

SPECIAL ANALYSIS J

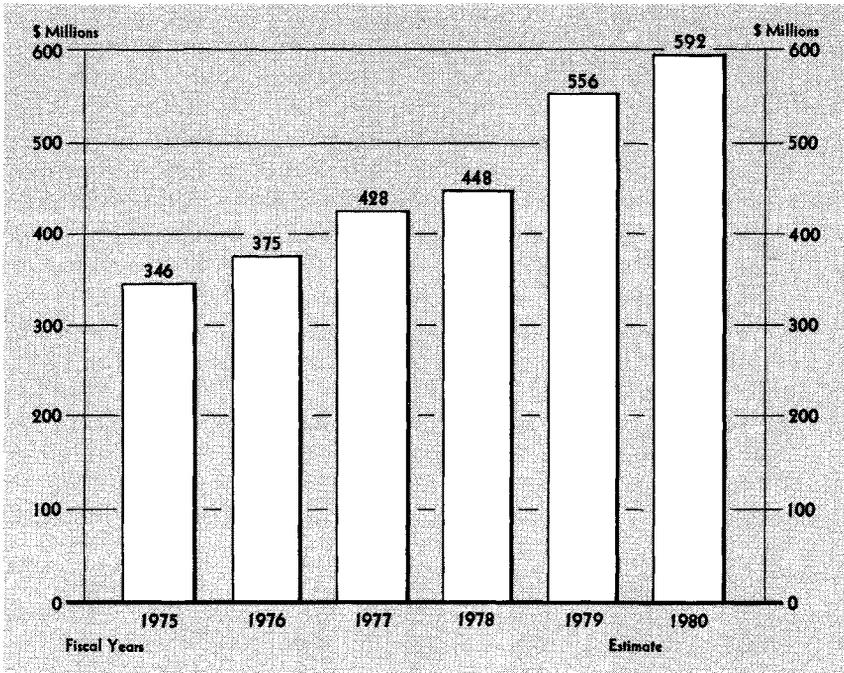
CIVIL RIGHTS ACTIVITIES

COVERAGE AND SCOPE OF THE ANALYSIS

This analysis of Federal civil rights activities comprises more than the traditional programs and policies related to civil rights enforcement. In addition to Federal activities regarding the protection of such rights as voting, public accommodations, fair housing, and equal employment opportunity in the public and private sectors, there are included Federal programs concerning civil rights research, information dissemination, and the conciliation and prevention of racial disputes. Outlays for these civil rights activities are projected to increase by 32%, from \$448.0 million in 1978 to \$592.5 million in 1980.¹

Outlays for Civil Rights Enforcement

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¹ Civil rights activities of the Postal Service, which by law is off-budget, are shown in the table as memorandum entries.

Table J-1. CIVIL RIGHTS OUTLAYS BY PROGRAM CATEGORY

(In millions of dollars)

Program category	1978 actual	1979 estimate	1980 estimate
Civil rights enforcement: ¹			
Federal service equal employment opportunities....	188.4	217.7	230.7
Military services equal opportunities ²	32.9	33.6	34.2
Private sector equal employment opportunities.....	117.1	158.8	176.3
Equal educational opportunity.....	38.5	69.7	68.3
Fair housing ³	14.4	15.4	19.7
Enforcement and investigation ⁴	38.8	42.0	44.8
Civil rights conciliation and prevention of dis- putes.....	6.5	6.5	6.4
Research and information dissemination.....	11.4	11.9	12.1
Total	448.0	555.6	592.5

¹ Civil rights enforcement programs guarantee and protect the basic civil rights as defined by law.² Excludes outlays for contract compliance, fair housing and title VI activities reported elsewhere includes Coast Guard.³ Excludes funds for contract compliance and departmental personnel who directly administer housing and urban development programs but concern themselves with the objectives of fair housing laws.⁴ Includes all title VI efforts except HEW.

Federal service equal employment opportunities.—The head of each Federal executive department and agency is charged by Executive Order 11478 and the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972 (Public Law 92-261), with establishing and maintaining an affirmative program of equal employment opportunity. As a result of Reorganization Plan No. 1 of 1978, effective January 1, 1979, enforcement responsibility for this Government-wide program has been transferred to the Equal Employment Opportunity Commission. All Government personnel actions must be free from discrimination based on race, color, religion, sex, age, handicapped conditions, or national origin.

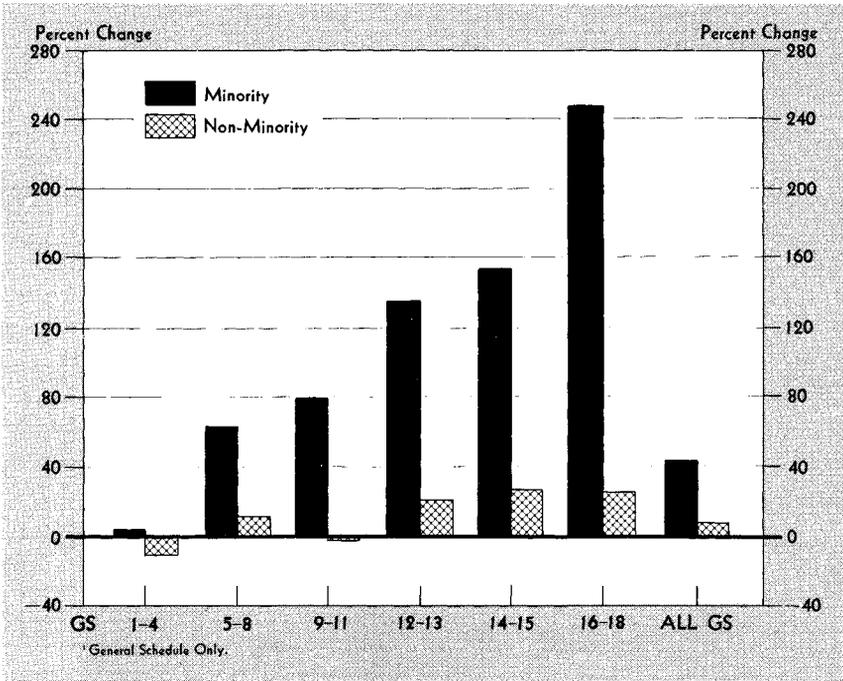
Agencies are required to submit an annual plan projecting goals and timetables to the Equal Employment Opportunity Commission for review and approval. Agency heads must assure that managers are aware of their responsibilities in eliminating discrimination in the Federal sector, that recruitment notices are made available to all sources of job candidates, that present employee skills are fully utilized, and that opportunities are provided for upward mobility.

Under the President's reorganization plan, the Equal Employment Opportunity Commission will monitor the achievement of agency goals on a regular basis, and will provide continuing assistance to assure that planned goals are realized.

Outlays for Federal civil service equal employment opportunity programs (including upward mobility) are expected to increase from \$188.4 million in 1978 to \$230.7 million in 1980.

Changes in Minority and Non-Minority Employment¹ November 1969–November 1977

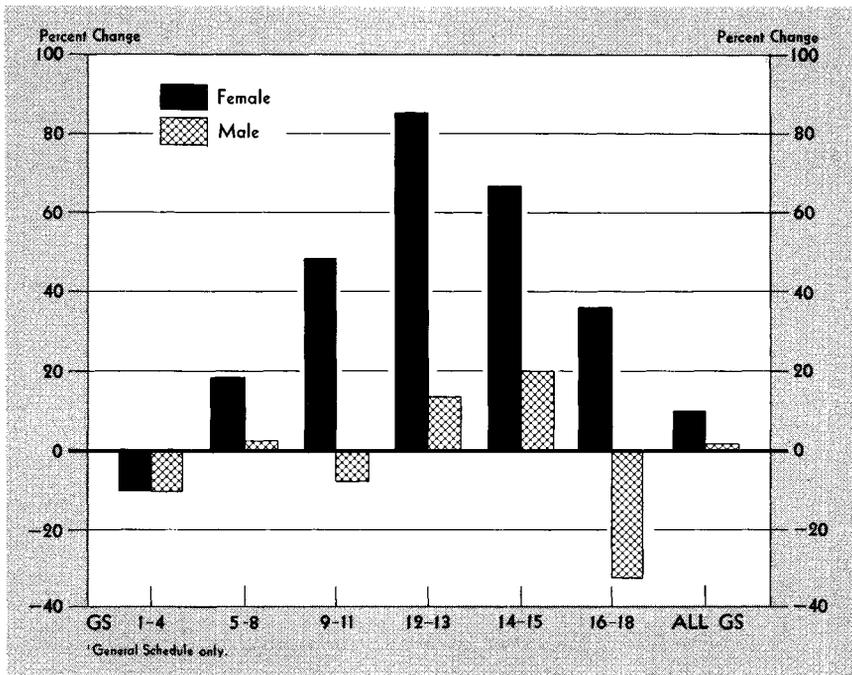
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The latest available reports show that in November 1977 members of minority groups accounted for 21.6% of all full-time Federal civilian employees and 18.1% of white-collar (General Schedule and equivalent) employment as compared with 21.9% and 17.7% in 1976. Women accounted for 30.7% of all full-time Federal employees and 43.0% of white collar employment in 1977, as compared with 30.1% and 42.6% in 1976. In the same period, the proportion of middle and upper grade jobs (General Schedule Grades 13-18 and equivalent) occupied by minorities increased from 23.3% to 24.4%; the proportion occupied by women from 16.5% to 17.5%.

Changes in Male and Female Employment¹ October 1969 — November 1977

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Under the Intergovernmental Personnel Act of 1970 (IPA), the Office of Personnel Management promotes and supports equal employment opportunity efforts by State and local governments through technical and financial assistance for personnel management and employee development. During 1978, the Office:

- Awarded \$3.7 million in IPA grant funds to support projects that are designed to improve various aspects of State and local equal employment opportunity efforts;
- Provided technical assistance and advice related to equal employment opportunity in more than 660 visits to State and local governments;
- Developed and issued a variety of publications for State and local use, aimed wholly or partially at improving equal employment opportunity.

Military services equal employment opportunities.—Each of the military services, including the U.S. Coast Guard, has placed equal opportunity officers at various levels within individual command structures. They guide, monitor, and evaluate all matters pertaining to the equal opportunity and treatment of military personnel and their dependents, and are responsible for and participate in race relations councils, seminars, and training.

Continued growth in the number of minorities and women is evidence of recruiting emphasis in this area. The number of women in the military increased by 7,000 to 126,000 in 1978, as it approached the 1983 objective of 199,000 women on active duty. Within the overall gains there was a rise in the number of women at the service academies, women participating in ROTC programs, and women receiving ROTC scholarship assistance.

Gains in minority participation in active and selected reserve forces continue and are consistent with affirmative action plan objectives. The percentage of minority personnel in the armed forces has increased steadily from 20.3% in 1972 to 26.8% in 1978. Since last year there are over 20,000 minority personnel participating in ROTC programs, and 1,500 minorities enrolled at service academies, 11.4% of total enrollment.

Affirmative action efforts to insure equitable promotions and job assignment for all military personnel continue. Twenty-four minorities and eight women currently hold flag or general officer rank.

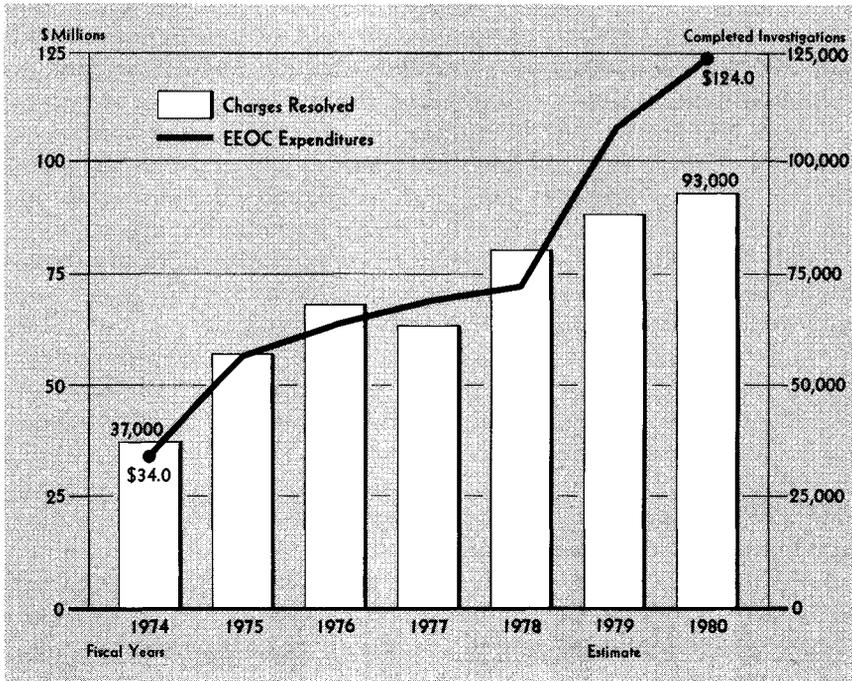
Reorganization of the Defense Race Relations Institute (DRRI) has been completed. The newly revised curriculum focuses on ways to deal with institutional discrimination. While retaining education in cultural awareness, racism, sexism, ethnicity, and anti-semitism, the curriculum has been expanded to develop the skill of graduates as staff advisors and organizational consultants. The Institute has graduated more than 5,000 instructors for the military services in seven years of operation. In 1980, the Department of Defense estimates spending \$34.2 million toward accomplishing equal opportunity objectives.

Private sector equal employment opportunities.—Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, religion, sex, or national origin by employers, unions, or employment agencies. The Age Discrimination in Employment Act Amendments of 1978 make it unlawful to require or permit the involuntary retirement of any individual because of age. Under the Equal Pay Act of 1963, employees are protected from discrimination on account of sex in the payment of wages by employers. Executive Order 11246, as amended, requires Federal and federally assisted Government contractors or subcontractors to take affirmative action to avoid and overcome the effects of dis-

crimination. Outlays for administering the programs are expected to reach \$176.3 million in 1980.

Equal Employment Opportunity Commission Activities

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Outlays to carry out the programs of the Equal Employment Opportunity Commission (EEOC) in 1980 are estimated at \$124 million. This sum includes funds for the agency's base program, as well as full year funding to support functions transferred from the Civil Service Commission on January 1, 1979, and functions to be transferred from the Department of Labor on July 1, 1979.

In fiscal year 1980, the Commission, through work-sharing agreements with State and local Fair Employment Practices Agencies, expects to resolve 93,000 charges of discrimination against employers in the private sector. The agency also plans to direct a larger percentage of its resources toward investigating cases involving patterns and practices of discrimination.

To improve its operations, EEOC has abolished its regional administrative and litigation offices and will provide direct service through 22 full-service District Offices and 37 area offices to those who believe they have been subject to discrimination.

The Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor is responsible, under Executive Orders 11246 and 11375, the Rehabilitation Act of 1973, and the Vietnam Era Veterans Adjustment Act of 1974, for programs requiring equal employment opportunity and affirmative action by Federal

contractors and subcontractors. Effective October 5, 1978, responsibility for contract compliance was consolidated within the Department of Labor under Executive Order 12086. This consolidation included transfer of contract compliance activities from eleven Federal agencies formerly charged with administering the program. The basic enforcement tool is the compliance review of contractor facilities to ascertain compliance. With consolidation, the compliance activities for qualified handicapped workers under Section 503 of the Rehabilitation Act and for veterans under Section 402 of the Vietnam Era Veterans Readjustment Act will be fully integrated with Executive Order enforcement.

Other highlights include:

- The Federal Communications Commission will continue to investigate complaints of employment discrimination by broadcasters, cable television systems, and common carriers; review licensees' annual reports of employment patterns; and foster representation of minorities in the ownership of broadcast facilities. In 1978, the Commission entered into a memorandum of understanding with the Equal Employment Opportunity Commission to coordinate, process, and consider discrimination complaints and actions.
- Under the Equal Pay Program (being transferred to the Equal Employment Opportunity Commission on July 1, 1979), the Employment Standards Administration, in 1978, found 18,376 workers employed in violation who were owed \$15.9 million. Back wages amounting to \$8.7 million were restored to 14,929 employees.

Equal educational opportunity.—The Department of Health, Education, and Welfare (HEW) and the Justice Department have primary responsibility for insuring equality of educational opportunity in programs and activities receiving Federal financial assistance. The main objectives are to eliminate officially imposed racial isolation and sex discrimination against students, to develop a non-discriminatory policy relating to faculty and administrators, and to reduce discrimination against employees in public schools and colleges. Currently the Federal Government is also taking steps to provide equal educational opportunity for Spanish-speaking and other non-English speaking pupils through special education and bilingual and bicultural education programs. In 1980, outlays of \$68.3 million are proposed to support these activities.

Under Title IX of the Higher Education Amendments of 1972, HEW is charged with the responsibility of insuring that there is no discrimination on the basis of sex in federally assisted education programs. Toward this effort, HEW plans to spend \$12.6 million in 1980. Assurances of compliance have been secured from all educa-

tional institutions receiving HEW funds. This includes 16,000 elementary and secondary public school districts and 2,870 post-secondary education institutions. The investigation of complaints and the inclusion of sex discrimination issues in the large urban school system reviews complete the compliance activities in this area.

An additional \$19.7 million will be spent in 1980 by HEW to assure compliance with Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of physical or mental handicap.

During 1980, the Justice Department has targeted \$3.0 million to enforce Federal laws requiring equal educational opportunities for public school students. Allegations of discrimination in public education prohibited by the Civil Rights Act of 1964 are investigated. Results of these investigations are analyzed to determine whether further Federal action is warranted. The Department will continue to devote resources toward student desegregation cases in large metropolitan areas. A significant increase in the number of student assignment cases for court action is anticipated in 1980. Various laws allow the Attorney General to sue in Federal court to bring about desegregation of public elementary and secondary schools, to enforce nondiscrimination in admission or continued attendance at public colleges, and to promote desegregation of racially separate systems of higher education. Justice conducts litigation to support certain civil rights enforcement programs of HEW, such as the rights of limited- or non-English speaking students.

Fair housing.—Title VIII of the Civil Rights Act of 1968 prohibits discrimination on the basis of race, color, religion, sex or national origin in the sale, rental, or financing of housing or in the provision of brokerage services. The Department of Housing and Urban Development (HUD) administers and enforces the act. In addition, all executive departments and agencies are directed to cooperate with HUD and to administer their programs and activities relating to housing and urban development to promote fair housing. HUD maintains a 24-hour toll-free phone line that any person in the United States may use to file a complaint of housing discrimination. During 1978, HUD received 3,169 complaints and closed 3,910. In addition there were 358 successful conciliation agreements negotiated as a result of 754 attempts to resolve complaints through conciliation.

Title VIII complaints are an integral part of HUD regulations implementing Title I of the Housing and Community Development Act of 1974, which authorizes community development block grants, and Title II of that act, which establishes the section 8 housing assistance program. To assure nondiscrimination under these programs, the Department will continue communitywide ad-

ministrative meetings, expand compliance reviews, and increase cooperative efforts with other agencies, particularly the independent Federal financial regulatory agencies. Voluntary compliance agreements have been concluded with real estate boards in major cities. HUD's enforcement efforts are supplemented by the Department of Justice and by private civil suits that may be brought under title VIII.

The Justice Department enforces both the Fair Housing Act of 1968 and the Equal Credit Opportunity Act of 1974. In 1978, Justice filed 19 suits and 7 other legal proceedings in 14 States involving 55 defendants. Ten of these cases alleged discriminatory rental practices based on race, national origin, or sex by the owners and operators of apartments, trailer parks, and rental services. Four suits alleged violations of the Fair Housing Act in relation to single-family dwellings by practices such as racial steering and blockbusting. Five cases involved alleged violations of the Equal Credit Opportunity Act.

During 1978, consent decrees resolved 28 cases in whole or in part, including two sex discrimination suits against large mortgage lenders. Justice also continues to work with the four Federal agencies responsible for the regulation of the Nation's lenders (Office of the Comptroller of the Treasury, Federal Reserve Board, Federal Home Loan Bank Board, and Federal Deposit Insurance Corporation) to promote increased attention to equal opportunity in lending.

The Department of HUD and the General Services Administration (GSA) have signed a memorandum of understanding to assure the availability of housing on a nondiscriminatory basis for low and moderate income employees in new and relocated Federal facilities. The Department of Defense supports a program to insure equal opportunity for available housing for all military and civilian personnel, including Defense personnel in off-base housing.

Expenditures prepared for the administration of fair housing programs in the Federal Government total \$19.7 million in 1980.

Highlights of these fair housing proposals include spending by:

- HUD of \$5.3 million to strengthen its efforts under title VIII and to continue its cooperative efforts with other Federal agencies in assuring affirmative administration of their programs. In addition, the Department will spend \$3.7 million in 1980 to provide financial assistance to State and local agencies for Title VIII complaint processing.
- Defense of \$3.7 million to protect the rights of all military and civilian personnel in obtaining appropriate housing.
- Justice of \$2.8 million in the development, litigation, and negotiation of suits under title VIII.

- GSA of \$0.2 million to study proposed locations for federally constructed or leased space to assure an adequate supply of low and moderate income housing on a nondiscriminatory basis.

Enforcement and investigation.—Primary responsibility for the enforcement of civil rights laws and constitutional guarantees rests with the Justice Department. This includes the development, negotiation, conciliation, and litigation of complaints and cases. Justice, along with other agencies with enforcement responsibilities, expects to spend \$44.8 million in 1980. The Department will continue to coordinate enforcement by Federal agencies under title VI of the Civil Rights Act of 1964, which prohibits discrimination in programs receiving Federal funds. Other activities include reviewing complaints filed under the Community Development Block Grants, initiating compliance reviews in communities showing a disparity of services, and investigating Comprehensive Employment and Training Act programs in several target cities for possible violation of civil rights statutes.

The Department will continue to investigate, and litigate the civil rights of citizens who have suffered violence or threats of violence, including special protection for migrant workers, prison inmates, and, with the Department of the Interior, American Indians. Attention will also continue on civil litigation involving conditions in correctional institutions, mental hospitals and juvenile homes.

Under the voting rights program all qualified citizens have the opportunity to register and vote without discrimination based on race, color, or membership in a language minority group. Justice will continue to stress the elimination of barriers to Indian participation in elections. Much of the Department's activity in 1980, as in past years, will be devoted to expand its investigative and litigative activities to discover and remedy methods of election that dilute the voting strength of minorities.

During 1978, a total of 4,653 voting-related changes in 1,946 submissions were processed, an increase of 1,531 changes and 129 submissions over the previous year. Provisions of the Voting Act of 1965 authorize the Attorney General to assign observers to monitor elections to insure the right to vote and assure that the vote is properly counted. In 1978, there were 477 observers assigned to cover 11 elections in seven States, including elections in five counties.

In August 1977, President Carter directed the Task Force on Sex Discrimination to coordinate a review of all Federal policies, programs and procedures to identify and eliminate any that discriminate or have a disparate impact on the basis of sex. On October 3, 1978, the Task Force reported preliminary results, including agreement from the agencies to submit proposed substantive legislation,

or to adopt new policies without the need for legislation, to eliminate sexual stereotyping. The Task Force also reported that the review process has significantly improved agency awareness of and responsiveness to issues of concern for women. The Task Force is working with the Department of Health, Education, and Welfare on a congressionally-mandated study of proposals to eliminate sex discrimination from the Social Security System.

Civil rights conciliation and prevention of disputes.—The mission of the Community Relations Service (CRS) in the Department of Justice is to provide assistance to communities in resolving disagreements arising from discriminatory practices that disrupt peaceful relations among citizens. The primary techniques employed include conciliation, mediation, and technical assistance.

In 1980, CRS will spend \$4.4 million for crisis resolution activity. CRS's conciliation and mediation efforts will be directed to fostering improved relations and understanding between law enforcement officials and minority groups. Assistance to communities will continue to minimize the occurrence of racial or ethnic conflict resulting from school desegregation, especially in those communities where complex transportation plans or major redistricting are proposed to accomplish desegregation.

Civil rights research and information dissemination.—Expenditures grouped in this category represent Federal research to overcome discriminatory practices. Outlays in this area are estimated at \$12.1 million in 1980.

- The budget proposes \$11.1 million of outlays for the Commission on Civil Rights to carry out its factfinding function relating to denials of equal protection under the law.
- The Women's Bureau, within the Department of Labor, promotes the welfare and improved economic status of working women. The Bureau publishes and disseminates information to assist women directly and through employer and union organizations and government agencies. In addition, the Bureau provides services to both the National Advisory Committee for Women and the Interdepartmental Task Force on Women, established by President Carter in Executive Order 12050.
- The Fair Housing and Equal Opportunity program in the Department of Housing and Urban Development conducts research and demonstration projects in methods for broadening housing opportunities for minorities, including Native Americans and women.
- The Women's Action Program in HEW, together with the Secretary's Advisory Committee on the Rights and Responsibilities of Women, has a 1980 budget of \$0.3 million to analyze the effects of HEW programs and policies on women, and to recommend changes identified by this analysis.

Table J-2. FEDERAL CIVIL RIGHTS OUTLAYS BY TYPE OF ACTIVITY

(In millions of dollars)

Type of activity	1978 actual	1979 estimate	1980 estimate
Complaint conciliation.....	27.7	30.5	33.5
Complaint investigation.....	82.6	117.6	131.0
Compliance review and monitoring.....	94.7	130.8	133.5
Legal enforcement.....	23.8	24.4	28.3
Program direction and research.....	100.5	122.7	131.2
Technical assistance.....	22.0	22.5	22.8
Upward mobility.....	63.8	73.5	78.0
Military services equal opportunities.....	32.9	33.6	34.2
Total.....	448.0	555.6	592.5

Civil rights reorganization.—The President's Task Force on Civil Rights Reorganization was established as part of the President's Reorganization Project in the Office of Management and Budget. The unit studies civil rights compliance programs in order to develop recommendations to promote better execution of the laws and improve program management and efficiency.

The first phase of the Task Force's Study, the examination of Federal equal opportunity compliance programs, was the basis of Reorganization Plan No. 1 of 1978, which became effective on May 5, 1978. The second phase of the study focused upon agency compliance efforts in federally assisted services, housing, and credit programs. The Task Force will submit the recommendations growing out of the second phase of its study to the President in early 1979.

Table J-3. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY

(In millions of dollars)

	1978 actual	1979 estimate	1980 estimate
Department of Agriculture.....	7.9	8.5	8.6
Department of Commerce.....	1.4	.8	.9
Department of Defense.....	37.4	38.3	39.3
Department of Health, Education, and Welfare.....	36.9	68.1	65.6
Department of Housing and Urban Development.....	8.4	8.9	13.1
Department of Justice.....	30.5	33.8	38.1
Department of Labor.....	46.3	49.7	54.2
Department of Transportation.....	2.2	2.1	2.2
Office of Personnel Management ¹ ²	188.4	217.7	230.7
Department of State.....	*	*	*
Commission on Civil Rights.....	10.4	10.8	11.1
Equal Employment Opportunity Commission.....	74.2	111.9	124.0
General Services Administration.....	1.1	1.1	.2
Postal Service ³	(17.3)	(19.0)	(20.3)
Small Business Administration.....	.9	1.3	1.5
All other.....	2.0	2.6	3.0
Total.....	448.0	555.6	592.5

* Less than \$100 thousand.

