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The equal employment opportunity (EEO) program of the Immigration and Naturalization Service (INS), a component of the Department of Justice, was reviewed. The review focused on the policies and practices affecting the structure and implementation of the affirmative action program; employee recruitment, selection, promotion, training, and assignment; and the discrimination complaint processes. Findings/Conclusions: From July 1, 1974, through December 31, 1976, the number of women employed by the INS on a permanent basis increased from 2,370 to 2,963, and their percentage of the agency's work force increased from 30.7% to 32%. During the same period, the number of minority persons employed increased from 1,767 to 2,517, and their percentage of the work force rose from 22.9% to 27.3%. At December 31, 1976, women accounted for 7.7% and minorities accounted for 15.9% of all employees in key professional occupations. Women accounted for 11.6% of all permanent employees in GS-7 or above positions; minorities accounted for 17.1%. Although the INS has recognized that there are low percentages of minorities and females in certain occupations, no specific recruiting goals have been established to remedy the situation. Women and minorities remain primarily in clerical and support occupations at lower grade levels. Recommendations: The Attorney General should direct the INS Commissioner to: provide adequate resources for processing discrimination complaints, provide timely and continuous in-house training for EEO

personnel, evaluate INS' EEO program on an annual basis, provide EEO training for all managers and supervisors, and evaluate supervisors on their EEO responsibilities. The INS should determine where its equal opportunity program should be placed in the organization and what the structure of the program should be, provide the program with adequate staff resources, and determine the amount of money being spent on the program. The INS needs to maintain and analyze training and promotion statistics to help insure that equal opportunity in training and promotions is afforded to all employees. (RRS)

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REPORT BY THE

Comptroller General

OF THE UNITED STATES

RELEASED  
4/12/78

## The Immigration And Naturalization Service's Affirmative Action Program Should Be Improved

Some progress has been made toward improving the employment situation of women and minorities in the Immigration and Naturalization Service, but the disparity between women and men and minorities (Blacks in particular) and nonminorities remains great. Women and minorities are largely in clerical and support occupations and at lower grade levels.

Improvements can be made that would strengthen the agency's affirmative action program and increase the representation of women and minorities in professional jobs and at higher pay grades.



FPCD-78-18  
MARCH 28, 1978



COMPTROLLER GENERAL OF THE UNITED STATES  
WASHINGTON, D.C. 20548

B-178929

The Honorable Don Edwards  
Chairman, Subcommittee on Civil and  
Constitutional Rights  
Committee on the Judiciary  
House of Representatives

Dear Mr. Chairman:

As requested in your July 29, 1976, letter, we have evaluated the operation of the affirmative action program of the Department of Justice and each of its component organizations. As specified in your request, our work focused on the entire range of policies and practices affecting (1) the structure and implementation of the affirmative action program, (2) employee recruitment, selection, promotion, training, and assignment, and (3) the discrimination complaint process.

Your office requested us to issue individual reports on each of the Department of Justice's component organizations, and it was also agreed that a consolidated report on the Department's overall equal employment opportunity affirmative action program would be issued to the Congress. This report on the Immigration and Naturalization Service is one of seven individual reports to be prepared.

The report discusses these aspects of the equal employment opportunity affirmative action program of the Service: program progress and problems; need for more systematic program planning and implementation; need to improve the development, implementation, and evaluation of equal employment opportunity plans; need to improve minority and female recruiting efforts; need to insure equal opportunity in training and promotions; and need to improve the discrimination complaint system.

Agency comments were obtained informally and are addressed in the report. We informally discussed the reported findings with the Equal Employment Opportunity Officer, Chief of Staffing, and Assistant Commissioner for Personnel, who are responsible for the equal employment opportunity program at the Immigration and Naturalization Service.

Copies of this report are being sent to the Attorney General; the Acting Director, Office of Management and Budget; the Chairmen, House Committees on Appropriations, Government Operations, Education and Labor, and Post Office and Civil Service; the Chairmen, Senate Committees on Governmental Affairs and the Judiciary and the Subcommittee on State, Justice, Commerce, and the Judiciary, Senate Committee on Appropriations; the Commissioner, Immigration and Naturalization Service, Department of Justice; and the Chairman, U.S. Civil Service Commission.

Sincerely yours

*Frederic B. Staats*

Comptroller General  
of the United States

D I G E S T

At the request of the Chairman, Subcommittee on Civil and Constitutional Rights, House Committee on the Judiciary, GAO reviewed the equal employment opportunity program of the Immigration and Naturalization Service, a component of the Department of Justice.

