



Audit of the Office of Justice Programs' Civil Rights Complaint Process



AUDIT DIVISION

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EXECUTIVE SUMMARY

Audit of the Office of Justice Programs' Civil Rights Complaint Process

Objective

The objective of our audit was to assess how the Office of Justice Programs' (OJP) Office for Civil Rights (OCR) solicited, received, and reviewed complaints of unlawful discrimination by recipients of Department of Justice (DOJ) grants and cooperative agreements from Fiscal Year (FY) 2019 through FY 2022.

Results in Brief

OJP OCR's primary mission is to ensure that recipients of financial assistance (e.g., grants) from the Office on Violence Against Women (OVW), the Office of Community Oriented Policing Services (COPS Office), and OJP's program offices comply with civil rights laws and nondiscrimination provisions. However, we found that the public websites for OVW, the COPS Office, and OJP's program offices did not include clear information on how to file a civil rights complaint. In addition, the award documents for these offices also did not include these instructions. Further, we identified deficiencies in the OCR's Manual for Administrative Investigations and Case Workflow, which had not been updated since January 2010 and September 2019, respectively. We also identified additional limitations in the OCR's efforts to track its cases, which makes it difficult to identify trends that could improve OCR's compliance review (i.e., civil rights audits) selection process. In addition, the OCR has not fully implemented a 2016 Protocol designed to facilitate OCR and Civil Rights Division (CRT) collaboration, communication, and coordination on civil rights enforcement policies and resources. The OCR also has not adequately planned for the implementation of an electronic complaint submission platform mandated by the Associate Attorney General.

Recommendations

Our report contains six recommendations to improve OJP's administration and oversight of the civil rights complaint process, and OJP agreed. OJP's response to our draft report is appended in Appendix 3, and our analysis of that response is in Appendix 4.

Audit Results

Individuals or groups who believe that a recipient of DOJ funding has unlawfully discriminated against them may file a complaint with the OCR. The OCR complaint process contains multiple levels of review and validation to determine if complaints are timely and valid. However, we believe the OCR should take steps to improve how it solicits, receives, and reviews civil rights complaints throughout the complaint process.

Complaint Solicitation Awareness

While OJP's website and OCR webpages within OJP's website included instructions on how to file a complaint against a DOJ award recipient, the award-making offices' webpages and award documents did not contain clear and consistent instructions on this complaint process. We believe that the OCR must enhance the information available about the process for filing a civil rights complaint to increase awareness of the OCR's complaint process. Additionally, we also believe clarifying complaint intake procedures will ensure complaints are properly reviewed.

Collaboration and Information Sharing

Historically, the OCR and CRT have entered into collaborative work agreements to avoid duplication of efforts, but we found that certain parts of the current agreement (which dates back to 2016) have not been fully implemented. The OCR also has no comprehensive method to track and analyze complaints which could improve its compliance review initiation process.

Complaint Process and Investigation Oversight

The OCR's Manual is intended to guide Attorney Advisors as they investigate valid complaints. However, we found the document is outdated, containing several inaccuracies and inconsistencies that may have a negative effect on investigations. Further, the OCR must better plan for a new electronic complaint submission platform to avoid unnecessary delay and disruption to the complaint process.

Table of Contents

Introduction	1
OJP Office for Civil Rights.....	1
Overview of the OCR Complaint Process.....	2
Review of Title VI and Safe Streets Act Enforcement Efforts.....	3
OIG Audit Approach.....	4
Audit Results	6
Enhanced Informational Awareness of the OCR Will Better Allow Complainants to File Complaints.....	6
Complaint Intake Process Requires Clarification.....	9
The OCR Must Clarify Review Processes to Ensure Proper and Efficient Distribution of Complaints.....	10
Intra-Agency Agreements Require Clarification.....	10
Improved Data and Information Tracking Can Strengthen Compliance Review Initiation and Referral.....	12
Review and Oversight of the Complaint Process.....	13
Improved Policies and Procedures will Better Guide OCR Investigations.....	13
OCR Should Better Plan for its New Electronic Complaint Submission Platform.....	14
Conclusion and Recommendations	16
APPENDIX 1: Objective, Scope, and Methodology	17
Objective.....	17
Scope and Methodology.....	17
Statement on Compliance with Generally Accepted Government Auditing Standards.....	17
Internal Controls.....	17
Compliance with Laws and Regulations.....	18
Sample-Based Testing.....	18
Computer-Processed Data.....	19
APPENDIX 2: Civil Rights Laws and Nondiscrimination Provisions	20
APPENDIX 3: The Office of Justice Program’s Response to the Draft Audit Report	22
APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report	27

Introduction

Federal civil rights laws—to include those that prohibit discrimination in employment and the delivery of services or benefits based on the protected categories of race, color, national origin, sex, religion, age, and disability—apply to any entity that receives federal financial assistance, such as grants and cooperative agreements.¹ The Department of Justice (the Department or DOJ) Office of Justice Programs' (OJP) Office for Civil Rights (OCR) has the primary administrative authority to enforce civil rights laws and nondiscrimination provisions with regard to recipients of DOJ financial assistance awarded by OJP, the Office on Violence Against Women (OVW) and the Office of Community Oriented Policing Services (COPS Office).²

OJP Office for Civil Rights

To ensure that these award recipients comply with civil rights laws, the OCR:

- (1) investigates administrative complaints alleging discrimination, if the complaint is made timely;
- (2) initiates compliance reviews (i.e., civil rights audits)³;
- (3) provides technical assistance to award recipients about their legally mandated responsibilities and informs beneficiaries about the protections provided by federal civil rights laws; and
- (4) offers policy guidance to DOJ award-making offices.⁴

¹ According to the DOJ Grants Financial Guide, a grant is a legal instrument of financial assistance between a federal awarding agency or pass-through entity and a non-federal entity to carry out a public purpose; a cooperative agreement is a legal instrument of financial assistance between a federal awarding agency and a recipient or a pass-through entity and a subrecipient that is consistent with 31 U.S.C. §§ 6302-6305.

² OJP has six program offices under OCR's jurisdiction, including the: (1) Bureau of Justice Assistance, (2) Bureau of Justice Statistics, (3) National Institute of Justice, (4) Office of Juvenile Justice and Delinquency Prevention, (5) Office for Victims of Crime, and (6) Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. The OCR's jurisdiction may change based on the specific statute or provision enforced. In certain circumstances, OCR also has concurrent administrative jurisdiction with DOJ's Civil Rights Division (CRT). See Appendix 2 for the civil rights laws and nondiscrimination provisions enforced by the OCR, which includes those shared concurrently with CRT.

³ According to the OCR's Manual, a compliance review, or civil rights audit, is an administrative investigation that the OCR initiates to determine whether a financial assistance recipient complies with the applicable civil rights laws that the OCR enforces. The scope may be broad or narrow. An example of a broad scope considers whether all of a recipient's employment practices conform to the applicable federal civil rights laws. An example of a narrow scope considers whether a particular recipient-operated facility permits access to people with disabilities as required by Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990.

⁴ For the purpose of this audit report, the award-making offices are the OVW, the COPS Office, and OJP, which includes its program offices.

As depicted in Figure 1, the OCR consists of a Director, Deputy Directors (Supervisory Attorney Advisors), Attorney Advisors, and administrative staff. The Attorney Advisors conduct the civil rights investigations.