¹ Include outlays for all Federal service equal employment opportunity, including Upward Mobility.² Formerly Civil Service Commission.³ Postal Service outlays appear in the Annexed Budget and are included here for memorandum purposes only.

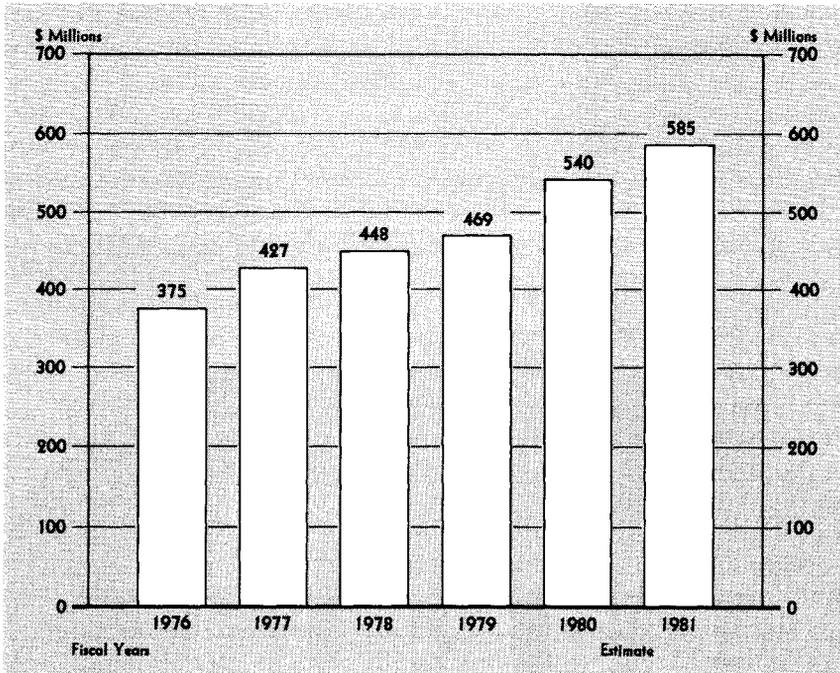
SPECIAL ANALYSIS J

CIVIL RIGHTS ACTIVITIES

COVERAGE AND SCOPE OF THE ANALYSIS

This analysis of Federal civil rights activities summarizes the accomplishments of and plans for programs designed to protect individual rights in such areas as voting, public accommodations, fair housing, and equal employment opportunity in the public and private sectors. Also included are Federal programs concerning civil rights research, information dissemination, and the conciliation and prevention of racial disputes. Outlays for these civil rights activities are projected to increase by 25%, from \$469.1 million in 1979 to \$585.0 million in 1981.¹

Outlays for Civil Rights Enforcement



¹Civil rights activities of the Postal Service, which by law is off-budget, are shown in the table as memorandum entries.

Table J-1. CIVIL RIGHTS OUTLAYS BY PROGRAM CATEGORY

(In millions of dollars)

Program category	1979 actual	1980 estimate	1981 estimate
Civil rights enforcement: ¹			
Federal service equal employment opportunities.....	170.4	183.7	194.9
Military services equal opportunities ²	39.7	41.7	42.9
Private sector equal employment opportunities.....	135.5	167.5	189.9
Equal educational opportunity.....	14.8	29.9	40.7
Fair housing ³	15.2	17.3	17.5
Enforcement and investigation ⁴	76.7	82.5	80.7
Civil rights conciliation and prevention of dis- putes.....	5.3	5.3	5.5
Research and information dissemination.....	11.5	12.5	12.9
Total	469.1	540.4	585.0

¹ Civil rights enforcement programs guarantee and protect the basic civil rights as defined by law.² Excludes outlays for contract compliance, fair housing and title VI activities reported elsewhere, includes Coast Guard.³ Excludes funds for contract compliance and departmental personnel who directly administer housing and urban development programs but concern themselves with the objectives of fair housing laws.⁴ Includes all title VI efforts except those included in the Department of Health and Human Services (HHS) and the Department of Education (DE).

Monitoring and oversight responsibility.—On October 1, 1979, the Director of the Office of Management and Budget established an office for civil rights within his office. This component assists the Director of OMB in meeting his responsibility to oversee and coordinate the development of executive branch programs and budget policies and to assure efficient and economical conduct of Government activities. In fulfilling its responsibility, the civil rights office assists other components of OMB in the review of agency programs and budget submissions that affect civil rights activities. The creation of this office will help promote more unified and cohesive civil rights policies within the executive branch, directed at more effective enforcement of the rights of protected classes and the elimination of unnecessary burdens on those subject to regulations.

Federal service equal employment opportunities.—The head of each Federal department and agency is required by Executive Order 11478, section 717 of Title VII of the Civil Rights Act of 1964, Section 501 of the Rehabilitation Act of 1973, and the Civil Service Reform Act of 1978 to refrain from discrimination and to take affirmative action to assure equal employment opportunity for minorities, women and the handicapped. All Government personnel actions must be free from discrimination based on race, color, religion, sex, national origin, age, or handicap. Special procedures are available to Federal employees and other applicants who believe they have received discriminatory treatment in any aspect of the Federal workforce. These procedures include informal counseling through which over 400,000 persons contacted equal employment counselors in 1979. Formal complaints filed with Federal

agencies totaled 10,000 in 1979 and 8,000 were resolved. In 1980, the Equal Employment Opportunity Commission will initiate a pilot program in which it will conduct investigations of employment discrimination filed with selected Federal agencies. The purpose is to develop more effective techniques of investigation and conciliation for the Federal sector and to assist agencies in investigating and resolving complaints. During 1981, EEOC plans to direct increased resources toward consolidating, within the Commission, the investigation of all Federal sector employment discrimination complaints. This process is scheduled for completion in 1982.

Affirmative action by Executive departments and agencies to assure equal employment opportunities for minorities, women and handicapped are documented in written plans which include both goals and timetables for combating patterns and practices of discrimination, and for increasing participation of minorities, qualified handicapped persons and women in the Federal workforce. Careful consideration is to be given to assure that recruitment efforts reach all sources of job candidates, that present employee skills are fully utilized, that upward mobility opportunities are provided, and that supervisors are trained to assume their equal employment opportunity responsibilities.

Outlays for Federal service equal opportunity (including Upward Mobility) are expected to reach \$194.9 million in 1981, and work-years are projected at 9,226.

Under the Intergovernmental Personnel Act of 1970 (IPA), the Office of Personnel Management (OPM) provides technical and financial assistance in personnel management and employee development to State, local, and Indian tribal governments to promote and support equal employment opportunity efforts. During 1979, OPM:

- Awarded \$3.0 million in IPA grant funds to support projects that are designed to improve various aspects of State and local equal employment opportunity efforts;
- Provided technical assistance and advice related to equal employment opportunity to State and local governments;
- Developed and issued a variety of publications for State and local use, aimed wholly or partially at improving equal employment opportunity.

In 1980 and 1981, OPM will continue to provide financial and technical assistance to State and local governments in equal employment opportunity.

OPM also provides services to Federal, State, local, and Indian tribal governments in the following areas:

- Intergovernmental personnel program services in affirmative employment totaled 25 workyears and \$725,000 for 1979. This

is expected to increase to 26 workyears and \$750,000 in 1980 and 1981.

- Training in affirmative employment for 1979 totaled 24.1 workyears and \$1.7 million. This is expected to increase to 27.9 workyears and \$1.9 million for 1980 and to 31.2 workyears and \$2.1 million for 1981.
- Investigations of discrimination complaints totaled 6.0 workyears and \$123,000 for 1979. This activity is estimated at 6.0 workyears and \$112,800 for 1980 and 6.0 workyears and \$122,000 for 1981.

Military services equal employment opportunities.—Each of the military services, including the Coast Guard, has placed equal opportunity officers at various levels within individual command structures. They guide, monitor, and evaluate all matters related to equal opportunity and treatment of military personnel and their dependents, and participate in race relations councils, seminars, and training programs. In 1981, outlays are estimated at \$42.9 million to provide for more than 3,135 workyears for insuring equal opportunities for members of the Armed Forces.

Continued growth in the number of minorities and women is evidence of equal opportunity emphasis in this area. The number of women in the military increased by over 16,500, to nearly 150,000 in 1979, toward a goal of 254,000 women on active duty by 1985. Within the overall gains, there was a rise in the number of women at the Service academies, women participating in ROTC programs, and women receiving ROTC scholarship assistance.

Gains in minority participation in the active forces continue. The percentage of minority enlisted personnel has increased steadily from 20.3% in 1972 to 29.6% in 1979. Participation by minorities in ROTC programs has reached over 20,000 and minority enrollment at Service Academies over 16,000, or 12.4% of total enrollment.

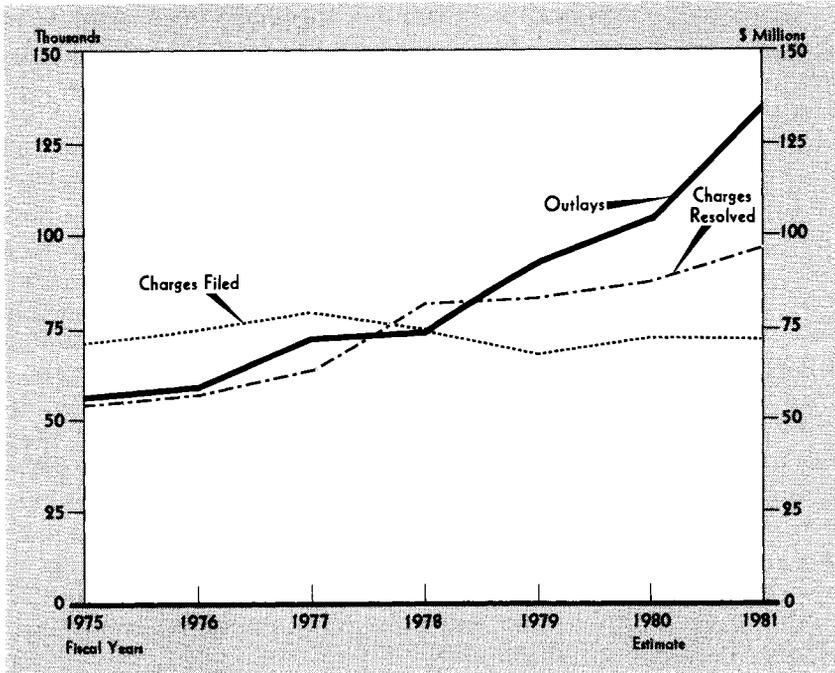
Efforts continue to ensure equitable promotions and job assignments for all military personnel. Thirty-nine minorities and seven women currently hold flag or general officer rank.

The Defense Race Relations Institute was recently renamed the Defense Equal Opportunity Management Institute, to more accurately reflect the Institute's objective to develop graduates trained to deal with such problems as racism and sexism, and to promote cultural awareness, and to develop staff advisors and organizational consultants on equal opportunity matters. The Institute has provided more than 5,000 graduates to the Military Services in its 8 years of operation.

Private sector equal employment opportunities.—Title VII of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color, religion, sex, or national origin by employ-

ers, unions, or employment agencies. The Age Discrimination in Employment Act Amendments of 1978 make it unlawful to require or permit the involuntary retirement of any individual because of age. The 1978 amendments to the Age Discrimination in Employment Act expanded coverage by raising the upper age limitation for protection under the Act from 65 to 70 years of age in the private sector and State and local governments, and removed the upper age limit altogether for the Federal sector. Under the Equal Pay Act of 1963, employees are protected from discrimination because of sex with regard to the payment of wages by employers. Executive Order 11246, as amended, requires Federal and federally assisted Government contractors or subcontractors to take affirmative action to avoid and overcome the effects of discrimination. Outlays for administering the programs are expected to reach \$189.9 million in 1981.

Equal Employment Opportunity Commission Activities



Outlays to administer the programs of the Equal Employment Opportunity Commission (EEOC) in 1981 are estimated at \$135.2 million. This amount will provide resources to fund the agency's ongoing program as well as functions transferred in 1979 from the Office of Personnel Management and the Labor Department .

In 1979, EEOC completed a total reorganization of its structure and individual charge processing system. The Commission's plans for 1981 also include (1) reducing the existing backlog of old

charges by 77% and (2) resolving a total 55,000 charges of discrimination. Another 40,000 charges are expected to be resolved by State and local Fair Employment Practices Agencies that have worksharing and funding agreements with the Commission. EEOC will be allocating increased resources in 1981 to enforcement efforts to combat systemic employment discrimination and bring about reform of identified discriminatory practices.

The Office of Federal Contract Compliance Programs (OFCCP) in the Department of Labor is responsible under Executive Orders 11246 and 11375, the Rehabilitation Act of 1973, and the Vietnam Era Veterans Readjustment Assistance Act of 1974 for programs requiring equal employment opportunity and affirmative action by Federal contractors and subcontractors. The basic enforcement tool is the review of contractor facilities to ascertain compliance. This comprehensive review encompasses all aspects of a contractor's hiring and promotion policies for handicapped workers, veterans, minorities, and women. Outlays for the Federal contract compliance program are estimated to reach \$51,790 million in 1980 and \$53,662 million in 1981. During 1980, OFCCP expects to carry out 7,000 compliance actions, and 8,000 in 1981.

Other highlights include:

- The Federal Communications Commission will continue to investigate complaints of employment discrimination by broadcasters, cable television systems, and common carriers; review licensees' annual reports of employment patterns; and foster representation of minorities in the ownership of broadcast facilities. In 1978, the Commission entered into a memorandum of understanding with EEOC to pursue a common goal—the elimination of employment discrimination in the broadcast industry—and to avoid duplication through coordination and cooperation. To date, 35 complaints have been referred to EEOC for processing. In 1979, the Commission revised its classification form to identify those areas where substantive changes are necessary or appropriate and to obtain a more accurate picture of minorities and women in the broadcast field.
- During the first three quarters of 1979, as a result of illegal pay practices, the Employment Standards Administration, in the Department of Labor, found 14,070 workers employed in violation of the Equal Pay Act who were owed \$10.2 million, of which \$6.4 million was remitted by employers to 11,595 employees. The Equal Pay Program was transferred to EEOC on July 1, 1979. During the last quarter of 1979, the Commission received 2,100 complaints under the Pay Act. One thousand were resolved and the remainder carried over into 1980 for further action.

Equal educational opportunity.—The new Department of Education, established under the Department of Education Organization Act of September 21, 1979, and the Department of Justice have the primary responsibility for assuring nondiscrimination in education programs and activities receiving Federal financial assistance. The main objectives are to eliminate inequality in educational opportunities for all students, and to develop a nondiscriminatory employment policy relating to faculty, administrators, and employees in public schools, colleges and universities. The Federal Government continues to help local schools provide equal educational opportunity for Spanish-speaking and other non-English speaking students through special education and bilingual education program grants. Additionally, Federal funds will be used to provide educational opportunities for Indian children and adults, ranging from remedial reading to studies dealing with Indian culture and heritage. In 1981, outlays of \$40.7 millions are proposed to support these activities.

Title IX of the Higher Education Amendments of 1972 prohibits discrimination based on sex in education programs and activities receiving Federal funds. The Department of Education is charged with the administration of this program and plans to spend \$12.5 million to enforce title IX in 1981. In 1979, the Department of Health, Education, and Welfare, which administered title IX, in that year received approximately 8,000 complaints of which 7,400 were resolved. Approximately 20,000 primary recipients of Federal funds are covered by title IX. The Women's Educational Equity Act is intended to develop programs and activities which seek to eliminate sex discrimination, bias, and stereotyping at all levels of education. The Women's Educational Equity program, transferred from the Department of Health, Education, and Welfare to the Department of Education in 1979, is directly responsible for implementation of this Act. In 1981, the program will focus, for the first time, on projects of local significance linked to compliance with title IX.

With the creation of the new Department of Education, resources of the Office for Civil Rights in the former Department of Health, Education, and Welfare, will be divided between the Department of Health and Human Services and the Department of Education on the basis of current workload. Responsibility for assuring compliance with sections 502 and 504 of the Rehabilitation Act of 1973 for education programs has been assigned to the Department of Education. Section 504 prohibits discrimination against persons on

the basis of physical or mental handicap in all federally assisted programs. In 1981, \$13.2 million will be spent by the Department of Education toward implementation of this activity through technical assistance to both recipients and beneficiaries.

Under section 502, the Architectural and Transportation Barriers Compliance Board is authorized to investigate and insure compliance with standards for public architectural, transportation, and communication barriers, including public conveyances, confronting handicapped individuals. In 1981, \$2.1 million is requested which represents a major increase over the amount currently available for 1980.

In April 1979, the Justice Department consolidated its equal education opportunities and housing functions in order to address more effectively the interrelated problems of residential segregation and segregation of public schools. The new combined function has targeted \$3.4 million in 1981 to enforce desegregation of public elementary and secondary schools and to insure nondiscriminatory treatment by all schools including colleges. During 1979, the Department placed a high priority on the desegregation of school districts in nonsouthern metropolitan areas, reinforcing the requirements for full desegregation of northern and western school districts which had previously practiced unlawful segregation. This increased activity in northern and western jurisdictions, however, did not detract from efforts by Justice to enforce court-ordered desegregation in Southern States. Justice participated in lawsuits involving more than 500 southern school districts in 1979. Other areas of equal educational opportunity receiving a high priority in 1979 included sex discrimination in education, and racial discrimination resulting from implementation of State competency laws and regulations.

Table J-2. CIVIL RIGHTS OUTLAYS BY TYPE OF ACTIVITY

(In millions of dollars)

Type of activity	1979 actual	1980 estimate	1981 estimate
Complaint conciliation.....	26.5	28.6	30.5
Complaint investigation.....	98.3	121.8	134.0
Compliance review and monitoring.....	113.1	143.2	151.8
Legal enforcement.....	25.2	28.3	30.4
Program direction and research.....	144.6	155.7	172.1
Technical assistance.....	23.9	24.4	24.6
Upward mobility.....	37.5	38.4	41.6
Military services equal opportunities.....			
Total.....	469.1	540.4	585.0

Fair housing.—Title VIII of the Civil Rights Act of 1968 prohibits discrimination in the sale, rental, or financing of housing, or provision of brokerage services on the basis of race, color, religion, sex,

or national origin. The act also prohibits "blockbusting", the pressuring of homeowners to sell or landlords to rent at below-market prices because households of different races, colors, religions or national origins are moving into a neighborhood. The Departments of Housing and Urban Development (HUD) and Justice are charged with administration and enforcement of the act. All executive departments and agencies are directed (1) to administer their programs and activities relating to housing and urban development in an affirmative manner to promote fair housing and (2) to cooperate with HUD in furthering that purpose.

During 1979, HUD closed 2,912 complaints out of a total of 3,339 complaints including cases carried over from the past year. In addition 348 out of 643 attempts to resolve complaints through conciliation were completed. Conciliation generally results in specific relief for the complainant and actions to eliminate any discriminatory practices found as a result of the complaint.

During 1980, HUD proposes to broaden and strengthen its ability to address discrimination in housing by significantly restructuring its complaint processing program to address more rapidly individual complaints and to establish special units to investigate complaints of systemic discrimination. Also in 1980, it plans to provide financial and technical assistance to State and local fair housing agencies as an incentive for these agencies to assume a greater share of the responsibilities for administering fair housing laws. Projections for 1981 include the completion of substantive Title VIII regulations which will authoritatively inform the public of those activities prohibited by law and to assure consistent application of the fair housing program by Federal, State, and local jurisdictions.

The Justice Department enforces both Title VIII of the Civil Rights Act of 1968, and the Equal Credit Opportunity Act of 1974, which forbids discrimination in all aspects of credit transactions, including those for commercial and other nonhousing purposes. In 1979, Justice filed 26 suits and two motions for contempt under the Fair Housing Act. These actions were taken in cases in 18 different States, potentially affecting 15,000 units of housing. They involve alleged discriminatory rental and sales practices based on race, sex, national origin and religion. Efforts were underway in 1979 to document possible housing discrimination against Hispanics for possible litigation actions. Five cases in violation of the Equal Credit Opportunity Act were brought by the Department during 1979. These involved complaints based on alleged discriminatory conduct relating to age, sex, or marital status, or alleged failure to provide credit applicants with adequate reasons for adverse action.

Expenditures proposed for the administration of fair housing programs total \$17.5 million in 1981. Defense plans to spend \$8.5

million to protect the rights of all military and civilian personnel, including Defense personnel in off-base housing, and the General Services Administration estimates \$0.2 million will be spent to study proposed locations for federally constructed or leased space to assure an adequate supply of low and moderate income housing on a nondiscriminatory basis.

Enforcement and investigations.—Primary responsibility for the enforcement of civil rights laws and constitutional guarantees rests with the Justice Department. This includes the development, negotiation, conciliation, and litigation of complaints and cases. Justice, along with other Federal agencies with enforcement responsibilities, expects to spend \$80.7 million in 1981. The Department will continue to coordinate Federal agencies' enforcement of Title VI of the Civil Rights Act of 1964, which prohibits racial and ethnic discrimination in all federally funded programs. In 1979, the Department negotiated and signed a memorandum of understanding with the Department of Housing and Urban Development to set out steps HUD should take to improve Title VI enforcement. Additionally, the Department completed a survey of Title VI enforcement efforts by the Small Business Administration, developed a Title VI training program for the Office of Personnel Management, and assisted the Department of Labor in resolving several outstanding complaints of discrimination in the Comprehensive Employment and Training Program. Justice also participated in a wide variety of litigative actions intended to remedy conditions in correctional institutions, mental hospitals, and juvenile homes.

The 1968 Civil Rights Act prohibits the use of force or threats of force to injure or intimidate any person involved in the exercise of certain Federal rights and activities. In 1979, Justice reviewed approximately 11,000 complaints alleging criminal interference with the civil rights of citizens. Over 3,100 of these were investigated by the FBI. The Department will continue to investigate and litigate the civil rights of citizens who have suffered violence or threats of violence, including special protection for migrant workers, prison inmates, and with the Department of the Interior, American Indians.

The Voting Rights Act of 1965 insures that all qualified citizens have the opportunity to register and vote without discrimination on account of race, color, membership in a language minority group, or age. Section 5 of the Voting Rights Act of 1965, as amended, requires that covered jurisdictions submit all changes in voting practices or procedures to either the U.S. District Court for the District of Columbia for judicial review or to the Attorney General for administrative review. In fiscal year 1979, 1,914 submissions involving a total of 3,420 voting-related changes were

submitted to the Attorney General under section 5. Provisions of the Voting Act authorize the Attorney General to assign observers to monitor elections to insure that the right to vote and to have the vote properly counted is not denied during the election process. Last year, 972 observers were assigned to cover nine elections in five States, including elections in three counties. Assistance was provided to the Department of Defense's Federal Voter Assistance Program to gather and prepare information for dissemination as required under the Overseas Citizens Voting Rights Act and the Federal Voters Assistance Act.

Civil rights conciliation and prevention of disputes.—The mission of the Community Relations Service (CRS) in the Department of Justice is to provide assistance to communities in resolving disputes, disagreements, or difficulties relating to discriminatory practices based on race, color, or national origin. CRS also aids communities in achieving the kinds of progress which will enable them to avoid racial upheavals.

In 1981, CRS estimates outlays of \$5.5 million for dispute resolution. Initiated in 1979 and continuing in 1980 is a cooperative agreement with a Federal judicial circuit to increase court referrals of appropriate disputes to CRS as an alternative to certain forms of litigation. CRS's conciliation and mediation efforts will continue to be directed toward fostering improved relations and understanding between law enforcement officials and minority groups.

Civil rights research and information dissemination.—Outlays in this area are estimated at \$12.9 million in 1981.

- The budget proposes \$11.9 million of outlays for the Commission on Civil Rights to carry out its factfinding function relating to denials of equal protection under the law.
- The Women's Bureau, within the Department of Labor, promotes the welfare and improved economic status of working women. The Bureau publishes and disseminates information to assist women directly and through employer and union organizations and government agencies. In addition, the Bureau provides services to both the National Advisory Committee for Women and the Interdepartmental Task Force on Women, established by President Carter by Executive Order 12050.

Table J-3. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY

(In millions of dollars)

	1979 actual	1980 estimate	1981 estimate
Department of Agriculture.....	6.5	7.4	7.7
Department of Commerce.....	.1	1.8	2.1
Department of Defense.....	47.0	49.4	50.9
Department of Education ¹		18.5	41.8
Department of Health, Education, and Welfare ¹ ...	50.4	32.1	
Department of Health and Human Services.....		13.6	26.8
Department of Housing and Urban Development...	5.2	5.8	6.3
Department of Justice.....	32.2	36.8	39.1
Department of Labor.....	47.0	56.8	59.3
Department of Transportation.....	2.0	2.2	2.7
Office of Personnel Management.....	9.0	8.2	8.0
Department of State.....	*	*	*
Commission on Civil Rights.....	10.2	11.4	11.9
Equal Employment Opportunity Commission ²	255.0	290.5	322.1
Postal Service ³	(17.4)	(19.3)	(21.5)
Small Business Administration.....	1.1	1.2	1.8
All other.....	3.4	4.7	4.5
Total.....	469.1	540.4	585.0

* Less than \$100 thousand.

¹ Assumes transfer from HEW to the Department of Education.² Include outlays for all Federal service equal employment opportunity, including Upward Mobility.³ Postal Service outlays appear in the Annexed Budget and are included here for memorandum purposes only.

- The Fair Housing and Equal Opportunity program in the Department of Housing and Urban Development conducts research and demonstration projects on methods for broadening housing opportunities for minorities, including Native Americans, and women.
- The Women's Action Program in the Department of Health and Human Services, together with the Secretary's Advisory Committee on the Rights and Responsibilities of Women, has a 1981 budget of \$.02 million to analyze the effects of the Department's programs and policies on women and to recommend changes identified by this analysis.

