act of 1964, one of the most basic civil rights laws of the land, has given little indication of assuming the unswerving leadership which is indispensable to firm enforcement of that law. The Department is assigning additional lawyers to carry out its Title VI responsibility but the problem will not be resolved by the mere addition of personnel. What is needed is the institution of systematic procedures by the Department of Justice that will precisely determine the degree of agency activity under Title VI and the adoption of whatever action is necessary to promote more vigorous enforcement where it is lacking. For example, sending out questionnaires such as the ones on which this Commission is basing its current assessment should be an activity in which Justice regularly and systematically engages. Since the Department has not engaged in such activities, it is in a poor position to know what the status of Title VI compliance is throughout the Government or how to improve it, seven years and two Administrations after the passage of the Civil Rights Act of 1964 and six years after the Department was given Title VI coordinating responsibilities.

The Commission must emphasize one important aspect of the changes just discussed. To the extent that progress has been made in strengthening civil rights enforcement, it is, in part, a result of the active intervention of the White House staff, particularly Leonard Garment and George Shultz. It is doubtful and improbable that even this much progress would have come about solely through the prodding of this Commission.

Some of the changes that have occurred came only after Mr. Garment and Mr. Shultz had expressed a personal interest in the way individual agencies were enforcing civil rights laws. This demonstrates the truth of the Commission's conclusion last October—that the Government's civil rights effort can be improved through the exercise of strong executive leadership. It also suggests that if sustained progress is to be made, this leadership must be exercised systematically and continuously. It must be made an institutional function of the White House staff and not the *ad hoc* expression of interest on the part of individual White House aides who have a strong commitment to civil rights progress.

Despite active White House intervention, however, major inadequacies remain and the Federal Government is not yet in a position to claim that it



is enforcing the letter, let alone the spirit, of civil rights laws. This fact demonstrates how deepseated are the obstacles to meaningful civil rights law enforcement.

The inordinate delays that have occurred in implementing proposals for improved civil rights enforcement are another indication of the formidable dimensions of these barriers. For example, more than a year and a half ago the agencies that supervise and benefit mortgage lenders agreed to distribute questionnaires to member institutions to determine, for the first time, the extent of the problem of discrimination in mortgage lending. To this day, those questionnaires, worked and reworked by a task force of experts, still have not been distributed. In addition, the Department of Housing and Urban Development established task forces some two years ago to develop uniform policies governing site and tenant selection in its housing programs as an aid to achieving the goal of equal housing opportunity. As of today, these policies have not been established.

These delays raise serious doubts about the degree of commitment of some Federal agencies to take the steps necessary to assure equal rights for all. Those guilty of delay provide a variety of justifications and rationales for their lack of action. But because excuses do not excuse nor explanations explain, the Commission doubts their legitimacy. In other areas of high national priority, (and we could easily list a dozen) such procrastination would not be tolerated. We need only think of the Nation's race to the moon to recognize that delays would have been dealt with speedily and drastically. No justification would have been accepted.

There are some who may take the view that the Commission is being unreasonable to demand that the Federal bureaucracy respond more positively in so short a period of time. They may feel it is unrealistic to expect agencies which, for decades,

have either ignored civil rights or, still worse, practiced their own brand of discrimination, to do a complete turn around in seven months. We take a different view.

For the Commission, the issue is simply whether Federal officials are going to honor their sworn oath to uphold the Constitution and to enforce the duly enacted laws of this land. In the most profound sense, here is an issue that is really a matter of law and order. The correct resolution of this issue should not take seven months, nor seven weeks, nor even seven minutes.

Indeed, time may well be a luxury which we can no longer afford. This is not 1956 when Dr. Martin Luther King's Montgomery bus boycott reawakened the Nation to a realization of racial injustice by making its inhumanity visible. It is not 1964 when we rode the crest of optimism, convinced that the struggle for racial equality was all but won. It is 1971 and time is running out:

The legitimate expectations of minority group members that they finally were to realize the full promise of equality have been frustrated. Many have lost faith that Government has the will or the capacity to redeem its pledge as contained in the laws it has enacted to fulfill the provisions of our Constitution and Bill of Rights. For the future well-being of this Nation, it is essential that this faith be restored, that the pledge of equality be redeemed. It is too late for promises. What is needed is action — comprehensive and total action that will achieve results, not the mere palliative of tinkering and promises.

The current assessment represents the second Commission report on the adequacy of the Federal civil rights effort. We will continue to make such reports until the results make them unnecessary. The Commission looks forward to that yet unforeseeable day. Until then, as a Nation we have promises to keep and miles to go before we sleep.



## TABLE OF CONTENTS

Acknowledgments .....	2
Statement .....	3
Preface .....	10
Employment	
Federal Employment .....	11
Civil Service Commission .....	12
Private Employment	
Office of Federal Contract Compliance .....	18
Equal Employment Opportunity Commission .....	22
Department of Justice .....	26
Interagency Staff Coordinating Committee .....	28
Housing	
Department of Housing and Urban Development .....	30
Department of Justice .....	34
Federal Financial Regulatory Agencies .....	36
Federal Home Loan Bank Board .....	36
Comptroller of the Currency .....	36
Board of Governors of the Federal Reserve System .....	36
Federal Deposit Insurance Corporation .....	36
General Services Administration .....	44
Federally Assisted Programs — Title VI of the Civil Rights Act of 1964	
Title VI Agencies (treated jointly) .....	48
Department of Agriculture .....	48
Department of Commerce .....	48
Department of Health, Education, and Welfare .....	48
Department of the Interior .....	48
Department of Labor .....	48
Department of Transportation .....	48
Department of the Treasury (Internal Revenue Service) .....	48
Law Enforcement Assistance Administration .....	48
Office of Economic Opportunity .....	48
Department of Justice .....	56
Regulatory Agencies	
Federal Communications Commission .....	60
Interstate Commerce Commission .....	60
Federal Power Commission .....	60
Civil Aeronautics Board .....	60
Securities and Exchange Commission .....	60
Civil Rights Policy Makers	
Office of Management and Budget .....	68
The White House .....	72

## PREFACE

In October 1970, the United States Commission on Civil Rights issued a report evaluating the performance of more than 40 Federal departments and agencies having significant civil rights responsibilities under a variety of laws, Executive orders, and court decisions. The Commission found in that report that the Federal civil rights enforcement effort suffered from a number of weaknesses and inadequacies in organization, structure, and mechanism. The Commission also found that these weaknesses and inadequacies were not unique to particular departments and agencies, nor could they be accounted for solely by the special nature of the programs the agencies administered or the civil rights laws they had responsibility for enforcing. Rather, these weaknesses were found to be systemic to the entire Federal establishment. Further, they were found to have existed for many years, over the course of several Administrations.

The Commission made a number of recommendations aimed at eliminating the weaknesses found to exist and improving the Federal Government's civil rights performance. These recommendations were addressed not only to agencies with civil rights responsibilities in specific subject areas, but also to agencies that have special roles in coordinating and directing the overall civil rights enforcement effort.

Seven months have passed since the Commission's report on "The Federal Civil Rights Enforcement Effort" was issued. The purpose of the Commission's current report is to evaluate the progress made during that period by a number of key Federal departments and agencies in resolving the problems identified by the Commission. It is important to stress that this report is limited to actions taken over the past seven months and does not relate to mea-

asures adopted previously. These were noted in the Commission's earlier report.

The report is based largely on responses from more than 25 departments and agencies to detailed questionnaires sent out by the Commission in February 1971. Although a few interviews were conducted with agency personnel for the purpose of clarifying statements that seemed ambiguous, the information in this report has been provided almost exclusively through the written responses of the agencies with no independent investigation by Commission staff. On the basis of this information, the Commission has made its own evaluation of current agency performance.

One final caveat. The Commission's recommendations in its October report were aimed at establishing a system of civil rights accountability through changes in the structure and mechanism by which civil rights laws are enforced. The Commission recognized, however, that its recommendations represented only one avenue toward strong civil rights enforcement. It also recognized that agency officials, many of whom are experienced in administering a variety of programs in areas other than civil rights, were capable of devising additional, and equally effective, mechanisms for this purpose. Therefore, in evaluating the response of the Federal bureaucracy the Commission has not taken the doctrinaire approach of criticizing agencies merely because they have not taken actions identical to those specifically recommended by the Commission. Instead, the Commission has sought to determine what steps actually have been taken and to assess the effectiveness of these steps on their own merits as measures that can redeem the Nation's promise of equality.