GAO's analysis showed that for the period July 1, 1974, through December 31, 1976:

- The number of women employed by the Service on a permanent basis increased from 2,370 to 2,963, and their percentage of the agency's permanent work force increased from 30.7 to 32.
- The number of minority persons 1/ employed by the agency on a permanent basis increased from 1,767 to 2,517, and their percentage of the permanent work force increased from 22.9 to 27.3.

At December 31, 1976, the permanent work force of the Service totaled 9,254. Of this total, 4,879 employees were in the key professional occupations of attorney, investigator, border patrol agent, and immigration inspector. The remaining 4,375 were in the "other occupation" category (including administrative, clerical, and blue-collar positions).

At December 31, 1976, women accounted for 7.7 percent, and minorities 15.9 percent, of all employees in key professional occupations. Women accounted for 11.6 percent

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1/For the purpose of this report minority persons are defined as Blacks, Hispanics, Asian Americans and Native Americans.

of all permanent employees in GS-7 or above (or equivalent) positions, and minorities 17.1 percent. As these statistics indicate, a number of improvements should be made in the Service's affirmative action program.

#### NEED FOR MORE SYSTEMATIC PROGRAM PLANNING AND IMPLEMENTATION

To improve planning and implementation of its affirmative action program, the Service should determine where its equal employment opportunity program should be placed in the organization and what the structure of the program should be, provide the program with adequate staff resources, and determine the amount of money being spent on the program. The Service should also evaluate how well the program is being implemented. (See ch. 3.)

#### IMPROVEMENTS NEEDED IN THE SERVICE'S EQUAL EMPLOYMENT OPPORTUNITY PLANS

The Service should involve its managers and supervisors in developing improved equal employment opportunity plans. The Service also needs to coordinate the plans with other Justice bureaus, and to evaluate the plans to help insure that "action items" are implemented. (See ch. 4.)

#### NEED TO IMPROVE MINORITY AND FEMALE RECRUITING EFFORTS

The Service has recognized that there are low percentages of minorities and females in certain occupations; no specific recruiting goals have been established to help remedy this situation. The Service should develop specific recruiting goals for females and minorities and monitor subsequent recruiting efforts to determine whether established goals are being achieved. A formal minority and female recruiting program needs to be established. (See ch. 5.)

## NEED TO HELP INSURE EQUAL OPPORTUNITY IN TRAINING AND PROMOTIONS

The Service needs to maintain and analyze training and promotion statistics to help insure that equal opportunity in training and promotions is afforded to all employees. The analyses should include (1) time-in-grade comparison studies of promotions for minorities and women versus promotions for non-minorities and men and (2) studies of discrimination complaints concerning promotions to identify potential management deficiencies, equal employment opportunity problems, and discriminating practices. (See ch. 6.)

## IMPROVEMENTS NEEDED IN THE SERVICE'S DISCRIMINATION COMPLAINT SYSTEM

The Service can take a number of actions to improve its discrimination complaint system. For example, the Service needs to help insure that data on counseling activities is complete and accurate and to better organize the formal complaint files. (See ch. 7.)

## AGENCY COMMENTS

Although the Commissioner of the Service was not given the opportunity to submit formal comments on this report, in January 1978 the findings and recommendations were discussed with Service officials responsible for the equal employment opportunity program.

These officials provided GAO with updated data and mentioned actions taken in implementing GAO's recommendations, including the following:

- The equal employment opportunity affirmative action programs have been removed from the staffing function and are now a separate branch in the personnel division.
- The merit staffing plan II, an appraisal system implemented in 1977, contains a

rating element to measure supervisors' equal employment opportunity performance. A Justice Department annual performance appraisal system will be implemented in the Service in 1978 and will provide for appraisal of equal employment opportunity responsibilities.

--Recruiting goals for minorities and women have been established nationwide for fiscal year 1978, and a 5-year plan is being developed.

--Counselor reporting requirements were expanded in 1977 to include the collection and review of all monthly reports by the regional equal employment opportunity specialist, in addition to expanding the required information of the forms themselves.

(See pp. 37 and 38.)

#### RECOMMENDATIONS

GAO's recommendations for improvements in the Service's affirmative action program are on pages 19, 22, 24, 27 and 36.