SPECIAL ANALYSIS J

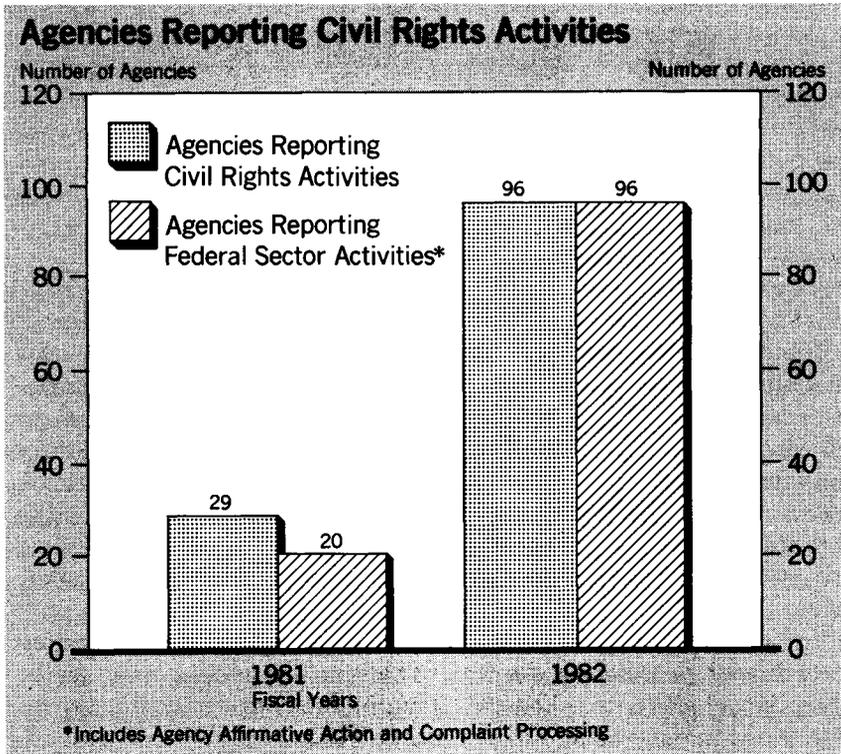
CIVIL RIGHTS ACTIVITIES

COVERAGE AND SCOPE

The Federal Government enforces or administers over 130 statutes and Executive orders prohibiting discrimination based on race, color, sex, national origin, handicap, and social or economic status. Discrimination is prohibited in major areas of American life—employment, housing, voting, education, public accommodations, access to credit, and jury service. In addition, discrimination may not occur whenever Federal financial assistance of any kind is involved e.g., health services, forestry projects, and public transportation.

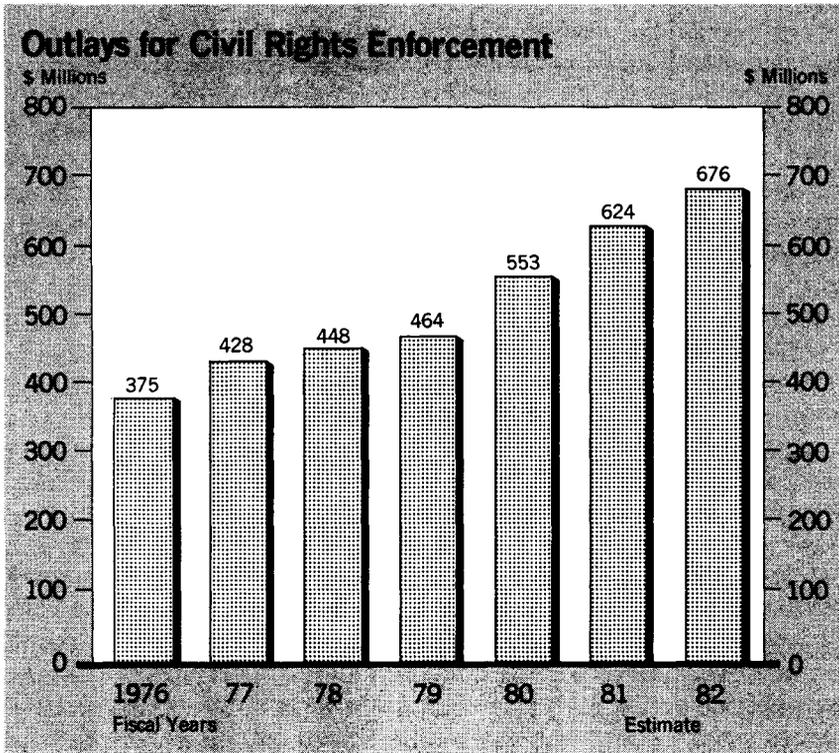
Unfortunately, many of these laws are duplicative, or agency enforcement jurisdiction overlaps. Therefore, in recent years (especially since 1977), the Federal Government has concentrated on improving management of civil rights resources and program efforts by eliminating waste and duplication and ensuring consistent interpretation of the laws and Executive orders.

Illustrative of this effort is the decision by the Director of the Office of Management and Budget (OMB) to establish a unit within his office to oversee the Federal civil rights effort. This unit, through both the budget and the management oversight functions of OMB, addresses crosscutting issues that affect the spectrum of Federal civil rights efforts. During 1980, the OMB Civil Rights Office substantially revised OMB's instructions to agencies for the preparation of budget estimates to require, for the first time, detailed performance as well as expenditure information on civil rights activities. This resulted in 67 more departments and agencies reporting civil rights expenditures for this special analysis than had previously reported. Seventy-six more agencies reported on their internal equal employment expenditures. As a result of this expanded data base and the unit's oversight activities in 1980, this analysis provides a much more accurate and detailed view of civil rights expenditures and their effects. Performance reporting will be further refined in 1981 to allow for more precise assessments of the cost effectiveness of civil rights activities in the 1983 special analysis.



Another illustration of this effort to manage civil rights resources more efficiently is the emphasis placed on “coordination” and “leadership” of civil rights activity so that one, not several agencies interpret the various laws and Executive orders. For example, in 1978, the Equal Employment Opportunity Commission (EEOC) became the “lead” agency for equal employment through the adoption of Executive Order 12067. Now, when the Departments of Energy or Education want to establish guidelines on how handicapped workers should be accommodated, only EEOC provides official guidance.

Special Analysis J focuses first, on the enforcement of laws prohibiting employment discrimination. Second, the analysis focuses on enforcement of laws prohibiting discrimination in federally assisted programs. In addition, it covers enforcement of Fair Housing and Equal Credit Opportunity laws. Third, the analysis is expanded this year to cover Federal programs that encourage the development of minority and female businesses, and those programs designed to assist communities in complying with civil rights requirements.



Employment

The principal statutes or Executive orders prohibiting employment discrimination are:

- Title VII of the Civil Rights Act of 1964, as amended, which prohibits discrimination based on race, color, religion, sex or national origin by public and private employers, unions, and employment agencies.
- The Age Discrimination in Employment Act Amendments of 1978 (ADEA), which prohibit discrimination against persons aged 40 through 70.
- The Equal Pay Act of 1963 (EPA), which prohibits discrimination in payment of wages based on sex.
- Executive Order 11246, as amended, section 503 of the Rehabilitation Act of 1973, section 402 of the Vietnam Veterans Readjustment Act, which together require Federal contractors to take affirmative action to assure equal employment opportunity regardless of race, color, sex, national origin, religion, handicap, service-connected disability, or Vietnam era military service.

In 1977, the President's Reorganization Project studied the administration of these laws by the 18 Federal departments and agencies that had major equal employment responsibilities. The study identified major problems of duplication and inconsistency in

standards and procedures; lack of accountability; burdensome paperwork requirements, and inconsistent compliance, investigation and enforcement procedures. Congress responded by approving Reorganization Plan No. 1, effective May 5, 1978. The Plan reduced the number of departments and agencies responsible for equal employment from 18 to 3, and established accountability mechanisms as depicted in table J-1.

Table J-1. COMPARISON OF EQUAL EMPLOYMENT AUTHORITIES BEFORE AND AFTER REORGANIZATION PLAN NO. 1

Equal Employment Authorities		Agency	
Program	Employees covered	Before	After
Title VII.....	Private and public non-Federal employers and unions.	EEOC.....	EEOC
Equal Pay Act, Age Discrimination in Employment Act.	Private and public non-Federal employers and unions.	Labor (Wage and Hour) ...	
Title VII, Executive Order 11478, Equal Pay Act, Age Discrimination in Employment Act, Rehabilitation Act.	Federal Government.....	Civil Service Commission ...	
Coordination of all Federal equal employment programs.*	.....	EEOC.....	
Vietnam Veterans Readjustment Act, Rehabilitation Act.	Federal contractors.....	Labor (OFCCP).....	
Executive Orders 11246, 11375.....	Federal contractors.....	Commerce, Defense, Energy, EPA, GSA, HHS, ED, HUD, Interior, SBA, DOT, Treasury.	Labor (OFCCP)
Title VII, Executive Order 11246, Selected Federal Grant Programs.	Public non-Federal employers. Federal contractors and grantees.	Justice.....	Justice

* A number of Federal grant statutes prohibit employment discrimination, or include other non-discrimination provisions having equal employment implications. Any interpretations relating to employment by agencies enforcing these statutes must be coordinated with the EEOC.

In addition, Executive Order 12067 assigned the Equal Employment Opportunity Commission (EEOC), responsibility for eliminating duplication, conflict, and inconsistency by developing uniform standards, regulations, definitions, and procedures. Since the Executive order was issued, EEOC has reviewed more than 130 proposed issuances to assure consistency and clarity. These reviews have led to significant increases in:

- Joint issuances by agencies providing uniform guidance to employers covered by more than one statute;
- Multiagency use of common reporting forms and other interagency data sharing which eliminates duplication and reduce reporting burdens on the public; and
- Agency sharing of data on complaints and findings of discrimination to eliminate duplicative reviews and investigations.

During 1980, the EEOC surveyed over 1,300 employers to obtain their recommendations on current EEO enforcement.

Federal Employment.—Each Federal department and agency is responsible for taking affirmative action to prevent discrimination based on race, color, religion, sex, national origin, age, or handicap.

In addition to EEOC's lead responsibility to coordinate equal employment opportunity policies and procedures under Reorganization Plan Number 1, the Office of Personnel Management (OPM) is responsible, under the Civil Service Reform Act, for coordinating agency implementation of the Federal Equal Opportunity Recruitment Program (FEORP). FEORP requires agencies to make special efforts to increase the number of minorities and women applying for positions where they are underrepresented.

Significant progress has been made in making the requirements applying to Federal Government and private employers consistent. Since implementation of Reorganization Plan Number 1, for example, the Uniform Guidelines on Employee Selection Procedures used by Federal agencies, and the development and implementation of affirmative action plans by Federal agencies now parallel the requirements placed upon private, State, and local employers.

Through application of affirmative recruitment and merit selection principles, the representation of minorities and women in Federal employment has increased steadily without increases in total number of Federal employees. For example, while full-time permanent civilian employment in the Executive branch has decreased by 2.4 percent since 1977, the representation of women and minorities has increased by 2 percent and 2.2 percent respectively.

From October 1, 1976 through March 30, 1980, Federal agencies hired more than 225,000 Vietnam era veterans. During the first half of 1980, Vietnam era veterans represented 20 percent of all Federal hires, compared with 15.5 percent in 1976.

Progress has been made in removing barriers to the employment of handicapped persons. Medical standards unrelated to successful job performance have been eliminated. Procedures for remedying discrimination based on handicap in Federal employment have been established. Legislation authorizing Federal agencies to employ readers and interpreters, and to provide other auxiliary aids for disabled employees has enabled the Federal Government to more fully utilize the skills and qualifications of handicapped persons. Finally, an Executive order was signed that allows agencies to convert mentally retarded and severely disabled employees to permanent positions after two years of successful service.

Steps have been taken to improve the cost effectiveness of Federal discrimination complaint procedures. During 1980, the EEOC initiated a pilot program similar to the rapid charge processing procedures pioneered by EEOC in the private sector. The pilot procedures emphasize early resolution of allegations of discrimina-

tion through informal conference. In the pilot program, 260 out of 400 complaints were closed by the end of the fiscal year. Compared with traditional time-consuming investigations, more complaints were resolved in shorter periods of time to the satisfaction of all parties. For example, charges closed through voluntary settlements and withdrawals increased from 43.3 percent to 60.6 percent, while the percentage of closed cases involving voluntary relief for complainants increased from 22.8 percent to 41.4 percent. Also, the average processing time dropped from an average of 440 days to 100 days. Additionally, the EEOC eliminated a large backlog of Federal complaint appeals that it had inherited.

The military services continue to reflect an increasing number of minorities and women within their ranks. Over 163,000 women serve on active duty as the services strive toward a goal of 254,000 women by 1985. The percentage of minority enlisted personnel approached 30 percent, which is greater than their percentage in the overall population. Minorities and women are participating in ROTC programs in greater numbers and they are being selected for military jobs and positions of greater responsibility. Forty-five minorities and seven women currently hold flag and general rank.

Private sector equal employment opportunities.—Since 1977, EEOC has planned and implemented several major improvements in its organization and procedures. Improvements included a new, expedited procedure for resolving charges of discrimination filed under title VII, and increased cooperation with State and local deferral agencies. In addition, EEOC:

- Achieved and sustained a permanent reduction in its backlog of title VII charges. By the conclusion of 1980, 65 percent of the backlog that existed in January 1979, had been eliminated. Settlements of these charges involved over \$36 million in benefits;
- Resolved over 85 percent of the new charges in initial face to face factfinding conferences. The time required to resolve charges of discrimination has been reduced from an average of 2 years to 3 months;
- Closed 17 percent more charges than it received annually. During 1980, EEOC received 45,000 charges and resolved 50,000; and
- Increased the remedies through conciliation from 14 percent to 42 percent. Average benefits increased from \$1,400 per person to \$3,600. During 1980, 29,000 persons received \$43 million in backpay and other financial benefits.

During 1980, EEOC continued its progress in processing title VII charges. It filed 247 suits to enforce title VII, and legal settlements produced \$18 million in financial benefits.

EEOC's first full year of enforcement responsibility for ADEA and the Equal Pay Act (EPA) was 1980. EEOC resolved 5,800

ADEA cases, and filed 53 suits under the Act. There were 1,650 cases resolved under EPA; 314 compliance reviews were initiated by the EEOC; and 93 suits were filed to enforce the Act. Efforts were made to increase productivity further and eliminate the burden and cost of investigating the same charge twice. This included the EEOC's implementation of procedures for processing title VII charges that also allege ADEA or EPA violations.

Major changes have also occurred in enforcement of laws and Executive orders prohibiting discrimination by Federal contractors. Reorganization Plan No. 1 transferred over 1,000 employees from 11 Federal agencies to the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP). Before this consolidation, each agency had its own regulations, interpretations, and procedures. Additional confusion resulted from the Department of Labor's separate enforcement of contractual requirements relating to handicapped workers and disabled and Vietnam era veterans. Since program responsibility was divided among 11 compliance agencies based solely on industry, Federal contractors were often required to deal with three or more compliance agencies. Preconsolidation compliance reviews frequently concentrated on minutia and the petty details of "paper compliance," resolving no major problems while creating an unnecessary workload for Federal contractors.

Since October 1978, OFCCP has developed and trained all personnel in review and investigative procedures that focus on major compliance issues. All contractual equal employment requirements are now handled in a single review. As evidence of this shift in focus, financial settlements recovered for identified victims of discrimination quadrupled during the 2 years following consolidation, or from \$4 million in 1978 to over \$16 million during 1980.

During 1980, OFCCP completed 2,632 compliance reviews and 1,726 complaint investigations. These actions affected personnel policies and practices for approximately 1,050,000 workers. Discriminatory policies or practices were identified in 113 reviews, and appropriate remedies were obtained or are being negotiated. Potential discrimination issues were identified in an additional 467 reviews, and investigations to resolve them are being completed.

Major initiatives by OFCCP to increase cost effectiveness and to decrease the burden of compliance on the public include:

- A program designed to link contractors having employment opportunities with federally funded programs that will train persons in the skills they need. This should increase employment of Vietnam era veterans, minorities, women, and the handicapped, while increasing the cost effectiveness of both the contract compliance and federally assisted training programs.

OFCCP has established 541 linkages benefiting 1,751 employees to date.

- A program to help small contractors comply with equal employment requirements by eliminating inappropriate paperwork and other burdens. OFCCP tested this program in 1980, and will implement it nationwide in 1981.
- Cooperative seminars with private industry designed to promote voluntary compliance with equal opportunity requirements. During 1980, 650 representatives of Federal contractors participated in these sessions.
- A comprehensive compliance manual, which was made available to contractors and the public.
- A major outreach program that brought construction contractors, unions, and civil rights groups together as a committee to recommend changes in OFCCP's procedures for the construction industry. Changes in current OFCCP procedures based on two committee's recommendations will be issued in 1981. Similar cooperation efforts have been completed or are underway with other employers.

The Women's Bureau of the Department of Labor was responsible for yet another initiative. During 1980, it completed a major demonstration project showing that women can successfully perform a wide range of jobs in the coal industry which have traditionally been held by men. The Bureau also made significant improvements in its regional offices which will enhance its ability to identify major developments affecting the economic status of women.

During 1980, the Civil Rights Division of the Department of Justice initiated 23 employment discrimination suits and settled 17 suits through consent decrees. These suits primarily involve alleged patterns and practices of employment discrimination by State and local governments. Settlements negotiated by the Department addressed such problems in State and local governments employing a total of more than 1,150,000 persons.

Nondiscrimination in Federally Assisted Programs

Four statutes apply to almost all agencies providing Federal financial assistance: title VI of the 1964 Civil Rights Act; title IX of the Education Amendment of 1972, as amended; section 504 of the Rehabilitation Act of 1973, as amended; and the Age Discrimination Act of 1975. These laws are enforced by each Federal agency granting financial assistance. In addition, an agency may be responsible for enforcing an antidiscrimination statute that applies only to its programs. For example, section 401 of the Energy Reorganization Act of 1974 prohibits sex discrimination in Department

of Energy programs not covered by any other sex discrimination prohibition.

Until recently, there were no procedures to ensure that all of these statutes were interpreted uniformly and enforced consistently. No agency was responsible for ensuring that interpretations of these statutes were consistent with other civil rights laws. As previously mentioned, in 1978 EEOC was designated as the overall coordinator of the employment discrimination aspects of all of these statutes. To close the gap in the nonemployment areas, Executive Order 12250 was issued in 1980. It designated the Attorney General as the overall coordinator for the interpretation and implementation of titles VI and IX, section 504, and all other statutes prohibiting discrimination in federally assisted programs or activities based on race, color, national origin, handicap, religion, or sex. Discrimination based on age could not be included because the statute assigns this authority to the Department of Health and Human Services (HHS).

Table J-2. COMPARISON OF EQUAL OPPORTUNITY AUTHORITIES (OTHER THAN EMPLOYMENT) BEFORE AND AFTER EXECUTIVE ORDERS

Program/scope	Enforcement agencies	Coordination	
		Before	After
Title VI (federally assisted programs).....	37 agencies.....	DOJ.....	DOJ
Section 504 (federally assisted programs)	All agencies.....	HEW.....	
Title IX (federally assisted education programs)	28 agencies.....	None	
126 program specific provisions (individual assistance programs).	15 agencies.....	None	
Age Discrimination Act (federally assisted programs).	37 agencies.....	HHS.....	HHS
Title VIII (housing)	15 agencies.....	HUD.....	HUD*
Equal Credit Opportunity Act (credit)	13 agencies.....	FRB.....	FRB

*Prior to issuance of the Executive order, HUD was designated the coordinating agency for title VIII but lacked the authority necessary to assure meaningful coordination.

The Departments of Education and Justice have the primary responsibility for assuring nondiscrimination in education programs and activities.

In 1980, the Office for Civil Rights (OCR) of the Department of Education (ED) received 3,354 complaints of discrimination and 2,750 complaints were resolved. About 121,000 persons benefited as a result of the resolutions. During 1981, it is anticipated that 4,090 complaints will be received, 4,452 will be resolved and 201,000 persons will benefit.

During 1980, the Department initiated 96 and closed 208 compliance reviews. Estimates for 1981 indicate that 120 reviews will be initiated and 221 will be closed.

OCR also helps recipients to comply voluntarily with civil rights laws and regulations. ED estimates that 9.5 million persons will benefit from the results of this technical assistance.

During 1980, Justice continued to focus on the desegregation of school districts in nonsouthern metropolitan areas, reinforcing the requirements for full desegregation of northern and western school districts that had previously practiced unlawful segregation. This was in addition to its efforts to enforce court-ordered desegregation in Southern States. Other major litigation involves desegregation of higher education in Mississippi and Louisiana. Justice is defending the Department of Education's efforts to enforce the law regarding higher education systems in North Carolina, Maryland, and Georgia. In addition, Justice is also suing two universities alleging the denial of equal educational and athletic opportunities for female students.

During 1980, the Department of Justice's coordination unit assisted two major departments in making major program improvements. Previously, each subunit of the Departments of Energy and Labor was individually responsible for enforcing civil rights requirements regarding grants that they awarded. This resulted in considerable duplication and inconsistency. Now, both departments have established central offices to enforce these requirements regarding all grants awarded by these agencies. In addition, the Department of Labor is developing a comprehensive regulation detailing requirements of all applicable civil rights laws. This will enable recipients of Federal financial assistance to find, in one document, requirements that were previously scattered throughout several regulations.

During 1981, Justice will continue to address the problems that led to the issuance of the Executive order enhancing its coordination responsibility. It will work to centralize enforcement responsibility in agencies where it remains diffused among subunits. Responsibility for enforcement among agencies will be more clearly divided, so that recipients of Federal financial assistance are not subject to compliance activities of several different agencies. Guidelines and procedures requiring Federal agencies to develop consistent regulations will be issued, and other steps will be taken to assure consistency in enforcement actions, investigations, and compliance reviews among agencies. The Department of Justice is also developing recordkeeping, reporting, and data sharing requirements to increase cooperation among agencies, and reduce unnecessary burdens on grantees.

Fair Housing

The Fair Housing Act of 1968, as amended, prohibits discrimination based on race, color, religion, sex, or national origin in the sale, rental, or financing of housing or provision of brokerage services. The Department of Housing and Urban Development (HUD)

investigates complaints alleging such discrimination, and attempts to resolve violations of the Act through informal conference, conciliation, and persuasion. The Department of Justice files suit to enjoin patterns and practices of discrimination prohibited by the Act. Other Federal departments and agencies are responsible for administering their housing and urban development programs in a manner that affirmatively promotes fair housing. Like the areas of employment and federally assisted programs, there have been significant advances in improving cost effectiveness and eliminating duplication in fair housing enforcement.

During 1980, HUD initiated three major programs to increase its cost effectiveness:

- Under the Act, complaints are referred to State and local fair housing agencies with statutory authority substantially equivalent to the Act. HUD has implemented a program of technical and financial assistance which will increase the number of referral agencies from 32 to 83 by 1982. This will allow more complaints to be handled at the State and local level.
- HUD's new "rapid response" procedures significantly shortened the time required to process complaints by focusing on early discussion and resolution of issues. Based on the success of these procedures in 5 regions, HUD will extend them to its other 5 regions in 1981.
- In 5 of its 10 regions, HUD formed systemic teams to address complaints of patterns and practices of discrimination. This approach will be extended to the other 5 regions in 1981.

During 1980, HUD received 3,039 complaints and closed 2,890. There were 494 successful conciliations out of 703 attempts to resolve complaints through conciliation. Resolutions generally included actions to eliminate any discriminatory practices found as a result of the complaint, as well as relief for individual complainants.

During 1981, HUD will begin to implement a new Executive order assigning it leadership and coordinating responsibility for Fair Housing similar to the EEOC's for equal employment opportunity. HUD will require that agencies develop consistent regulations to assure that their programs affirmatively further the purposes of the Fair Housing Act. HUD will also complete issuance, during 1981, of a full set of substantive title VIII regulations that will, for the first time, provide authoritative guidance to the public on the requirements of the Fair Housing Act. These actions will eliminate duplication and inconsistencies in the fair housing efforts of Federal agencies, and promote more uniform application of the Act by state and local jurisdictions.

During 1980, the Department of Justice, the other major agency responsible for fair housing, filed several suits alleging pattern and practice violations of the Act. These suits alleged prohibited prac-

tices such as refusal to sell or rent housing based on race, sex, or religion; zoning to exclude housing because of the race of potential residents; and failure to count the income of women on the same basis as the income of men in determining whether to make housing available to applicants.

A major obstacle still remains to cost effective enforcement of the Act. Neither HUD nor Justice has the authority to seek legal or other sanctions to enforce the rights of individuals under the Act when conciliation fails. Meaningful sanctions would greatly enhance HUD's ability to negotiate voluntary remedies.

Equal Credit Opportunity

More serious resource efficiency problems are posed by the present structure for enforcing the Equal Credit Opportunity Act of 1974. This Act prohibits discrimination in all aspects of credit transactions. Lending institutions cannot discriminate because of an individual's race, color, national origin, sex, marital status, or derivation of all or part of their income from public assistance. This Act vests enforcement responsibility in 13 different departments and agencies. Information submitted by the agencies themselves indicates that very few complaints under the Act receive more than perfunctory attention, and that resources devoted to enforcing the Act are scattered too widely to be effective.

During 1981, authority for coordinating enforcement of this Act will be reexamined. In addition, an in-depth assessment will be made of the resources expended on enforcing the Act and the results obtained. Reduction in the number of agencies presently responsible for enforcing the Act and reassignment of coordination responsibility will be seriously considered.

Voting

The Voting Rights Act of 1965 prohibits discrimination in registration and voting based on race, color, membership in a language minority group, or age. The Act also requires that jurisdictions submit all proposed changes in voting practices or procedures to either the U.S. District Court for the District of Columbia or the Attorney General for review. During 1980, Justice received 2,422 submissions, involving 7,312 voting changes. These figures represent an increase over 1979 of 26.5 percent and 113.8 percent, respectively. Justice objected to 32 proposed changes, including a redistricting plan that would have guaranteed a white majority in the Selma, Ala., city council.

FEDERAL PROCUREMENT INITIATIVES

Federal procurement totals \$100 billion per year. Several statutes and Executive orders require departments and agencies to

encourage increased participation by minority and women-owned businesses in Federal contracting and subcontracting. Diversification of the supplier base stimulates competition, increases productivity, creates jobs and leads to long-term cost savings critical to America's economic health. The Office of Federal Procurement Policy (OFPP) within OMB coordinates these efforts by working closely with the Minority Business Development Agency (MBDA) at Commerce and the Small Business Administration (SBA).