Civil Service Commission (CSC)

Commission Findings	Commission Recommendations
<p>1. Minority group members remain underrepresented in all professional positions in the Government with increasing severity as the pay grade rises. Rigorous adherence to the existing merit system has impeded equitable representation of minorities at all grade levels.</p> <p>.....</p> <p>Minority underrepresentation is most pronounced at the regional level.</p>	<p>The Civil Service Commission should develop a governmentwide plan designed to achieve equitable minority group representation at all wage and grade levels within each department and agency. This plan should include minimum numerical and percentage goals, and timetables, and should be developed jointly by CSC and each department or agency.</p>
<p>2. Because positions at the executive level are usually filled by promotions from the ranks of senior level Federal personnel, most of whom are majority group members, minority group members hold less than 2 percent of these important policymaking positions.</p>	<p>Stronger efforts should be made to increase tangibly the number of minority group members in executive level positions by recruiting from sources that can provide substantial numbers of qualified minority group employees, such as colleges and universities, private industry, and State and local agencies.</p>

Response

Action Completed	Action Planned	Action Under Study
<p>CSC has approved the new affirmative action plans of the Department of the Army and the Office of Management and Budget, (OMB), both of which include employment goals and timetables. Copies of the letters CSC sent to the Department of Defense and OMB favorably commenting on the goals and timetables concept were sent to all agency directors of personnel and directors of Equal Employment Opportunity. Letters have been sent from the Executive Director to all agencies informing them that the goals and timetables approach is consistent with the open competitive system.</p> <p>CSC has adopted a Sixteen-point Program for the Employment of the Spanish surnamed in the Federal Government.</p> <p>The Commission met with agency equal opportunity personnel and women's program officials from regional offices and field installations in four regional conferences on equal employment opportunity.</p>		
<p>The Chairman of CSC has met with Under Secretaries of major Government departments to urge continued recruitment of minority group members for top policy positions.</p> <p>CSC monitors agencies to assure the development of executive manpower plans which include training and consideration of mid-career level minority employees and the recruitment of minority group members for supergrade positions. CSC also provides assistance to agency recruiters seeking minorities.</p>		

Commission Findings	Commission Recommendations
<p>3. Training to facilitate advancement of lower and middle grade employees and to permit full utilization of their talents remains inadequate.</p>	<p>CSC and all other Federal agencies should develop and conduct large-scale training programs designed to develop the talents and skills of minority group employees, particularly those at lower grade levels.</p>
<p>4. Some Federal agencies have not adopted adequate procedures for collecting and maintaining racial and ethnic data on Federal employment.</p>	<p>CSC should direct all Federal departments and agencies to adopt the new procedures it has developed for collection and maintenance of racial and ethnic data on Federal employment.</p>



**Response**

Action Completed	Action Planned	Action Under Study
<p>CSC continues to urge agencies to increase efforts to utilize and improve skills and training of lower level employees through the upward mobility program and the Civil Service careers programs.</p> <p>New courses for managers of lower level employees were instituted and several new courses were initiated to meet the skills and training needs of lower level employees.</p> <p>A memorandum was sent to Federal agencies reassuring them that they could use non-Government training facilities for lower level employees.</p> <p>A Public Service Careers Program is being implemented to assist lower level Federal employees.</p>	<p>CSC will conduct a survey of agency upward mobility programs in order to obtain specific data on the movement of minority employees into middle and higher level jobs.</p> <p>New courses for managers of lower level employees will be extended to the field before the end of FY 71.</p> <p>New guidelines are being developed to re-emphasize CSC interest in Federal employees obtaining a high school education.</p>	<p>A study is being made, in conjunction with the Department of Labor, to determine the feasibility of establishing an inter-governmental training facility for upward mobility and skills training in the Southwest.</p> <p>This study was initiated in response to the President's Sixteen-point Program for the employment of the Spanish surnamed by the Federal Government.</p>
<p>In January 1971, CSC directed agencies to develop and install collection systems which will provide minority statistical data on such matters as hiring, promotions by grade, participation in training, distribution by grade, and promotions to supervisory and managerial categories.</p>	<p>The uniform personnel management system, which is scheduled to be operative by December 1973, will standardize agency record keeping systems.</p>	<p>CSC is considering a plan to gather on a continuing basis minority data for major occupations on a governmentwide basis.</p>

**Evaluation**

Insufficient progress has been made in overcoming the underrepresentation of minority group citizens in professional positions and particularly in executive level positions. The CSC has now acknowledged that the establishment of goals and timetables is a useful concept and has approved two affirmative action plans

## CSC

which encompass this approach. The CSC has taken action to ensure that agencies are aware of its new approach to minority employment. Yet it has not directed all agencies to adopt the goals and timetables approach in their affirmative action plans immediately, and has not, in fact, adopted them within its own agency. Unless it demands such action from all agencies and provides the prototype and guidance necessary for effective implementation, few statistically significant increases in minority professional representation can be expected for many years.

Steps taken by CSC to improve the collection of racial and ethnic data by agencies are in line with this Commission's recommendations. CSC has established a plan of action to carry out the Sixteen-point Program for Spanish surnamed Americans for CSC bureaus and offices. CSC provides now for alternative criteria to the Federal Service Entrance Examination such as performance on Graduate Record Examination, outstanding academic achievement, and cooperative school training. Its improvement of training programs for lower pay level minority employees is also worthy of note, but training must be significantly increased in terms of numbers of those affected and must be required of all agencies.



## Office of Federal Contract Compliance (OFCC)

Commission Findings	Commission Recommendations
<p>1. OFCC has failed to provide adequate guidance to compliance agencies and Federal contractors concerning the rate of progress expected in eliminating employment discrimination and in remedying the effects of past discrimination.</p>	<p>OFCC, with the assistance of 15 compliance agencies, should establish on an industry-by-industry basis numerical and percentage employment goals, with specific timetables for meeting them.</p>
<p>2. OFCC, hampered by a lack of adequate staffing, has confined its monitoring of compliance agency enforcement activity to a series of <i>ad hoc</i> efforts that have not had lasting effects.</p>	<p>OFCC should strengthen its capacity to monitor performance by compliance agencies through increased staff, systematic racial and ethnic data collection, and compliance agency reporting.</p>
<p>3. OFCC has failed to assure that compliance agencies maintain enforcement machinery capable of monitoring compliance.</p>	<p>Uniform compliance review systems should be developed for use by all 15 compliance agencies.</p>
<p>4. OFCC and the compliance agencies have failed to impose the sanctions of contract termination or debarment on noncomplying Government contractors, which has lessened the credibility of the Government's compliance program.</p>	<p>OFCC should promptly impose these sanctions where noncompliance is found and not remedied within a reasonable period of time.</p>



Response		
Action Completed	Action Planned	Action Under Study
None.	OFCC, which has established "opportunity estimates", comprising nearly 600,000 new hires and promotions of minority employees under the contract compliance program, expects that these estimates will reflect goals and timetables by the end of FY 72.	
The compliance operations of seven agencies have been reviewed for purposes of discovering basic deficiencies in agency compliance activity.	The President's budget request for FY 72 calls for a substantial increase in OFCC and compliance agency staff resources. OFCC is currently developing a system for the collection of racial data and plans to develop report and evaluation forms for contractors and compliance officers for purposes of monitoring compliance reviews.	
<p>a. The number of onsite compliance reviews projected to be completed by compliance agencies during FY 71 will be nearly double the number conducted during 1970.</p> <p>b. Through OFCC intervention, organizational changes have been made in the compliance programs of General Services Administration (GSA) and the Department of the Interior.</p>	<p>a. OFCC is preparing a compliance manual which will set forth uniform compliance review procedures. An improved management information system is also being developed.</p> <p>b. A joint OFCC-CSC training course is planned for compliance agency personnel.</p> <p>c. With OFCC's support, substantial increases for compliance agency staffs have been proposed for FY 72.</p>	
In 250 cases, procedures have been instituted, in the form of "show-cause" notices, which can lead ultimately to debarment or contract cancellation. In six cases, notices of proposed debarment or contract cancellation have been issued. But no contractor yet has been actually debarred nor has any contract been cancelled.		

Commission Findings	Commission Recommendations
<p>5. Contract compliance in the construction industry, which has been implemented primarily by federally imposed plans in Washington and Philadelphia and locally developed "hometown" agreements, has been ineffective and limited.</p>	<p>Goals and timetables for minority employment should be applied throughout the industry and systematic enforcement mechanisms should be created.</p>

Response		
Action Completed	Action Planned	Action Under Study
Minority employment plans with hiring goals and timetables covering all employment of Federal or federally assisted construction contractors were imposed in three major cities in early May.	The goals and timetables approach will be applied to the practices of all contractors utilizing construction trade unions which are not parties to a "hometown" agreement.	A national construction compliance plan with goals and timetables related to minority concentrations is being considered.

### Evaluation

The contract compliance program continues to suffer from the failure of OFCC to provide adequate guidance concerning the setting of specific goals and timetables for achieving increased minority employment and establishing criteria for compliance. In the absence of such guidance, neither compliance agencies nor contractors are in a position to know what is expected in terms of the rate of progress required in eliminating discrimination and remedying the effects of past discrimination. While the Philadelphia Plan concept of federally imposed minority hiring goals and timetables has been extended to three more cities, a national industrywide construction compliance plan with goals and timetables has yet to be developed. Minority unemployment and underemployment are continuing at a substantially higher rate than for majority workers.

A variety of improvements in reporting procedures are planned, but their full implementation lies in the future. OFCC has conducted a number of needed reviews of compliance agencies' performance, but their impact is unknown and systematic reporting procedures still have not been established. The contract compliance program has suffered from a lack of sufficient staff resources. The President's FY 1972 budget calls for a substantial increase in resources for OFCC and the compliance agencies, which should enable them to carry out their responsibilities with increased effectiveness.