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**ABBREVIATIONS**

CSC	Civil Service Commission
EEO	equal employment opportunity
FPM	Federal Personnel Manual
GAO	General Accounting Office
GS	General Schedule
INS	Immigration and Naturalization Service

## CHAPTER 1

### INTRODUCTION

This report concerns the equal employment opportunity (EEO) program of the Immigration and Naturalization Service (INS), a component organization of the Department of Justice.

It is the express policy of the United States Government to provide equal opportunity in Federal employment for all persons; to prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin; and to promote full EEO through a continuing affirmative action program in each executive department and agency. This policy is stated in Executive Order 11478, August 8, 1969, as amended, and applies to all personnel policy and practice relating to the employment, development, advancement, and treatment of civilian employees of the Federal Government.

Executive Order 11478 was incorporated into the Equal Employment Opportunity Act of 1972 (Public Law 92-261, approved Mar. 24, 1972, 86 Stat. 103, 42 U.S.C. §2000e). The act amended title VII of the Civil Rights Act of 1964 and gave the U.S. Civil Service Commission (CSC) authority to enforce EEO and nondiscrimination in the Federal Government.

The Age Discrimination in Employment Act of 1967, which previously applied only to employees in private enterprise, was amended by section 28(b)(2) of Public Law 93-259 (Fair Labor Standards Amendments of 1974, approved Apr. 8, 1974, 88 Stat. 55, 29 U.S.C. §633a) to include Federal, State, and local governments. The law requires that all personnel actions affecting Federal employees or applicants for Federal employment who are 40 to 64 years old be free from discrimination based on age.

CSC, Justice, and INS have all issued policies and regulations intended to implement the EEO policy of the Federal Government. For example, it is stated in the INS Administrative Manual, page 2228.01 (1)(b), that

"Management will seek out and eliminate any personnel management policy, procedure or practice which denies equalism or opportunity to any group or individual on the basis of race, color, religion, sex, national origin, and will take appropriate action to more fully utilize the abilities of all employees."

## INS MISSION AND WORK FORCE

The INS mission is to administer and enforce immigration and naturalization laws. This involves determining the admissibility of aliens to the United States, either for a temporary stay or permanent residence; detecting and apprehending aliens and naturalized citizens who violate the laws; processing applications and determining naturalization eligibility; generally controlling aliens in the United States and maintaining current residence information; and authorizing and granting privileges to aliens as provided by law.

The INS permanent work force increased from 7,720 employees at July 1, 1974, to 9,254 employees at December 31, 1976. Available INS statistical data showed that 53 percent of the INS work force at December 31, 1976, was composed of persons in the key professional occupations of attorney, investigator, border patrol agent, and immigration inspector. The remaining 47 percent were reported as being in "other occupations" (including administrative, clerical, and blue-collar positions).

At December 31, 1976, 98 percent of all INS permanent employees were under the General Schedule (GS) pay plan. The INS operating budget for fiscal year 1977 was about \$24.5 million.

## CHAPTER 2

### AFFIRMATIVE ACTION PROGRAM:

#### PROGRESS AND PROBLEMS

Both the number and percentage of women and minority persons 1/ in the INS permanent work force increased during the period July 1, 1974, through December 31, 1976.

#### PROGRAM PROGRESS

##### Women

During the above time frame the number of women employed by INS on a permanent basis increased from 2,370 to 2,963, and their percentage of the INS permanent work force increased from 30.7 to 32:

	<u>July 1, 1974</u>		<u>December 31, 1976</u>	
	<u>Number</u>	<u>Percent of INS work force</u>	<u>Number</u>	<u>Percent of INS work force</u>
Men (note a)	5,350	69.3	6,291	68.0
Women (note a)	<u>2,370</u>	<u>30.7</u>	<u>2,963</u>	<u>32.0</u>
Total permanent employees	<u>7,720</u>	<u>100.0</u>	<u>9,254</u>	<u>100.0</u>

a/Includes both minorities and nonminorities.

During the period July 1, 1974, through December 31, 1976, the number of women in the four key occupations increased 2.3 percent. The largest increase was in the immigration inspector series where the percentage of women during this period rose 5.7 percent. (Final selection of attorneys is made by the Department of Justice, not INS. INS does, however, nominate attorney candidates to fill positions at INS.)

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1/For the purpose of this report minority persons are defined as Blacks, Hispanics, Asian Americans, and Native Americans.