Significant accomplishments in furthering utilization of minority and women-owned businesses include:

- Each Federal agency with procurement authority has established an Office of Small and Disadvantaged Business Utilization.
- All firms with Federal contracts exceeding \$10,000 in value are required to make efforts to include small businesses and those owned by socially and economically disadvantaged persons (largely minority) in all aspects of contract work. Those with contracts exceeding \$500,000 in value are required to develop written plans and percentage goals for subcontracting with minorities. A consolidated form was developed to provide an efficient cost-effective means for collecting information.
- Federal loans, loans guarantees, and grants to minority business enterprises by SBA have increased 110 percent from \$850 million in 1977 to \$1.8 billion in 1979. In 1979, SBA made \$163 million in direct loans and \$240 million in guaranteed loans to socially and economically disadvantaged individuals. For 1980, these figures were \$172 million for direct loans and \$261 million for guaranteed loans. SBA is also targeting direct and guaranteed loans to socially and economically disadvantaged persons, the handicapped, and women. Under section 8(a) of the Small Business Act, SBA will make available up to 100 percent guaranty loans to recipients of section 8(a) contracts. MBDA coordinates Federal minority business development programs with specific emphasis on enterprise development, policy and market development and research and information. For 1982, the MBDA budget of \$65 million will permit it to continue its existing services and focus on assisting medium and larger sized minority firms to diversify and strengthen their business potential.
- Procuring agencies are required to set procurement goals for utilization of minority-owned businesses as part of a comprehensive goal setting process that includes utilization of goals for women business owners, small business owners and Labor Surplus Areas (LSA) businesses also. SBA, MBDA, and OFPP cooperated with the agencies in this process. As a result, awards of contracts to minority-owned businesses rose from \$1.1 billion, or 1 percent of total procurements in 1977, to \$3

billion or 3 percent of total 1980 procurements. For 1981, the goal is \$4.2 billion. If this rate can be maintained, the goal of reaching 10 percent by 1990, endorsed by the White House Conference on Small Business and sanctioned by President Carter, can be achieved. Next year, the goal setting process will be refined further and institutionalized as part of the OMB budget process.

- Executive Order 12138, issued on May 18, 1979, required greater involvement of women-owned businesses in Federal procurement. As a result of this and other efforts to increase involvement of women in Federal (procurement) total contracts awarded to female owned firms increased from \$40.5 million in 1977 to over \$212 million in 1980. The SBA's Office of Women Business Enterprise is responsible for coordinating efforts to provide management and financial assistance and to increase utilization of women business enterprises throughout the Government.
- Standardized efforts to increase utilization of minority, women, handicapped, and socially and economically disadvantaged entrepreneurs will be included in the Uniform Procurement System (UPS) now in preparation under the leadership of OFPP. The UPS will also simplify the procurement process making significant management improvements to expedite the acquisition and distribution of goods and services.

Table J-3. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY

(In millions of dollars)

	1980 actual	1981 estimate	1982 estimate
Department of Agriculture.....	15.0	16.4	16.4
Department of Commerce.....	6.2	8.5	9.2
Department of Defense.....	127.6	136.9	146.3
Department of Education.....	40.5	43.5	51.1
Department of Energy.....	3.9	5.2	6.0
Department of Health and Human Services.....	32.5	36.1	44.9
Department of Housing and Urban Development.....	16.8	28.5	27.4
Department of the Interior.....	11.2	16.7	18.8
Department of Justice.....	33.0	37.0	40.0
Department of Labor.....	56.6	60.7	59.2
Department of State.....	1.6	1.8	1.9
Department of Transportation.....	9.6	11.8	12.5
Department of the Treasury.....	9.7	11.2	12.1
Equal Employment Opportunity Commission.....	*130.8	*143.3	*156.3
Commission on Civil Rights.....	11.6	12.0	13.9
Office of Personnel Management.....	4.4	4.5	6.2
Small Business Administration.....	2.2	2.4	2.9
All other Executive agencies.....	¹ 39.6	¹ 47.1	¹ 51.1
(U.S. Postal Service).....	² (27.7)	² (30.1)	² (32.7)
(Legislative Branch—GAO, GPO).....	² (1.3)	² (.5)	² (.6)
Total.....	552.8	623.6	676.2

*Estimated total internal equal employment opportunity outlays are not included in EEOC's outlay figures as in previous special analyses. Actual outlays are now included in each agency's total.

¹ Includes outlays by 29 agencies.

² U.S. Postal Service and Legislative Branch outlays appear in the Annexed Budget and are included here for memorandum purposes only.

SPECIAL ANALYSIS J

CIVIL RIGHTS ACTIVITIES

The Budget of the United States Government, 1983

Note.—All years referred to are fiscal years, unless otherwise noted. Details in the tables, text, and charts of this booklet may not add to totals because of rounding.

OFFICE OF MANAGEMENT AND BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT

February 1982

SPECIAL ANALYSES

- A. Current Services Estimates
- B. Federal Transactions in the National Income Accounts
- C. Funds in the Budget
- D. Investment, Operating, and Other Budget Outlays
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- F. Federal Credit Programs
- G. Tax Expenditures
- H. Federal Aid to State and Local Governments
- I. Civilian Employment in the Executive Branch
- J. Civil Rights Activities
- K. Research and Development

Each Special Analysis listed above can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR REFERENCE

Do Not Take From This Room

SPECIAL ANALYSIS J

CIVIL RIGHTS ACTIVITIES

“. . . Let us talk today about the needs of the future, not the misunderstandings of the past; about new ideas, not old ones . . . and while our communication should always deal with current issues of importance, it must never stray far from our national commitment to battle against discrimination and increase our knowledge of each other. . . .”—RONALD REAGAN, June 29, 1981¹

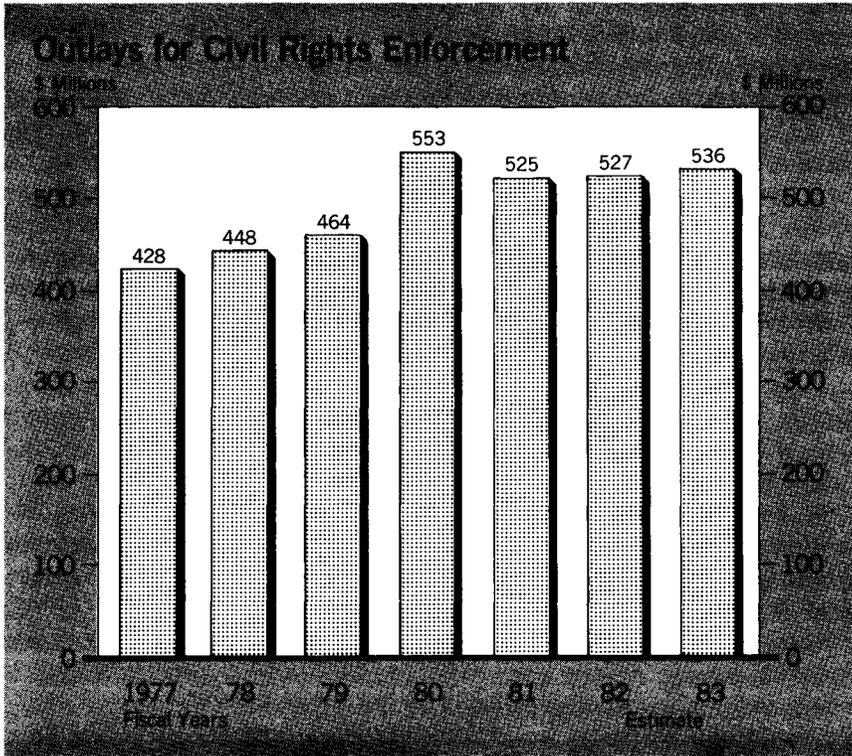
TO ADDRESS THE NEEDS OF THE FUTURE

Coverage and scope.—As the President emphasized, the American ideal of equality of individual rights and opportunity has long since become a national commitment. In addition to the basic guarantees and protections embodied in the Constitution, this commitment is now expressed in more than 100 Federal statutes. These laws prohibit discrimination based on race, color, religion, sex, national origin, age, or handicap in such basic areas as employment, housing, voting, education, public accommodations, access to credit, and jury service. Implementation of these statutes is spread among all Federal agencies. Each of the 107 separate Federal agencies is responsible for assuring nondiscrimination in its own actions. In addition, 37 agencies have some civil rights enforcement responsibilities.

In combination with the voluntary efforts of individuals, private institutions, States and municipalities, much of this Federal involvement has facilitated progress toward realizing our national commitment. However, this proliferation of statutes and authorities has not been without problems endemic to the rapid, frequently uncoordinated and poorly planned, expansion of the Federal presence in recent years. These problems went unaddressed. As a result, the promises of progress implicit in past expenditures for civil rights programs too often proved hollow.

The President's determination to continue America's civil rights progress is, therefore, reflected in more than his proposed expenditures for those activities in 1983. More fundamentally, it is demonstrated by his administration's efforts to improve the effectiveness of those expenditures, and to assure that the national commitment to civil rights and equal opportunity is not only pursued, but realized.

¹This and other quotations throughout the text are excerpted from the President's remarks before the 1981 NAACP National Convention held in St. Louis, Missouri.



This Special Analysis begins with an overview of the obstacles to effective implementation of Federal civil rights guarantees, and the administration's efforts to overcome them. This is followed by more detailed discussions of accomplishments, challenges, and projected 1983 outlays in Federal activities to protect constitutional rights; eliminate discrimination by Government and activities supported by Government funds; implement Federal guarantees of equality of treatment; and help States, localities, and the private sector develop new solutions to civil rights problems.

Overview.—The administration found that the rapid growth of Federal efforts to assure civil rights had frequently interfered with their success:

- Many of the 130 Federal civil rights statutes duplicated each other, creating overlapping agency enforcement. State and local governments, businesses, and other organizations experienced contradictory requirements and duplicate reviews, investigations, and reporting requirements. This did not multiply protections for individuals. Because several agencies investigated some discrimination complaints, other citizens' complaints were never investigated at all.
- The costs and effectiveness of programs were frequently unrelated. Too many agency programs had been funded at ever increasing levels based on their intentions rather than their

results. Indeed, because they were unable to measure effectiveness, some agencies gauged the progress of these programs solely in terms of increased expenditures. Far from furthering civil rights objectives, such inattention to cost effectiveness more often subordinated those objectives to organizational self-interest. The suspicion that some who "came to do good" in these programs had simply "stayed to do well" was, therefore, widespread.

- Just as each dollar spent did not advance civil rights objectives, neither did each rule promulgated. The reasons were myriad. Inflexible and unduly prescriptive regulations precluded alternative approaches more likely to attain regulatory objectives. Reporting requirements exceeded not only agencies' need for data but their capacity to process it, and serious violations went unresolved while agencies processed paper. Failure to differentiate between compliance requirements appropriate to large and small organizations imposed burdens that exceeded benefits. Essential regulatory objectives were lost in disputes over such minutiae as the placement of posters or wording of policy statements. Some regulations simply substituted new problems and inequities for those they were intended to eliminate. Others had provisions so convoluted that they could be, and were, cited to justify lack of progress toward nondiscrimination.
- Not all programs evolved as needs and circumstances changed. Some programs were devoting the resources of the 1980's to the problems of the 1960's (paradoxically failing to acknowledge their own successes). Others, betraying similar regulatory inertia, failed to modify approaches that had proven unsuccessful. Locked into the confrontational style of the 1960's, programs built neither on the willingness of most businesses and institutions in the 1980's to voluntarily comply with civil rights laws nor on State and local capabilities to resolve problems without Federal interference. Because they viewed civil rights problems exclusively as enforcement problems, programs failed to coordinate with related public and private activities (such as job training programs) that could have helped businesses and others meet civil rights objectives. Thus, both opportunities and dollars were wasted.
- In its efforts to do many things, the Federal Government did not always devote sufficient attention and resources to its most important and basic role in civil rights: protecting the fundamental civil rights guaranteed individual citizens by the Constitution. Worse, in its concentration on the problems of other institutions, government at all levels had failed to address its own role in creating or perpetuating civil rights problems:

either directly, through overtly discriminatory laws, or indirectly, through laws unnecessarily restricting access to occupational or other opportunities.

These and other problems led many who dealt with civil rights regulations to conclude that, all too often, a dream bureaucratized is a dream deferred. While few of these problems were peculiar to agency civil rights activities, they were of particular concern in programs intended to protect individuals against discrimination. Moreover, ineffective programs and inflexible regulations compounded civil rights problems by imposing unproductive costs, contributing to economic stagnation. Periods of economic stagnation and decline are historically characterized by increased racial and religious prejudice. And, in addition to limiting opportunities for all persons, a static economy generates a "zero sum" psychology that especially harms such traditional victims of discrimination as minorities, women, older workers, and the handicapped.

The administration therefore initiated a program to correct these problems in all Federal activities. At the most basic level, the President's Program for Economic Recovery is creating a basis for the single most effective guarantee of individual opportunities and civil rights, economic growth, by comprehensively addressing existing fiscal and regulatory constraints. This broader effort mandated more specific initiatives in civil rights and other programs. These included new leadership and improved management, increased technical assistance and incentives for voluntary compliance, greater involvement of State and local governments in assuring civil rights guarantees, and other "fine tuning." More fundamentally, searching examinations were conducted of the programs themselves. These examinations looked beyond program's intentions to whether those intentions are realized or distorted in practice, and to the burdens and benefits of their regulations and the way they are implemented. Also, there was renewed emphasis on protecting civil rights guaranteed individuals by the Constitution, and on avoiding discrimination by Government itself.

This reexamination and renewal of Federal civil rights activities has not been without controversy. Not every program and not every regulation, come to judgment before the bar of efficacy, has been found to justify its costs or the burdens it imposes. Not every policy has been found to promote the broader equities it seeks, or the consensus it requires for success. And not every program or policy found wanting has been without its sincere and forceful advocates. But this ongoing review has not strayed from its intent to pursue and strengthen our national commitment to battle against discrimination. Nor, as the President has promised, will it.

TO GUARANTEE THE CONSTITUTIONAL RIGHTS OF ALL CITIZENS

“Recently, in some places in the Nation there’s been a disturbing reoccurrence of bigotry and violence. . . . To those individuals who persist in such conduct I would say ‘You are the ones who willfully violate the meaning of the dream which is America. And this country, because of what it stands for, will not stand for your conduct.’ My administration will vigorously investigate and prosecute those who, by violence or intimidation, would attempt to deny Americans their constitutional rights.”—RONALD REAGAN, JUNE 29, 1981

To be secure in one’s person and property and to enjoy the freedoms guaranteed each individual by the Constitution are the most basic of civil rights. Any violations of these rights offend the American spirit. However, as the President forcefully remarked, they are particularly repugnant when based on an individual’s religion, race, color, or national origin. Protecting individuals against such violations has always been a fundamental responsibility of Government. The increased activities of individuals and terrorist groups bent on violating civil rights, however, have given that responsibility a renewed importance.

The Department of Justice enforces the Federal statutes guaranteeing these rights. These statutes include the Voting Right Act of 1965, as amended (43 U.S.C. 1973 et seq. and the Overseas Citizens Voting Rights Act (42 U.S.C. 1973 dd) (which guarantee the opportunity to register and vote to all qualified citizens, without discrimination on account of race, color, membership in a language minority group, age, or absence from legal residence), and the following criminal statutes:

- Title 18 of the United States Code, which prohibits deprivations of rights and privileges guaranteed under the Constitution and the laws of the United States, including 18 U.S.C. 241 (conspiracy against the rights of citizens), 18 U.S.C. 242 (deprivation of rights under color of law), 18 U.S.C. 245 (interference with federally protected rights), 18 U.S.C. 1581 (prohibition against peonage), 18 U.S.C. 1584 (prohibition against involuntary servitude).
- 42 U.S.C. 3631, which prohibits interference with housing rights.²

Although not widely known as an agency with substantial civil rights responsibilities, the Department of Justice’s Federal Bureau of Investigation devotes significant resources to investigating alleged violations of Federal civil rights guarantees. During the first 11 months of 1981, the Bureau received 8,757 requests for investigations of alleged violations of these statutes, and completed 8,914 investigations. Given recent increases in criminal violations of indi-

² Thirty other civil rights criminal statutes are enforced by the Civil Rights Division, but are not as frequently used as the above.

viduals' civil rights, the Bureau estimates that such investigations will substantially increase this year and remain at that higher level in 1983 (with requests for 11,000 investigations per year). The President's budget for 1983 provides for outlays of \$7.7 million for the Bureau's investigations of civil rights violations in 1983.

The Criminal Section of the Department of Justice's Civil Rights Division prosecutes criminal civil rights violations. In 1981, the Section initiated 2,542 and closed 2,461 investigations of alleged criminal violations of Federal civil rights laws. It obtained 30 indictments and filed 3 criminal informations against 63 persons alleged to have violated the civil rights of individuals. Twenty-seven trials were completed, resulting in the conviction of 29 defendants. An additional 15 defendants entered guilty pleas.

The cases brought by the Department of Justice demonstrate the range and severity of threats to the civil rights it protects. One case, for example, involved the enslavement of three migratory farm workers under conditions resulting in the death of one of the men. The Department's efforts resulted in the indictment and conviction of the persons responsible for these acts. Another widely reported case emphasized the Department's increased prosecution of matters involving racial violence. Joseph Paul Franklin was convicted and sentenced to two consecutive life terms for the racially motivated slaying of two black men in Salt Lake City, Utah.

This emphasis on cases of racial violence, particularly those involving terrorist groups, will continue in 1983. The President's Budget for 1983 provides for outlays of \$5.9 million by the Civil Rights Division to prosecute criminal civil rights violations.

The Voting Rights Section of the Civil Rights Division is primarily responsible for enforcing statutes guaranteeing the right to vote. In addition, the Office of Personnel Management (OPM) provides observers to monitor elections for compliance with the Act. During 1981, the Voting Rights Section received 1,556 submissions involving 4,887 proposed changes in laws affecting voting for clearance under section 5 of the Voting Rights Act. It interposed objections to 14 of these submissions (including plans for redistricting the Virginia legislature). During the first months of the current fiscal year, the section also interposed an objection to a plan for redistricting the New York City Council. To reduce uncertainty and make it easier for jurisdictions to comply with the Voting Rights Act, the section issued revised guidelines reflecting court interpretations of the Act during the ten years since the original guidelines were issued. The President's budget for 1983 provides for outlays of \$2.6 million by the Department of Justice for general enforcement of the Voting Rights Act, and \$689 thousand by OPM to monitor elections.

Similarly, the Department of Justice's Community Relations Service (CRS) worked in 1981 to help States and communities prevent deprivations of civil rights and defuse tensions which could have given rise to such violations. For example, the CRS worked closely with the Mayor of Atlanta to develop civic unity programs in which white and black citizens worked together to demonstrate that concern over the murders and disappearances of black children in Atlanta was shared by citizens of both races. The CRS was also active in reducing tensions resulting from the resettlement of refugees from Southeast Asia and the Caribbean, the growth in activities by anti-Semitic and racist groups, and the increased incidence of harassment and intimidation of religious and ethnic minorities. For example, CRS mediated disputes between Indochinese residents and other citizens over employment opportunities in Minneapolis and fishing rights in Texas and other gulf coast States, and helped officials and community groups in West Virginia and Maryland develop programs combating racial and religious harassment and intimidation. The President's Budget provides for outlays of \$5.7 million for CRS's activities in 1983.

Thus, the President's budget for 1983 assures continuance and expansion of the Federal Government's renewed emphasis on protecting basic civil rights. To further enhance these protections, the President has requested that Congress renew the Voting Rights Act, with modifications enabling jurisdictions currently covered by the preclearance provisions of the Voting Rights Act, with records of complying with the Act, to petition for removal of the preclearance requirement. This not only would provide an incentive for jurisdictions to comply with the Act, but also would permit the Civil Rights Division to focus more of its resources on substantive violations of the Act (as noted above, the Division was required to review over 1,500 proposed changes to local election laws in fiscal year 1981, only 14 of which were determined to be potentially discriminatory).

TO ROOT OUT DISCRIMINATION BY GOVERNMENT

"My administration will root out any case of government discrimination . . . we will not retreat on the Nation's commitment to equal treatment of all citizens."—RONALD REAGAN, June 29, 1981

Equal in importance to protecting Constitutional rights is the Federal Government's obligation to assure that its own activities and statutes are not discriminatory. During 1981, the administration initiated major improvements in efforts to assure that Federal dollars are spent in a nondiscriminatory manner. It also initiated, in cooperation with the States, an effort to, once and for all, get all

levels of government out of the business of mandating invidious discrimination based on sex.³

Eliminating invidious sex discrimination from Government mandates.—Based on his experience as Governor of California (where he signed 14 pieces of legislation eliminating sexually discriminatory regulations and statutes), the President recognized that the statutes and regulations of Government itself are significant sources of discrimination against women. The President therefore initiated major efforts to eliminate such mandates.

To address this problem at the Federal level, the President issued Executive Order 12336 establishing the Task Force on Legal Equity for Women. Composed of representatives of 21 Federal departments and agencies, the Task Force is conducting a comprehensive review of Federal regulations to indentify provisions that, by purpose or effect, invidiously discriminate based on sex. The Department of Justice is providing staff support for this effort. In addition, the President is supporting elimination of Social Security provisions that discriminate against women who work outside the home.

To assist States in making similar efforts, the President initiated the Fifty States Project. Coordinated by a special assistant in the White House and by representatives appointed by each of the Nation's 50 governors, the Fifty States Project is a cooperative effort to identify, in every State and territory, statutory provisions that discriminate against women. The Women's Bureau is also providing staff support for this project.

These efforts were in addition to passage of the Omnibus Budget Reconciliation Act of 1981, which included provisions significantly expanding protections against sex discrimination in federally assisted programs (see below).

Nondiscrimination in federally assisted programs.—Since the Federal Government is supported by taxes levied on citizens without discrimination, it is fundamental that activities it funds must be conducted without discrimination. This principle is embodied in a substantial body of legislation including in addition to numerous program-specific statutory provisions prohibiting discrimination:

- Title VI of the Civil Rights Act of 1964 prohibits discrimination in federally assisted programs and activities based on race, color, or national origin.
- Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in federally assisted educational programs and activities.

³Federal agency efforts to assure that their employment practices are nondiscriminatory are discussed below with equal employment efforts generally.

—Section 504 of the Rehabilitation Act of 1973, as amended, prohibits discrimination based on handicap in federally assisted programs and activities.

—The Age Discrimination Act of 1975 prohibits discrimination based on age in federally assisted programs and activities.

While discrimination based on race, color, national origin, age, or handicap is prohibited in all federally assisted programs, the only “crosscutting” statute prohibiting sex discrimination is title IX, which applies only to educational programs. During 1981, the President alleviated this problem by securing inclusion of prohibitions against sex discrimination in several titles of the Omnibus Budget Reconciliation Act of 1981. For example, all of the Block Grants administered by the Department of Health and Human Services include such prohibitions. This extended this protection to a wide array of federally assisted activities in which sex discrimination was previously not prohibited.

Because each agency is responsible for enforcing the “crosscutting” nondiscrimination statutes in regard to each of its grants of Federal assistance, enforcement authority is widely distributed:

Table J-1. DISPERSION OF ENFORCEMENT AUTHORITY UNDER STATUTES REQUIRING
NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

<i>Statute</i>	<i>Number of enforcement agencies</i>
Title VI, Civil Rights Act of 1964	37
Section 504, Rehabilitation Act of 1973	All
Title IX, Education Act Amendments of 1972	28
Age Discrimination Act of 1975	37

Thus, assuring nondiscrimination by recipients of Federal assistance is the most widely dispersed Federal civil rights enforcement program. The basic complexity of administering legislative mandates enacted over the years with disparate purposes and applications is further complicated by a large body of judicial and administrative interpretation, much of it quite abstruse. As a result, agencies' efforts to enforce these laws exhibited many of the problems discussed in the overview:

—Because institutions commonly receive assistance from more than one agency, recipients of Federal assistance were subjected to multiple reporting requirements and duplicate agency investigations and reviews.

—Individual agencies determined resource levels for these programs with little central coordination. Therefore, resources devoted to combating discrimination in given programs sometimes bore little relationship to the extent discrimination was actually a problem. This resulted in expenditures by agencies and recipients on procedures of dubious value (e.g., one agency

reported conducting over 6,700 preapproval reviews of prospective recipients, none of which identified any noncompliance). Complaints that compliance reviews and other activities focused on procedural minutiae, not the substance of nondiscrimination, were frequent.

- Some agencies imposed additional regulatory requirements unrelated to statutory mandates. Others shifted their focus from nondiscrimination in services and benefits to nondiscrimination in employment, duplicating the activities of the EEOC and other agencies.
- Agencies with minimal responsibilities under these statutes were required to spend resources on developing regulations and other procedural requirements that could be more economically performed on an inter-agency basis (e.g., one agency's sole expenditure on this program in 1981 was \$35 thousand to develop regulations).
- Legitimate regulatory ends (e.g., nondiscrimination on the basis of handicap) were sometimes obscured in unduly detailed prescriptions of means, imposing unnecessary costs and precluding more effective methods.
- Agencies frequently made little effort to obtain compliance through cooperative approaches. They provoked unnecessary confrontations, and seldom involved State governments in compliance activities in any meaningful way.

A number of efforts to eliminate these problems were initiated in 1981. The administration implemented Executive Order 12250 assigning extensive new responsibilities for coordinating enforcement of these statutes⁴ to the Department of Justice. The staff of the Civil Rights Division's Coordination and Review Section, responsible for implementing Executive Order 12250, was increased by 11 persons. The section implemented an automated system for monitoring agency activities to identify and eliminate duplication.

The section is working with the President's Task Force on Regulatory Relief and the Office of Management and Budget (OMB) to develop regulations implementing Executive Order 12250. These regulations, to be published in 1982, will:

- Assign a "lead agency" for each type of recipient, ending overlapping agency activities once and for all. Other agencies providing assistance will delegate compliance and investigative functions to the lead agencies. Resources will be conformed to program needs, and economical interagency approaches to developing regulations and implementing other statutory requirements will be adopted.

⁴Except the Age Discrimination Act, which assigns coordination responsibility to the Department of Health and Human Services.

- Permit recipients to adopt the methods that most efficiently and effectively assure nondiscrimination in their programs by requiring that regulations emphasize compliance objectives, not extensive prescriptions of methodology.
- Preclude data requirements and other compliance burdens not clearly necessary to assure nondiscrimination by programs receiving Federal assistance.
- Emphasize technical assistance and other approaches which maximize opportunities and incentives for recipients to comply voluntarily.
- Increase opportunities for States to participate in assuring compliance with nondiscrimination requirements.

After these Coordination Regulations are issued, the Section will begin a major review of existing agency regulations and implementing issuances (such as guidelines, compliance manuals, and training materials) for conformance with these principles. OMB's Office of Information and Regulatory Affairs will cooperate in this review.

A regulation developed jointly by the EEOC and the Department of Justice will also be published in 1982. This regulation will eliminate another serious problem of overlapping jurisdictions by requiring agencies to refer most employment discrimination complaints under these statutes to the EEOC for investigation.

Individual agencies also made significant progress in eliminating the problems discussed above. The Department of Education's Office of Civil Rights (OCR), a prototype of these deficiencies in the past, in 1981 became a prototype for efforts to eliminate them. Under aggressive new leadership, OCR enhanced compliance with nondiscrimination laws by substituting cooperation for coercion, expanding technical assistance, and exploring means of increasing State involvement in resolving civil rights problems.