Figure 1
The Office for Civil Rights

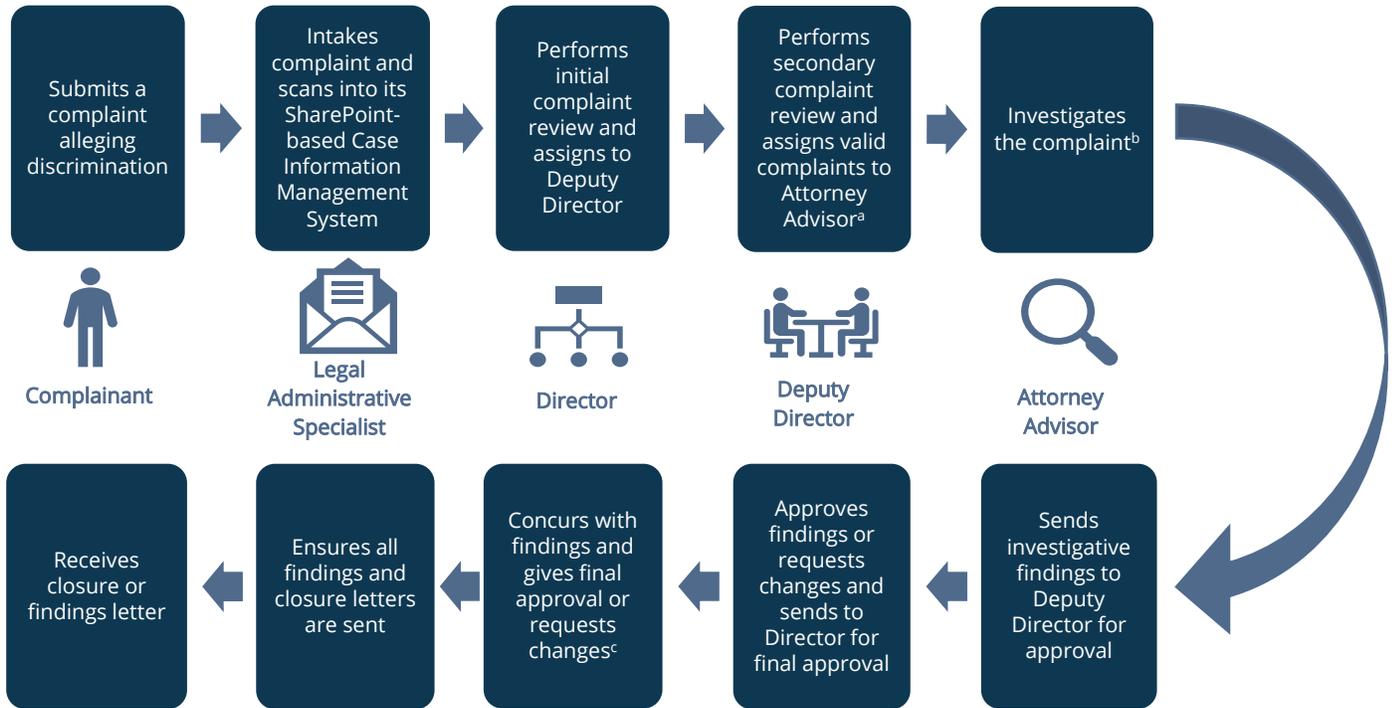


Source: OCR.

Overview of the OCR Complaint Process

Individuals (e.g., employees, beneficiaries, and applicants of an entity receiving DOJ funding) or groups who believe that a DOJ funding recipient has discriminated against someone based on any protected category may file a complaint with the OCR. The OCR may receive a complaint by mail, email, hand receipt, or through referrals from other federal agencies or DOJ components. Figure 2 details the complaint process from receipt of an allegation to complaint resolution.

Figure 2
OCR Complaint Process



^a For this report, we define a valid complaint as one that is: (1) timely, (2) within the OCR’s jurisdiction, and (3) within a protected class (see 28 C.F.R. § 42.107(b), 28 C.F.R. § 42.205(b), 28 C.F.R. § 42.205(c)(1)(i), 28 C.F.R. § 42.104(a), and 28 C.F.R. § 42.203(a)). When the OCR determines a complaint is invalid, the OCR issues the complainant a closure letter explaining its determination to not open an investigation. Additionally, when the OCR determines a complaint is not within its jurisdiction, the OCR issues the complainant a closure letter, or refers the complaint to another federal agency.

^b The Attorney Advisor notifies the complainant and the award recipient of the investigation, if the OCR determines that the complaint is valid. An investigation has two possible outcomes: (1) no discrimination is found and a closure letter is issued to the complainant and award recipient or (2) discrimination is found and a findings letter is issued to the complainant and the award recipient. A findings letter explains what the OCR investigated, reviewed, and found as well as recommendations to achieve compliance from the award recipient.

Source: OIG analysis of OCR provided information.

Review of Title VI and Safe Streets Act Enforcement Efforts

In September 2021, the Associate Attorney General (ASG) directed the Civil Rights Division (CRT) to work with OJP, the OVW, and the COPS Office to perform a 90-day review of DOJ’s implementation and administrative enforcement of Title VI of the Civil Rights Act of 1964 (Title VI) and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) in connection with federal financial assistance

that the Department provides.⁵ Senior officials from the four components conducted the review, focusing on administrative enforcement, data collection and reporting, intra-departmental coordination, and legal rules and regulations pertaining to the aforementioned laws. These senior officials also considered DOJ's ongoing efforts to implement Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*.⁶

Specifically, the review team: (1) surveyed Department components and offices responsible for the implementation and enforcement of statutes that impose nondiscrimination obligations on federal financial assistance recipients, (2) met with representatives from other federal agencies involved in Title VI enforcement, and (3) convened over 50 listening sessions with over 300 stakeholders to identify themes and areas of improvement for Title VI and Safe Streets Act implementation. In December 2021, when the review concluded, the four reviewing components' senior officials submitted a report to the ASG containing recommendations to enhance the DOJ's efforts to ensure compliance with the nondiscrimination mandates. In response, on June 22, 2022, the ASG issued a memorandum containing five directives for the Department to improve the implementation and enforcement of Title VI and the nondiscrimination provisions of the Safe Streets Act.

OIG Audit Approach

Our audit objective was to assess how OJP's OCR solicited, received, and reviewed complaints of unlawful discrimination by recipients of DOJ grants and cooperative agreements from Fiscal Year (FY) 2019 through FY 2022. To accomplish the audit objective, we:

- Interviewed 14 OCR personnel, including the Director, Deputy Directors, Attorney Advisors, administrative staff, and one contract worker about their roles and responsibilities regarding the complaint process.
- Interviewed cognizant officials from OJP, the OIW, the COPS Office, and CRT to assess coordination and collaboration.
- Reviewed award documents, publicly available information describing the OCR's roles and functions, and the OCR's standard operating procedures as well as policies governing the complaint process.

⁵ According to the 2022 ASG's memorandum, Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs or activities receiving federal financial assistance. The nondiscrimination provisions of the Safe Streets Act are modeled on Title VI and prohibit discrimination on the basis of race, color, national origin, religion, and sex in connection with any program or activity funded with specific criminal justice related funds.

⁶ This Executive Order requires all federal agencies, including the Department, to "pursue a comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality."

- Selected a sample of 42 closed complaints, which we analyzed for adherence to policies and other criteria.⁷
- Assessed the effects of the ASG’s Review of Title VI and Safe Streets Act Enforcement Efforts on the OCR, and the OCR’s efforts to fulfill the directives that resulted from this review.

Appendix 1 further details our audit objective, scope, and methodology.

⁷ The OCR provided a universe of complaints that contained 5,039 total complaints, which we filtered by the received date to reflect the audit scope FY 2019 through FY 2022. This resulted in 4,814 closed, opened, referred, and deferred complaints. We derived our sample of 42 complaints from 4,330 closed complaints extracted from a total universe of 4,814 closed, opened, referred, and deferred complaints. The Sample-Based Testing Section of Appendix 1 further details our analysis.

Audit Results

We identified several steps that the Office for Civil Rights (OCR) can take to improve how it solicits, receives, and reviews civil rights complaints made against the Department of Justice (the Department or DOJ) grant and cooperative agreement recipients. Specifically, regarding the solicitation and receipt processes for the Office on Violence Against Women (OVW), the Office of Community Oriented Policing Services (COPS Office), and the Office of Justice Programs' (OJP) program offices, we found that neither the websites nor award documents for these components clearly detail how to file a complaint. Further, even though all received complaints should be scanned into OCR's SharePoint-based Case Information Management System (CIMS), we found that a single contract worker independently determines which complaints get scanned into the CIMS or "pushed off to the side," which heightens the risk that OCR will incorrectly process or potentially miss legitimate complaints. We also found that CIMS has limitations that make it difficult for OCR staff to search and identify complaint trends and track and analyze complaints for compliance review initiation.