	July 1, 1974			December 31, 1976		
	Total employees	Women Number	Women Percent	Total employee	Women Number	Women Percent
Attorney	199	23	11.6	255	30	11.8
Investigator	858	11	1.3	971	22	2.3
Border patrol agent	1,568	-	-	1,938	8	.4
Immigration inspector	<u>1,477</u>	<u>187</u>	12.7	<u>1,715</u>	<u>315</u>	18.4
Total	<u>4,102</u>	<u>221</u>	5.4	<u>4,879</u>	<u>375</u>	7.7

The number of women in "other occupations" (including administrative and clerical) increased from 2,149 to 2,588. Their percentage in these occupations decreased from 59.4 to 59.2.

### Minorities

During the period reviewed, the number of minority persons employed by INS on a permanent basis increased from 1,767 to 2,517, and their overall percentage increased from 22.9 to 27.2 percent:

	July 1, 1974		December 31, 1976	
	Number	Percent of INS work force	Number	Percent of INS work force
Nonminorities	5,953	77.1	6,737	72.8
Minorities	<u>1,767</u>	<u>22.9</u>	<u>2,517</u>	<u>27.2</u>
Total permanent employees	<u>7,720</u>	<u>100.0</u>	<u>9,254</u>	<u>100.0</u>

In the key professional occupations minority representation changed as follows:

	July 1, 1974			December 31, 1976		
	Total employees	Minorities Number	Minorities Percent	Total employees	Minorities Number	Minorities Percent
Attorney	199	24	12.1	255	30	11.8
Investigator	858	62	7.2	971	88	9.1
Border patrol agent	1,568	140	8.9	1,938	340	17.5
Immigration inspector	<u>1,477</u>	<u>169</u>	11.4	<u>1,715</u>	<u>319</u>	18.6
Total	<u>4,102</u>	<u>395</u>	9.6	<u>4,879</u>	<u>777</u>	15.9

As can be seen in the chart on the previous page, minorities increased their numbers in all four occupations and their percentage in all except the attorney occupation. The number of minority persons in "other occupations" increased from 1,372 to 1,740, and their percentage of the total employees in these positions increased from 37.9 to 39.8 percent.

## PROGRAM PROBLEMS

### Women

At December 31, 1976, women accounted for only 7.7 percent of the 4,879 employees in the key occupations of attorney, investigator, border patrol agent, and immigration inspector.

If the INS hiring pattern experienced for the period July 1, 1974, through December 31, 1976, continues, it is not likely that representation of women in these occupations, with the exception of immigration inspectors, will increase to any significant degree.

	Number of employees <u>hired</u>	Number of women <u>hired</u>	Percent of women <u>among those hired</u>
Attorney	88	9	10.2
Investigator	254	12	4.7
Border patrol agent	933	17	1.8
Immigration inspector	<u>555</u>	<u>179</u>	<u>32.3</u>
Total	<u>1,830</u>	<u>217</u>	<u>11.9</u>

As shown in the table at the top of page 4, female representation increased in each of the above job occupations, but the ratio of men to women remained large, about 13 to 1.

Also, women remained concentrated in clerical and administrative occupations and in the lower pay grade levels:

--At December 31, 1976, 2,588 (87.3 percent) of the 2,963 women employed by INS were in "other occupations," and they accounted for 59.2 percent of all employees in these occupations. In contrast, 1,787

(28.4 percent) of 6,291 men employed by INS were in these occupations, and they accounted for 40.8 percent of all persons so employed.

--Of the 2,963 INS female employees, 667 (22.5 percent) were in GS-7 or above pay grade levels. Females accounted for only 11.6 percent of the employees in these grade levels. In contrast, of the 6,291 INS male employees, 5,103 (81 percent) were in these grade levels, and they accounted for 88.4 percent of all "GS-7s or above." Thus, 77.5 percent of all INS females were at grade GS-6 or less, compared to only 18.9 percent of all INS males.