As a result, OCR resolved longstanding controversies with the State university systems of Florida, North Carolina, South Carolina, Louisiana, Delaware, West Virginia, and Missouri. Improved management enabled OCR to reduce its backlog of pending complaints by 17% during the first 9 months of 1981, and its compliance reviews and investigations helped to assure equal opportunities for over 5.6 million beneficiaries of institutions receiving Federal assistance.

In cooperation with OMB, the Department worked to eliminate data and regulatory requirements superfluous to achieving equal opportunity. Examples include the Department's rescission of a form requiring school districts to spend 46,000 hours to provide data already available to OCR; and its withdrawal of unreasonably prescriptive guidelines on bilingual education. The latter provided school districts greater freedom to adopt approaches that most

effectively assure equal educational opportunities for children in their jurisdictions whose primary language is not English.

Similarly, the Department of Transportation acted to guarantee that handicapped persons benefit equally from Federal assistance to public transportation, while eliminating requirements that made the cost of doing so prohibitive. The Department's interim regulations enable recipients to implement the most efficient and effective methods for providing transportation to handicapped persons in their localities. In 1982 the Department will issue final regulations incorporating improvements suggested by the public.

As noted above, the Age Discrimination Act is not covered by Executive Order 12250. However, the statute largely precludes duplication by requiring that agencies refer all complaints under the Act to the Federal Mediation and Conciliation Service, which attempts to mediate the disputes. The Service is successful in resolving most complaints, expediting service to complainants while minimizing burdens on recipients.

The General Litigation Section of the Department of Justice's Civil Rights Division litigates violations of these statutes. Most of this litigation alleges denials of equal educational opportunities. In 1981 the Division obtained comprehensive desegregation plans for three southern school districts (in Baton Rouge, Shreveport, and Monroe, Louisiana), and negotiated a partial consent decree covering junior colleges in Mississippi. However, most of its cases concerned jurisdictions outside the South. The Division successfully litigated cases involving the public schools in Indianapolis, Indiana, St. Louis, Missouri, Kansas City, Kansas, and Tucson, Arizona; and negotiated consent decrees covering the school districts of Chicago, Illinois, South Bend, Indiana, and Flint, Michigan. The Division also filed three new suits alleging denials of equal educational opportunity based on race or national origin, and pursued suits alleging violations of title IX by a secondary school system and two universities.

The Department of Justice also announced a new policy for litigation and remedies to assure equal elementary and secondary educational opportunities. Henceforth, in addition to cases involving illegal segregation, the Department will litigate against jurisdictions which discriminate in the quality of education they provide based on race or national origin. Remedies will be designed to assure that all children have an equal opportunity to obtain a quality education. Both litigation and remedies will seek not mandatory busing, but the more permanent mobility provided by equal access to a quality education.

The President's Budget for 1983 provides for total agency outlays of \$71.9 million to implement statutes requiring nondiscrimination in federally assisted programs, in addition to \$3.3 million for co-

ordination and legal enforcement of these statutes by the Department of Justice.

TO GUARANTEE EQUALITY OF TREATMENT

“ . . . because guaranteeing equality of treatment is government’s proper function.”—RONALD REAGAN, June 29, 1981

During 1981, the administration also initiated several improvements in Federal efforts to guarantee equality of treatment in employment, housing, and credit.

Equal employment.—The principal statutes and Executive orders prohibiting discrimination in employment are:

- Title VII of the Civil Rights Act, which prohibits employment discrimination based on race, color, religion, national origin, or sex.
- The Equal Pay Act (EPA), as amended, which prohibits discrimination in compensation based on sex.
- The Age Discrimination in Employment Act (ADEA), which prohibits discrimination against persons aged 40 through 70 based on age.
- Executive Order 11246, as amended, section 503 of the Rehabilitation Act of 1973, and section 402 of the Vietnam Veterans Readjustment Act, prohibit employment discrimination by Federal contractors based on race, color, sex, national origin, religion, handicap, service-connected disability, or Vietnam era military service, and require Federal contractors to take affirmative action to assure that such discrimination does not occur.

The EEOC enforces the Equal Pay Act and the Age Discrimination in Employment Act. It also enforces all aspects of title VII (except litigation involving State and local governments). The Department of Labor’s Office of Federal Contract Compliance Programs (OFCCP) enforces Executive Order 11246, section 503 of the Rehabilitation Act, and section 402 of the Vietnam Era Veterans Readjustment Act. The Federal Enforcement Section of the Department of Justice’s Civil Rights Division litigates all employment discrimination cases under Executive Order 11246 and the statutes prohibiting discrimination by federally assisted programs. It also litigates alleged violations of title VII by State and local governments. The Equal Employment Opportunity Act of 1972 and Executive Order 12067 require the EEOC to coordinate enforcement of all Federal statutes and regulations prohibiting employment discrimination. Each of these agencies effected major management and policy improvements during 1981.

At the EEOC, the administration tightened management procedures and increased productivity. One of the first actions of EEOC’s new management was to request a General Accounting Office audit

of the Commission's financial management system. The General Accounting Office found evidence of unreliable accounting records, reports, and fund controls; mismanagement of payments; and inadequate financial controls, including an internal audit office that was severely understaffed: "For example . . . EEOC was still recording obligations against its 1980 appropriation in June 1981 and had charged some of its fiscal 1980 travel costs against the 1981 appropriation." The Commission is currently taking action to eliminate these problems, and will increase the size of its internal audit staff to prevent their recurrence.

While confronting these management problems, the EEOC both improved its productivity and achieved savings in personnel and other resources. Charges filed with EEOC rose to 58,754 during 1981, a 4% increase over charges filed in 1980 (charges under the Age Discrimination in Employment Act increased by the highest percentage, 9%). The Commission processed 71,690 charges during 1981—25% more than in 1980. Especially significant increases occurred in Rapid Charge Processing (34% more charges processed than in 1980) and Continued Investigations and Conciliation (75% more than 1980). The Commission's emphasis on closing cases through negotiated agreements acceptable to all parties is evident in the high percentages of cases closed through settlement during 1981: 43% of all title VII, 23% of all ADEA, and 26% of all EPA cases. Settlements provided remedies for over 38,000 charging parties—15% more than in 1980. Total backpay and other compensation for victims of discrimination also increased dramatically over 1980: from \$57.3 million to \$91.7 million, an increase of 60%. The increases in dollar benefits negotiated in processing complaints under ADEA (+128%) and EPA (60%) reflect improvement in EEOC's enforcement of these statutes (responsibility EEOC acquired in 1979). Monetary benefits resulting from ADEA and EPA litigation similarly increased by 36%. The Commission continued to litigate where voluntary remedies for discrimination could not be negotiated. The Commission filed 368 suits during 1981, an increase of 13%. Suits settled by voluntary agreement increased by 23%, to 237.

The EEOC has led Federal civil rights agencies in involving State and local agencies in resolving discrimination complaints. During 1981, the Commission provided over \$17.5 million in grants to State and local nondiscrimination agencies. These grants enabled those agencies to process 39,471 charges, and the Commission accepted their findings in over 97% of those cases. During 1982, these grants are projected to increase to \$18.5 million, enabling State and local agencies to process 40,300 charges. Moreover, a certification procedure will be implemented for agencies whose complaint processing

has consistently been of high quality, eliminating routine reviews of their findings for sufficiency by EEOC.

The President's budget for 1983 provides for outlays of \$142 million by the EEOC, maintaining the 5% increase over its 1981 level granted by the President for 1982. In a period of budgetary stringency and general reductions, this indicates the administration's commitment to EEOC's mission, and to continuing the management and productivity improvements initiated in 1981.

Of the administration's efforts to improve Federal equal employment enforcement, those involving the OFCCP were perhaps the most widely noticed. Established by Executive Order over 20 years ago, OFCCP's basic premise was a simple one: To expand equal employment opportunities for women and minorities by requiring that Federal contractors act affirmatively to assure that qualified minorities and women were recruited and considered for vacancies, and that their procedures for filling those vacancies were nondiscriminatory in fact as well as precept. During the 1970's, Congress expanded this "affirmative action" mandate to include handicapped persons and Vietnam era veterans. Contractors were required to develop plans detailing the recruitment and other efforts they would undertake to assure equal opportunity. The administration found that this simple premise had evolved into a regulatory morass, criticized both by Federal contractors and the intended beneficiaries of OFCCP's regulations.

The most serious concerns regarded OFCCP's requirements for affirmative action plans:

- There was no clear answer to the basic question of what constituted compliance with the affirmative action requirements: was compliance based on contractors' good faith efforts to recruit women and minorities and assure that employee selection was nondiscriminatory, or did OFCCP disregard these considerations in a single-minded focus on whether employment goals were met? Many believed that such goals, originally intended as yardsticks of progress, had been distorted in practice into quotas.
- Requirements for drafting the plans were, at once, overly prescriptive and insufficiently clear. Contractors were required to produce voluminous affirmative action plans and supporting data, with no assurance that the resulting product would be found acceptable during a compliance review. Compliance reviews frequently degenerated into mindless confrontations over which job titles belonged in which "job group", or how the 8 factors for determining the "availability" of minorities and women for jobs should be considered in arriving at overall "availability" figures.

- Requirements did not consider differences in the size of contractors or their individual establishments. The same level of detail was required in an affirmative action plan for a contractor employing only 50 persons as for a contractor employing thousands; and for a contractor's plan for a small retail sales outlet as for the same contractor's plan for a large manufacturing plant.
- These frustrations with the requirements themselves were compounded by OFCCP's adversarial approach to enforcing them. The potential that contractors attempting in good faith to comply might nevertheless be found in noncompliance was inherent in the ambiguity of OFCCP's regulations. Due to OFCCP's approach, many contractors feared that this potential would be fully realized.

During 1981, the new leadership at the Department of Labor developed and published for public comment a comprehensive proposal for reforming OFCCP's regulations. These proposed amendments were designed to:

- Assure equal employment opportunities for minorities, women, the handicapped, and Vietnam era veterans without imposing inequities on others;
- Change the program's emphasis to generating opportunities, not paperwork, by pruning the lush overgrowth of regulatory minutiae and by emphasizing equal employment objectives instead of extensive prescriptions of methodology;
- Tailor program requirements to the size of contractors and their establishments;
- Clarify the remaining requirements so that they can be understood by all. This will eliminate guesswork by Federal contractors—and OFCCP's compliance officers.

The Department also requested public comment on alternative approaches to several thorny regulatory issues. After incorporating these suggestions and comments, the Department of Labor will publish final amended regulations in 1982.

Significant improvements were also made in OFCCP's management, including:

- A program to eliminate a backlog of some 250 appeals of discrimination complaints under section 503 of the Rehabilitation Act and prevent its recurrence.
- Expedited procedures for resolving individual complaints under section 503. These procedures emphasize detection of meritless or nonjurisdictional charges before they consume resources; and rapid resolution of issues through face-to-face discussions with complainants and contractors. Successfully tested in 1981, these procedures will be implemented throughout the agency in 1982.

- Scheduling of compliance reviews based on contractor's individual records, discontinuing the practice of "targeting" entire industries for reviews.
- Expanded technical assistance and other efforts to develop closer, nonadversarial relations with Government contractors. Contractor advisory committees were formed to institutionalize this partnership.
- Increased emphasis on bringing contractors together with local organizations (government and private) that can provide persons with required skills or facilitate upward mobility by their present employees through training. Previously, many opportunities for substantial and voluntary employment gains by minorities, women, and the handicapped were lost because OFCCP personnel failed to apprise contractors of such programs (including those funded by the Department of Labor itself).

While instituting these reforms, OFCCP completed 2,136 complaint investigations and 3,137 compliance reviews during 1981. Of these, 521 investigations and 1,781 compliance reviews produced relief for identified victims of discrimination, including \$7.9 million in backpay for 4,754 persons. 867 identified victims of discrimination were placed in or restored to the positions they were denied, and 500 contractors agreed to changes in their personnel practices that will preclude future discrimination. Further improvements through fiscal year 1983 will continue these accomplishments while lowering their cost. A number of area offices will be consolidated to reduce overhead and increase management control. The Voluntary Compliance Project will enable small contractors to meet their obligations while substantially reducing compliance burdens. Nonadversarial approaches to assuring nondiscrimination will be substantially expanded, including a 500% increase in contractors receiving technical assistance activities.

The President's budget provides for outlays of \$40.7 million for OFCCP's nondiscrimination efforts in 1983.

The Department of Justice announced equally significant policy improvements. The Civil Rights Division will continue to seek appropriate relief for identified victims of discrimination. However, the remedies sought to preclude future discrimination by employers will be substantially improved. Previously, the Department asked courts to impose arbitrary employment quotas on employers found to have discriminated. While acceptable to some as a short term expedient, employment quotas cannot assure equal access in the long term as it is impossible to, at once, open a door for some while slamming it shut on others. Henceforth, the Department will seek remedies that are more equitable, and more permanent. These remedies will require specific, result-oriented programs that assure

that persons of the race, color, religion, national origin, or sex employers previously discriminated against are among those considered for future employment opportunities. They also will assure that genuinely nondiscriminatory procedures are used in selecting from the resulting pool of eligibles. By institutionalizing nondiscrimination, such remedies are more likely to produce lasting gains in employment for women and minorities than court imposed numbers, forgotten by employers after decrees have expired.

During 1981, there were substantial litigative accomplishments as well. The Civil Rights Division's Federal Employment Section won favorable decisions in cases involving the Virginia State Police; the Jefferson County, Ala. and Garfield Heights, Ohio, Boards of Education; the Philadelphia, St. Louis, New York City, and Jefferson County, Alabama, police departments; and the government of Fairfax County, Va.

The President's Budget provides for outlays of \$2.53 million for equal employment litigation by the Civil Rights Division in 1983.

Through 1983, remaining vestiges of duplication in Federal equal employment enforcement activities will be eliminated. In 1982, a regulation published jointly by the Department of Justice and the EEOC will substantially alleviate this problem by requiring that agencies refer most employment discrimination complaints filed under statutes prohibiting discrimination based on race, color, religion, sex, or national origin in federally assisted programs to the EEOC for investigation. However, miscellaneous, small scale agency equal employment programs based on program-specific statutory provisions will continue to pose potential problems of duplication. In 1981, OMB and the EEOC's Office of Interagency Coordination identified and eliminated several reports required by these small programs that duplicated those of other agencies. One such form required State and local governments to spend 15,000 hours producing data already provided to EEOC. OMB and EEOC will be examining these programs as a whole to determine whether they address needs that would otherwise be unmet or duplicate activities more efficiently performed by OFCCP, EEOC, or the Department of Justice. Improvements in coordinating the activities of the EEOC and OFCCP are also possible. OMB will be working with these agencies to assure, through improved implementation of their Memorandum of Understanding, that past problems of duplication do not recur.

Federal employment.—As the servant of all Americans, and as an institution responsible for enforcing laws requiring equal employment by other institutions, the Federal Government has a particular obligation to assure nondiscrimination in its own employment. Moreover, especially in this period of reduced resources, Federal agencies simply cannot afford to hire or promote employees on any

bases other than their job-related abilities and demonstrated diligence in applying them. Congress has, therefore, mandated that each Federal department and agency make special efforts to assure that their employment decisions are made without regard to race, color, religion, national origin, sex, age, or handicap; and the President has reiterated his determination that agencies implement this mandate.

Under the Equal Employment Opportunity Act of 1972, as amended, the EEOC is responsible for coordinating these efforts. In addition OPM, under the Civil Service Reform Act, coordinates agency efforts under the Federal Equal Opportunity Recruitment Program (FEORP) to assure that qualified minorities and women are among the applicants for positions in which they are under-represented.

Despite reductions in total employment, minorities and women continue to be well represented in the overall Federal workforce. The additional economies achieved in this Budget will decrease the total employment levels of most agencies and result in some near term dislocations that will affect all Federal employees, including minorities and women. However, they also hold the potential for long term gains through upward mobility for Federal employees in clerical positions and lower pay grades generally, many of whom are women or minorities. The necessity that Federal managers maximize the productivity of their employees will require many of them to look anew at traditional divisions between clerical and professional tasks, resulting in new opportunities for job enrichment, skill acquisition, and advancement through newly created paraprofessional and other bridge positions. The fact that the same managers can no longer afford to "carry" unproductive higher graded employees will produce still more advancement opportunities for the deserving. Federal equal employment efforts in 1983 will build on this potential for increased upward mobility.

During its final hours, the previous administration submitted a proposed consent decree requiring replacement of the Professional and Administrative Career Examination ("PACE") now used to examine applicants for most white collar positions within the Federal civil service. During 1981, the Department of Justice's new leadership negotiated substantial modifications to that decree. While the amended decree neither embodied all provisions desirable under different circumstances nor resolved all attendant controversies, the administration succeeded in removing several elements widely criticized as threatening the basic principle of nondiscrimination in filling Federal jobs. The administration will, insofar as possible, seek to implement the resulting agreement in a manner that enhances that principle.

Federal agencies, under the leadership of OPM, will devote considerable effort and expense to developing alternatives to PACE designed to measure applicants for Federal employment in terms of the particular abilities and traits required to successfully perform the jobs they apply for. The PACE examination although not without its critics, was widely considered to be a fair and cost effective instrument for selecting candidates for the Federal service. Replacing it with several alternative examinations is therefore not without its potential pitfalls. While Governor of California, however, the President successfully implemented a voluntary transition to more job-specific selection criteria that improved performance in State government jobs while increasing the number of minorities who held them several fold. The administration will seek to implement the terms of the decree in a manner that similarly realizes the potential, inherent in more job-specific criteria, for improving performance and opportunities in the Federal service.

In addition to the challenge of implementing this consent decree, the administration will be exploring more cost effective alternatives of assuring equal employment opportunity in the Federal Government. As noted in Table J-3, even with economies already achieved, the Federal Government's total expenditures on activities to assure equal employment for Federal employees will exceed the combined outlays of the EEOC and the OFCCP to implement equal employment guarantees in the private sector.

Much of this disparity results from the cumbersome procedures currently used by Federal agencies to process discrimination complaints against them. During 1981, these procedures cost an average of more than \$8,000 per closed complaint—over ten times the average cost for EEOC's processing of charges involving other employers. Despite the high costs of current procedures for processing these complaints, they satisfy neither Federal agencies nor the complainants themselves. Further unnecessary costs are imposed by current data and other requirements for developing agency affirmative action plans (characterized by several of the defects in OFCCP's current requirements). The administration is investigating alternatives for effecting cost saving improvements in both of these areas in 1983.

Fair housing.—Title VIII of the Fair Housing Act of 1968, as amended, prohibits discrimination based on race, color, religion, sex, or national origin in the sale, rental, or financing of housing or provisions of brokerage services. Two Federal agencies are responsible for enforcing title VIII:

—The Department of Housing and Urban Development's Office for Fair Housing and Equal Opportunity investigates complaints alleging violations of title VIII. Where it concludes that

violations of title VIII have occurred, HUD attempts to resolve them through informal conference, conciliation, and persuasion.

—The General Litigation Section of the Department of Justice's Civil Rights Division brings suits to enjoin alleged patterns and practices of discrimination prohibited by title VIII. The Section brings cases based both on referrals by HUD and its own investigations.

During 1981, HUD significantly improved the efficiency of its complaint processing by implementing "Rapid Response" procedures in all of its regional offices. Under this approach, time consuming field investigations are reduced by quickly bringing the parties together to discuss and settle the issues informally. As a result, HUD received 2,410 complaints and closed 2,710 complaints and by the end of the year had only 35 complaints in its inventory over 90 days old. Increased processing efficiency will increase closures to 4,510 in 1982 while enabling HUD to reduce the number of staff years required for complaint processing.

Title VIII provides for deferral of complaints filed with HUD to State and local fair housing agencies with equivalent statutory authority. During 1981 HUD aggressively worked to expand the involvement of State and local agencies in assuring Fair Housing. HUD provided technical assistance to increase their complaint handling capacities through "Rapid Response" and other means, and \$3.7 million in grants to defray processing costs. These efforts increased the number of State and local agencies participating in charge processing by 30% (to 42). Through 1983, further efforts will increase the number of participating State and local agencies to 70—more than doubling the number in the program at the beginning of 1981. As a result, the number of title VIII complaints processed at the State and local rather than the Federal level will more than triple in 1982 (to 2,025), with further increases in 1983. In addition, HUD will increase efforts to preclude violations of title VIII through technical assistance.

During 1981, the Civil Rights Division's General Litigation Section initiated 60 investigations of suspected patterns and practices of housing discrimination, and completed 45. Litigation by the Division resulted in court orders and settlements mandating future nondiscrimination in the sale or rental of over 9,000 housing units. The Division currently has 94 suits in progress to enjoin alleged patterns and practices of housing discrimination.

The President's 1983 Budget provides for total outlays of \$16 million to enforce Fair Housing guarantees, including \$15 million for complaint processing and technical assistance by HUD and \$1 million for litigation by the Department of Justice.

Equal credit opportunity.—The Equal Credit Opportunity Act of 1974 (ECOA) prohibits discrimination in credit transactions based on race, color, national origin, sex, marital status, age or derivation of part or all of one's income from public assistance. The Act assigns administrative enforcement responsibilities to 12 different Federal agencies, and requires the Federal Reserve Board to coordinate their activities. In addition, the General Litigation Section of the Department of Justice's Civil Rights Division is responsible for litigating alleged violations of ECOA.

Since the act's passage, the Department of Justice has worked closely with the other agencies responsible for enforcing ECOA, and has filed significant suits involving alleged violations in non-housing lending by banks, small loan companies, and retail creditors; as well as alleged violations by real estate appraisers and mortgage lenders. Litigation involving non-housing lending has been selective rather than extensive, designed to eliminate violations with widespread impacts (e.g., one defendant processes 4,000,000 loan applications each year). During 1981 the Department resolved three cases through court orders or negotiated settlement and initiated two additional cases. Five equal credit cases are currently in progress.

ECOA's wide dispersal of enforcement authority among agencies, while not consistent with reducing proliferation of agency responsibilities for enforcing civil rights laws, has not produced the problems of duplication present in other areas of dispersed responsibility. Because the structure for enforcing ECOA reflects the division of responsibility for financial regulation generally, it enables agencies to review compliance with ECOA and other financial regulations at the same time.

The budget for 1983 provides for outlays of \$524 thousand for ECOA litigation by the Department of Justice and \$5.9 million for the ECOA enforcement activities of the various Federal entities with responsibilities under the act. As several of those entities are not required to submit their budgets to OMB for review, the latter figure is incomplete.

TO SEEK NEW SOLUTIONS . . .

"Let us issue a call for exciting programs to spring America forward toward the next century, an America full of new solutions to old problems."—RONALD REAGAN, June 29, 1981.

As catalogued above, the administration initiated efforts in each area of major Federal civil rights responsibility during 1981 to substitute new solutions for past approaches that have proven ineffective. These were in addition to advances in related areas. For example, the President signed Executive Order 12320, directing agencies to make special efforts to assist historically black colleges,

and has requested a record \$552 million for minority business development programs in 1983 by the Small Business Administration and the Minority Business Development Administration.

All of these efforts involve increased technical assistance to build on the genuine desire of most Americans to implement our national civil rights commitment. Toward this end, the administration initiated a major reorientation of the two agencies primarily responsible for civil rights research: the Commission on Civil Rights, and the Women's Bureau of the Department of Labor. The President's budget for 1983 provides for outlays of \$11.7 million by the Commission on Civil Rights and \$3.5 million by the Women's Bureau.

Congress established the Commission on Civil Rights in 1957 to study the enforcement of laws guaranteeing civil rights regardless of race, color, religion, or national origin. During the 1970's, the Commission's mandate was expanded to cover civil rights issues related to sex, age, and handicap. Since its inception, the Commission has focused its energies on research demonstrating the existence of civil rights problems.

This emphasis was appropriate to the early years of the Commission's existence. However, the questions of the 1980's involve not whether civil rights problems exist, but how to most effectively resolve them. The President believes that the Commission's contributions to answering those questions can be more substantial and original than they have been. He therefore appointed leadership that will renew the Commission's relevance.

Many employers and institutions have instituted effective programs for resolving civil rights problems. The Commission will devote increased emphasis to identifying these initiatives and sharing them with others who can benefit from them. It will also provide significant "backup" support for the technical assistance efforts of other civil rights agencies. As part of this renewal, the Commission will initiate a study in 1983 of how the role of State and local agencies in civil rights enforcement can be expanded.

The Women's Bureau of the Department of Labor, on the other hand, is already making substantial contributions to answering the questions of the 1980's, both by assisting States, municipalities, and the private sector in developing solutions to civil rights problems affecting women, and by sharing those solutions with others. As previously noted, the Women's Bureau is providing staff support for the President's Fifty States Project, an effort to help States identify sexually discriminatory provisions in their statutes. During 1981, the Bureau completed a preliminary study of the progress already made by the various States in eliminating such provisions, and shared the study's results with the State officials designated to work on the President's project. Closer to home, the

Bureau is playing a leading role in the Secretary of Labor's initiative to eliminate sex bias from the Department's own regulations.

The new leadership of the Women's Bureau is exploring innovative ways of cooperating with businesses and State and local governments to improve employment opportunities for women who work outside the home. In one noteworthy effort already underway, the Women's Bureau is drawing upon the experience of women who have been successful in business. Through a series of regional meetings, the Women's Bureau is obtaining direct input from women who hold top level management jobs, are directors of corporations, or own their own businesses. In 1983, the Women's Bureau will make similar efforts to tap the knowledge and experience of the private sector in developing solutions to job-related problems of women at all levels of employment.

From these and similar efforts to seek new solutions rather than to document the misunderstandings of the past will come the exciting programs demanded by the President to address the needs of the future and to win, once and for all, America's battle against discrimination.

Table J-2. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY

(In millions of dollars)

	1981 actual	1982 estimate	1983 estimate
Department of Agriculture.....	7.9	8.9	9.0
Department of Commerce.....	4.6	3.9	4.0
Department of Defense.....	94.8	85.7	89.6
Department of Education.....	43.8	42.1	*43.2
Department of Energy.....	2.3	2.2	*2.1
Department of Health and Human Services.....	32.9	30.9	32.6
Department of Housing and Urban Development.....	15.2	18.5	16.5
Department of the Interior.....	10.3	9.6	9.9
Department of Justice.....	38.2	41.6	43.9
Department of Labor.....	52.4	46.3	45.7
Department of State.....	.8	.84	.93
Department of Transportation.....	11.1	12.2	12.8
Department of the Treasury.....	8.6	11.2	11.9
Equal Employment Opportunity Commission.....	134.2	143	142
Commission on Civil Rights.....	12.1	11.9	11.7
Office of Personnel Management.....	3.3	3.0	3.0
Small Business Administration.....	2.7	2.7	2.8
Veterans Administration.....	12.1	14.9	15.7
All other Executive agencies ¹	21.8	20.6	20.6
(U.S. Postal Service) ²	14.8	15.76	16.81
(Legislative Branch ² —GAO, GPO).....	.86	.99	1.0
Total.....	524.6	526.8	535.8

⁰The Departments of Education and Energy are scheduled for termination in 1983. Civil rights and other functions of these departments will be distributed among other agencies.