Additionally, we found that the OCR and CRT, which share responsibility for enforcing Title VI of the Civil Rights Act of 1964 (Title VI) and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act (Safe Streets Act), have not fully implemented a 2016 Protocol designed to facilitate OCR and CRT's collaboration, communication, and coordination on civil rights enforcement policies and resources, which may increase the risk of duplicative and inefficient work between the two components. Furthermore, the Manual for Administrative Investigations (OCR Manual), which has been in draft and not updated since January 2010, includes guidance on civil rights complaint investigations, but does not describe the risk factors that engender a compliance review. We also identified several inaccuracies, inconsistencies, and outdated entries within the OCR Manual, which may negatively impact the OCR Attorney Advisors who perform civil rights investigations. Lastly, we found that the OCR has not adequately planned for the implementation of a centralized, electronic platform for filing and managing discrimination complaints. Specifically, OCR has not determined whether it will use the electronic complaint submission platform to replace or supplement CIMS nor has OCR adequately planned for the likely increase in the number of complaints the new system will bring.

Enhanced Informational Awareness of the OCR Will Better Allow Complainants to File Complaints

The OCR complaint process pursuant to Title VI and the Safe Streets Act begins with a complainant submitting an allegation of discrimination to OCR.⁸ Under Title VI's implementing regulations, each award recipient must provide information regarding protections against discrimination to program participants, beneficiaries, and other stakeholders, as the OCR Director finds necessary.⁹ While OJP's website and OCR webpages within OJP's website contain clear information regarding OCR's functions and instructions on how to file a complaint, we found that neither the websites nor award documents for the OVW, the COPS Office, or OJP's program offices include this information.

The OCR typically requires its staff to obtain additional documentation from complainants in order to initiate an investigation based on a complaint. The OCR will normally request a Complaint Verification Form

⁸ See 28 C.F.R. § 42.107(b) and 28 C.F.R. § 42.205(a).

⁹ See 28 C.F.R. § 42.106(d).

and an Identity Release Statement from the complainant that must be submitted within 30 to 45 days. These documents assess: (1) the merits of a complaint, (2) whether the alleged discrimination occurred under any relevant statute, (3) the identity of the complainant, and (4) the entity that committed the alleged discrimination. OCR staff stated that the OCR usually closes anonymous complaints because it is unfeasible to investigate any matter without first identifying complainant characteristics or attributes, such as the nature of the complainant's relationship with the alleged discriminating entity.¹⁰ Thus, complainants need to release their identity for an investigation to proceed.

Within the OCR webpages on OJP's website, we noted clear details about OCR's need to verify the complaint by obtaining an Identity Release Statement prior to opening an investigation. Moreover, OCR staff stated that upon the receipt of a complaint without the required supporting documents, the OCR attempts to communicate with the complainant to clarify the requirements and obtain the related documents. As such, we believe that the process to submit a complaint did not appear overly burdensome or confusing.

Outside of the OCR-specific webpages, we also found links on OJP's "Contact Us" and the DOJ's "Submit a Complaint" webpages that brought the user to the OCR complaint filing instructions. However, after a review of the websites for the OVW, the COPS Office, and the six OJP program offices, we found that the websites did not contain background information about the OCR or instructions on how to file a civil rights complaint with the OCR. When we raised this concern, an OCR official told us that OCR considers all of OJP's program offices websites part of the OJP website, which covers all OJP program offices for OCR complaint information. This official further explained that OCR is exploring the possibility of developing and providing more civil rights information on the subpages to OJP's website, which could include additional links to OCR's complaint page. However, an individual or group that wishes to make a complaint may not be aware of OJP or OCR. Moreover, we determined that this would not include the OVW or the COPS Office.

When we raised this issue about the OVW and the COPS Office webpages, its officials provided the following examples of publicly available complaint process information: (1) two Frequently Asked Questions (FAQ) documents related to the OVW grant conditions and nondiscrimination regulations which included explanations of the OCR complaint process and how to file a complaint in the answers to those FAQs, and (2) a COPS Office Award Owner's Manual that contained a link to the OCR webpage, allowing users to navigate to webpages on the complaint process, including how to file a complaint. Additionally, an OCR Attorney Advisor informed us that State Administering Agencies that are direct recipients of OJP or DOJ funds are subject to Methods for Administration requirements to train their employees on civil rights requirements and the complaint process.¹¹

¹⁰ According to the OCR's Manual, "it is virtually impossible for the OCR to conduct an investigation to substantiate a civil rights violation involving a grant recipient without identifying the aggrieved party. If the complainant does not sign the Identity Release Statement, the lack of consent will ordinarily lead the OCR to close the complaint." According to 28 C.F.R. § 42.205(c)(2)(i), the Safe Streets Act states that an investigation will normally be initiated with the grant recipient notified of the complainant's identity, with their written consent, while 28 C.F.R. § 42.107(e) for Title VI states the "identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this subpart, including the conduct of any investigation."

¹¹ A recipient of an OJP award must establish and implement written Methods of Administration designed to ensure recipient and subrecipient compliance with applicable federal civil rights laws. The recipient must submit its Methods of

Continued

As it relates to award documents, we found that the award documents from the award-making offices notified award recipients of their responsibility to comply with federal civil rights laws and nondiscrimination provisions. We also found that the award packages contained information, through a notification letter from the OCR, about the OCR and its functions such as, the OCR's delegated authority to:

- (1) ensure that recipients of federal financial assistance from OJP, the OWW, and the COPS Office are not engaged in unlawful discrimination;
- (2) investigate allegations of discrimination against recipients from individuals, entities, or groups, and conducts limited compliance reviews and audits based on regulatory criteria; and
- (3) be available to help an organization meet the civil rights requirements associated with DOJ award funding.

Although we confirmed that the OCR provided trainings to both award-making offices' staff and award recipients on the OCR's functions and civil rights requirements, we determined there is no consistent and clear description of the OCR complaint process or its requirements across award documents and there are no requirements in award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process. While the training may have contributed to increasing some award recipients' awareness of the OCR, we identified no comprehensive approach that would inform all award recipients and beneficiaries of the OCR complaint process itself. Without providing adequate information regarding the OCR complaint process and an individual's or group's ability to file a complaint, civil rights violations may go unreported from award recipients and beneficiaries.

The review of the Department's enforcement of Title VI and the Safe Streets Act found there was wide support among stakeholders for greater information and transparency regarding the requirements of Title VI and the nondiscrimination provisions of the Safe Streets Act and the Department's enforcement processes with respect to these laws. Stakeholders also stressed the need for greater education for victims of discrimination, recipients, and the general public. The 2022 ASG Memorandum directed a Title VI and Safe Streets Act Compliance Working Group to provide greater clarity and transparency about the scope of, and the Department's processes for enforcement under, Title VI and the nondiscrimination provisions of the Safe Streets Act.

During the audit, an OJP official informed us of a plain language initiative to standardize and clarify civil rights information and requirements through a department-wide notice of civil rights protections and obligations. Considering this initiative, as well as the need for greater clarity and transparency to promote the enforcement of civil rights provisions, we recommend that OJP work with DOJ award-making offices to ensure that the Department's public platforms and award documents include consistent and clear instructions for filing civil rights complaints with the OCR. Further, we believe that OJP should consider

Administration to the OCR within 90 days after the date the recipient accepts this award. The Methods of Administration must be in writing and must contain the following four primary elements: (1) policy and procedures for addressing complaints of impermissible discrimination, (2) notification to subrecipients of civil rights requirements, (3) protocol for monitoring for subrecipient compliance with civil rights related award requirements, and (4) methodology for training subrecipients on civil rights related award requirements.

adding a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process.

Complaint Intake Process Requires Clarification

The OCR's Case Workflow, standard operating procedures (SOP), last updated in September 2019, assign the OCR legal administrative specialists (also known as case intake personnel) responsibility for the case intake process, which entails scanning complaints into CIMS, or referring the complaints to another OJP office or to the National Criminal Justice Reference Service (NCJRS).