Finally, although OFCC has implemented a large number of procedures that can lead ultimately to the sanction of contract termination or debarment, the fact that these sanctions have never been imposed continues to weaken the contract compliance effort.

## Equal Employment Opportunity Commission (EEOC)

Commission Findings	Commission Recommendations
1. EEOC's effectiveness has been impaired by weak enforcement powers, limited by statute to enforcement through "conference, conciliation, and persuasion".	Congress should amend Title VII of the Civil Rights Act of 1964 to authorize EEOC to issue cease and desist orders to eliminate discriminatory practices through administrative action.
2. EEOC has lacked sufficient staff to carry out its responsibilities with maximum effectiveness.	EEOC staff should be increased to a level commensurate with the scope of its civil rights responsibilities.
3. EEOC has further restricted its effectiveness by placing heavy emphasis on the processing of individual discrimination complaints, making relatively little use of its initiatory capabilities such as public hearings and Commissioner-initiated charges, to broaden its attack against job bias.	EEOC should emphasize initiatory activities, such as public hearings and Commissioner charges, to facilitate elimination of industrywide or regional patterns of employment discrimination.
4. EEOC has failed to establish the mechanisms necessary to process complaints with dispatch.	EEOC should amend its procedures to make more effective use of the complaint processing system.
5. EEOC has not developed a system of priorities for complaint processing by which cases of greater importance are handled on an expeditious basis.	EEOC should assign priority to complaints of particular importance and emphasis should be placed on processing complaints involving classes of complainants rather than individuals.



Response		
Action Completed	Action Planned	Action Under Study
None.	Legislation to provide EEOC with cease and desist order powers is pending in Congress.	None.
None.	The President's budget request for FY 72 calls for a substantial increase in staff resources for EEOC.	None.
<p>During the first six months of FY 71, 36 Commissioner charges were issued, 12 as a direct result of EEOC's June 1970 hearing in Houston, Texas.</p> <p>EEOC called upon the Federal regulatory agencies to adopt rules prohibiting employment discrimination by their regulatees.</p> <p>EEOC intervened in a rate making procedure before the FCC alleging that the discriminatory employment patterns of a telephone and telegraph company barred it from deserving a rate increase.</p>	<p>EEOC plans to hold at least two hearings during FY 72. EEOC also is developing a system of "target" industries, corporations, and unions, for purposes of making more effective use of Commissioner charges.</p> <p>EEOC anticipates that a number of Commissioner charges recently issued after the Houston hearing will be referred to OFCC for "show cause" orders.</p>	None.
EEOC is implementing a reorganization which it hopes will enable it to effectively resolve new complaints and to dispose of its complaint backlog.	None.	EEOC is studying the development of a capacity to spot investigative backlogs and conduct task force operations to reduce the caseloads to a size manageable by regional staff.
None.	EEOC is developing procedures to consolidate charges and coordinate simultaneous investigations and settlement.	As a result of recent court decisions, EEOC is considering plans for improved enforcement.

## Evaluation

The relative ineffectiveness of EEOC in meeting the problem of employment discrimination is attributable, in part, to the lack of strong enforcement powers in the agency and a lack of sufficient staff resources to carry out the responsibilities it has. Legislation providing EEOC with cease and desist order powers is pending in Congress and, if enacted, would considerably strengthen EEOC. By the same token, the President's budget request, which calls for a substantial increase in EEOC staff resources, would enable the agency to meet its responsibilities more effectively, particularly in the area of reducing the sizable backlog of cases currently before it and cutting down the time involved in processing complaints.

The impediments to EEOC's effectiveness, however, cannot be eliminated solely by reference to additional powers or increased staff. For example, in the past EEOC placed inadequate emphasis on initiatory functions such as Commissioner charges and public hearings, to broaden the scope of its attack on employment discrimination. EEOC is in the process of being reorganized and plans to increase these initiatory activities and to use them in a more systematic manner. Thus, two hearings are planned for FY 1972 and increased emphasis is being placed on Commissioner charges. Its actions with regard to Federal regulatory agencies are also worthy of note. It does not appear, however, that EEOC is developing a comprehensive program of initiatory activities or that such activities are to be a major focus of the agency's work.

Further, in view of the heavy emphasis EEOC has placed on processing complaints it is necessary for the agency to establish a system of priorities to assure maximum impact from the complaint process. No such system of priority, however, has been established. For example, complaints referred to EEOC by OFCC are treated no differently from other charges filed with EEOC. Thus the opportunity is lost to make use of the leverage afforded through the strong contract compliance sanctions available to EEOC by assigning a priority to such cases.



Department of Justice—Civil Rights Division—Employment Section

Commission Findings	Commission Recommendations
1. The Employment Section of the Civil Rights Division (CRD) is handicapped by its small size.	The staff of the Employment Section should be increased to a level commensurate with its important responsibilities.
2. The Department has largely limited its employment activities to cases involving discrimination against blacks, and has placed insufficient emphasis on litigation in which American Indians, Spanish surnamed Americans, or women are the major victims of employment discrimination.	Litigation to prevent employment discrimination against Spanish surnamed Americans, American Indians, and women should be significantly increased.
3. The Department has failed to devote sufficient staff resources to cooperating with EEOC and OFCC so that its litigation becomes part of a coordinated total Government effort to eliminate employment discrimination.	The CRD should cooperate with EEOC and OFCC so that its litigation function is used to complement the powers of these two agencies.

Response		
Action Completed	Action Planned	Action Under Study
The Section had 30 attorney positions in FY 70 and 37 in FY 71.	The Section has requested 42 attorney positions for FY 72.	None.
Of the nine suits filed by the CRD alleging employment discrimination since July 1970, one case alleged discrimination against women and in one other case, Spanish speaking persons were victims, although not the primary victims of the alleged discrimination.	None.	None.
The Chief of the Employment Section or his representative meets on a bimonthly basis with representatives of EEOC and OFCC. <i>Ad hoc</i> relationships between the three agencies have also continued.	None.	None.

### Evaluation

The Employment Section of the Justice Department's Civil Rights Division continues to play a key role in the Federal effort to end employment discrimination in the private sector. The size of the Section has increased since July 1970 and further staff additions have been requested for FY 1972. The increase may be related to the increase in the number of lawsuits initiated by the Section: It filed only four cases from October 1969 to June 1970, while bringing nine new court actions in the nine-month period from July 1970 to March 1971. Nonetheless, the small number of attorneys assigned to the unit remains one of its major problems. Litigation in the area of employment discrimination often involves a variety of complex and time-consuming issues and requires a significant investment of manpower. Without a sizable increase in its staff, the Section will be limited to participation in a relatively small number of cases in an area which calls for a voluminous amount of litigation.

The Section continues to emphasize cases involving discrimination against blacks, largely to the exclusion of handling matters in which women, American Indians, and Spanish surnamed Americans are treated unjustly in the private employment sector. Of the 59 suits filed by the Section since 1966, only one sought to redress the grievances of women and only one was aimed primarily at correcting a pattern of discrimination operating against Mexican Americans and American Indians. Finally, although the Section maintains *ad hoc* and more structured relations with EEOC and OFCC, it has not developed a governmentwide plan for an attack on employment discrimination, utilizing its litigation authority in systematic coordination with the sanction and conciliation powers of OFCC and EEOC.



## Interagency Staff Coordinating Committee (ISCC)

Commission Findings	Commission Recommendations
<p>1. The Interagency Staff Coordinating Committee which was established in July 1969, among the EEOC, OFCC, and the Department of Justice, to assure the coordination of Federal equal employment efforts has not worked effectively.</p>	<p>Interagency agreements and efforts at coordination under the Interagency agreement should be intensified and the three agencies should institute procedures to improve coordination.</p>
<p>2. The lack of coordination in Federal nondiscrimination efforts in private employment has resulted, in large part, from the fact that responsibilities are split among three separate agencies, each having different orientations and goals.</p>	<p>The contract compliance responsibilities of OFCC and the litigation responsibilities of the Department of Justice should be transferred to EEOC, so that all responsibilities for equal employment opportunity will be lodged in a single independent agency.</p>

Response		
Action Completed	Action Planned	Action Under Study
None.	Procedures are being developed to ensure that compliance efforts will be made well in advance of contract awards.	None.
Legislation to transfer OFCC to EEOC is pending before Congress. However, both EEOC and OFCC have opposed this move.	None.	None.

### Evaluation

No new significant efforts to coordinate Federal Government equal employment opportunity policy and enforcement operations have been initiated since publication of the Commission's study. In fact, one Memorandum of Understanding between EEOC and OFCC to coordinate cases of major public concern was rescinded by the Department of Labor on January 11, 1971, less than three months after it was agreed to. In October 1970, the Commission concluded that only by transferring OFCC's contract compliance responsibilities and Justice's litigation responsibilities to EEOC could effective coordination of Federal equal employment efforts be achieved. In the light of continued ineffective coordination, the Commission continues to believe that consolidation of equal employment opportunity functions is necessary.