¹Includes outlays by 49 agencies.

²U.S. Postal Service and Legislative Branch outlays appear in the Annexed Budget and are included here for memorandum purposes only.

Table J-3. TOTAL ESTIMATED FEDERAL CIVIL RIGHTS EXPENDITURES BY CATEGORY, FISCAL YEAR 1983

(In millions of dollars)

<i>Category</i>	<i>Total estimated expenditures</i>
Federal Civilian and Military Equal Employment Opportunity.....	180.7
Private Sector and non-Federal Public Sector Equal Employment Opportunity	173
Fair Housing.....	13.1
Nondiscrimination, Federally Assisted Programs	75.2
Equal Credit Opportunity.....	5.9
Voting Rights	3.3
Other Civil and Constitutional Rights.....	29.1
Research.....	15.2

Table J-4. TOTAL FULL-TIME PERMANENT CIVIL RIGHTS STAFF BY EXECUTIVE DEPARTMENT AND AGENCY, FISCAL YEAR 1983 (ESTIMATE)

	Total *	Internal EEO	External programs*
Department of Agriculture.....	165	94	71
Department of Commerce.....	55	52	3
Department of Defense.....			
Department of Education **.....	1,084	** 14	** 1,070
Department of Energy **.....	21	** 9	** 12
Department of Health and Human Services.....	806	282	524
Department of Housing and Urban Development.....	476	25	451
Department of the Interior.....	230	195	30
Department of Justice.....	867	8	859
Department of Labor.....	1,091	50	1,041
Department of State.....	17	17	0
Department of Transportation.....	199	144	55
Department of the Treasury.....	254	213	41
Equal Employment Opportunity Commission.....	3,316	18	3,215
Commission on Civil Rights.....	215	2	213
Office of Personnel Management.....	60	60	0
Small Business Administration.....	57	16	38
Veterans Administration.....	71	57	14
All other Executive agencies.....			
Total.....	11,369	3,566	7,633

* Agency totals for FTP Internal EEO and FTP External program staff in some cases are less than figures for total civil rights FTP because some personnel have duties in both areas.

** Scheduled for termination in 1983.

Table J-5. DISTRIBUTION AMONG PROGRAM CATEGORIES, FTP CIVIL RIGHTS PERSONNEL OF EXECUTIVE DEPARTMENTS AND AGENCIES, FISCAL YEAR 1983 ESTIMATE

	<i>Total FTE</i>
Federal service and military service equal employment opportunity.....	3,566
Private sector and non-Federal public sector equal employment opportunity.....	4,409
Fair Housing.....	402
Nondiscrimination, federally assisted programs.....	1,907
Equal Credit Opportunity.....	8
Voting Rights.....	52
Other Civil and Constitutional Rights.....	673
Research.....	213

PART 3

SELECTED

FEDERAL PROGRAMS

INTRODUCTION

Part 3 furnishes Government-wide program and financial information in selected program areas—civil rights and research and development, designated J and K.

Special Analysis J (Civil Rights Activities) summarizes Federal spending for civil rights activities, concentrating on compliance, investigation, and enforcement efforts.

Special Analysis K (Research and Development) identifies Federal programs for the conduct of research and development, and for the support of facilities related to such activities.

SPECIAL ANALYSIS J
CIVIL RIGHTS ACTIVITIES

TO GIVE SUBSTANCE TO AMERICA'S COMMITMENT. . .

“The battle against discrimination still goes on, and much remains to be done. But in a single generation, an entire Nation recommitted itself to the cause of equal rights and used the full force of law to ban once and for all racial bias in public education, in hiring, and in the voting booth. Nowhere does history offer a parallel to this vast undertaking . . .”—PRESIDENT REAGAN, March 23, 1982

Coverage and scope.—Equality of individual rights and opportunity are central to the American idea. Our national commitment to assuring that these rights and opportunities apply equally to all Americans has come to be embodied in approximately 130 Federal statutes, in addition to the guarantees set forth in the Constitution itself. These provisions address such basic areas as employment, housing, education, access to credit and public accommodations; as well as voting, jury service and other rights and responsibilities of citizenship. They prohibit discrimination based on race, color, religion, sex, national origin, age, or handicap. The Federal involvement in implementing these statutes is broad: each of the 107 separate Federal agencies is responsible for assuring nondiscrimination in its own activities, and 37 agencies have some civil rights enforcement responsibilities.

Since the first OMB Civil Rights Special Analysis was published in 1971, Federal expenditures for civil rights programs have grown apace.¹ While a reflection of America's commitment to civil rights, this growth was in past years too frequently regarded as the exclusive measure of its implementation. By 1981, it had become clear that:

—Among the 130 Federal civil rights statutes, there was substantial duplication. This multiplied the number of agencies

¹There have been corresponding refinements in the data included in Special Analyses. In 1981, OMB completed a major revision of the requirements for agency reporting of civil rights data which eliminated the practice of reporting, as civil rights outlays, expenditures for such purposes as general management costs not directly related to implementing civil rights requirements, and agency training and upward mobility costs not attributable to the Federal Equal Opportunity Recruitment Program or other equal employment opportunity requirements. The reporting schedule was also modified to assure that data for the previous year included actual data for all four quarters of the fiscal year. While the elimination of extraneous expenditures has increased the accuracy with which successive Special Analysis outlay figures depict the Federal Government's commitment of resources to civil rights, these refinements reduced the comparability of the published figures (e.g., the Defense Department reported that the deletion of general upward mobility expenditures alone reduced its total reported civil rights expenditures for 1981 by \$23.2 million dollars). To correct this problem, previous year figures used in this Special Analysis reflect, insofar as possible, only expenditures for those activities considered in this Special Analysis.

charged with eliminating discrimination, but diminished their collective effectiveness in doing so as resources were squandered in fruitless competition for jurisdiction.

- As the result of neglect or misguided paternalism, “civil rights” activities in too many agencies became a synonym for mismanagement and inefficiency not tolerated in line functions. And also for staff bickering: At times, an agency’s highest incidence of discrimination complaints could be found in its civil rights office.
- Several enforcement efforts were structurally flawed: their regulations were confusing and difficult to comply with; they continued to devote resources to clearly ineffectual procedures or to problems long since corrected.²
- Some civil rights programs had strayed from the very principles they were intended to secure, subordinating their difficult mandate of assuring nondiscrimination to the administrative expedience of quotas. As these expedients were frequently as poorly executed as they were conceived, they doubly injured their intended beneficiaries: by creating the appearance of preference, while at the same time denying essential protections against discrimination.

This administration has devoted serious attention both to the management of these programs and to our examination of their moral underpinnings. In all Federal civil rights programs, such attention has reasserted the fundamental principle of equal treatment for all individuals, without regard to their race, sex, color, religion, national origin, or condition of disability. For several, it has focused overdue attention on longstanding management problems.

The analysis which follows reflects that attention and its seriousness: implicitly, in its emphasis on the improvements which have already been secured; and explicitly in its assessment of the problems which remain to be overcome.

Perspectives on Federal civil rights outlays

In 1960, the Federal Government spent \$1.7 million for civil rights purposes. These expenditures were concentrated in the U.S. Commission on Civil Rights and the Departments of Justice and Labor. The first Civil Rights Special Analysis published by OMB reported that expenditures for such purposes had grown to \$189.7 million in 1971. In 1980, Federal civil rights expenditures reached \$512.6 million. Agencies spent \$567.6 million on civil rights activities in 1982 and, given enactment of the President’s proposed budget, agencies will spend an estimated \$634.1 million on these activities in 1984.

²A more detailed discussion of these structural management, and regulatory problems can be found on pp. 1-9, Special Analysis J: Civil Rights Activities, Special Analyses, Budget of the United States Government, 1983.

Table J-1. FEDERAL CIVIL RIGHTS OUTLAYS*, 1980-1984

(In millions of dollars)

1980 (actual).....	512.6
1981 (actual).....	543.4
1982 (actual).....	567.6
1983 (estimated).....	607.2
1984 (proposed).....	634.1

*Total outlays reported by Federal agencies for activities reflected in current reporting base. One of the agencies which reported in 1980 (the Community Services Administration) has since been abolished. Due to improved reporting, several smaller Federal entities which did not report in 1980 have reported in subsequent years. Equivalent figures covering only agencies reporting in each of the years covered by this table are: 1980, 512.1; 1981, 541.6; 1982, 566.8; 1983, 606.3; 1984, 633.2.

As emphasized in the discussion above, however, the increased expenditures effected and proposed by this Administration are not a mere reflection of a longstanding trend:

- Not simply in their magnitude but in the context of the overall budget itself, they represent a substantial increase in the priority accorded civil rights. Such increases are striking and indicative of real support in the current budgetary context, in contrast to increases in past years when all discretionary expenditures were rising.
- The increases proposed by the President represent realistic commitments, not inflated promises. In 1982, actual civil rights outlays by Federal agencies substantially exceeded estimates.³ This represents a sharp departure from past, grossly inflated projections.
- This Administration is committed not simply to spending money on civil rights, but to securing them. Civil rights programs have been judged on their merits, and not treated as the budgetary equivalents of “sacred cows” to be increased or maintained on a quota basis (only to be ignored during the remainder of the year). As this analysis will demonstrate, expenditures for some civil rights⁴ programs have been increased, some decreased, and many maintained at current levels. In instances where additional savings at no loss in protections remain to be achieved, this analysis does not hesitate to identify them.

³The agencies represented in the FY 1983 Special Analysis estimated that they would spend a total of \$562.7 million on civil rights activities during 1982 and actually spent over \$4 million more, a total of \$566.8 million (the estimate figure reflects corrections in figures for DOD and HUD while the actual expenditure figure excludes agencies who reported this year but not last year; without these corrections, the difference would be \$40 million). Most previous estimates have substantially exceeded actual expenditures. For example, the equivalent estimate for 1979 was \$555.6 million, but actual reported expenditures were \$469.1 million—over \$86 million less.

⁴Includes Federal efforts to assure: protection of basic constitutional and civil rights, nondiscrimination in federally assisted programs and activities, equal employment opportunity, fair housing, equal credit; as well as civil rights related research activities.

Table J-2.—OUTLAYS FOR PRINCIPAL CIVIL RIGHTS ENFORCEMENT AGENCIES

(In millions of dollars)

	Actual			Estimate 1983	Proposed 1984
	1980	1981	1982		
Civil Rights Division (DOJ)	14.5	16.7	17.2	18.6	25.6
Equal Employment Opportunity Commission	130.8	134.2	137.6	147	153
Office of Fair Housing and Equal Opportunity (HUD)	18.4	21.7	24.6	34.1	30.4
Office for Civil Rights:					
Health and Human Services	*	19.3	19.1	19.6	19.6
Education	*	43.3	45.3	44.3	44.6
Total*	58.8	62.6	64.4	63.9	64.2
Office of Federal Contract Compliance Programs (DOL)	50.6	48.1	42.5	43.8	47.4

* These offices were one until 1980, and reliable data for that year is available only on a total basis. Education activities will be proposed for reassignment to appropriate executive departments and agencies pursuant to reorganization legislation to be submitted at a later date.

PROTECTING THE CONSTITUTIONAL RIGHTS OF ALL CITIZENS

“ . . . The record shows that we’ve been firm in protecting civil liberties ever since we entered office 20 months ago . . . In 1888, Frederick Douglass expressed [our] commitment [:] ‘A government that can give liberty in its Constitution ought to have power to protect liberty in its administration.’”—PRESIDENT REAGAN, September 15, 1982

The Constitution and laws of the United States guarantee to each individual the right to security in one’s person and property, and to the free exercise of the fundamental rights of citizenship. These guarantees, which apply irrespective of an individual’s religion, national origin, race, color, or sex are the most important of civil rights, for they are basic to all others. During 1982, the Administration continued to restore emphasis to this most fundamental area of Federal civil rights responsibility.

The Department of Justice is primarily responsible for assuring these protections. In addition to the guarantees embodied in the Constitution itself, the Department enforces:

- Title 18 of the United States Code, which prohibits deprivations of rights and privileges guaranteed under the Constitution of the laws of the United States, including 18 U.S.C. 241 (conspiracy against the rights of citizens), 18 U.S.C. 242 (deprivation of rights under color of law), 18 U.S.C. 245 (interference with federally protected rights), 18 U.S.C. 1581 (prohibition against peonage), 18 U.S.C. 1584 (prohibition against involuntary servitude).
- 42 U.S.C. 3631, which prohibits interference with housing rights.
- 30 other civil rights criminal statutes (in addition to those cited above).
- The Voting Rights Act of 1965, as amended (42 U.S.C. 1973 et seq.) and the Overseas Citizens Voting Rights Act (42 U.S.C. 1973 dd) which guarantees all qualified citizens the right to

register and vote without discrimination on account of race, color, membership in a language minority group, age, or absence from legal residence).

- The Civil Rights of Institutionalized Persons Act of 1980 (42 U.S.C. 1997), which prohibits deprivations of the constitutional rights of institutionalized persons.

During 1982, the Department of Justice's Federal Bureau of Investigation completed 7,983 investigations involving alleged violations of these fundamental rights, and the Bureau expects to perform in excess of 10,000 such investigations per year through 1984. Other components of the Department of Justice completed 3,600 investigations of such violations in 1982, and the Department expects this number to increase to 3,800 in 1984.

The Bureau devoted \$8.1 million and the equivalent of 189 full time professional personnel (FTE's) to these investigations in 1982. The President's request for 1984 provides for outlays of \$11.5 million for the Bureau's efforts to assure these essential protections.

The Department's attorneys were equally active in enforcing these guarantees in 1982. The Criminal Section of the Department's Civil Rights Division is responsible for prosecuting criminal civil rights violations. During 1982, the section reviewed approximately 3,200 matters which had been investigated by the Federal Bureau of Investigation and approximately 7,100 other inquiries and complaints, and presented the results of 81 investigations to Federal grand juries. As a result, fifty indictments were returned and six informations were filed charging a total of 98 defendants. Trials were conducted in 43 cases, resulting in the conviction of 23 defendants. An additional 25 defendants tendered guilty pleas. U.S. Attorneys throughout the United States also prosecute such violations, and during 1982, the Department as a whole initiated prosecutions of 193 individuals for such violations, obtained 76 guilty pleas and 27 convictions.

Also during 1982, the Criminal Section was particularly active in assuring that civil rights were not abused by government officials sworn to protect them. Forty-three of the 56 cases filed involved possible violations of 18 U.S.C. 242 (deprivation of rights under color of law) or Section 241 (conspiracy against the rights of citizens). Law enforcement officials were defendants in 34 of the 43 cases tried. Examples of cases successfully prosecuted by the Section in 1982 were those involving:

- a Hildago, Texas, police officer who arranged for the kidnaping of a U.S. citizen into Mexico;
- two former police officers and a civilian in Tyler, Texas, involved in a conspiracy to fabricate evidence and testimony in State proceedings;

- civil rights violations stemming from an incident where two inmates in Louisiana died after being locked up for 15 hours in a 32" x 70" x 78" metal "hot box."
- the sexual abuse of two female Mexican aliens by two border patrol officers.

The section also secured the indictment of 17 persons alleged to have held individuals in involuntary servitude or peonage, a dramatic increase over previous years:

Table J-3. **INDIVIDUALS INDICTED UNDER STATUTES PROHIBITING PEONAGE AND INVOLUNTARY SERVITUDE**

Fiscal year—	<i>Individuals indicted</i>
1980.....	5
1981.....	1
1982.....	17

Speaking in 1981 the President served notice on persons and terrorist groups bent on violating the civil rights of individuals that ". . . this country, because of what it stands for, will not stand for your conduct. My administration will vigorously investigate and prosecute those who, by violence or intimidation, would attempt to deny Americans their constitutional rights". During 1982, the Civil Rights Division continued to be especially active in redeeming the President's pledge. The eight cases it brought against fourteen defendants, involved a wide range of violence and intimidation: including crossburning, vandalism, firebombings, and physical attacks. Through 1984, the Civil Rights Division will increase the impact of the resources it devotes to criminal civil rights prosecutions by engaging in more joint prosecutions with local U.S. Attorneys. This combination of the former's specialized expertise and the latter's familiarity with local court practices will deliver, with even greater force, a national response to those who would ignore the President's warning.

The Department's Community Relations Service was involved in efforts to defuse racial, religious, and ethnic tensions before they give rise to such denials of rights. The Service's activities during 1982, in cooperation with State and local officials, addressed the entire spectrum of such unrest, including: racially motivated acts with the potential for denying equal housing opportunity in California or free access to Federal parks in Massachusetts; tensions involving Haitian or Indo-Chinese refugees in Florida, Puerto Rico, Texas, and Minnesota; the activities of the Ku Klux Klan and other hate groups in West Virginia and Connecticut.

The Civil Rights of Institutionalized Persons Act of 1980 was designed to provide the Federal Government standing to sue in

cases of severe deprivations of the rights of institutionalized individuals. The Civil Rights Division's Special Litigation Section is primarily responsible for the Justice's enforcement of this Act. During 1982, the Section completed 21 investigations of alleged violations of the Act. Six trials in which the Section participated were completed, and all resulted in decisions sustaining the Government's position. In all, the Section obtained 13 consent decrees and court orders enjoining violations of the Act, including: an order in Puerto Rico prosecuting practices of confining mentally handicapped or physically ill inmates in isolation and subjecting juveniles to physical abuse; and an order requiring that female inmates in Kentucky prisons be accorded the same treatment as male inmates.

The President has frequently described the right to vote as the "crown jewel of our liberties". To assure that statutory protections of this right are maintained and strengthened, the President signed the Voting Rights Amendments of 1982 into law on June 29, 1982. This legislation incorporated the longest extension of the Act's provisions since its passage in 1965, as well as new language considerably expanding the protections afforded by the Act. As a result of the Administration's efforts, the Act did not include language, included in earlier versions of the legislation, which could have been interpreted to require proportional representation based on race or national origin.

In addition, the Department of Justice was particularly active in enforcing the Voting Rights Act and similar statutes during 1982. The Civil Rights Division's Voting Rights Section initiated participation in 13 cases. Six concerned whether statewide redistricting plans denied or abridged the right of minorities to vote in California, Georgia, Mississippi, New York, and Texas; one involved the redistricting for the city council in Chicago; two sought to enforce objections under Section 5 in local jurisdictions; two opposed changes to at-large elections in South Carolina counties; and, two involved attempts by individual counties to terminate the coverage under the special provisions of the Voting Rights Act. Over 2,800 submissions of more than 13,300 voting changes were received under Section 5 of the Act, more than any previous year of the Act's existence, and 41 objections were made to submitted changes including 15 objections to 24 statewide redistricting plans for more than one legislative body. A total of 799 Federal observers were assigned to five elections in three states, including the largest number of observers ever assigned to a single election in the State of Alabama. In addition, 139 persons were listed (registered) by Federal examiners who were appointed to two counties in Georgia, the first time since 1975 that Federal examiners have been used to register voters under Section 7 of the Act. The Section also distrib-

uted 2,500 copies of publications designed to assist local officials and citizens in their voluntary efforts to assure compliance with the Voting Rights Act.

The President's Budget provides for a substantial increase in resources devoted to the task of assuring that the Presidential election of 1984 is conducted in full compliance with the Voting Rights Act and other Federal guarantees of the right to vote:

Table J-4. FEDERAL RESOURCES DEVOTED TO VOTING RIGHTS ENFORCEMENT

	Actual		Estimate 1983	Proposed 1984
	1981	1982		
Department of Justice:				
Outlays (millions).....	2.48	2.52	2.66	3.18
Professional FTE's.....	44	42	45	61
Office of Personnel Management:				
Outlays (millions).....	.3	1.0	.8	1.1
Professional FTE's.....	10.2	20	20	26

In addition to the Department of Justice, the Office of Personnel Management (OPM) provides observers to monitor compliance with the Voting Rights Act. During 1982, OPM assigned 937 observers to 2 elections. During 1984, OPM expects to assign 1,350 observers to 10 elections in furtherance of the President's commitment to assure that the "crown jewel of America's liberties" is not withheld from the grasp of any American on the basis of race, color, or membership in a language minority group.

TO ROOT OUT DISCRIMINATION BY GOVERNMENT

"My administration will root out any case of government discrimination . . . we will not retreat on the Nation's commitment to equal treatment of all citizens."—PRESIDENT REAGAN, June 29, 1981

If government is to "assure liberty in its administration", it is fundamental that government itself must not discriminate either in its mandates or their execution. During 1982, the Administration continued efforts initiated in 1981 to eliminate invidious discrimination based on sex from the statutes and regulations of the Federal Government itself, and to assist States in their efforts to eliminate such provisions from their own mandates. It also continued efforts to identify and eliminate impediments to assuring non-discrimination in the provision of federally assisted services and benefits.

Eliminating invidious sex discrimination from Government mandates.—Aware that discrimination may too frequently be traced to the mandates of Government itself the President moved swiftly to address the problem. Pursuant to these efforts:

—Executive Order 12336, establishing the Task Force on Legal Equity for Women, was issued. The Task Force is responsible

- for identifying, in the regulations of every Federal agency, provisions that mandate invidious discrimination based on sex.
- The Department of Justice reviewed Federal statutes to identify similar provisions.
 - The Fifty States Project was initiated. This is a cooperative effort to help every State and territory identify and eliminate statutory provisions that discriminate against women.
 - A Coordinating Council on Women was organized in the White House to assure that Federal actions having a particular impact on women are properly addressed by the administration.

Although the task is large and multifaceted, the first fruits of this effort are already apparent. Omnibus legislation was introduced in the Ninety-seventh Congress to eliminate sexually discriminatory provisions identified by the Department of Justice from the United States Code.

Nondiscrimination in federally assisted programs.—Since the Federal Government is supported by taxes levied on citizens without discrimination, it is fundamental that activities it funds must be conducted without discrimination. This principle is embodied in a substantial body of legislation including in addition to numerous program-specific statutory provisions prohibiting discrimination:

- Title VI of the Civil Rights Act of 1964 prohibits discrimination in all federally assisted programs and activities based on race, color, or national origin.
- Title IX of the Education Amendments of 1972 prohibits discrimination based on sex in federally assisted educational programs and activities.
- The Age Discrimination Act of 1975 prohibits discrimination based on age in all federally assisted programs and activities.
- Section 504 of the Rehabilitation Act of 1973 prohibits discrimination on the basis of handicap in all federally assisted programs and activities.

As the Administration has previously noted,⁵ several problems have diminished the effectiveness of efforts to assure that programs and activities assisted with Federal funds are open to all without discrimination. Some are inherent in the piecemeal manner in which the statutes were enacted:

- The absence of crosscutting provisions prohibiting federally assisted programs and activities from discriminating based on religion.
- A similar absence of protection against discrimination based on sex, except in federally assisted education activities.

⁵Pp. 10-15, *Special Analysis J: Civil Rights Activities*. Special Analyses, Budget of the United States Government, 1983.

Others result primarily from the manner in which enforcement of these protections has been organized and administered. The frequency with which agency staffs have actually identified and eliminated discrimination is disturbingly rare—largely because this fundamental statutory mission has been subordinated to the pursuit of other agendas, or to agencies' self-interest in continuing to provide assistance. Deficiencies in the way enforcement resources have been allocated and applied have also played a substantial role:

- The allocation of overall enforcement resources has frequently failed to reflect the actual incidence of discrimination in the various federally assisted programs.
- Largely as a consequence of this fundamental problem, agency enforcement often emphasized technical trivia or focused on areas such as equal employment which other agencies were designated (and more qualified) to address; many recipients were reviewed and investigated by several agencies while the practices of others were never examined; and enforcement of these statutes was frequently hampered by nonproductive reporting and other paperwork burdens.

To address the problem of lack of consistent protections against discrimination based on religion or sex, the Administration proposed the inclusion of protections against discrimination on these grounds in several titles of the Omnibus Budget Reconciliation Act of 1981. As a result, for example, all of the Block Grants administered by the Department of Health and Human Services include such prohibitions. In addition, the Administration has included these protections in legislation that would implement Block Grants in other areas. Congressional passage of these proposals would extend basic protections against discrimination to many Americans.⁶

During 1982, the Administration also continued the more difficult task of restoring substance to the existing nondiscrimination guarantees. When the "Infant Doe" case⁷ made it apparent that an untold number of infants with disabilities were being denied the care and treatment necessary to sustain life, the President acted quickly. Noting that "Our nation's commitment to equal protection of the law will have little meaning if we deny such protection to those who have not been blessed with the same physical and

⁶As a matter of policy, the Administration has consistently moved to address such gaps in civil rights protection through permanent legislation. This is because attempts to address them through reinterpretation of Congressional mandates, be they administrative (e.g., with regard to tax exemptions for discriminatory institutions) or judicial (as some have urged the Administration to seek with regard to the coverage of title IX) are never secure, as they may as easily be withdrawn through the same processes. The past tendency to avoid legislative choices on civil rights issues (or, as in the case of employment quotas under title VII, to ignore choices clearly made) has too frequently resulted in policies untempered by a full consideration of equally valid concerns, or lacking the popular consensus required for success in a democratic society.

⁷A highly publicized incident in which a child with disabilities born in Bloomington, Indiana died as the result of the denial of life saving care.

mental gifts we too often take for granted", the President instructed the Attorney General and Secretary of Health and Human Services (HHS) to take immediate steps to notify hospitals receiving Federal funds that Section 504's prohibitions against discrimination in the provision of services most definitely apply to those services necessary to save and sustain lives. HHS's Office for Civil Rights has adopted expedited complaint procedures to assure timely and effective intervention in such cases, and is examining hospitals' practices in this area during routine compliance reviews.

Also during 1982, the Department of Justice's Office of Justice Assistance and Research (OJARS) initiated the first fund termination action to enforce section 504 in the history of that statute. OJARS was ultimately able to negotiate a settlement of this matter, which involved alleged discrimination on the basis of handicap by a State Department of Corrections. The Administration also continued the sensitive process of reviewing the existing Government-wide coordination regulations for section 504 to improve their consistency and to reflect recent Supreme Court decisions.⁸ This process has included extensive consultations with representatives of persons with disabilities, State and local governments and other recipients of Federal assistance.

Administrative enforcement of the other crosscutting provisions similarly reflected the Administration's emphasis on returning to the basics of nondiscrimination enforcement. The Department of Agriculture, for example, concluded agreements designed to eliminate illegal segregation in the activities of two State Cooperative Extension Services. This year, the Department is addressing allegations of similar illegal segregation in a third.