Nonetheless, we found that the OCR Case Workflow does not fully depict the roles and responsibilities of all personnel involved in the intake process. Specifically, we found that OCR uses a contracted legal administrative specialist for case intake, and this contract worker's role is not memorialized in the SOP. When we discussed the intake process with this contract worker, they told us that they use "professional judgement" to determine which complaints should be scanned into CIMS or "pushed off to the side," without further review from OCR officials. In contrast, a non-contracted OCR legal administrative specialist told us that all complaints should be scanned into CIMS, and judgment subsequently applied by OCR officials to determine whether the complaints fall within the OCR's jurisdiction, rather than the OCR legal administrative specialist or contract worker determining whether to exclude the complaints from CIMS.

In addition to the OCR Case Workflow being silent on when intake personnel should apply professional judgment to determine which complaints belong in CIMS, the contractor's scope of work document also does not address this. We further determined that the OCR's Manual does not discuss CIMS or describe the case intake process accurately. Specifically, the OCR Manual does not mention the OCR legal administrative specialist or contract worker positions. Instead, the OCR Manual assigns the limited case intake responsibilities to the Attorney Advisors. In response to the contract worker's use of professional judgment, an OCR official explained that since December 2021, the OCR had received 25 pieces of correspondence that intake personnel did not enter into CIMS, and only three of those 25 had been addressed directly to the OCR. The OCR official further explained that these correspondences usually consist of generalized comments about public safety, requests for nonspecific information, or commentary on current events. The OCR official also stated that historically the OCR officials, through another process that is not documented in the policies and procedures, have informally, but routinely, reviewed these invalid correspondences to ensure proper handling and disposition. For additional examples of inaccuracies within the OCR's Manual, see *the Intra-Agency Agreements Require Clarification* and *Improved Policies and Procedures will Better Guide OCR Investigations* sections of this report.

We believe that the OCR and contract personnel involved in the complaint intake process have disparate views of their roles and responsibilities because the OCR's Case Workflow SOP, the OCR's Manual, and contractor's scope of work document contain inconsistencies or do not fully cover the intake process. While the informal reviews of complaint handling and disposition performed by OCR officials could serve as a mitigating control, we believe that without a formalized clear, consistent, and comprehensive framework for the case intake process, the OCR and contract personnel may incorrectly process complaints or potentially overlook legitimate complaints. Therefore, we recommend that OJP ensure the OCR enhances its Case Workflow, manual, and contract documents to include all OCR and contract personnel roles, responsibilities, and processes. Such enhancements should facilitate an understanding of the OCR's requirements for

scanning complaints into CIMS, intake personnel application of professional judgment, and subsequent review of complaints by the appropriate OCR officials.

The OCR Must Clarify Review Processes to Ensure Proper and Efficient Distribution of Complaints

As depicted in Figure 2, after the OCR receives and scans complaints into CIMS, the OCR Director reviews the complaint to determine whether it is valid (i.e., submitted timely, has merit, and is within the OCR's jurisdiction).¹² If the OCR Director finds the complaint meets these requirements, the OCR Director forwards the complaint to a Deputy Director to perform a secondary review to assess complaint validity. If the complaint is valid, the Deputy Director assigns it to an Attorney Advisor for investigation. The Director may also refer the complaint to another DOJ office or a different federal agency with jurisdiction. We identified specific policies and methods that may be enhanced to improve the OCR's review and distribution of complaints.

Intra-Agency Agreements Require Clarification

Both OJP's OCR and CRT have been tasked with ensuring that recipients of DOJ federal financial assistance do not discriminate on the basis of race, color, national origin, religion, sex, sexual orientation, gender identity, age, and disability under various statutes and regulations. The OCR has the primary responsibility for conducting administrative investigations and compliance reviews within its jurisdiction under Title VI and the Safe Streets Act, while CRT is responsible for general enforcement of all federal statutes affecting civil rights and may bring litigation in federal courts. Because CRT, through delegation, is responsible for ensuring the consistent and effective implementation of Title VI and other civil rights laws that prohibit discriminatory practices in programs receiving federal financial assistance, its investigations typically involve allegations of systemic or patterns or practices of discrimination, involving recipients of DOJ federal financial assistance.

OJP's OCR and CRT have historically entered into agreements to work collaboratively in resolving discrimination complaints, facilitate communication, prevent undue overlap on civil rights matters, coordinate civil rights enforcement policies and protocols, and utilize the expertise and resources of each agency. We determined that a 2016 memorandum, titled "Protocol for Investigating Alleged Discrimination by Recipients of DOJ Financial Assistance" (2016 Protocol) signed by the Principal Deputy Associate Attorney General of the Office of the Associate Attorney General (OASG) governs the current interactions between OCR and CRT. The 2016 Protocol applies to:

¹² Under Title VI's implementing regulations, a complaint must be filed no more than 180 days from the date of the alleged discrimination unless the OCR Director extends the deadline, 28 C.F.R. § 42.107(b). Under the Safe Streets Act regulations, a complaint must be filed no more than one year from the date of the alleged discrimination unless the OCR Director extends the deadline, 28 C.F.R. § 42.205(b).

Additionally, the Safe Streets Act regulations establish jurisdiction to investigate: (1) if a complaint alleges discrimination prohibited by the Safe Streets Act and (2) if the complaint is filed no more than one year from the date of the alleged discrimination, unless the OCR Director extends the deadline, 28 C.F.R. § 42.205(c)(1)(i).

(1) the processing and handling of complaints alleging discrimination or other violations of federal law when jurisdiction or authority is asserted based on federal financial assistance provided by OJP, the OVW, or the COPS Office;

(2) compliance reviews when jurisdiction or authority is asserted based on federal financial assistance provided by OJP, the OVW, or the COPS Office; and

(3) CRT-initiated investigations involving recipients of OJP, the OVW, and the COPS Office financial assistance undertaken pursuant to CRT's authority under federal civil rights laws.

The 2016 Protocol provided for, among other things, regular meetings to discuss matters of mutual concern, docket sharing of all open matters, guidance involving jurisdiction over discrimination complaints, and coordination and communication of OCR-initiated compliance reviews and CRT-initiated investigations.

The 2022 ASG Memorandum further expanded collaboration, directing OJP and CRT to assign a senior attorney from each component to serve jointly as the Department's Administrative Enforcement Coordinators for Title VI and the Safe Streets Act. The 2022 ASG Memorandum stated that greater coordination between OJP and CRT to address overlapping jurisdiction in the Department's Title VI and Safe Streets Act compliance could more effectively ensure consistency across the Department's administrative enforcement and compliance efforts. As such, the 2022 ASG Memorandum directed these Administrative Enforcement Coordinators to maximize the effectiveness of the Department's administrative enforcement by working with components across the Department to identify potential civil rights compliance concerns under Title VI, the Safe Streets Act, and other federal laws prohibiting discrimination in programs and activities receiving federal financial assistance.

OCR and CRT officials have stated that communication and collaboration efforts have proven beneficial. Specifically, OCR and CRT officials informed us of meetings between the two components to share case dockets, promote situational awareness of each component's activities, and determine complaint jurisdictions.

However, OCR and CRT officials told us that certain provisions of the 2016 Protocol have not been fully implemented. For instance, OCR and CRT officials stated that they were not exchanging electronic dockets of all open matters as required by the 2016 Protocol. Further, the 2016 Protocol required the OCR and CRT to establish a Micro-Detail Program so that OCR attorneys could gain experience at CRT and vice versa; however, an OCR official stated that it cannot participate due to resource constraints.¹³ Another OCR official informed us of inequitable distributions of disability complaints between the OCR and CRT. Moreover, the 2016 Protocol notes that CRT should have read-only access to the Justice Grants System (JustGrants), OJP's

¹³ Under the proposed Micro-Detail Program, the Assistant Attorneys General of OJP and CRT would allow certain personnel to temporarily rotate between the components to gain exposure to the host component's operations. Specifically, for up to three months, CRT and OCR staff attorneys and other personnel with relevant technical expertise could rotate between CRT and OCR on non-reimbursable details.

grants management system, in order to identify recipients of OJP, OVW, or COPS Office financial assistance. However, CRT officials expressed difficulty in operating the system, and few officials had access.¹⁴

While both OCR and CRT officials told us that they have been discussing potential changes to the 2016 protocol and that they understand the importance of communicating and collaborating, we believe that not fully adhering to the 2016 Protocol risks duplicative and inefficient work between the two components. Additionally, most OCR staff did not know the current status of agreements with CRT. Without an understanding of the current working relationships and arrangements between the OCR and CRT, complaint processing and investigation may be unnecessarily delayed as the proper procedure and channel for the complaint is determined. We recommend that OJP work with the OASG and CRT to reassess and update the 2016 memorandum “Protocol for Investigating Alleged Discrimination by Recipients of DOJ Financial Assistance” and once complete, take steps to ensure that appropriate OCR staff are sufficiently aware of its contents.