## Department of Housing and Urban Development (HUD)

Commission Findings	Commission Recommendations
<p>1. HUD's enforcement powers under Title VIII of the Civil Rights Act of 1968 (Federal Fair Housing Law) are limited by statute to "conference, conciliation, and persuasion".</p>	<p>Title VIII should be amended to authorize HUD to enforce the law through issuance of cease and desist orders.</p>
<p>2. HUD lacks sufficient staff resources to carry out its fair housing responsibilities with maximum effectiveness.</p>	<p>HUD's equal opportunity staff should be increased to a level commensurate with the scope of its fair housing responsibilities.</p>
<p>3. HUD maintains an "open communities" policy, but has failed to define this policy with sufficient breadth and specificity to assure that its activities will facilitate the expansion of housing opportunities for minorities throughout metropolitan areas and reverse the trend toward racial and economic separation.</p>	<p>HUD should clarify its "open communities" policy to assure that its activities are not confined mainly to the resolution of individual complaints, but are addressed also to the broader purposes of Title VIII.</p>
<p>4. Although HUD has urged other agencies (financial regulatory agencies) concerned with fair housing to collect racial and ethnic data on program participation as a means of monitoring compliance with Title VIII, HUD has failed to collect such data uniformly for its own programs.</p>	<p>HUD should collect racial and ethnic data on participation in all its programs.</p>
<p>5. Although HUD has urged other agencies to adopt uniform site selection policies governing the location of their installations to assure adequate housing for lower-income families, HUD has failed to establish uniform site selection policies governing its own programs.</p>	<p>HUD should establish site selection policies, now applicable only to public housing, governing all its housing programs to facilitate expanded housing opportunities for lower-income and minority families throughout metropolitan areas.</p>
<p>6. HUD has not developed uniform tenant selection criteria governing its lower-income housing programs that would facilitate an expansion of housing opportunities throughout metropolitan areas for lower-income and minority families.</p>	<p>HUD should establish such uniform tenant selection criteria.</p>
<p>7. HUD refers complaints to States maintaining fair housing laws without regard to the performance of those States in providing relief to complainants.</p>	<p>HUD should develop standards for complaint referrals to States based on the adequacy of performance of those States.</p>

Response

Action Completed	Action Planned	Action Under Study
None.	None.	According to HUD, authority to issue cease and desist orders is one of a number of legislative changes being considered.
None.	The President's FY 72 budget request provides for a substantial increase in equal opportunity staff resources for HUD.	None.
HUD now views its "open communities" policy narrowly quoting the President as stating that: "This Administration will not go beyond the law . . . by using Federal power, Federal coercion or Federal money to force economic integration of neighborhoods."	None.	According to HUD, policies and practices regarding equal housing opportunity are currently under review in HUD, the Department of Justice, and the White House.
HUD now collects racial and ethnic data regarding all HUD housing programs.	None.	None.
None.	None.	Site selection policies for HUD programs are currently under review by HUD, the Department of Justice, and the White House.
None.	None.	Uniform tenant selection criteria are under review by HUD, the Department of Justice, and the White House.
HUD has undertaken training programs with numerous State commissions to facilitate their handling of referred complaints.	HUD plans to develop performance standards governing its complaint referrals to States. Such standards are being drafted.	None.



# HUD

Commission Findings	Commission Recommendations
<p>8. Although the Assistant Secretary for Equal Opportunity is supposed to be the official responsible for carrying out HUD fair housing duties, including those under Title VI of the Civil Rights Act of 1964, HUD's Title VI regulations indicate that program administrators are given this responsibility.</p>	<p>HUD's Title VI regulations should be amended to make it clear that the Assistant Secretary for Equal Opportunity is the responsible Department official under Title VI.</p>
<p>9. HUD has never used the sanction of fund termination under Title VI in cases of actual discrimination.</p>	<p>HUD should terminate recipients found to have practiced discrimination in violation of Title VI.</p>

Response		
Action Completed	Action Planned	Action Under Study
None.	According to HUD, appropriate amendments to Title VI have been prepared and will appear in the Federal Register in the near future.	None.
None.	None.	None.

### Evaluation

HUD, which carries the Federal Government's major responsibility for assuring equal housing opportunity under Title VIII of the Civil Rights Act of 1968, Title VI of the Civil Rights Act of 1964, and the Executive order on equal employment in housing, has failed to improve its performance in the seven months since issuance of the Commission's report. In fact, HUD appears to have regressed in the vigor with which it approaches its fair housing responsibilities. At the time of the Commission's earlier report, HUD stated that its fair housing activities were governed by an "open communities" policy aimed at increasing housing options for low-income and minority families. Since that time, the Department appears to have narrowed the scope of this policy to rule out any activity aimed at facilitating economic integration. In view of the fact that minority families are disproportionately represented among the Nation's lower-income families, HUD's adherence to a policy against economic integration will severely limit the scope of its activities and is likely to result in even greater reliance on the processing of individual complaints than is currently the case.

Increased staff and the institution of a system of racial and ethnic data collection on program participation should be of help to HUD. In other areas, however, little if any action has been taken to correct existing weaknesses in the Department's policies and practices. Thus uniform site selection and tenant selection criteria governing HUD housing programs, which have been under study for nearly two years, still have not been issued, nor does HUD claim that their issuance is imminent. Referrals to State fair housing agencies still are made on the basis of the laws enacted in those States rather than their performance in providing relief to complainants. Regulations under Title VI of the Civil Rights Act of 1964 still provide that program administrators are responsible for enforcing that law, despite the fact that more than three years have passed since the position of Assistant Secretary for Equal Opportunity was created to carry out all of HUD's equal opportunity programs. HUD still has never debarred any recipient for discrimination in violation of Title VI. Although HUD maintains that the *availability* of this sanction has resulted in voluntary compliance on a number of occasions, the fact that it has never been used tends to undermine the credibility of HUD as a vigorous enforcer of that law. Finally, HUD, which is limited to methods of "conference, conciliation, and persuasion", in enforcing Title VIII and lacks the authority to issue cease and desist orders, is not prepared to say that it favors legislation that would provide the Department with such cease and desist order authority.

Department of Justice-Civil Rights Division (CRD)—Housing Section

Commission Findings	Commission Recommendations
<p>1. The Department, which has responsibility under Title VIII for bringing lawsuits in cases involving patterns or practices of violations, has suffered from a serious staff shortage, limiting the number of lawsuits in which it can be engaged. Nonetheless, the Department has brought a comparatively large number of lawsuits concerning violations of Title VIII.</p>	<p>Staff of the Housing Section of the Civil Rights Division should be increased to a level commensurate with the scope of its responsibilities.</p>
<p>2. The Department has been insufficiently concerned with problems of housing discrimination against minority groups other than blacks.</p>	<p>The Housing Section should intensify its efforts at protecting members of all minority groups against housing discrimination.</p>
<p>3. Although the Department has established a system of priorities aimed at assuring that its activities under Title VIII have the greatest impact in opening up housing opportunities for minorities, it has not yet been involved in cases involving discrimination by mortgage lenders or cases in other areas that can have maximum impact in opening up entire metropolitan areas.</p>	<p>The Department should bring lawsuits that have maximum impact in preventing discrimination in mortgage lending and facilitating minority access throughout metropolitan areas.</p>

**Response**

Action Completed	Action Planned	Action Under Study
<p>The Section had 17 attorney positions in FY 1970 and 20 in FY 1971. The Department has continued its aggressive program of lawsuits under Title VIII, despite staff limitations, and has secured consent decrees establishing important precedents for affirmative action.</p>	<p>The President's budget request for FY 72 calls for an additional increase of six staff attorney positions for the Housing Section.</p>	<p>None.</p>
<p>Since July 1970, the Department has been involved in only one case concerning a nonblack minority family.</p>	<p>None.</p>	<p>None.</p>
<p>The Department still has not been involved in a case involving mortgage lending discrimination. Further, it has not initiated any suit concerning discriminatory zoning or land use controls. It has, however, intervened in three such lawsuits.</p>	<p>None.</p>	<p>None.</p>

**Evaluation**

The Housing Section of the Civil Rights Division continues to carry out its responsibilities aggressively, as measured by the number of Title VIII lawsuits it has brought and the affirmative requirements it has secured in consent decrees. Increases in staff for the Housing Section proposed in the President's budget submission for Fiscal Year 1972, while they would enable the Housing Section to carry out its responsibilities more effectively, still leave the Section with too little in the way of resources.

The Department still is insufficiently concerned with the problems of housing discrimination against minority groups such as Mexican Americans, Puerto Ricans, Orientals, and American Indians, having instituted only one such case since July 1970, involving discrimination against a Spanish speaking family. Further, the Department has failed to initiate any lawsuits involving discriminatory zoning or other land use controls maintained by suburban communities to exclude lower-income families and minority families in particular. Such lawsuits, if successful, could have a significant impact in accomplishing the broad purpose of Title VIII.