Substantial improvements were also effected in the largest of the agency enforcement programs. The Department of Education's Office for Civil Rights (OCR) undertook a wide range of reforms designed to improve methods for allocating work and measuring performance, reduce the amount of resources wasted on duplicative or otherwise unnecessary paperwork, and eliminate unnecessary levels of management review. The Office also moved to streamline compliance procedures by implementing the Early Complaint Resolution procedure. This procedure affords complainants and recipients an opportunity to resolve many complaints voluntarily before costly investigations are initiated. This year, OCR will explore ways in which the involvement of States in assuring compliance with the nondiscrimination requirements it enforces can be en-

⁸E.g., *Davis v. Southeastern Community College* (442 U.S. 397 (1979)), in which the Court ruled that section 504 does not forbid the requirement of reasonable physical qualifications for admission to a program, and that regulations under section 504 are unauthorized to the extent that they require modifications in a recipients program beyond what is necessary to eliminate discrimination against an "otherwise qualified handicapped individual". See also *University of Texas v. Camenisch* (451 U.S. 390 (1981)).

Table J-5. OUTLAYS BY MAJOR ACTIVITY, ENFORCEMENT OF NONDISCRIMINATION IN FEDERALLY ASSISTED SERVICES AND BENEFITS ¹

(In millions of dollars)

	Actual 1982	Estimated 1983	Proposed 1984
Activity:			
Mediation .....	.02	.05	.07
Complaint resolution	30.9	32.3	32.1
Preaward reviews	4.3	4.1	4.7
Compliance reviews and routine monitoring	19.1	21.3	22
Research, ¹ information dissemination, and technical assistance	8.5	8.7	8.9
Legal and administrative enforcement:			
Department of Justice .....	.58	.63	.64
All other agencies	1.6	1.63	1.63
Monitoring of consent decrees and compliance agreements:			
Department of Justice .....	.24	.26	.28
Department of Education	1.56	1.6	1.6
All other agencies .....	.7	.6	.6
Policy development and implementation ²	15.3	16.8	16.6
Interagency coordination:			
Health and Human Services (Age Discrimination Act) .....	.09	.14	.14
Justice (all other statutes)	2.2	2.3	2.4

¹ Includes expenditures of enforcement agencies only (research activities by the U.S. Commission on Civil Rights in this area are reported separately). Outlays for equal employment activities under title VI and similar statutes, to the extent they are identifiable, are reported in the section dealing with equal employment enforcement.

² Includes expenditures for developing regulations and procedures, training program staff, internal program audit and evaluation activities, and similar purposes.

hanced, identifying States with substantially equivalent laws and the capacity to undertake civil rights compliance activities.⁹

As a result of these and other management improvements, the Office reduced its workload of pending complaints by 27% and (in a marked departure from past years) kept well ahead of its incoming workload: during 1982, the Office for Civil Rights received 1,834 new complaints—and completed processing of 2,256. The Office also made progress in eliminating backlog and “carryover” complaints from past years: closing 1982 with 11 backlog and 69 carryover complaints (compared with 25 and 113, respectively, at the end of 1981). In addition, the Office initiated 36% more compliance reviews, and completed 16% more, than during the previous year.

As discussed above, however, the most serious problems historically presented by this area of civil rights enforcement transcend individual agencies. The Department of Justice, under Executive Order 12250, is primarily¹⁰ responsible for addressing those cross-cutting problems. The exceptional dispersal of responsibility in this area (even when only the major crosscutting statutes coordinated

⁹ Federal enforcement of title VI and similar requirements is one of the few major areas of civil rights enforcement which does not currently use the capabilities of State and local agencies to assist in assuring nondiscrimination. Such involvement has long been an essential feature of title VII enforcement, and the Department of Housing and Urban Development has rapidly expanded the involvement of such agencies in enforcing the Fair Housing Act. See below.

¹⁰ The Age Discrimination Act, for which coordination responsibility is assigned by statute to the Department of Health and Human Services, is the only exception. Most enforcement of the Age Discrimination Act is centralized. Under procedures funded by HHS, agencies forward all complaints under this Act to the Federal Mediation and Conciliation Service, which resolves most of those complaints through mediation.

by the Department of Justice are considered¹¹ renders responsibility particularly difficult:

Table J-6. DISPERSION OF ENFORCEMENT AUTHORITY UNDER STATUTES REQUIRING
NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

<i>Statute</i>	<i>Number of enforcement agencies</i>
Title VI, Civil Rights Act of 1964	37
Section 504, Rehabilitation Act of 1973	all
Title IX, Education Act Amendments of 1972.....	28

Both this dispersal, and the resources devoted to enforcing these statutes, are expanding:

Table J-7. OUTLAYS AND PROFESSIONAL WORKYEARS FOR ENFORCEMENT AGENCIES,
NONDISCRIMINATION IN PROVISION OF FEDERALLY ASSISTED SERVICES AND BENEFITS

	Actual		Estimate 1983	Proposed 1984
	1981	1982		
Agencies.....	18	20	21	21
Outlays (millions).....	77	85.5	88.4	89.4

The Department of Justice has the difficult task of assuring that these increases are not dissipated in procedures which are poorly implemented or no longer serve a useful purpose. Traditional preaward review procedures seem particularly ripe for reappraisal. As noted below, in 1981 only about 2% of the preaward reviews conducted by all agencies resulted in finding any deficiencies requiring correction before assistance could be awarded—and fewer than 1% of these activities resulted in identifying and correcting any discriminatory practices. In 1982, which saw substantially more preaward review activity, the percentage of noncompliance findings of all kinds fell to 1.8%, and the percentage resulting in correction of discriminatory practices to only 1/3 of 1%. That this further deterioration was accompanied by a substantial increase in reported preawards conducted exclusively through desk audits (reviews of written material submitted by applicants) suggests that this is a particularly questionable use of resources.

Table J-8. PREAWARD REVIEWS AND RESULTS: NONDISCRIMINATION IN PROVISION OF FEDERALLY
ASSISTED SERVICES AND BENEFITS¹

	Actual		Estimate 1983	Proposed 1984
	1981	1982		
Agencies.....	10	12	13	13
Outlays (millions).....	2.75	4.3	4.1	4.7

¹¹The Department of Justice also coordinates the enforcement of numerous program-specific statutes requiring nondiscrimination.

Table J-8. PREAWARD REVIEWS AND RESULTS: NONDISCRIMINATION IN PROVISION OF FEDERALLY ASSISTED SERVICES AND BENEFITS ¹—Continued

	Actual		Estimate	Proposed
	1981	1982	1983	1984
Professional FTE's	76	74	64	65
Total preawards completed.....	15,953	30,795	24,784	24,405
Onsite	6,150	4,124	4,056	3,580
Desk audit only.....	9,803	26,671	20,728	20,825
Compliance findings ¹	13,980	30,238	NA	NA
Noncompliance findings ¹	332	557	NA	NA
Total awards conditioned on corrective action.....	322	547	NA	NA
Noncompliance findings involving discrimination	56	69	NA	NA
Number of corrective action agreements resolving discrimination	54	61	NA	NA

¹ Ability or inability of a potential recipient to comply with nondiscrimination requirements without additional action. Total numbers of findings do not equal total reviews because some agencies use preawards only for targeting postaward activity.

Moreover, in 1981 all noncompliance findings of any kind were made by only three of the 10 agencies conducting preaward reviews—and all discrimination findings by only two. Seven agencies which reported conducting 14,613 preaward reviews (at a cost of \$1.8 million) *found no deficiencies of any kind*, and eight spent \$2 million on preawards without a single one resulting in the correction of any discriminatory practices. While more agencies reported that they identified deficiencies (mostly technical) during preaward reviews during 1982, two agencies which reported that they had conducted preaward reviews of *all* recipients of new assistance (constituting 50% of preaward reviews reported by the Federal Government as a whole) found no deficiencies of any kind—at a cost of over half a million dollars and 14 professional FTE's. And agencies that corrected no discrimination as a result of preawards spend \$1.2 million on that activity.

Postaward review procedures, or the manner in which they are implemented, appear equally in need of reappraisal:

Table J-9. POSTAWARD REVIEWS AND RESULTS: NONDISCRIMINATION IN PROVISION OF FEDERALLY ASSISTED SERVICES AND BENEFITS

	Actual		Estimate	Proposed
	1981	1982	1983	1984
Agencies.....	1.3	14	17	16
Outlays (millions).....	13.4	17.6	19.5	20.3
Professional FTE's.....	386	422	435	434
Total completed.....	12,451	¹ 27,355	14,658	14,266
Onsite	8,389	14,867	12,976	12,605
Desk audit only.....	4,062	¹ 12,488	1,682	1,661
Compliance findings	12,076	26,856	NA	NA
Noncompliance findings.....	375	499	NA	NA
Noncompliance findings involving discrimination	196	313	NA	NA
Number of corrective action agreements resolving discrimination	134	311	NA	NA

¹ 12,310 of these reviews were reported by the Small Business Administration (SBA), which attributed the extraordinarily large number to the completion of work completed in previous years. 11,738 of the reviews reported were desk audits based on a reporting requirement which has since been disapproved by OMB. As a result, the number of desk audits will decrease in 1983 and 1984 to 1,000—but the number of onsite reviews will increase from 572 in 1982 to 800 in each year. Of the reviews SBA reports it completed in 1982 (at a cost of \$1.4 million), none resulted in finding noncompliance of any kind.

Even when the problematic SBA desk audits are subtracted, the rate at which even routine reviews resulted in the correction of illegal discrimination was a disappointing two percent.

While the thesis that administratively targeted reviews are more likely to identify and resolve discrimination than complaint investigations has become part of the conventional wisdom¹² in civil rights enforcement, this would not appear to be the case in this area:

Table J-10. INVESTIGATIONS COMPLETED AND RESULTS, NONDISCRIMINATION IN FEDERALLY ASSISTED SERVICES AND BENEFITS

(1982 actual)

Total completed.....	2,252
Compliance findings.....	1,511
Noncompliance findings.....	741
Number resolved through written agreements to correct illegal discrimination.....	690

In addition to the enforcement anomalies discussed above, current arrangements for enforcing these statutes raise serious questions of cost effectiveness. The cost of interagency expenditures of coordination of these statutes alone exceeds the enforcement expenditures of all but four of the agencies coordinated. In addition to these expenses, there are the considerable outlays for administrative overhead and legal support necessary to maintain separate programs in each agency.

The Civil Rights Division is working with the President's Task Force on Regulatory Relief to develop revised coordination regulations to address these problems. The nature of the problems which have historically characterized enforcement of these provisions, however, suggest that substantial improvement in this area may require basic reforms in the organization and structure of the administrative enforcement of these provisions.

Judicial enforcement.—The Department of Justice's Civil Rights Division is primarily responsible for litigation enforcing these provisions. During 1982, the Civil Rights Division negotiated a consent decree desegregating two state-run colleges in Louisiana, and an agreed-up order was entered implementing a comprehensive program to ensure equal opportunity for men and women to participate in intercollegiate athletics at the University of Alaska. Consent decrees were also approved desegregating six junior colleges in Mississippi, and the division commenced a trial on the merits in a

¹²For example, "Civil rights enforcement officials as well as this Commission, agree that activities targeted at systemic discrimination, such as compliance reviews, are more effective and equitable enforcement mechanisms than investigations of individual complaints". *The Federal Civil Rights Enforcement Budget*, U.S. Commission on Civil Rights, June, 1982, P. 65.

suit alleging that the Massachusetts Maritime Academy discriminates against women in admission.

As has previously been the case, much of the Division's activity concentrated on eliminating *de jure* segregation in elementary and secondary education. The Division worked with local elementary and secondary school officials to develop plans effectively resolving several longstanding cases. A stipulated desegregation plan for Port Arthur, Texas was approved. Consent decrees modifying orders were entered in cases involving Gadsden County, Florida, Pointe Coupee Parish, Louisiana, Scott County, Mississippi, Omaha, Nebraska, and Kansas City, Kansas. In another suit, a consent decree was negotiated after the court found that the Ector County, Texas school system was unconstitutionally segregated. In Mobile, Alabama a consent decree which establishes a procedure for educational experts to make recommendations and for a committee of parents and citizens to propose changes that would further school desegregation.

During 1982, the Department continued to implement its new policy for remedying *de jure* segregation. In past administrations, the Department concentrated simply on substituting new patterns of discriminatory assignment of students based on race and national origin for the old ones, through forced busing. Such mandates not only excluded many students from the schools they wished to attend based solely on their race or national origin, but also frequently reassigned students to schools which were not better than those they had previously attended. The Department is now securing remedies which not only assure equal access to education, regardless of race or national origin, but also assure access to education of equal quality.

The Department has also widened the scope of the equal protection violations it seeks to eliminate. In addition to continuing to investigate allegations of illegal discrimination in pupil assignment during 1982, the Civil Rights Division also initiated investigations of alleged discrimination based on race, color, or national origin in the quality of education. Such violations, where found, will be litigated in addition those involving *de jure* segregation. Due to past neglect of this problem, the law in this area has yet to be developed. The Civil Rights Division's careful but deliberate move to address it thus not only places the Department on the frontier of Constitutional interpretation and protection, but also promises to open a new frontier of opportunities that may heretofore have been illegally denied.¹³

¹³In appellate litigation under these statutes, the Supreme Court's decision in *North Haven v. Bell* was most significant. The Court's principal holdings in this case were that Title IX prohibits employment discrimination, and that it applies to all programs or activities for which an institution receives Federal assistance. The Department of Justice is applying these principles in other litigation involving Title IX.

TO REMOVE THE FINAL BARRIERS: SECURING EQUAL TREATMENT

"I am for affirmative action; I am against quotas. I have lived long enough to know a time in this country when quotas were used to discriminate, not end discrimination." —PRESIDENT REAGAN, January 19, 1982

ENFORCING EQUAL EMPLOYMENT OPPORTUNITY

The principal statutes and Executive orders prohibiting discrimination in employment are:

- Title VII of the Civil Rights Act, which prohibits employment discrimination based on race, color, religion, national origin, or sex.
- The Equal Pay Act (EPA), as amended, which prohibits discrimination in compensation based on sex.
- The Age Discrimination in Employment Act (ADEA), which prohibits discrimination against persons aged 40 through 70 based on age.
- Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, and Section 402 of the Vietnam Veterans Readjustment Act, prohibit employment discrimination by Federal contractors based on race, color, sex, national origin, religion, handicap, service-connected disability, or Vietnam era military service, and require Federal contractors to take affirmative action to assure that such discrimination does not occur.

In past administrations,¹⁴ a fundamental dilemma in the enforcement of these provisions was permitted to develop. Some programs intended to assure that all individuals are able to advance regardless of their race, color, or national origin had degenerated into quota systems—erecting new barriers to individual achievement on those very grounds. There is growing recognition that the barriers to individual achievement created by quotas are not simply the most obvious (if some persons are provided opportunities because of their group membership, other persons are denied them on the same basis). By enabling others to cast doubt on their experience and accomplishments, quotas may be creating highly formidable barriers for their intended beneficiaries.¹⁵

The Department of Justice is responsible for litigating alleged violations of Title VII, by public employers; and of Executive Order

¹⁴Joseph Califano, former secretary of HHS, reports being instructed by the President to "review the work of our subordinates, and get rid of all of those who are incompetent, except minorities and women." Joseph A. Califano, Jr., *Governing America*, p. 341.

¹⁵E.g., in a recent interview Reginald E. Gilliam Jr., Vice Chairman of the Interstate Commerce Commission, noted that blacks who manage to enter the system often face a "gauntlet of sniping and backbiting";

"This often takes the form of ignorant verbal dismissals of exceptional individuals with comments like 'he or she wouldn't have gotten that position except for EEO'", Mr. Gilliam said, referring to affirmative action and other policies designated to promote equal employment opportunity that followed the Civil Rights Act of 1964. "All your degrees, your clerkships, your previous positions that often predate equal employment policies, Oxford, whatever all may be explained away by 'EEO'." *New York Times*, December 28, 1982.

11246, as amended, by Federal contractors. The Department is also responsible for litigating any equal employment issues arising under Title VI and similar nondiscrimination provisions. Among the agencies responsible for implementing equal employment statutes, the Department of Justice has lead in developing discrimination remedies which open doors to equal employment opportunity without unjustly stigmatizing those who pass through them.

In 1981, the Department implemented a new approach to remedies for employment discrimination. In place of the employment quotas of the past, the Department is requiring employers found to have discriminated to institute specific programs that assure that members of the group previously excluded are considered for future employment opportunities. The Department will also assure that genuinely nondiscriminatory procedures are used in selecting from the resulting pool of eligibles. These remedies will institutionalize the process of nondiscriminatory selection, and thus have a longer lasting impact than court imposed numbers forgotten when decrees have expired.

During 1982, the Civil Rights Division continued to refine this new approach as it implemented a vigorous program of equal employment litigation. The Department filed six new pattern and practice suits against public employers, including the Department's first suit alleging such discrimination based on sex in higher education. The Department had 113 lawsuits in progress by the end of 1982. Overall, the Department's efforts resulted in the hire, promotion, or reinstatement of 1,400 identified victims of discrimination and \$4.4 million in backpay for 1,000 persons. In addition, long term remedies designed to assure future nondiscrimination were implemented by 10 public agencies or institutions employing over 16,000 persons.

As in its other appellate activities, the Department's efforts regarding equal employment issues concentrated on restoring the basic principle of nondiscrimination to the interpretation of the laws. During 1982, for example, its appellate activity firmly established the right of persons employed by subsidiaries of foreign corporations to be free from employment discrimination based on race, color, religion, national origin, or sex. During 1983, the Department is moving to assure that corrective action mandated for employment discrimination fully "makes whole" its victims without, in turn, creating new ones. In *Firefighters v. Boston*, currently before the Supreme Court, the Department is defending this principle in regard to a court order which required the layoff of firefighters solely based on their race. Responding to the protests of female, Hispanic, and white male police officers who face the prospect of being denied promotions they have earned based solely on their race, the Department has also moved to intervene in a case

involving the New Orleans Police Department. Concurrently, the Department of Justice has filed a brief with the Supreme Court challenging the current practice of many pension plans of requiring different contributions, or providing different periodic payments, solely on the basis of the participants' sex. The Department's position in this case summarizes the thrust of its appellate efforts in this and other areas: Title VII and similar civil rights statutes protect all individuals, and require that employment and other covered decisions be made on the basis of their individual accomplishments and characteristics—not on presumptions based solely on their race, sex, national origin, or other irrelevant factors.

The President's 1984 budget provides for outlays of \$2.8 million for the Department's equal employment enforcement activities in 1984. 1982 also saw continued improvements in the effectiveness of the EEOC:

Although the number of charges received by EEOC dropped by 7%, the number of charges processed by EEOC dropped by less than 4%—and the number of persons benefitted through charge settlements increased by 36%, and the total dollar benefits obtained through such settlements increased by 10%.

Table J-11. EEOC ADMINISTRATIVE COMPLAINT PROCESSING ¹

	1980	1981	1982
Total receipts.....	56,425	58,754	54,590
Total closures.....	57,327	71,690	68,890
Persons benefitted ² through settlements.....	(³)	38,114	51,795
Total dollar value of settlements (millions).....	\$57.3	\$91.7	\$101.1

¹Includes administrative processing of charges filed under Title VII, the Age Discrimination in Employment Act, and the Equal Pay Act.

²Includes, in addition to backpay and other dollar settlements, reinstatement, hires, promotions, and other nonfinancial relief.

³No data available.

During 1982, the EEOC continued to involve State and local agencies in resolving discrimination complaints. During 1982, the Commission provided over 17.5 million in grants to State and local nondiscrimination agencies, and deferred 38,800 charges to these agencies for processing. During 1984, the EEOC will provide \$18 million in grants to State and local agencies, and will defer 40,750 charges for processing at the State and local level.

Thus, the Administration has continued and expanded the improvements secured in the 1970's in EEOC's implementation of its complaint processing and enforcement responsibilities. The Administration found, however, that many endemic management problems remained to be addressed. The General Accounting Office and the Office of Personnel Management were asked to assist in the effort to define those problems so that they might be corrected.

The GAO found that many of the same recordkeeping and financial management problems it had identified in 1976 continued to exist in 1981. The Commission had no accurate records of the

money owed it and the personnel responsible for handling the Commission's funds were poorly supervised and trained and their duties were not adequately separated to preclude fraud and waste. Compounding these difficulties, necessary financial management audits were not being performed because the agency's internal audit staff was too small to perform them. As a final result:

Table J-12. EEOC LEGAL ENFORCEMENT

	Actual		
	1980	1981	1982
Total dollar benefits through case resolutions (millions)	\$20.3	\$16.2	\$33.53
Cases in progress (end of fiscal year)	683	873	930

- The Commission's financial chaos posed the threat of "unnecessary cancellation of programmed activities, slippage of required programs, and even job losses for agency employees" because it had no accurate knowledge of the funds available for program purposes.
- Millions of dollars owed to the Commission were unavailable for program activities. For example, some \$1.1 million in travel advances were outstanding, and "very little action [had been] taken to collect or settle amounts that had been outstanding for extended periods".
- The Commission's inability to pay its bills in a timely manner cost it substantial amounts of discounts (available for timely payment) which would have increased the impact of its outlays.
- Year-end financial expenditure reports for the previous two fiscal years had been certified as correct, even though it "should have been obvious to agency personnel that the figures were incorrect".

In a separate audit of the Commission's Office of Review and Appeals, the GAO examined 19 allegations involving . . . "a wide range of alleged management and operating problems concluding that many of the allegations made were valid". GAO also found that the Commission's new leadership is "aware of the problems and . . . taking action to address them".¹⁶

The OPM study, conducted in a headquarters division and two district offices concluded that, in the units surveyed:

- "substantial overgrading" existed "and likely exists in other parts of the agency."
- The supervisory structure was "excessive and expensive."

¹⁶"Continuing Financial Management Problems at the Equal Employment Opportunity Commission," General Accounting Office, May 17, 1982 inquiry into Alleged Operating and Management Problems in EEOC's Office of Review and Appeals" on August 29, 1982.

—Management accountability procedures did not “. . . account for the ‘quality’ or the achievement of agency’s overall objectives.”

—A work environment “beset by acrimony, improper employee conduct, poor performance, and favoritism”.¹⁷

To aid in the elimination of these deficiencies on an agency-wide basis, OPM will conduct a wider ranging survey in 1983.

The current Chairman of the EEOC, who assumed office in the closing months of the fiscal year, has inherited the challenge of addressing these longstanding problems. Chairman Thomas has encouraged evaluation by GAO and OPM and partial parties, and has rapidly implemented their recommendations. Much remains to be done through 1984, and the Chairman currently has several studies underway regarding how the agency’s general operations might be improved. After reviewing the deficiencies landed by GAO and the administration’s efforts to correct them, the Chairman of the Senate Committee responsible for oversight of the Commission’s activities observed that:

“This administration and this committee have been criticized for lack of commitment to civil rights, yet . . . Our goal has been that of increasing our efforts at pursuing those goals. Because we ask critical questions [and take] the studies of GAO seriously, we are accused of being anti-civil rights. I must question whether those who criticize are also the same as those who would allow the conditions which the GAO reviewed at EEOC to continue and thereby deny the services to the people who need the assistance for which the agency was created?”

In addition to initiating action to resolve these management problems, the Administration also took action to strengthen the protections the EEOC is responsible for assuring under the Age Discrimination in Employment Act. Emphasizing that “when it comes to retirement the criterion should be fitness for work, not year of birth”, the President announced his support for legislation eliminating mandatory retirement requirements in government and private industry based solely on age.

The President’s budget provides for outlays of \$153 million for the Equal Employment Opportunity Commission in 1984.

Of the Federal Government’s efforts to assure equal employment opportunities, the programs administered by the Department of Labor’s Office of Federal Contract Compliance Programs have most starkly posed the dilemma referred to above. Established by Executive order over 20 years ago, OFCCP’s basic premise was a simple one: To expand equal employment opportunities for women and minorities by requiring that Federal contractors act affirmatively to assure that qualified minorities and women were recruited and considered for vacancies, and that their procedures for filling those

¹⁷“Personnel Management Evaluation Report: Personnel and administrated management in the U.S. Equal Employment Opportunity Commission”, May 1982.

vacancies were nondiscriminatory in fact as well as precept. During the 1970's, Congress expanded this "affirmative action" mandate to include handicapped persons and Vietnam-era veterans. Contractors were required to develop plans detailing the recruitment and other efforts they would undertake to assure equal opportunity. The administration found that this simple premise had evolved into a regulatory morass, criticized both by Federal contractors and the intended beneficiaries of OFCCP's regulations.

The most serious concerns involved OFCCP's requirements for affirmative action plans:

- There was no clear answer to the basic question of what constituted compliance with the affirmative action requirements: was compliance based on contractors' good faith efforts to recruit women and minorities and assure that employee selection was nondiscriminatory, or did OFCCP disregard these considerations in a single-minded focus on whether employment goals were met? Many believed that such goals, originally intended as yardsticks of progress, had been distorted in practice into quotas.
- Requirements for drafting the plans were, at once, overly prescriptive and insufficiently clear. Contractors were required to produce voluminous affirmative action plans and supporting data, with no assurance that the resulting product would be found acceptable during a compliance review. Compliance reviews frequently degenerated into confrontations over which job titles belonged in which "job group", or how the eight factors for determining the "availability" of minorities and women for jobs should be considered in arriving at overall "availability" figures. Compliance with these (and related Federal) requirements generated an estimated \$1 billion per year in expenditures by employers among the "Fortune 500"¹⁸ alone. The concepts of "job groups" and "availability" could be, and frequently were, manipulated to justify failure to recruit and employ qualified minorities and women.
- Requirements did not consider differences in the size of contractors or their individual establishments. The same level of detail was required in an affirmative action plan for a contractor employing only 50 persons as for a contractor employing thousands; and for a contractor's plan for a small retail sales outlet as for the same contractor's plan for a large manufacturing plant.
- These frustrations with the requirements themselves were compounded by OFCCP's adversarial approach to enforcing them. The potential that contractors attempting in good faith

¹⁸ Estimate by the Equal Employment Advisory Council cited in Daniel Seligman, "Affirmative Action is Here to Stay", *Fortune*, April 19, 1982, p. 156.

to comply might nevertheless be found in noncompliance was inherent in the ambiguity of OFCCP's regulations, and was frequently realized.

The Administration is continuing its review of OFCCP's regulations to develop revisions to these regulations which will eliminate these problems, and restore the focus of OFCCP's efforts to assuring that Federal contractors make vigorous efforts, through recruitment, training, counseling and the like, to assure that minorities, women, Vietnam era veterans, and persons with disabilities are assured of every available employment opportunity consistent with their skills, abilities, and aspirations.

While the work on reforming its regulations continued, OFCCP's management completed important management reforms, including consolidating several area offices to reduce overhead.