Improved Data and Information Tracking Can Strengthen Compliance Review Initiation and Referral

Under the Safe Streets Act regulations, a compliance review is a review of a recipient’s selected employment practices or delivery of services for compliance with the provisions of Title VI and the Safe Streets Act.¹⁵ According to the Safe Streets Act regulations, the OCR should select compliance reviews based on:

- (1) the relative disparity between the percentage of minorities, or women, in the relevant labor market, and the percentage of minorities, or women, employed by the recipient;
- (2) the percentage of women and minorities in the population receiving program benefits;
- (3) the number and nature of discrimination complaints filed against a recipient with OJARS [OJP] or other Federal agencies;
- (4) the scope of the problems revealed by an investigation commenced on the basis of a complaint filed with the Office [OCR] against a recipient or by a pre-award compliance review; and
- (5) the amount of assistance provided to the recipient.¹⁶

The 2022 ASG Memorandum states that compliance reviews can serve as an effective mechanism for ensuring that recipients meet their nondiscrimination obligations. Targeted effectively, compliance reviews can allow the Department to identify possible discriminatory conduct and provide recipients the opportunity to engage with the Department and achieve voluntary compliance with nondiscrimination obligations. The Department can also use lessons learned from compliance reviews to develop guidance, technical assistance, and other resources that can benefit recipients more broadly.

¹⁴ DOJ OIG, *Audit of the Office of Justice Programs’ Procurement for the JustGrants System*, Audit Report 23-087 (July 2023), oig.justice.gov/sites/default/files/reports/23-087.pdf, highlights challenges that DOJ and its award recipients experienced since the launch of JustGrants in October 2020.

The 2016 Protocol states that OJP will provide training, as needed, to CRT staff on the systems operation. CRT will also be able to contact the OJP Office of Audit, Assessment, and Management’s Grants Management Division to obtain information regarding grantees.

¹⁵ See 28 C.F.R. § 42.202(i).

¹⁶ See 28 C.F.R. § 42.206(c).

The OCR Manual states that the selection of compliance reviews should be methodical and justified based on the regulations. The OCR Manual also states that the OCR should establish and maintain policy for the selection of compliance reviews, if the regulations do not provide guidance. Although the regulations indicate that a compliance review may be initiated if the OCR receives several similar complaints about a particular award recipient, OCR staff told us that searching and identifying complaint trends is difficult due to the informal tracking of complaints (primarily facilitated through oral direction from OCR officials to staff) and CIMS limitations. We determined through further discussions with OCR officials, that the OCR has no comprehensive method to track and analyze complaints for compliance review initiation, and the OCR's Manual provides the basis of selection for review as set forth in the regulations described above but does not describe the risk factors that should engender a review.

Without clear policies and procedures on how to select award recipients for compliance reviews in line with the regulations noted above, OCR cannot effectively monitor for trends among the recipients related to civil rights topics. The OCR Director told us that OCR has no formal means for compliance review initiation as such reviews can be based on multiple factors, including federal priority shifts. However, we believe enhanced and formalized means to collect complaint data to analyze trends may improve the efficacy of decision-making surrounding compliance review initiation.

Additionally, OCR staff informed us of their belief that OCR will place greater emphasis on compliance reviews once OCR hires additional staff. Further, the 2022 ASG Memorandum reported that the shared enforcement responsibilities between the OCR and CRT have created inefficiencies and confusion in civil rights enforcement. The 2022 ASG Memorandum directed OJP and CRT to revise Department protocols so that OCR and CRT: (1) share responsibility for conducting compliance reviews, (2) share information and data about federal financial assistance recipients, (3) coordinate the use of Department resources to further enhance coordination, and (4) augment the Department's capacity to conduct compliance reviews.

We believe that improved complaint tracking and analysis will not only better inform the OCR's compliance reviews, but CRT's enforcement actions, as well. Therefore, we recommend that OJP ensure the OCR updates its policies and procedures for all OCR personnel to track complaints and assess risks associated with the regulations and to properly weigh the impact of civil rights and nondiscrimination violations for better informing the selection process for OCR compliance reviews.

Review and Oversight of the Complaint Process

To ascertain whether the OCR's complaint process adheres to policy, we reviewed a sample of 42 complaints received by the OCR. Some aspects of the complaints we reviewed included: (1) timeliness of complaint, (2) proper review procedures as identified in OCR policies, and (3) proper closeout of invalid complaints and completed investigations resulting from valid complaints. We did not question the legal determination made by the OCR in each complaint. Overall, we did not find systemic issues related to the OCR's adherence to the policy governing complaint review and investigation proceedings, but noted some concerns that may negatively impact the OCR complaint process, as outlined below.

Improved Policies and Procedures will Better Guide OCR Investigations

The OCR's Manual helps guide Attorney Advisors as they investigate valid complaints with appropriate timeliness and jurisdiction and serves as its policies and procedures for investigations. The OCR did not

identify any additional written policies aside from its Case Workflow that briefly outlines the steps taken by OCR personnel during the complaint process.

We found that the OCR's Manual is currently in draft and has not been updated since January 2010. We identified several inaccuracies, inconsistencies, and outdated entries within the document that may have a negative effect on Attorney Advisors conducting investigations. Examples include:

(1) The OCR's Manual identifies Attorney Advisors as the party responsible for conducting a preliminary complaint review. However, the Case Workflow and staff interviews identified the OCR Director and Deputy Directors conducting preliminary reviews as standard practice.

(2) The OCR's Manual includes expired or superseded Memoranda of Understanding with CRT.

(3) The OCR's Manual states that one of the distinguishing characteristics of a compliance review is that it is a civil rights investigation that the OCR initiates, often in the absence of any complaint, while the OCR staff that we spoke to stated that OCR can initiate compliance reviews based on multiple complaints against the same entity, which may be indicative of an overarching civil rights concern.

Without current and accurate policies and procedures, an investigation and the OCR complaint process may be unnecessarily delayed or incorrectly performed. Additionally, many OCR staff we spoke to stated that they did not utilize the OCR's Manual often or did not find it helpful.

Further, OCR staff stated that a large part of their onboarding with the OCR was centered around "on-the-job" and peer-to-peer training. While some staff did not have an issue with this approach, others noted their confusion in the early stages of their employment and their desire for more formalized training. We believe an updated manual that contains training resources would help to clarify personnel roles and process, minimizing the risk of inefficient or incorrect complaint investigations.

An OCR official initially stated that the OCR's "to-do" list included updating its manual once the OCR contracts a technical writer. Later, the same OCR official informed us that OCR had entered into a contract for a technical writer. Given the importance of written, accurate policies and procedures to guide civil rights investigations, as well as the additional benefit of staff support, we recommend that OJP ensure that the OCR completes its planned update of its written manual, and that such material contains training resources that can appropriately inform staff of their job responsibilities.

OCR Should Better Plan for its New Electronic Complaint Submission Platform

The 2022 ASG Memorandum required the OCR, in consultation with CRT, to develop a centralized, electronic platform for filing and managing Title VI and Safe Streets Act discrimination complaints. Currently, the OCR mainly relies on a paper-based system for receiving complaints relating to Title VI, the Safe Streets Act, and other federal civil rights statutes. The OCR may also receive some complaints through other methods, such as in-person drop-offs and referral by other federal agencies, including CRT's Disability Rights Section. According to the 2022 ASG Memorandum, the lack of an electronic complaint system is inefficient for receiving complaints from the general public and may add unnecessary hurdles for certain individuals

seeking to file a complaint. The memorandum goes on to state that using a centralized electronic platform will allow the OCR to leverage technological developments that allow for the online receipt and processing of complaints. It could also make document filing and management easier and more accessible to complainants and respondents. A system with increased management capabilities will also allow OCR and CRT to improve their ability to collect and analyze complaint data.