# FEDERAL FINANCIAL REGULATORY AGENCIES

Federal Home Loan Bank Board (FHLBB)

Comptroller of the Currency (CoC)

Board of Governors of the Federal Reserve System (FRB)

Federal Deposit Insurance Corporation (FDIC)

Commission Findings	Commission Recommendations
<p>1. The agencies have failed to institute mechanisms to assure against discrimination in mortgage lending by their member institutions.</p>	<p>a. The agencies should require their member institutions to maintain racial and ethnic data on approved and rejected mortgage loan applications.</p>
	<p>b. The agencies should develop instructions and procedures for examiners to enable them to detect discriminatory practices.</p>

Response		
Action Completed	Action Planned	Action Under Study
<p>a. FHLBB — None.</p> <p>CoC — None.</p> <p>FRB — None.</p> <p>FDIC — None.</p>	<p>a. All four agencies plan to distribute questionnaires to supervised lenders inquiring into possible discrimination policies and practices in mortgage lending.</p>	<p>a. FHLBB — A regulation is being drafted requiring the keeping of racial and ethnic data on mortgage applications, which will be considered by the Board.</p> <p>CoC — None.</p> <p>FRB — None.</p> <p>FDIC — None.</p>
<p>FHLBB — The Board has formed an Office of Housing and Urban Affairs with primary responsibility to advise the Board on civil rights matters. The Director of this Office is also Chairman of the Board's Task Force for Civil Rights. A Housing Coordinator has been appointed in each of the 12 District Federal Home Loan Banks to work to increase substantially participation by the savings and loan industry in financing of low-and moderate-income housing.</p> <p>CoC — None.</p> <p>FRB — None.</p> <p>FDIC — None.</p>	<p>FHLBB — An initial draft of guidelines which will become part of the Examination Manual has been completed. The guidelines are aimed at revealing discriminatory lending practices.</p> <p>CoC — None.</p> <p>FRB — The agency believes there is some merit to this proposal and favors the use of such a document as soon as it can be satisfactorily developed.</p>	<p>CoC — None.</p> <p>FRB — None.</p> <p>FDIC — None.</p>



Commission Findings	Commission Recommendations
	<p>c. The agencies should require their member institutions to post notices in their lobbies stating that the institution does not discriminate in mortgage lending and informing the public that such discrimination is in violation of the Fair Housing Law.</p> <p>d. The agencies should develop a data collection system designed to reveal patterns or practices of discrimination in home mortgage lending.</p> <p>e. The agencies should develop procedures for the imposition of sanctions for violations of Title VIII, including cease and desist orders and termination of charters or Federal insurance.</p>

Response

Action Completed	Action Planned	Action Under Study
FHLBB— None.	FHLBB — None.	FHLBB — The Board is actively studying several alternative ways of effectively notifying each prospective borrower of his rights regarding nondiscrimination in mortgage lending.
CoC — None.	CoC — None.	CoC — None.
FRB — None.	FRB — None.	FRB — The agency states that there would be some efficacy to such a notice, but because some banks do not make mortgage loans and others make them only in exceptional cases, some exceptions would be in order.
FDIC—None.	FDIC — None.	FDIC — None.
FHLBB — None.	FHLBB — None.	FHLBB — The agency believes the HUD questionnaire may provide a starting point for the development of such a data collection system.
CoC — None.	CoC — None.	CoC — None.
FRB — None.	FRB — None.	FRB — The agency is willing to discuss with HUD the possibility of developing a data collection system for selected areas.
FDIC — None.	FDIC — None.	FDIC — The agency believes that the HUD questionnaire may provide a useful starting point for development of such a system.
FHLBB — None.	FHLBB — None.	FHLBB — None.
CoC — None.	CoC — None.	CoC — None.
FRB — None.	FRB — None.	FRB — None.
FDIC — None.	FDIC — None.	FDIC — None.

Commission Findings	Commission Recommendations
<p>2. The agencies have failed to require member institutions to include nondiscrimination clauses in their agreements with builders.</p>	<p>The agencies should require their member institutions to include nondiscrimination clauses in their agreements with builders, including appropriate penalties for violations such as acceleration of payment.</p>

Response		
Action Completed	Action Planned	Action Under Study
FHLBB — None.	FHLBB — None.	FHLBB — The agency states that the scope of legal authority is not clear. This issue, however, is under study and as soon as satisfactory procedures have been devised the agency intends to present a recommendation for joint action by all four agencies to an inter-agency coordinating committee.
CoC — None.	CoC — None.	CoC — None.
FRB — None.	FRB — None.	FRB — None.
FDIC — None.	FDIC — None.	FDIC — None.

### Evaluation

The Federal financial regulatory agencies have received very few complaints (nine in all) of discrimination in mortgage lending since enactment of the 1968 Federal Fair Housing Law. On the basis of this experience, it is extremely doubtful that complaint processing can be an effective means by which the agencies can assure against discrimination in mortgage lending by the institutions they supervise and benefit. Therefore, it is important for the agencies to adopt mechanisms for uncovering discriminatory practices. The most appropriate mechanism would be the traditional one of examination of their lending institutions. Although all four agencies concede that such examinations would require the collection of special data, only the Federal Home Loan Bank Board is actively considering a requirement that its members keep racial and ethnic data on file.

The Federal Home Loan Bank Board is also the only agency that has taken affirmative action to meet its responsibility under Title VIII. Among the actions the Board has taken is the formation of an Office of Housing and Urban Affairs to advise the Board on civil rights matters. The FHLBB also is planning to issue guidelines aimed at revealing discriminatory lending practices, which will become part of the Examination Manual. Of the three other agencies, only the Federal Reserve Board believes there is any merit to the development of civil rights instructions for examiners. The Comptroller of the Currency, by contrast, does not believe it is necessary or appropriate to emphasize procedures relating to violations of the Civil Rights Act to an extent greater than those used to discover violations of other Federal laws.

Regarding the posting of notices in the lobbies of supervised lending institutions to the effect that the institution does not practice discrimination in mortgage lending and informing the public that such discrimination is in violation of the Fair Housing Law, again, the Federal Home Loan Bank Board is the only one of the four agencies that is even studying methods of informing prospective borrowers of their rights.

All four agencies are planning to participate in the distribution of a questionnaire to supervised lenders, developed in cooperation with HUD. While three of the agencies indicate that the questionnaire may lead to a data collection system which will reveal discriminatory lending practices, one agency, the Office of the Comptroller of the Currency, does not believe that racial data would be useful for this purpose.

None of the agencies has adopted specific regulations for the imposition of sanctions against lending institu-

## **FHLBB, CoC, FRB, FDIC**

tions found to be practicing racial discrimination in mortgage lending, and none of the agencies has agreed to require member institutions to include nondiscrimination clauses in their agreements with builders and developers. The Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation argue that they do not have legal authority to require such actions by their member institutions, a position with which the Commission does not agree. The Federal Home Loan Bank Board is unsure of its authority in this area, but intends to submit a recommendation for joint action to an interagency coordinating committee.





## General Services Administration (GSA)

Commission Findings	Commission Recommendations
<p>1. GSA has failed to adopt a Federal installation site selection policy which assures housing access to minority citizens as a condition for location of Federal installations.</p>	<p>GSA should revise its site selection criteria to require that communities are open to all racial and ethnic groups as a condition of eligibility for location of Federal installations.</p>
<p>2. GSA has failed to implement the policy, adopted in March 1969 and reinforced by Executive Order 11512 issued February 1970, providing for housing access for low- and moderate-income families as a condition for Federal site selection.</p>	<p>GSA should implement its site selection policy concerning the required availability of low- and moderate-income housing as a condition of eligibility for location of Federal installations.</p>
<p>3. GSA has failed to implement the HUD Federal Site Selection Task Force recommendations regarding procedures for the provision of open housing as a condition of Federal location.</p>	<p>GSA should implement the HUD Task Force recommendations regarding uniform Government site selection procedures which provide for open housing as a condition of Federal location.</p>

Response		
Action Completed	Action Planned	Action Under Study
None.	None.	None.
GSA has reorganized the Public Building Service, establishing an Office of Operational Planning with functions relating to site selection for Federal installations.	None.	None.
None.	None.	None.

### Evaluation

While GSA has included the availability of low- and moderate-income housing as one of its site selection criteria, it has failed to provide specific guidelines for implementation. The agency has established a unit to plan procedures relating to site selection for Federal installations, but the only instructions to GSA staff so far merely recite the criterion, providing no additional guidance. Further, no policy has been announced nor requirement adopted regarding the availability of open, nondiscriminatory housing as a condition of Federal site selection. GSA states that it operates on the basis that low- and moderate-income housing "be available on a nondiscriminatory basis", and that this is taken into account in GSA's site selection process. However, there have been no specific GSA policy directives or instructions issued concerning this matter, nor has GSA taken any other official action to acknowledge this criterion. Further, when furnished a draft copy of the HUD Task Force recommendations for revised procedures on location of Government facilities, GSA commented negatively, stating that the proposed procedures would take away its flexibility and interfere with its consideration of agency needs, missions, or programs.