OFCCP completed 2589 complaint investigations and 3081 compliance reviews during 1982. Of these, 404 investigations and 1294 compliance reviews produced relief for identified victims of discrimination, including \$7,149,733 backpay for 1133 persons. 17,614 identified victims of discrimination were placed in or restored to jobs.

The President's budget provides for outlays of \$47.4 million for OFCCP's nondiscrimination efforts in 1984.

In addition to those discussed above, other problems in Federal EEO enforcement remain to be addressed.

The Uniform Guidelines on Employee Selection Procedures (UGESP) require examination to assure they are not discouraging the use of valid and job related employee selection devices.¹⁹ Review of these regulations, targeted by the President's Task Force on Regulatory Relief, will continue in 1983.

In addition, there are continued problems duplication in Federal EEO enforcement, including:

- While EEOC and OFCCP have periodically negotiated memoranda of understanding intended to preclude duplicate reviews and investigations, this objective has yet to be achieved.
- The work of EEOC is also duplicated by yet other agencies, operating under Title VI and other statutes requiring nondiscrimination in federally assisted programs. Significant progress toward reducing this duplication will be made this year, with the issuance of a joint regulation by EEOC and the Department of Justice providing for referral of many employment discrimination complaints received by these agencies to the EEOC for processing. However, a substantial number will still be retained for investigation by the individual agencies. Many of the complaints retained for investigation will be class actions—with a potential for overlap with the systemic activities

¹⁹See, e.g., "Uniform Guidelines on Employee Selection Procedures Should Be Reviewed and Revised", *General Accounting Office*, July 30, 1982.

of the EEOC and (particularly with regard to colleges and universities) those of the OFCCP as well.

—In addition to the problems inherent in duplication, the cost effectiveness of these duplicate activities in identifying and resolving discrimination is questionable:

Table J-13. EXPENDITURES AND OUTCOMES, EEO ADMINISTRATIVE ENFORCEMENT ACTIVITIES ¹

	1982 Actual	
	EEOC	Other EEO programs
Total direct compliance outlays (millions) ¹	\$48.6	\$40.2
Total persons receiving relief for discrimination as a result of activities ²	51,795	18,866
Total value of financial settlements.....	\$101,194,695	\$7,262,392

¹ Compares direct outlays for EEOC's administrative processing of complaints with direct outlays for other programs' administrative processing of complaints and conduct of pre and post award compliance reviews.

² Includes all forms of relief, including hire, promotion, reinstatement, and other remedies in addition to backpay.

Civil Service Equal Employment Opportunity.—As the servant of all Americans, and as an institution responsible for enforcing laws requiring equal employment by other institutions, the Federal Government has a particular obligation to assure nondiscrimination in its own employment. Moreover, especially in this period of reduced resources, Federal agencies simply cannot afford to hire or promote employees on any bases other than their job-related abilities and demonstrated diligence in applying them. Congress has, therefore, mandated that each Federal department and agency make special efforts to assure that their employment decisions are made without regard to race, color, religion, national origin, sex, age, or handicap; and the President has reiterated his determination that agencies implement this mandate.

Table J-14. TOTAL RESOURCES DEVOTED TO FEDERAL INTERNAL EQUAL EMPLOYMENT

	Actual		Estimate 1983	Proposed 1984
	1981	1982		
Total Outlays (millions).....	177.7	181.3	184.3	203.9
Total full time permanent internal EEO staff ¹	2,930	3,441	3,517	3,542
Total other Federal work years ²				

¹ Professional and clerical personnel employed full time in internal EEO activities.

² Effort devoted to counseling, complaint, investigations, affirmative recruitment, and other activities by individuals not employed in internal EEO positions.

Under the Equal Employment Opportunity Act of 1972, as amended, the EEOC is responsible for coordinating these efforts. In addition, OPM, under the Civil Service Reform Act, coordinates agency efforts under the Federal Equal Opportunity Recruitment Program (FEORP) to assure that qualified minorities and women are among the applicants considered for positions in which they have been determined to be underrepresented.

Despite the necessary economies which have been effected in Federal employment, the representation of minorities and women

in Federal employment has not only remained stable, but has risen somewhat:

Table J-15. **PERCENTAGE REPRESENTATION OF MINORITIES AND WOMEN IN THE FEDERAL WORKFORCE**¹

	Total Federal employment	
	Minorities	Women
December 1980	23.5	39
July 1982 ²	23.9	39.3

	Total full time white collar employment	
	Minorities	Women
November 1980	20.9	45.6
March 1982	21.5	46

¹ Nonpostal civilian employment. Produced from the Central Personnel Data File. "Total Federal Employment" data includes all work schedules. Excludes agencies not covered by the CPDF such as: Architect of the Capitol, U.S. Botanic Gardens, Congressional Budget Office, Board of Governors of the Federal Reserve System, Library of Congress, Office of the Vice President, Office of Technology Assessment, Postal Rate Commission, Tennessee Valley Authority, the White House Office, the Central Intelligence Agency, the National Security Agency and most of the Judicial Branch. "Full Time White Collar Employment" data also excludes agencies listed above.

² Latest available figures.

During 1982, the Federal Government spent more on implementing EEO requirements in the civil service than on all external enforcement of equal employment requirements by the two largest enforcement agencies (EEOC and OFCCP) combined.

A substantial portion of this disparity is attributable to the extraordinary costliness of processing discrimination complaints against Federal agencies contributed substantially to this disparity. Federal entities devoted over \$72 million and 2,215 professional FTE's to processing EEO grievances in 1982, including \$44 million and 1,067 FTE's for processing formal complaints. While EEO counseling is usually performed as a collateral duty, most formal complaints are processed by personnel employed solely for that purpose.²⁰

Table J-16. **INTERNAL EEO COMPLAINT PROCESSING COSTS**

(In millions of dollars)

	Actual			Est. 1983	Proposed 1984
	1980	1981	1982		
Counseling.....		18.6	28.0	29.9	31.7
Direct processing of complaints*		36.8	44	47.8	51.1
Total		55.4	72	77.7	82.8

*Includes processing of formal complaints by agencies, and appellate processing by EEOC only. The Merit Systems Protection Board is responsible for processing appeals of complaints which allege both discrimination and violations of other Federal personnel requirements. The MSPB processes a substantial number of such appeals (778 in 1982 a figure expected to rise to 945 in 1984), the Board did not begin monitoring the costs of these appeals on a separate basis until this year. Detailed information on MSPB's processing of these appeals will be included in next year's Civil Rights Special Analysis.

²⁰ An increasing number of agencies have, however, been required to report to private contractors to perform such investigations. The Department of Agriculture alone spent \$297 thousand for such investigations in 1982, and expects that figure to reach \$741 thousand in 1984. In addition, Federal agencies spent over \$11 million on legal expenses associated with EEO grievances, a figure expected to exceed \$14 million in 1984.

When the costs and results of internal EEO complaint processing are compared with EEOC's record in the private sector (agencies closed 15,759 complaints in 1982 at a direct cost of \$44 million, compared with EEOC's direct costs of \$49 million to close 68,890 complaints), it is apparent that current arrangements and procedures for processing EEO complaints against Federal agencies are needlessly expensive. While it is difficult to compute the costs of processing on a complaint by complaint basis in large agencies which process many complaints, these costs are starkly apparent in the smaller entities subject to the procedures. For example, a complaint against the Pennsylvania Avenue Development Corporation (which an EEOC complaints examiner recently concluded was based on "assertions [that] are not only unsupported but are for the most part based on unfounded speculation and unreasonable suspicions") has been in processing for two years. The case has required PADC to expend \$15,000 in salary and other costs (not including additional costs for complaint counseling, performed for PADC under an inter-agency agreement by the General Services Administration, and the complaints examiner provided by EEOC) and reproduce some 2000 pages.

Among the principle reasons for the extraordinary costliness of these procedures are:

- There are twice as many steps in Federal as in private sector complaint processing. Moreover, there are as many as four administrative determinations on the merits for Federal complaints, compared with only one in processing private sector complaints. These multiple levels of review are largely designed to protect complainants against potential abuses of agency self-processing.
- Most agencies have fixed numbers of staff designated to perform the complaint processing functions. As these staff are not fungible among agencies, some agencies must hire private contractors to handle unexpectedly high workloads while other agencies' staffs are idle.
- Due to the dispersal of processing staff among agencies, quality of training and supervision varies considerably from agency to agency, as does the quality and timeliness of complaint processing.

In addition, direct agency expenditures for implementing affirmative action requirements applicable to Federal agencies are continuing to rise substantially at the same time that placement opportunities are declining in most agencies:

Table J-17. DIRECT EXPENDITURES ON AFFIRMATIVE EMPLOYMENT PROGRAMS

	Actual 1982	Estimate 1983	Proposed 1984
Total outlays (millions)	\$57.9	\$60.7	\$62.9

Through 1984, the Administration will continue to examine ways in which equal employment can be implemented in the Federal Government with greater fairness and efficiency. As the Chairman of the Equal Employment Opportunity Commission, Clarence Thomas, has forcefully observed: "We cannot afford to base decisions on the same assumptions, year after year, about the nature of the problem or the requirements for a solution. . . . We cannot afford to devote significant time and energy to policies or programs which effect no measurable progress".

Military Service equal opportunity.—During 1982, the Administration continued to improve the effectiveness of efforts to assure equal opportunities for the over 2,000,000 men and women who serve in the nation's armed forces. Over 1.5 million personnel received training designed to promote equal opportunities and preclude such problems as sexual harassment. Programs designed to assure consideration of qualified minority and women applicants resulted in the recruitment of 11,698 female and 9,481 minority officer candidates in 1982. As a result of these and similar efforts, the percentage of military officers who are women has increased by 12%, and the percentage of officers who are members of minority groups has increased by 11% since 1980:

Table J-18. PERCENTAGES OF MILITARY OFFICERS WHO ARE MINORITIES OR WOMEN

	Percentage total officers		Change 1980-82
	1980	1982	
Minorities	9.1	10.1	+11
Women	8.2	9.2	+12

These policies have also contributed to the continued-substantial percentage of enlisted personnel who are members of minority groups, and continued growth in the percentage who are women:

Table J-19. PERCENTAGES OF ENLISTED PERSONNEL WHO ARE MINORITIES OR WOMEN

	Percent total enlisted personnel	
	1980	1982
Minorities	30.3	30.3
Women	8.5	9

Service in this nation's Armed Services has traditionally attracted persons of all backgrounds who wish to progress on the basis of their individual abilities and accomplishments. This has been particularly true for members of minority groups, as the military has frequently lead other institutions in eliminating barriers based on race, national origin, and religion. Providing contemporary evidence for the President's observation that the concept of proportional representation has historically been used to exclude minorities, some have argued in recent years that the number of minorities in the military should be artificially restricted to reflect their percentage in the population as a whole. In 1982, a Presidential Task Force appointed to study military personnel issues reemphasized the Administration's rejection of this notion. In addressing this issue, the panel aptly summarized the Administration's thrust in all of the equal employment efforts discussed above:

Some observers express concern about the high proportion of blacks in the enlisted force, which is 22% . . . The population as a whole, in contrast, is 12% black. [We] do not look on this as a problem. In a volunteer force, both blacks and non-blacks who can qualify have equal freedom to enlist. The fact that many blacks volunteer is a tribute to their patriotism. Black servicemembers have served the nation ably and honorably. It would be both unnecessary and unfair to move a quota-based recruitment system to achieve some arbitrary notion of a proper racial balance.

ENFORCING EQUAL HOUSING OPPORTUNITY

Title VIII of the Fair Housing Act of 1968, as amended, prohibits discrimination based on race, color, religion, sex, or national origin in the sale, rental, or financing of housing or provisions of brokerage services. Two Federal agencies are primarily responsible for enforcing Title VIII.

- The Department of Housing and Urban Development's Office for Fair Housing and Equal Opportunity investigates complaints alleging violations of Title VIII. Where it concludes that violations of Title VIII have occurred, HUD attempts to resolve them through informal conference, conciliation, and persuasion.
- The General Litigation Section of the Department of Justice's Civil Rights Division brings suits to enjoin alleged patterns and practices of discrimination prohibited by Title VIII. The Section brings cases based both on referrals by HUD and its own investigations.

Title VIII provides for deferral for complaints filed with HUD to State and local fair housing agencies with equivalent statutory authority. During 1982 HUD continued its aggressive efforts to expand involvement of State and local agencies in assuring Fair Housing. HUD obligated over \$5 million for direct grants and technical assistance to help State and local agencies develop proce-

dures, train staff, and other measures necessary to develop the capacity to process fair housing complaints. As a result, the number of State and local agencies participating in charge processing grew from 42 to 61, an increase of 60%. Through 1984, HUD expects to increase the number of participating State and local agencies to 90—almost tripling the number in the program at the beginning of 1981. Through 1984, the number of Title VIII complaints processed at the State and local rather than the Federal level will further increase in 1984. The costs of the program, however, will decrease (to \$3.7 million a year, mostly in grants to defray the costs of complaint processing) because the initial high outlays for start-up costs will no longer be necessary.

Table J-20. NUMBER OF STATE AND LOCAL AGENCIES WITH CHARGE PROCESSING AGREEMENTS

End of fiscal year—	Number
1980.....	32
1981.....	42
1982.....	67
1983 (estimated).....	70
1984 (estimated).....	90

During 1982, HUD invested similar “seed money” in local Community Housing Resource Boards. These Boards initiate affirmative marketing and other voluntary efforts to assure fair housing. Some 613 of these Boards were in existence at the end of 1982, and it is anticipated that an additional 50 will be organized in 1983. Again, costs will decrease as the initial capacity building is completed: from obligations of \$2.1 million in 1982 to \$1 million in 1984.

Table J-21. TOTAL FAIR HOUSING COMPLAINTS PROCESS BY HUD AND STATE AND LOCAL AGENCIES

Year:	Total closures	Percent change, 1980-82
1980.....	2,860	
1982.....	4,230	+ 48%

These investments in the abilities of the private sector and State and local governments will reduce the incidence of violations which give rise to complaints. Where complaints are filed, more will be resolved by the States and communities in which the parties reside. During 1982, for example, HUD referred 56.7% of the complaints it received to State and local agencies for process (compared with only 13% in 1980), and State and local agencies were responsible for over 58% of all voluntary complaint settlements achieved under Title VIII. As a result of this cooperation between HUD and State

and local agencies, there has been a substantial increase in the service provided to persons filing complaints under Title VIII, with 41% more complaints closed in 1982 than in 1980.

Table J-22. FAIR HOUSING COMPLAINTS REFERRED TO STATE AND LOCAL AGENCIES

	Actual		
	1980	1981	1982
Complaints received	3,039	4,209	4,726
Complaints referred	410	1,661	2,679

The Department of Justice's Civil Rights Division is responsible for litigating alleged pattern and practice violations of Title VIII. During 1982, the Department settled 3 major housing discrimination cases and filed 2 new suits. The Division negotiated a consent decree in a redlining suit brought under both the credit and housing statutes. This settlement provides comprehensive relief to assure that persons living on American Indian Reservations in Arizona will not be denied mortgage loans because the property interest involved reservation land, and that applications by Indians for nonhousing loans would be fairly evaluated. After a trial, the Division obtained a favorable decision and remedial order in a case involving a city in suburban Detroit which had violated the Fair Housing Act by blocking construction of housing for low-income and elderly persons in response to racially motivated opposition. This Division is continuing its vigorous enforcement of Title VIII in 1983. In January, the Division filed a major suit alleging systemic violations of the Fair Housing Act by the city of Cicero, Illinois.

The Department of Justice's appellate activity resulted in a Supreme Court ruling with particular significance for the future of Title VIII enforcement. This ruling sanctioned the use of "testers" in identifying the remaining vestiges of denial of fair housing opportunities.

ENFORCING EQUAL CREDIT OPPORTUNITY

The Equal Credit Opportunity Act of 1974 (ECOA) prohibits discrimination in credit transactions based on race, color, national origin, sex, marital status, age or derivation of part or all of one's income from public assistance. The Act assigns administrative enforcement responsibilities to 12 different Federal agencies, and requires the Federal Reserve Board to coordinate their activities. In addition, the General Litigation Section of the Department of Justice's Civil Rights Division is responsible for litigating alleged violations of ECOA.

Despite the wide dispersal of authority for enforcing ECOA and other fair lending laws many of the problems of duplication pres-

ent in other areas of dispersed responsibility have been avoided in the enforcement of these statutes. Because the structure for enforcing ECOA reflects the division of responsibility for the overall regulation of financial institutions, agencies are able to review compliance with ECOA and other financial regulations at the same time. As the distinctions among financial institutions (which originally gave rise to separate regulatory bodies for the different classes of institutions) have been substantially eroded in recent years, the Administration is currently examining the extent to which separate regulatory bodies continue to be required.

Since the passage of the ECOA, the Department of Justice's Civil Rights Division has worked closely with Federal regulatory agencies and have filed significant suits challenging the nonhousing lending practices of banks, small loan companies and retail creditors as well as the practices of real estate appraisers and mortgage lenders. The suits include cases against large creditors—one defendant processes approximately 4,000,000 loan applications each year—and will clearly have a substantial impact on the industry. In addition to negotiating a consent decree in the "redlining" suit (discussed above under Fair Housing), the Division also completed the first trial on the merits of a government-initiated credit case, and filed a suit alleging that the nation's third largest small loan company is unlawfully discriminating on the basis of sex and marital status. A total of five Equal Credit suits were in progress at the close of 1982.

The President's budget for 1984 provides for outlays of \$700 thousand for ECOA litigation by the Department of Justice. As several of the entities responsible for the administrative enforcement of ECOA and other fair lending requirements (e.g., the Federal Reserve Board, the agency designated by Congress to coordinate enforcement of the Equal Credit Opportunity Act) are not required to submit their budgets to OMB for review, no total outlay data for administrative enforcement are available.

CIVIL RIGHTS RESEARCH: CONTINUING THE SEARCH FOR NEW SOLUTIONS

"Let us issue a call for exciting programs to spring America forward toward the next century, an America full of new solutions to old problems."—RONALD REAGAN, June 29, 1981.

Congress established the Commission on Civil Rights in 1957 to study the enforcement of laws guaranteeing civil rights regardless of race, color, religion, or national origin. During the 1970's, the Commission's mandate was expanded to cover civil rights issues related to sex, age, and handicap. The President has announced his support for extending the Congressional authorization of the Commission (due to expire this year) in his State of the Union Message.

This is but one indication of the importance to this Administration of the Commission's mandate to assure that the laws protecting individuals against discrimination are faithfully executed.

Table J-23. U.S. COMMISSION ON CIVIL RIGHTS RESEARCH AND INFORMATION DISSEMINATION, RESOURCE OUTLAYS BY PROGRAM AREA

	Actual outlays			Estimated 1983	Proposed 1984
	1980	² 1981	1982		
Federal service EEO.....	(¹)	385	227	239	606
Private sector EEO.....	(¹)	2,971	3,984	4,172	3,996
Fair Housing.....	(¹)	616	690	597	1,211
Nondiscrimination in provision of federally assisted services and benefits.....	(¹)	2,602	3,299	3,580	3,265
Voting rights.....	(¹)	1,237	819	716	484
Civil and Constitutional Rights.....	(¹)	3,897	2,641	2,505	2,422
Minority business enterprise programs.....	(¹)	103	138	119	121
Total.....		11,485	11,712	11,788	12,214

¹ Prior to 1981, OMB did not request a breakdown by research category.

² Difference between total research outlays and total Commission outlays represents internal EEO expenditure for all years except 1981. In 1981, the Commission reported \$183 thousand in expenditures for processing complaints of civil rights violations of various kinds.

The Women's Bureau of the Department of Labor is continuing to explore new approaches to addressing employment problems affecting women, with particular attention to initiatives involving the private sector and State and local governments. During 1982, for example, the Bureau worked with private employers and State and local governments on programs to improve opportunities for women in construction apprenticeships, and to address the employment problems of female ex-offenders, displaced homemakers, and older women.

BY PRECEPT AND EXAMPLE: TAKING RIGHTS SERIOUSLY . . .

"Yes, there are differences over how to attain the equality we seek for all our people. And sometimes, amidst all the overblown rhetoric, the differences tend to seem bigger than they are. But actions speak louder than words. . . ."
PRESIDENT REAGAN, June 29, 1982

Thus, the Federal involvement in assuring civil rights reflects a national commitment to implementing our highest ideals. The Administration's accomplishments in restoring substance to this involvement are significant when judged by the traditional measures: resources devoted to civil rights enforcement;²¹ management im-

²¹ The Administration has made equally significant progress in areas which are related to, but not covered, by this Analysis. On December 17, 1982, President Reagan announced a plan to create and expand more than 120,000 new and existing minority businesses in the next ten years. Approximately \$1.5 billion in credit assistance and \$300 million in management and technical assistance will be made available in support of this effort. The Administration has also moved to strengthen historically black colleges and universities. The President signed an Executive Order strengthening the Federal commitment to these institutions, and the Administration has provided \$9.6 million in additional Title III funding (an 8% increase). The Administration's quick action to save Meharry Medical College (which has trained more than 40% of all black physicians) is particularly worthy of note. The Administration not only provided several million dollars in assistance to the medical school, but acted to expand Veterans' Administration's affiliation with it. Such expanded affiliation had been sought by Meharry, without success, through several previous administrations.

provements; cases and charges handled; actions brought; settlements reached; and compensation and opportunities restored to wronged individuals.

But the Administration's most important contributions, and those by which its commitment may best be measured, have been its efforts to restore substance to the definition of the civil rights which the Federal Government enforces. The Administration has reaffirmed the original vision which lies at the heart of our national commitment: an America that is colorblind, gender-neutral, ethnically and religiously tolerant and diverse; an America which judges individuals on the basis of their abilities. And it has reemphasized the clear meaning of the statutes intended to implement this commitment: that these laws protect individuals against treatment based solely on their race, sex, color, national origin, religion, or disability; and that they mandate equal access to opportunities for all individuals.

Considerable progress remains to be achieved. Through 1984, this Administration will neither diminish its reaffirmation of America's commitment to equal treatment, nor shrink from the measures required to give it effect as well as expression. And there will be persons of good will who will continue to call for a return to expedients which, for a time, were allowed to substitute for that commitment. But the likelihood of debate on those measures will continue to reflect, not a division of purpose, but the intensity of our common national commitment.

Table J-24. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY

(In millions of dollars)

	1982 actual	1983 estimate	1984 estimate
Department of Agriculture.....	15.3	17.0	17.7
Department of Commerce.....	3.7	4.4	4.4
Department of Defense.....	117.0	125.0	133.9
Department of Education ¹	45.3	45.0	45.3
Department of Energy ¹	3.1	3.4	3.7
Department of Health and Human Services.....	27.1	27.9	28.8
Department of Housing and Urban Development.....	24.6	34.0	30.4
Department of the Interior.....	10.3	10.4	10.5
Department of Justice.....	39.9	43.7	46.9
Department of Labor.....	52.6	54.5	58.7
Department of State.....	.3	.5	.4
Department of Transportation.....	13.9	14.6	15.1
Department of the Treasury.....	11.2	11.7	12.2
Equal Employment Opportunity Commission.....	137.6	147.0	153.0
Commission on Civil Rights.....	11.89	12.04	12.21
Office of Personnel Management.....	3.6	3.3	3.8
Small Business Administration.....	2.4	2.4	2.4
Veterans Administration.....	11.4	12.2	13.4
All other Executive agencies ²	17.0	17.2	18.3
(U.S. Postal Service) ³	18.0	19.6	21.4
(Legislative Branch—GAO, GPO) ³	1.4	1.4	1.6

Table J-24. CIVIL RIGHTS OUTLAYS BY DEPARTMENT AND AGENCY—Continued

(In millions of dollars)

	1982 actual	1983 estimate	1984 estimate
Total.....	567.6	607.2	634.1

¹The Education and Energy activities included under these accounts will be proposed for reassignment to appropriate executive departments and agencies pursuant to reorganization legislation to be submitted at a later date.

²Includes outlays by 49 agencies.

³U.S. Postal Service and Legislative Branch outlays appear in the Annexed Budget and are included here for memorandum purposes only.

Table J-25. TOTAL ESTIMATED FEDERAL CIVIL RIGHTS EXPENDITURES BY CATEGORY, FISCAL YEAR 1984

(In millions of dollars)

Category	Total estimated expenditures
Federal Civilian Equal Employment Opportunity	203.9
Military Equal Opportunity	51.8
Private Sector and non-Federal Public Sector Equal Employment Opportunity	211.5
Fair Housing	28.4
Nondiscrimination, Federally Assisted Programs	94.2
Equal Credit Opportunity.....	5.3
Voting Rights	4.8
Other Civil and Constitutional Rights	30.8

Table J-26. TOTAL FULL-TIME PERMANENT CIVIL RIGHTS STAFF BY EXECUTIVE DEPARTMENT AND AGENCY, FISCAL YEAR 1984 (ESTIMATE)

	Total ¹	Internal EEO	External programs ¹
Department of Agriculture.....	173	109	64
Department of Commerce.....	86	79	7
Department of Defense.....	2,486	² 2,407	33
Department of Education.....	965	15	950
Department of Energy.....	50	41	9
Department of Health and Human Services.....	688	179	509
Department of Housing and Urban Development.....	582	47	535
Department of the Interior.....	224	220	4
Department of Justice.....	905	156	749
Department of Labor.....	1,215	66	1,150
Department of State.....			
Department of Transportation.....	119	88	31
Department of the Treasury.....	254	214	40
Equal Employment Opportunity Commission.....	2,980	18	2,962
Commission on Civil Rights.....	236	3	233
Office of Personnel Management.....	45	45	
Small Business Administration.....	50	14	32
Veterans Administration.....	73	70	3
All other Executive agencies.....	500	345	16
(U.S. Postal Service).....	416	416	NA
(Legislative Branch—GAO, GPO).....	26	26	NA
Total.....	12,074	4,558	7,327

¹ Agency totals for FTP Internal EEO and FTP External program staff in some cases are less than figures for total civil rights FTP because some personnel have duties in both areas.

²Includes 917 FTP staff devoted to military service equal opportunity.

Table J-27. DISTRIBUTION OF PROFESSIONAL FTE's* AMONG PROGRAM CATEGORIES, EXECUTIVE DEPARTMENTS AND AGENCIES, FISCAL YEAR 1984 ESTIMATE

	<i>Total FTE</i>
Federal service equal opportunity	5,365
Military service equal opportunity.....	2,566
Private sector and non-Federal public sector equal employment opportunity	3,020
Fair housing	168
Nondiscrimination, federally assisted programs.....	1,939.26
Equal Credit Opportunity.....	151
Voting rights	96
Other Civil and Constitutional Rights.....	370

*Includes all professional FTE's devoted to the designated activities.