In March 2023, the OCR Director stated that OCR, the Office of the Chief Financial Officer (OCFO) and the Office of the Chief Information Officer (OCIO) met to discuss plans to launch OCR's electronic complaint submission platform. OCR ultimately resolved that its OCIO needed to scope the system requirements and OCFO assured that the funding would be available once OCIO estimated the costs. As of April 2023, the OCR Director stated that the electronic complaint submission platform has moved from the conceptual to the developmental phase because OCIO can develop the system using existing resources. Additionally, OCIO provided OCR with mock-ups of the electronic complaint submission platform, and OCR will begin discussions on complainant privacy protections that the system will need to include. As of April 2023, the OCR stated that no additional funding needs had been identified, but that could change as the OCR examines the privacy requirements and considers other aspects of the project deployment phase.

While we believe the new system is a positive development, we are concerned that the new platform will potentially have a large impact on the OCR's complaint process by increasing the volume of complaints received by OCR and many OCR personnel shared similar concerns. We also have these concerns given that CRT representatives stated that annual submitted complaints in calendar year (CY) 2023 have risen approximately 32 percent since CRT instituted an online complaint submission platform in 2020.¹⁷ Currently, the OCR does not have an implementation plan for the complaint platform that accounts for the potentially significant increase in complaint volume. Considering the anticipated rise in the number of complaints that the electronic complaint submission platform may have on the OCR, operations may be significantly disrupted without proper awareness of and preparation for the initiative. Therefore, we recommend that OJP work with the OCR to develop and distribute a plan that ensures OCR staff are prepared for the implementation of the electronic complaint submission platform and the predicted increase in complaint volume.

¹⁷ This percentage is projected based on information received from CRT officials.

Conclusion and Recommendations

Overall, our review found that certain aspects of OJP OCR's civil rights complaint process could be improved. Specifically, we determined that OCR could: (1) increase the awareness of its complaint process by working with OJP, COPS, and OVW to enhance webpages and award documents with clear and consistent instructions on how to file a civil rights complaint; (2) improve the Case Workflow and the Manual for Administrative Investigations (OCR's Manual) to help OCR staff handle incoming complaints in a fair and consistent manner; (3) fully implement certain provisions of the inter-agency agreement between OJP OCR and CRT to reduce the continued risk of duplicative and inefficient work between the two components; (4) establish clear policies and procedures in the OCR's Manual on how to select award recipients for compliance reviews to effectively monitor trends among the recipients related to civil rights topics; (5) update its Manual to ensure the complaint process is not delayed and incorrectly performed and provide training resources to mitigate the risk of inefficient or incorrect complaint investigations; and (6) plan for the implementation of the electronic complaint submission platform to accommodate a potentially larger volume of complaints while reducing the risk of significant disruption to its operations.

We recommend that OJP:

1. Work with DOJ award-making offices to ensure that the Department's public platforms and award documents include consistent and clear instructions for filing civil rights complaints with the OCR. Further, we believe that OJP should consider adding a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process.
2. Ensure the OCR enhances its Case Workflow, manual, and contract documents to include all OCR and contract personnel roles, responsibilities, and processes.
3. Work with the OASG and CRT to reassess and update the 2016 memorandum "Protocol for Investigating Alleged Discrimination by Recipients of DOJ Financial Assistance" and once complete, take steps to ensure that appropriate OCR staff are sufficiently aware of its contents.
4. Ensure the OCR updates its policies and procedures for all OCR personnel to track complaints and assess risks associated with the regulations and to properly weigh the impact of civil rights and nondiscrimination violations for better informing the selection process for OCR compliance reviews.
5. Ensure that the OCR completes its planned update of its written manual, and that such material contains training resources that can appropriately inform staff of their job responsibilities.
6. Work with the OCR to develop and distribute a plan that ensures OCR staff are prepared for the implementation of the electronic complaint submission platform and the predicted increase in complaint volume.

APPENDIX 1: Objective, Scope, and Methodology

Objective

The objective was to assess how the Office of Justice Programs' (OJP) Office for Civil Rights (OCR) solicited, received, and reviewed complaints of unlawful discrimination by recipients of Department of Justice (the Department or DOJ) grants and cooperative agreements from Fiscal Year (FY) 2019 through FY 2022.

Scope and Methodology

To accomplish the audit objective, we interviewed 14 OCR personnel, including the Director, Deputy Directors, Attorney Advisors, administrative staff, and one contract worker about their roles and responsibilities regarding the complaint process. We also interviewed cognizant officials from OJP, the Office on Violence Against Women (OVW), the Office of Community Oriented Policing Services (COPS Office), and the Civil Rights Division (CRT) to assess coordination and collaboration. We reviewed the OCR's: (1) standard operating procedures (SOP) and policies governing its complaint process, (2) award and publicly available documents that described the OCR's roles and functions, and (3) a sample of closed complaints for policy and criteria adherence. We also assessed the effects of the Associate Attorney General (ASG) Review of Title VI of the Civil Rights Act of 1964 (Title VI) and Omnibus Crime Control and Safe Streets Act (Safe Streets Act) Enforcement Efforts on the OCR, and the OCR's efforts to fulfill the directives of the review.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

We performed testing of internal controls significant within the context of our audit objective. We did not evaluate the internal controls of the OCR to provide assurance on its internal control structure as a whole. The OCR's management is responsible for the establishment and maintenance of internal controls in accordance with GAO-14-704G, Standards for Internal Control in the Federal Government. Because we do not express an opinion on the OCR's internal control structure as a whole, we offer this statement solely for the information and use of the OCR and OJP.¹⁸

We assessed the design, implementation, and operating effectiveness of these internal controls and identified deficiencies that we believe could affect the OCR's ability to ensure compliance with laws and regulations. However, because our review was limited to those internal control components and underlying

¹⁸ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

principles that we found significant to the objective of this audit, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Compliance with Laws and Regulations

We also tested, as appropriate given our audit objective and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the OCR's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, the OCR's compliance with the following laws and regulations that could have a material effect on the OCR's operations:

- Government Accountability Office's Standards for Internal Control in the Federal Government (2014)
- Section 601 of Title VI of the Civil Rights Act of 1964
- Section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968
- 42 U.S.C. § 2000d to 2000d-4a
- 34 U.S.C. § 10101-10741
- 28 C.F.R. Part 42, Subparts C and D

This testing included interviewing the OCR's officials and staff, assessing internal control procedures, and analyzing closed complaints. However, nothing came to our attention that caused us to believe that the OCR was not in compliance with the aforementioned laws and regulations.

Sample-Based Testing

To accomplish our audit objective, we performed sample-based testing to assess the OCR's compliance with regulations and its policies and procedures related to the complaint process. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. We initially selected four complaints to determine the level of effort necessary for OCR to retrieve the information and redact Personally Identifiable Information. We determined that a sample greater than 1 percent of all closed complaints would likely inflict undue strain on the OCR, which is already short-staffed and onboarding new Attorney Advisors. We ultimately selected a sample of 42 closed complaints (approximately 1 percent of the total universe of 4,330 closed complaints from FY 2019 through FY 2022). We sampled complaints:

1. from a variety of closure codes. According to OCR's list of codes, there were 28 total closing codes, but not all applied to complaints submitted within our audit scope. Our sample encompassed: 22 codes, 1 with no code, and 1 with a code that was not listed in the 28 closing codes that OCR provided; and

2. with respondents (complaints against law enforcement, including police departments and sheriff's offices).

We analyzed the complaints for adherence to policies and other criteria. Although this sample is small, we believe the sample is representative of the OCR's complaint universe. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

Computer-Processed Data

We obtained information from the CIMS. We did not test the reliability of the system as a whole; therefore, any findings identified involving information from the system was verified with documentation from other sources.