**FEDERALLY ASSISTED PROGRAMS—  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

AGENCIES: Departments of Agriculture (USDA), Commerce (DoC), Health, Education, and Welfare (HEW), Interior (DoI), Labor (DoL), Transportation (DoT), and Treasury (IRS)\*; the Law Enforcement Assistance Administration (LEAA) and the Office of Economic Opportunity (OEO)

Commission Findings	Commission Recommendations
1. No agency has sufficient staff to carry out its Title VI responsibilities with maximum effectiveness.	Agencies should submit proposals for increased staff and financial resources necessary to carry out their responsibilities with maximum effectiveness.
2. The position of the official in charge of Title VI compliance, in most cases, is disproportionately low, when measured by his title, grade, and position in the administrative hierarchy.	The position of chief civil rights officer should be elevated to a level equal to that of officials in charge of agency programs.
3. Few agencies provide adequate civil rights training to civil rights or program personnel whose work involves Title VI.	Agencies should increase the amount and caliber of civil rights training provided to civil rights or program personnel whose work involves Title VI.

\*Internal Revenue Service

Response		
Action Completed	Action Planned	Action Under Study
Some agencies have increased the size of their civil rights complement, although at a few of these agencies, such as DoI, where a major organizational change occurred, newly authorized positions have not been staffed. Moreover, staffing vacancies still persist in other agencies, such as DoT.	The responses relate mostly to anticipated appointments to vacancies in the authorized civil rights positions, such as DoI and LEAA, and expected improvements in civil rights capabilities due to planned increases in the expenditures allocated for Title VI enforcement purposes in the FY 72 budget.	LEAA is reviewing the staffing level of its civil rights office with a view toward amending its FY 72 budget request to increase substantially the number of civil rights investigators.
OEO has elevated its civil rights office to independent status and named the head an Associate Director of OEO for Human Rights reporting directly to the Director. The civil rights unit at LEAA now is responsible directly to the Administrator rather than to the General Counsel; however, the Chief of LEAA's Office of Civil Rights Compliance remains a GS-14. The Director of the Federal Highway Administration's (FHWA) Office of Civil Rights at DoT was promoted to a GS-16.	One agency, USDA, plans to elevate the status of the chief civil rights officer from a GS-16 to either a GS-17 or GS-18.	None.
More than 41,000 USDA program personnel have received civil rights training. HEW has conducted regional training sessions on the implementation of HEW's policy on educational problems of national-origin minority children and has also assured the training of about 300 State personnel in the conduct of annual Title VI onsite reviews of State health and social service agencies. Other agencies, with a few exceptions, also appear to have improved their training mechanisms.	USDA plans training for agency civil rights staff in compliance review techniques.	None.



Commission Findings	Commission Recommendations
<p>4. Methods by which most Title VI agencies seek to achieve and monitor compliance need strengthening. For example, some agencies rely solely on the receipt of assurances; others rely on the receipt of complaints as the yardstick of compliance. Some agencies have never conducted onsite reviews; of those that do, only a small fraction of their total recipients are reached and many of the onsite reviews are perfunctory and superficial.</p>	<p>Systematic onsite reviews should be conducted to assure that all recipients are reviewed at frequent intervals.</p>
<p>5. Despite the fact that in many cases, such as those involving construction of highways, public housing, and various other public works projects, it is necessary to determine compliance before the financial assistance is given and the projects are built, such pre-approval reviews are rarely undertaken.</p>	<p>Preapproval reviews should be conducted by agencies that administer programs involving construction of facilities to assure that these facilities, through location and design, will serve minority group members on an equitable basis.</p>

Response

Action Completed	Action Planned	Action Under Study
<p>None. Some agencies, such as DoI, FHWA, LEAA, and IRS did not conduct any comprehensive Title VI reviews in the first half of FY 71. Of those that did, most continued to review only a small percentage of their total recipients. Furthermore, of the few agencies conducting Title VI reviews of a significant proportion of their recipients, it should be noted that these reviews tended to be done predominately as part of overall program reviews and were, for the most part, superficial.</p>	<p>Most agencies, such as DoC, DoI and LEAA, say that they intend to increase the number of compliance reviews.</p>	<p>None.</p>
<p>Most agencies still do not engage in preapproval review activity except on an <i>ad hoc</i> basis. The Economic Development Administration (EDA) of DoC has taken steps to further up-grade an already comparatively comprehensive preapproval review system which encompasses all public works and business development projects. Also, the Health and Social Services Division of HEW's Office for Civil Rights continues to conduct such reviews of applicants to the Medicare program.</p>	<p>Some agencies which have not undertaken preapproval reviews indicate that they will conduct such reviews on a limited basis.</p>	<p>None.</p>

Commission Findings	Commission Recommendations
<p>6. Most agencies do not collect racial or ethnic data on a continuing basis, nor do they use data that are collected to evaluate the effectiveness of their programs (i.e., in terms of whether program benefits actually are reaching minority group beneficiaries on an equitable basis).</p>	<p>All agencies should establish compliance reporting systems, including collection of data on racial and ethnic participation in agency programs and these data should be evaluated.</p>
<p>7. Most agencies have been reluctant to impose sanctions, such as fund termination (some have never imposed this sanction), as a means of enforcing the nondiscrimination requirements of Title VI. Some agencies have emphasized voluntary compliance as the principal method of enforcement and have permitted protracted negotiations and interminable delays on the part of recipients while continuing to provide Federal financial assistance.</p>	<p>Agencies should place specific limits on the time permitted for voluntary compliance and should make greater use of the sanction of fund termination.</p>

Response

Action Completed	Action Planned	Action Under Study
<p>With the exceptions of HEW (which continues to collect data regularly on minority accessibility to hospitals and extended care facilities, on minority enrollment in colleges and universities, and on minority pupil assignments in public school districts), EDA, DoL, and some USDA programs, other agencies have not instituted uniform, agencywide racial data collection systems.</p>	<p>EDA intends to revise some of its report forms. LEAA will be issuing a biennial compliance report form which, although not predicated on Title VI, does constitute a major improvement in that it will elicit racial and ethnic employment data from State and local law enforcement agencies.</p>	<p>DoC, DoI and OEO are considering the establishment of more comprehensive and refined compliance reporting systems.</p>
<p>With the exception of HEW, which has instituted administrative proceedings and in one recent case terminated funds under Title VI, other agencies still have not imposed any administrative sanctions in FY 71. USDA, however, did notice a recipient for hearing in FY 71.</p>	<p>None.</p>	<p>None.</p>

**Evaluation\*\***

With the exception of minor increases in the Title VI staffs of some agencies, a few of which have been authorized and not filled, and the upgrading of one civil rights officer, there has been no marked improvement in agency commitment of resources to their Title VI efforts. Moreover, even where staff increases are evident, the increases do not appear to be commensurate with the need. Staffing vacancies still persist in both agency headquarters and regional offices. For example, two constituent agencies in the Department of Transportation, FHWA (most notably) and the Coast Guard, each have four vacancies on their respective headquarters civil rights staffs. Two of OEO's regional human rights positions are vacant. Although the adequacy of civil rights training at most agencies appears to have improved, only one agency, USDA, seems to have a training program of sufficient magnitude to provide civil rights sensitivity to agency program personnel.

With respect to the conduct of post and preapproval compliance reviews, the level of activity has not significantly changed since the Commission issued its report. Generally, agencies continue to review only a small fraction of their respective recipients and some still have not conducted any reviews. For example, Interior, FHWA, LEAA, and IRS did not conduct any comprehensive Title VI compliance reviews in the first half of FY 71. The EDA reviewed only 33 of its 6,485 recipients. Similarly, OEO, which had no compliance activity in FY 70, reviewed only 46 of its 1,034 recipients subject to Title VI in the first half of FY 71. Further, during this same period, HEW subjected only 974 of its more than 36,000 major Title VI recipients to a review. HEW did, however, institute a compliance review procedure relating to equal educational opportunity for national-origin minority group children who have primary language skills other

than English. Finally, there is a virtual absence of preapproval reviews and where they are performed it is typically on an *ad hoc* basis.

In the area of collection of racial and ethnic data, the record of most agencies continues to be poor. With few exceptions, agencies still do not systematically collect racial and ethnic data as part of a uniform agency policy; consequently, they are unable to assess the overall effectiveness of their programs in terms of the needs of their potential minority group beneficiaries. An April 1971 report issued by a Federal interagency Subcommittee\*\*\* studying the racial data policies and capabilities of the Federal Government concluded that a major cause of unequal service to minorities is the failure of program managers to identify eligible minority beneficiaries; to know whether these eligibles are participating in the program; and to assess the degree to which service to minority beneficiaries is achieving the intended results.

Finally, there appears to be a continued reluctance to impose administrative sanctions such as fund termination; resolution by voluntary means continues to be the principal method of dealing with instances of nondiscrimination along with occasional referrals to the Department of Justice for possible legal action. An example of unjustified delay is evident in USDA's treatment of 11 land grant universities. The Cooperative Extension Service at these universities, which are recipients of USDA financial assistance, have never provided Title VI assurances of compliance despite the clear requirement to do so which has been operative since 1965. Furthermore, although USDA made a June 1970 request for these assurances, or alternatively for updated compliance plans, the agency subsequently decided to hold any further action in abeyance pending the outcome of court action in two of the States. Another illustration is that, although the Department of Justice (DoJ) filed suit against the Ohio Bureau of Employment Security (BES) in 1968 alleging racially discriminatory practices, the case is still pending while the parties (DoL, DoJ, and Ohio BES) attempt to negotiate a settlement.

\*\*This chart and evaluation are derived from a partial survey of the Title VI agencies covered in the original report. However, all agencies with significant Title VI responsibilities are included.