APPENDIX 2: Civil Rights Laws and Nondiscrimination Provisions

Statute/Executive Order	Type	Description	DOJ Implementing Regulation
Section 601 of Title VI of the Civil Rights Act of 1964 (codified at 42 U.S.C. § 2000d)	Civil Rights Law	No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.	Subparts C and D of 28 C.F.R. Part 42.
Section 504 of the Rehabilitation Act of 1973 (codified at 29 U.S.C. § 794)	Civil Rights Law	No otherwise qualified individual with a disability in the United States, as defined in [29 U.S.C. 705(20)], shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance[.]	Subpart G of 28 C.F.R. Part 42.
*Section 901 of Title IX of the Education Amendments of 1972 (codified at 20 U.S.C. § 1681)	Civil Rights Law	No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]	Subpart D of 28 C.F.R. Part 42; 28 C.F.R Part 54.
Section 303 of the Age Discrimination Act of 1975 (codified at 42 U.S.C. § 6102)	Civil Rights Law	[N]o person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.	Subpart I of 28 C.F.R. Part 42.
Section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (codified at 34 U.S.C. § 10228(c); see also 34 U.S.C. § 11182(b))	Nondiscrimination provision	No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter.	Subpart D of 28 C.F.R. Part 42.
Section 1407(e) of the Victims of Crime Act of 1984 (codified at 34 U.S.C. § 20110(e))	Nondiscrimination provision	No person shall on the ground of race, color, religion, national origin, handicap, or sex be excluded from participation in, denied the benefits of, subjected to discrimination under, or denied employment in connection with, any undertaking funded in whole or in part with sums made available under this subchapter.	Subpart B of 28 C.F.R. Part 94.

Grant condition in the OVW awards (codified at 34 U.S.C. § 12291(b)(13))	Nondiscrimination provision	By law, any award administered by the OVW is made subject to a grant condition that prohibits discrimination on the basis of actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity in programs or activities, ... with funds appropriated to the OVW, or appropriated pursuant to certain statutes that focus on violence against women. The required grant condition includes a limited exception for sex-specific programming, as well as a rule of construction to the effect that nothing in the condition diminishes other legal responsibilities and liabilities related to civil rights.	As required by section 40002(b)(13) of the Violence Against Women Act of 1994.
34 U.S.C.A. § 11182(b) formerly cited as the Juvenile Justice and Delinquency Prevention Act of 1974, amended, 42 U.S.C. § 5672(b)	Nondiscrimination provision	No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this chapter. 34 U.S.C.A. § 10228.	28 C.F.R. § 31.202(b)(3) & (4) and Subpart D of 28 C.F.R. Part 42.
*Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12132	Nondiscrimination provision	Subject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.	28 C.F.R. § 35.171(a)(1)(i), (3)(i).
Executive Order 13279, Equal Protection of the Laws for Faith-Based and Community Organizations, December 12, 2002	Nondiscrimination provision	Section 2(d): All organizations that receive Federal financial assistance under social services programs should be prohibited from discriminating against beneficiaries or potential beneficiaries of the social services programs on the basis of religion or religious belief. Accordingly, organizations, in providing services supported in whole or in part with Federal financial assistance, and in their outreach activities related to such services, should not be allowed to discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.	28 C.F.R. Part 38.

Source: OCR.

* OJP has concurrent administrative jurisdiction with CRT under these civil rights laws and nondiscrimination provisions.

APPENDIX 3: The Office of Justice Programs' Response to the Draft Audit Report



U.S. Department of Justice

Office of Justice Programs

Office of the Assistant Attorney General

Washington, D.C. 20531

September 21, 2023

MEMORANDUM TO: Michael E. Horowitz
Inspector General
United States Department of Justice

THROUGH: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
United States Department of Justice

FROM: Amy L. Solomon Amy L. Solomon Digitally signed by Amy L. Solomon
Date: 2023.09.20 09:59:57 -0400
Assistant Attorney General

SUBJECT: Response to the Office of the Inspector General's Draft Audit Report, *Audit of the Office of Justice Programs' Civil Rights Complaint Process*

This memorandum provides a response to the Office of the Inspector General's (OIG) September 11, 2023, draft audit report entitled, *Audit of the Office of Justice Programs' Civil Rights Complaint Process*. The Office of Justice Programs (OJP) appreciates the opportunity to review and comment on the draft report.

Each year, the Department of Justice (DOJ) provides billions of dollars in federal financial assistance and requires recipients of this funding to comply with Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act. The effective implementation and administrative enforcement of Federal civil rights laws is of vital importance to the Department.

The Office for Civil Rights (OCR), within OJP, is responsible for ensuring that funding recipients from all DOJ grant making offices comply with these Federal laws that prohibit them from discriminating against individuals or groups of individuals in employment or the delivery of services or benefits on the basis of race, color, national origin, sex, religion, or disability. OJP's OCR has taken a number of steps to enhance its internal processes and expand the office's capacity. Additionally, it has worked to increase the public's awareness of how and where to file civil rights complaints and how to access informational resources and other tools. Of note, in June 2023, OCR launched a redesigned website that enables the public online access to file civil rights complaints through a centralized portal with DOJ's Civil Rights Division (CRT).

The draft audit report contains six recommendations. OJP has fully implemented corrective actions to address each recommendation and, based on those corrective actions, we are requesting closure of the recommendations.

For ease of review, the OIG recommendations directed to OJP are summarized below and are followed by OJP's response:

- 1. Work with DOJ award-making offices to ensure that the Department's public platforms and award documents include consistent and clear instructions for filing civil rights complaints with the OCR. Further, we believe that OJP should consider adding a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process.**

The Office of Justice Programs agrees with this recommendation. On June 29, 2023, the Office for Civil Rights (OCR) launched a new version of the OCR website <https://www.ojp.gov/about/offices/office-civil-rights-ocr>. The updated website includes a more prominently featured link to instructions for filing civil rights complaints with OCR. All six OJP program offices, the Office of Community Oriented Policing Services, and the Office on Violence Against Women updated their websites to include a direct link to OCR's instructions for filing a civil rights complaint.

In addition to the letter that the OCR Director already provides to all recipients as part of its award agreement, OJP will consider whether to add a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process. Based on that decision, OJP will implement appropriate actions.

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

- 2. Ensure the OCR enhances its Case Workflow, manual, and contract documents include all OCR and contract personnel roles, responsibilities, and processes.**

The Office of Justice Programs agrees with this recommendation. In August 2023, OCR implemented updated Standard Operating Procedures for complaint processing and compliance review initiation. In addition, OCR finalized the Manual for Administrative Investigations in August 2023. The updated procedures and the Manual, taken together, clarify the roles and responsibilities of personnel involved in the various OCR processes. A copy of the updated procedures and a copy of the Manual for Administrative Investigations were provided to the OIG on August 15, 2023.

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

- 3. Work with the OASG and CRT to reassess and update the 2016 memorandum “Protocol for Investigating Alleged Discrimination by Recipients of DOJ Financial Assistance” and once complete, take steps to ensure that appropriate OCR staff are sufficiently aware of its contents.**

The Office of Justice Programs agrees with this recommendation. At the direction of the Office of the Associate Attorney General (OASG), OJP and CRT executed a new Memorandum of Understanding (MOU) on July 19, 2023. Per the newly executed MOU, “The protocol delineated in this MOU supersedes previous agreements between CRT and OJP regarding the handling of civil rights investigations and compliance reviews, including the September 19, 2016 Memorandum to CRT and OJP regarding Protocol for Investigation Alleged Discrimination by Recipients of DOJ Financial Assistance.” The OCR Director disseminated a copy of the newly executed MOU to OCR staff on August 9, 2023, and trained staff on its content on August 15, 2023. A copy of the executed agreement and the OCR Director’s email to staff were provided to the OIG on August 15, 2023.

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

- 4. Ensure the OCR updates its policies and procedures for all OCR personnel to track complaints and assess risks associated with the regulations and to properly weigh the impact of civil rights and nondiscrimination violations for better informing the selection process for OCR compliance reviews.**

The Office of Justice Programs agrees with this recommendation. In August 2023, OCR implemented updated Standard Operating Procedures for compliance review initiation procedures. A copy of the updated procedures was provided to the OIG on August 15, 2023. On September 15, 2023, OCR amended the Standard Operating Procedures to include a section entitled “Coordination and Tracking of Civil Rights Complaints.” The new section details OCR’s policies and procedures for tracking complaint patterns and assessing impact and risk. (See Attachment 1.)

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

- 5. Ensure that the OCR completes its planned update of its written manual, and that such material contains training resources that can appropriately inform staff of their job responsibilities.**

The Office of Justice Programs agrees with this recommendation. In August 2023, OCR implemented updated Standard Operating Procedures for complaint processing and compliance review initiation procedures. In addition, OCR finalized the Manual for Administrative Investigations in August 2023. The updated procedures and the Manual clarify the roles and responsibilities of personnel involved in the various OCR processes. All new procedural materials have been disseminated to staff and posted on OCR’s intranet.

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

6. Work with the OCR to develop and distribute a plan that ensures OCR staff are prepared for the implementation of the electronic complaint submission platform and the predicted increase in complaint volume.

The Office of Justice Programs agrees with this recommendation. The new OCR website, launched on June 29, 2023, enabled members of the public to file civil rights complaints online. With the implementation of OCR's Standard Operating Procedures provided to the OIG on August 15, 2023, and the onboarding of four new attorney advisors in May 2023, OCR has appropriately managed the current volume of complaints. OCR will continue to monitor the complaint volume, and will update procedures, as necessary.

Based on this response and documentation provided, the Office of Justice Programs requests closure of this recommendation.

Thank you for the opportunity to respond to this draft report. If you have any questions regarding this response, please contact Jeffery A. Haley, Deputy Director, Office of Audit, Assessment, and Management, at (202) 616-2936.

Attachment

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Office of the Deputy Attorney General

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APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report

The OIG provided a draft of this audit report to the Office of Justice Programs (OJP). OJP's response is incorporated in Appendix 3 of this final report. In response to our audit report, OJP agreed with all six of our recommendations and discussed the actions it has or will implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to sustain the resolved status of and ultimately close the report.

Recommendations for OJP:

- 1. Work with DOJ award-making offices to ensure that the Department's public platforms and award documents include consistent and clear instructions for filing civil rights complaints with the Office for Civil Rights (OCR). Further, we believe that OJP should consider adding a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process.**

Resolved. OJP agreed with our recommendation. OJP stated in its response that on June 29, 2023, the OCR launched a new version of the OCR website, which includes a more prominently featured link to instructions for filing civil rights complaints with the OCR. Further, the OCR stated all six OJP program offices, the Office of Community Oriented Policing Services (COPS Office), and the Office on Violence Against Women (OVW) updated their websites to include a direct link to OCR's instructions for filing a civil rights complaint. Additionally, OJP stated it will consider whether to add a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process. Based on that decision, OJP will implement appropriate actions.

We reviewed evidence of the OCR's updated website and links to instructions for filing a civil rights complaint on the COPS Office, OVW, and OJP program office websites and determined these actions addressed the first part of the recommendation. Therefore, this recommendation can be closed when OJP provides documentation related to its consideration of whether to add a requirement to award documents for recipients to notify their employees or beneficiaries of their civil rights or the OCR complaint process.

- 2. Ensure the OCR enhances its Case Workflow, Manual for Administrative Investigations (OCR Manual), and contract documents to include all OCR and contract personnel roles, responsibilities, and processes.**

Resolved. OJP agreed with our recommendation. OJP stated in its response that in August 2023, OCR implemented updated Standard Operating Procedures (SOP) for complaint processing and compliance review initiation and had finalized the OCR Manual. OJP further stated the updated procedures and the OCR Manual, taken together, clarify the roles and responsibilities of personnel involved in the various OCR processes.

We reviewed the new OCR Manual and Case Workflow documents that the OCR provided in August 2023. Although the updated Case Workflow differentiates between what is considered a valid complaint or invalid correspondence, the Case Workflow does not detail the process for reviewing invalid correspondence to ensure proper handling and disposition. Also, while the Case Workflow generally references roles, such as “initial reviewer” and “intake staff,” it does not clearly identify the OCR positions that have been assigned to these roles. This is concerning given that the OCR intends its Case Workflow and OCR Manual to complement each other. Based on our review of the documents, it appears the OCR made changes to the Case Workflow without updating the substance of the OCR Manual. Instead, the OCR removed the “Draft” annotation from the OCR Manual and added a notice at the bottom of the first page, stating that in circumstances where the OCR Manual and the Case Workflow conflict, the Case Workflow takes precedence.

This recommendation can be closed when OJP provides evidence that OCR: (1) includes within its Case Workflow the process for reviewing invalid correspondence, (2) clarifies within its Case Workflow the responsible positions throughout the complaint review process, and (3) updates the OCR Manual to include the roles and responsibilities of all positions in the complaint process. The OCR also must ensure that its contract documents related to the contract worker, who is embedded in the OCR complaint process, address contract roles, responsibilities, and processes.

- 3. Work with the Office of the Associate Attorney General (OASG) and the Civil Rights Division (CRT) to reassess and update the 2016 memorandum “Protocol for Investigating Alleged Discrimination by Recipients of DOJ Financial Assistance” and once complete, take steps to ensure that appropriate OCR staff are sufficiently aware of its contents.**

Closed. OJP agreed with our recommendation. OJP stated in its response that at the direction of OASG, OJP and CRT executed a new Memorandum of Understanding (MOU) on July 19, 2023. Further, OJP stated the OCR Director disseminated a copy of the newly executed MOU to OCR staff on August 9, 2023, and trained staff on its content on August 15, 2023.

We reviewed the new MOU and supporting documents for disseminating the MOU to staff. We determined that these actions fully address our recommendation. Therefore, this recommendation is closed.

- 4. Ensure the OCR updates its policies and procedures for all OCR personnel to track complaints and assess risks associated with the regulations and to properly weigh the impact of civil rights and nondiscrimination violations for better informing the selection process for OCR compliance reviews.**

Closed. OJP agreed with our recommendation. OJP stated in its response that in August 2023, OCR updated and implemented SOPs for compliance review initiation procedures. Additionally, on September 15, 2023, OCR amended the SOPs to include “Coordination and Tracking of Civil Rights Complaints.” Further, OJP stated the new section details OCR’s policies and procedures for tracking complaint patterns and assessing impact and risk.

We reviewed the amended SOP and determined that it fully addresses our recommendation. Therefore, this recommendation is closed.

- 5. Ensure that the OCR completes its planned update of its written manual, and that such material contains training resources that can appropriately inform staff of their job responsibilities.**

Resolved. OJP agreed with our recommendation. OJP stated in its response that in August 2023, OCR updated and implemented SOPs for complaint processing and compliance review initiation procedures, and OCR finalized the OCR Manual. Further, OJP stated the updated procedures and the OCR Manual clarify the roles and responsibilities of personnel involved in the various OCR processes, and all new procedural materials have been disseminated to staff and posted on OCR's intranet.

We reviewed the updated OCR Manual that the OCR provided and determined it is the same Manual provided during our fieldwork without the "Draft" annotation and includes a new footnote on the cover page while still containing the inaccuracies identified in our report. For example, the original and updated Manual both have a Table of Contents that is missing a page and outdated references to OJP's grants management system, despite OJP now using a new system. This recommendation can be closed when OJP provides an updated OCR Manual.

- 6. Work with the OCR to develop and distribute a plan that ensures OCR staff are prepared for the implementation of the electronic complaint submission platform and the predicted increase in complaint volume.**

Closed. OJP agreed with our recommendation. OJP stated in its response that the new OCR website that launched on June 29, 2023, enabled members of the public to file civil rights complaints online. OJP further stated that it has appropriately managed the current volume of complaints through the implementation of OCR's SOPs and onboarding of four new attorney advisors in May 2023. OJP also stated that it will continue to monitor the complaint volume and update procedures, as necessary.

We reviewed the new OCR website and the OCR SOP. In addition, with the onboarding of new attorney advisors, we determined that these actions fully address our recommendation. Therefore, this recommendation is closed.