\*\*\*Subcommittee on Racial Data Collection to the Interagency Committee on Uniform Civil Rights Policies and Practices (an attorney from the Department of Justice serving as Chairman.)





## Department of Justice—Title VI

Commission Findings	Commission Recommendations
<p>1. The status of the official responsible for carrying out the Title VI coordinating function of the Department of Justice has been systematically downgraded.</p>	<p>The Department of Justice should establish an Office of the Special Assistant to the Attorney General for Title VI Coordination, housed in the Office of the Attorney General and reporting directly to him.</p>
<p>2. The amount of staff assigned to the Title VI unit in the Civil Rights Division is inadequate.</p>	<p>The staff of the Title VI unit should be significantly enlarged.</p>
<p>3. The Civil Rights Division views its Title VI coordinating responsibility narrowly, focusing on litigation rather than on assuring effective administrative enforcement by the various agencies.</p>	<p>The Title VI Office should not invest significant amounts of its manpower in litigation, but rather should emphasize evaluation of agency administrative actions and procedures.</p>
<p>4. Its liaison with agencies is not systematic, but is primarily done on an <i>ad hoc</i> basis.</p>	<p>Justice should systematize efforts to assure effective administrative enforcement by the various Federal agencies having Title VI responsibilities.</p>
<p>5. In some instances, the Department of Justice's recommendations to other departments and agencies calling for increased enforcement activity have not been acted upon.</p>	<p>The President should amend Executive Order 11247 (1965) to authorize the Attorney General to direct departments and agencies to take specific compliance and enforcement actions, including fund termination proceedings.</p>

Response

Action Completed	Action Planned	Action Under Study
None.	None.	None.
One attorney was added to the staff of the Title VI unit a number of months ago and six attorneys were reassigned to the unit in early May.	The proposed budget for FY 72 provides for an additional six attorneys.	None.
None.	Other resources of the Department, including the U.S. Attorneys, will be given the responsibility for conducting litigation of the type which has been handled by the Title VI Office, thus freeing Title VI staff for nonlitigative activities.	None.
None.	An agency report form which should provide a picture of minority impact as well as compliance activity is being drafted. After the staff is increased the Department plans to assign particular attorneys to work on a continuous basis.	The Title VI Office will explore with OMB and various other Federal agencies the types of data necessary in order to determine if further action should be taken with regard to the implementation of agency equal opportunity goals.
None.	None.	None.

**Evaluation**

In the seven months since issuance of the Commission report, the Department of Justice has continued to be involved in a number of significant *ad hoc* activities involving various Title VI agencies. Despite this fact, it has not appreciably improved its efforts to coordinate the enforcement of Title VI.

For example, it has not upgraded the position of the head of the Title VI Office. It did not enlarge the size

## Department of Justice—Title VI

of the Title VI staff until recently when additional attorneys were transferred to the unit.

The unit has continued to utilize most of its manpower in litigation efforts. It has participated in four lawsuits and conducted investigations of other potential cases. Until the last two weeks, only one attorney was assigned to work full-time on Title VI coordination matters.

The activities of the Title VI Office include working on a priority basis with the Department of Agriculture and the Law Enforcement Assistance Administration, participating in a review of agency racial and ethnic data gathering mechanisms, collecting legal opinions concerning Title VI from various agencies and departments, and reviewing and commenting on the civil rights budgets of nine Federal agencies. It has not, however, systemized its review of agency Title VI programs; has not requested agencies to adopt equal opportunity goals; and has not been able to respond to all of the requests for assistance made by Title VI agencies.



## REGULATORY AGENCIES

Federal Communication Commission (FCC), Interstate Commerce Commission (ICC),  
Federal Power Commission (FPC), Civil Aeronautics Board (CAB),  
Securities and Exchange Commission (SEC)

Commission Findings	Commission Recommendations
<p>1. Despite poor employment records in industries such as broadcasting, motor and rail transportation, airlines and power, which are regulated by independent agencies — the FCC, the ICC, the CAB, and the FPC, respectively — only the FCC has issued rules prohibiting employment discrimination by its licensees.</p>	<p>The ICC, CAB, and FPC should join the FCC in issuing rules prohibiting employment discrimination by their licensees.</p>
<p>2. The rules issued by the FCC, prohibiting employment discrimination by broadcasters, telephone, and telegraph companies, have not been effectively implemented.</p>	<p>The FCC should assign full-time staff to study the statistical data and affirmative action plans submitted under its employment discrimination rule and should develop standards for compliance.</p>

Response

Action Completed	Action Planned	Action Under Study
<p>ICC — None.            CAB — None.            FPC — None.</p>	<p>ICC — None.            CAB — None.            FPC — None.</p>	<p>ICC — The question of the Commission's jurisdiction and power to deal with employment discrimination by its regulatees is under active study. To assist the Commission in these deliberations, the ICC will institute a rule-making proceeding inviting comments on the Commission's jurisdiction and the type of function it can or should take in this area.</p> <p>CAB — The Board is studying the possibility of issuing such a rule and to assist it in its deliberation it plans to issue an advance notice of proposed rulemaking, which will request comments on the Board's authority for issuing such a rule, and the kind of rule which would be most effective.</p> <p>FPC — In January 1970, the Commission sought an informal opinion of the Justice Department on the question of its jurisdiction over employment practices of companies which it regulates or licenses. No response has been received from the Department of Justice.</p>
<p>None.</p>	<p>None.</p>	<p>None.</p>

FCC, ICC, FPC, CAB, SEC

Commission Findings	Commission Recommendations
<p>3. The ICC and FCC regulate industries (trucking and broadcasting) which, because of the relatively low capital investment necessary to enter them, offer substantial opportunities for minority entrepreneurship. Yet cumbersome agency license procedures, which tend to protect the interests of existing licensees, bar minority group members from entry into these industries.</p>	<p>The ICC and the FCC should amend their procedures concerning the issuance of licenses to facilitate minority group entrance as entrepreneurs.</p>
<p>4. Many minority group members are unable to challenge proposed agency actions because of the high cost of the necessary legal assistance. None of the four regulatory agencies offers free legal services to individuals or groups who wish to challenge a license renewal or other proposed agency action but who do not possess the financial means to do so.</p>	<p>The ICC, FCC, FPC, and CAB should provide free legal services to individuals or groups who wish to contest agency action but cannot afford to do so.</p>
<p>5. Although the ICC, CAB, FPC require nondiscrimination in services by the industries they regulate, they have not instituted the mechanisms necessary to insure against such discrimination effectively.</p>	<p>The four regulatory agencies should establish mechanisms for conducting compliance reviews of the operations of their regulatees.</p>
<p>6. The SEC leaves the decision of what information must be disclosed to potential investors up to registering companies and does not require specific disclosure when sanctions are being imposed for violation of Federal contract requirements under Executive Order 11246 (1965) or when lawsuits are pending under Title VII of the Civil Rights Act of 1964, although such public disclosure would tend to strengthen enforcement of equal employment opportunity requirements and would be of legitimate interest to potential stockholders.</p>	<p>The SEC should establish guidelines requiring companies to disclose facts concerning possible imposition of sanctions for violation of Federal contract requirements under Executive Order 11246 or pending lawsuits under Title VII of the Civil Rights Act of 1964.</p>



Response

Action Completed	Action Planned	Action Under Study
<p>ICC — None. FCC — None.</p>	<p>ICC — None. FCC — None.</p>	<p>ICC — This question is part of a comprehensive study of the role of the Commission in dealing with racial matters which is now underway.</p> <p>FCC — None.</p>
<p>ICC — None. FCC — None. FPC — None. CAB — None.</p>	<p>ICC — None. FCC — None. FPC — None. CAB — None.</p>	<p>ICC — This matter is now under consideration.</p> <p>FCC — This possibility is now being explored. Methods of reducing the cost of participating in Commission proceedings are also being explored.</p> <p>FPC — None.</p> <p>CAB — None.</p>
<p>ICC — None. CAB — None. FPC — A memorandum was sent to all regional engineers informing them to pay special attention to the presence of minority group citizens at recreation facilities licensed by the FPC and to determine the reason for low usage by minorities. FCC — None.</p>	<p>ICC — None. CAB — None. FPC — During the forthcoming recreation season the Commission intends to intensify its observations at project recreation facilities located near areas with heavy minority populations.</p> <p>FCC — None.</p>	<p>ICC — None. CAB — None. FPC — None. FCC — None.</p>
<p>None.</p>	<p>The SEC intends to require that registering companies disclose any proceedings arising under the Civil Rights Act, any debarment or other sanctions imposed under Executive Order 11246, Title VII of the Civil Rights Act of 1964, and any sanctions imposed for violation of the nondiscrimination rules of any Federal regulatory agency.</p>	<p>None.</p>

Commission Findings	Commission Recommendations
<p>7. SEC regulations, which currently prohibit stockholders from raising questions involving "general, economic, political, racial, religious, and social" considerations, prevent socially motivated stockholders from suggesting changes in company policy that would permit corporate enterprises to play a more significant role in contributing to the resolution of civil rights problems.</p>	<p>The SEC should amend its regulation prohibiting stockholders from raising questions involving "general, economic, political, racial, religious, and social consideration".</p>

**Response**

<b>Action Completed</b>	<b>Action Planned</b>	<b>Action Under Study</b>
None.	None.	The SEC appointed a task force in September 1970 for the purpose of studying the proxy rules to determine whether they are now operating in a manner which implements the legislative purpose of the Securities Exchange Act of 1934.

**Evaluation**

Although it appears that the regulatory agencies are beginning to recognize that they have a role to play in combating racial and ethnic discrimination, most have not yet acted to meet this responsibility with sufficient aggressiveness. This Commission's recommendation that the ICC, CAB, and FPC issue regulations to prohibit employment discrimination by their licensees and regulatees has not been implemented. The ICC and CAB are planning to ask for public comments on their jurisdiction to issue such a rule, its desirability, and its nature, before taking definitive action. The FPC is awaiting a Justice Department opinion on its jurisdiction. The FCC, which has adopted and implemented such a rule, has not devoted the resources necessary to enforce it effectively. The FCC and ICC have not taken any steps to revise their procedures to facilitate the movement of a minority group citizens into positions of ownership in the industries they regulate.

None of these four agencies has agreed to provide legal assistance to those citizens who cannot afford the high legal costs involved in challenging agency determinations which are adverse to their interests. Finally, the ICC, FCC, and CAB still rely mainly on complaints of discriminatory provision of services against their licensees to enforce their prohibition against such actions. Only the FPC has taken any action to create a more aggressive mechanism to deal with this continuing problem.

The SEC plans to adopt the Commission's recommendation that it require registering companies to inform investors of Government action accusing them of employment discrimination. It is still studying the Commission's other recommendation that it revise its proxy requirements to allow civil rights matters to be voted on by corporate entities.





# Office of Management and Budget (OMB)

Commission Findings	Commission Recommendations
<p>1. OMB has not officially acknowledged that it has any civil rights coordinating role.</p>	<p>OMB should acknowledge this coordinating role and establish a Division of Civil Rights.</p>
<p>2. Civil Rights concerns are not systematically included in the budget review process.</p>	<p>The Director of OMB should direct the appropriate office units and budget examiners to give high priorities to civil rights considerations in their dealings with Federal departments and agencies.</p>
<p>3. No systematic review is made of agency civil rights programs to determine their sufficiency.</p>	<p>OMB should assist agencies in developing civil rights goals, priorities, and policies.</p> <p>OMB should evaluate the mechanisms utilized by the agencies to achieve their civil rights goals.</p>

Response

Action Completed	Action Planned	Action Under Study
<p>This role has been acknowledged. The Director has issued two major memoranda (Oct. 30, 1970 and Mar. 25, 1971) to OMB staff assigning responsibilities necessary for fulfillment of this role. While no Division of Civil Rights has been established, the General Government Programs Division has been given overall responsibility for monitoring and reviewing the OMB civil rights effort. It is anticipated that at least two staff members will spend full-time on civil rights matters. Both the Division Chief and the Deputy Division Chief will have civil rights responsibilities.</p>	<p>None.</p>	<p>None.</p>
<p>In the memoranda mentioned above, the Director has specified that the budget hearing process should be used to assess agency performance in civil rights. From FY70 to FY72, the budget outlays for civil rights (excluding education) have increased from \$81,670,000 to \$141,191,000.</p>	<p>The Examiners Handbook will be revised to provide guidance for reviewing agency equal opportunity programs and other civil rights activities. The basic requirements for agency budget submissions will be revised to include appropriate requirements relating to civil rights activities.</p>	<p>None.</p>
<p>None.</p> <p>The above mentioned memoranda direct OMB staff to evaluate agency civil rights programs on a regular basis.</p> <p>OMB staff participated with White House staff in reviewing the responses of the agencies to the followup questionnaire on civil rights enforcement activities distributed by this Commission.</p>	<p>Where appropriate, OMB examiners will use goals and timetables to measure civil rights performance.</p> <p>The March 25 memorandum also directs that a special analysis of civil rights be published; that the flow of information between other central agencies with civil rights responsibilities and OMB staff be increased; and that civil rights policies and programs which cross agencies be given special attention.</p>	<p>None.</p> <p>None.</p>



# OMB

Commission Findings	Commission Recommendations
	OMB should evaluate the extent of coordination between the operation of substantive programs and civil rights enforcement efforts.
4. OMB staff has not received any civil rights training.	OMB should provide civil rights training for staff members.
5. Although OMB encourages Federal agencies to collect a wide variety of program data, it has not recommended a governmentwide collection of racial and ethnic data to determine if Federal assistance programs are reaching minority group citizens on an equitable basis.	OMB should evaluate agencies' racial and ethnic data collection systems and, where necessary, recommend changes to ensure comprehensive civil rights implementation.
6. In its review of substance legislation having important civil rights implications, the Bureau usually does not inquire specifically into the civil rights of the legislation.	OMB should review the civil rights aspects of pending legislation.

**Response**

Action Completed	Action Planned	Action Under Study
None.	OMB will ensure that the achievement of civil rights goals is clearly and specifically included among the performance responsibilities of program managers.	None.
A two-day training session concerning the civil rights responsibilities of various agencies was conducted for all key examiners by the Director of the Office for Title VI of the Civil Rights Division in the Justice Department.	Other training sessions will follow. Programs of information will be developed and training sessions will be instituted for examiners, management, and other staff before the next budget season.	None.
None.	Steps will be taken to improve the usefulness of civil rights statistics as a tool for assessing civil rights performance. Agency programs for civil rights data collection will be reviewed.	None.
None.	The March 25 memorandum proposes a revision of OMB Circular A-19, which covers legislative clearance procedures, to require a review of civil rights issues in the legislative review process.	None.

**Overall Evaluation**

OMB has now acknowledged that it has significant responsibilities in the civil rights area. In a memorandum which, if properly implemented, can have far-reaching implications for civil rights enforcement, OMB has given its examiners and management staff assignments related to ensuring that Federal agencies enforce laws, Executive orders, and policies designed to protect the rights of minority citizens. However, OMB has not created a Division on Civil Rights to provide direction and guidance to its examiners or to review their activities. In view of OMB's lack of experience in matters of civil rights concern, there is a serious question whether, absent a division devoting full attention to civil rights, the agency can carry out this responsibility with full effectiveness. It also has not agreed to the application of across-the-board civil rights goals and timetables for each of the Federal agencies. Finally, most of its actions exist, so far, only on paper, with full implementation lying in the future.

## The White House

Commission Findings	Commission Recommendations
1. The White House civil rights effort has suffered from a lack of full-time staff.	The President should establish a special Civil Rights Committee in the White House Council on Domestic Affairs.
2. The actions taken by the White House to evaluate, coordinate, and establish leadership for the Federal Civil Rights effort have not been part of a systematic and comprehensive program.	<p>The White House effort should constitute a systematic and comprehensive program.</p> <p>It should be responsible for identification of civil rights problems, development of specific national goals, and establishment of governmentwide priorities, policies, and timetables for their achievement.</p> <p>It should establish, with the assistance of the Office of Management and Budget and Federal departments and agencies, such mechanisms and procedures as are necessary to implement expeditiously the policies and achieve the goals. (See also OMB).</p>

**Response**

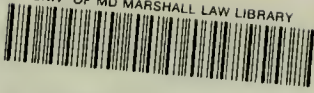
Action Completed	Action Planned	Action Under Study
None.	A permanent Committee on Civil Rights is being established in the Domestic Affairs Council and will be served by the staff of the Council.	None.
<p>None. Many <i>ad hoc</i> activities, however, are undertaken.</p> <p>None. According to Presidential Consultant Leonard Garment, the President's civil rights goals and priorities can be seen in his message and statements.</p> <p>None. The White House considers that the responsibility for overall evaluation of agency civil rights programs resides with OMB, although it will make an input on an <i>ad hoc</i> basis.</p>	<p>A permanent Committee on Civil Rights is being established in the Domestic Affairs Council.</p> <p>None.</p> <p>None.</p>	<p>None.</p> <p>None.</p> <p>None.</p>

**Overall Evaluation**

The White House has accepted the Commission's most crucial recommendation—to establish a permanent Committee on Civil Rights in the White House Council on Domestic Affairs. The duties of the Committee, however, have not yet been determined and, thus, it is not certain that the Committee will be assigned the function of developing a comprehensive and systematic civil rights program, an effort which has not been undertaken by the White House to date.

The White House staff has engaged in a large number of worthwhile *ad hoc* activities. It has provided input into Presidential messages, policies, and legislative proposals; arranged and participated in meetings with minority group leaders; provided guidance and assistance to Federal agencies in situations of particular seriousness which arise unexpectedly and which require special consideration; and worked with specific Federal agencies on a regular basis on matters of broad concern to the minority community. It also reviewed, together with OMB, the responses of the agencies to the followup questionnaires concerning civil rights enforcement activity which were distributed by this Commission. Nonetheless, no specific program of civil rights goals, timetables, and priorities has been adopted by the White House.

UNIV OF MD MARSHALL LAW LIBRARY



3 1428 01102478 9