As shown on page 4, the INS EEO profile with respect to women improved during the period July 1, 1974, to December 31, 1976, including the key INS professional occupations. For the most part the gains by females were very modest, because separations offset the number of women hired to a substantial degree:

<u>Women</u>	<u>Key occupations</u>	<u>Other occupations</u>	<u>Total</u>
Hired	217	1,287	1,504
Separations	<u>-63</u>	<u>-848</u>	<u>-911</u>
Net gain	<u>154</u>	<u>439</u>	<u>593</u>

### Minorities

As shown on page 4, the INS permanent work force at December 31, 1976, was composed of 6,737 (72.8 percent) non-minority persons and 2,517 (27.2 percent) minority persons. Specific minority group representation was as follows:

	<u>Number</u>	<u>Percent of all employees</u>
Hispanic	1,195	12.9
Black	1,130	12.2
Asian American	166	1.8
Native American	<u>26</u>	<u>.3</u>
Total	<u>2,517</u>	<u>27.2</u>

As shown below, minorities composed 15.9 percent of the total number of employees in key professional occupations. Blacks, the Nation's largest minority group, accounted for only 3.1 percent of the total employees in key occupations.

	Key professional occupations		Other occupations	
	Number	Percent	Number	Percent
Hispanic	571	11.7	624	14.3
Black	150	3.1	980	22.4
Asian American	41	.8	125	2.9
Native American	<u>15</u>	<u>.3</u>	<u>11</u>	<u>.3</u>
Total	<u>777</u>	<u>15.9</u>	<u>1,740</u>	<u>39.8</u>

If the INS hiring pattern experienced for the period July 1, 1974, through December 31, 1976, continues, the overall representation of minorities in key professional occupations can be expected to increase.

	Number of employees hired	Number of minorities hired	Percent of minority persons among those hired
Attorney	88	10	11.4
Investigator	254	35	13.8
Border patrol agent	933	243	26.0
Immigration inspector	<u>555</u>	<u>111</u>	<u>20.0</u>
Total	<u>1,830</u>	<u>399</u>	<u>21.8</u>

The above chart shows that minorities accounted for 21.8 percent of the persons hired into key professional occupations. This significantly exceeded the 15.9 percent representation of minorities in these positions at December 31, 1976, as well as their 9.6 percent representation at July 1, 1974.

Of all minority persons hired, 60.9 percent were hired as border patrol agents. Hispanics accounted for 78.8 percent of the minority accessions into key occupations. In

comparison, Blacks accounted for 14.1 percent. Thus, the border patrol agent occupation was the only key occupation that registered significant improvement in minority representation, and Hispanics accounted for most of this.

Minorities remained concentrated in the "other occupations" and the lower grade levels:

- --At December 31, 1976, 1,740 (69.1 percent) of the 2,517 minority employees were in "other occupations," and they accounted for 39.8 percent of all employees in these occupations. In contrast, 2,635 (39.1 percent) of 6,737 nonminorities were in "other occupations," and they accounted for 60.2 percent of all employees in these occupations.

--Based on the chart on page 6, minority distribution among occupations was as follows:

	Percentage distribution of minorities	
	<u>Key</u>	<u>Other</u>
Hispanic	47.8	52.2
Black	13.3	86.7
Asian American	24.7	75.3
Native American	57.7	42.3
Overall minority distribution	30.9	69.1

--Of the 2,517 INS minority employees at December 31, 1976, 984 (39.1 percent) were at the GS-7 or above grade level; minorities accounted for 17.1 percent of all employees at these grade levels. In contrast, of the 6,737 INS nonminority employees, 4,786 (71 percent) were at these grade levels and they accounted for 82.9 percent of all employees at these grade levels. Thus, 60.9 percent of all minorities were at the GS-6 grade level or below, but only 29 percent of the non-minorities were. Of the 1,130 Black employees, 862 (76.3 percent) were at these lower grade levels. In comparison, 46.8 percent of the Hispanic employees, 57.8 percent of the Asian American employees, and 27 percent of the Native American employees, respectively, were at these levels.

As shown on page 5, the INS EEO profile with respect to minorities improved during the period July 1, 1974, to December 31, 1976, especially for Hispanics. The following table shows the net gains made by all minorities and individual minority groups.

	<u>Key professional occupations</u>	<u>Other occupations</u>	<u>Total</u>
<b>All minorities:</b>			
Hires	462	833	1,295
Separations	<u>-80</u>	<u>-465</u>	<u>-545</u>
Net gain	<u>382</u>	<u>368</u>	<u>750</u>
<b>Hispanics:</b>			
Hires	364	283	647
Separations	<u>-60</u>	<u>-157</u>	<u>-217</u>
Net gain	<u>304</u>	<u>126</u>	<u>430</u>
<b>Blacks:</b>			
Hires	65	467	532
Separations	<u>-13</u>	<u>-246</u>	<u>-259</u>
Net gain	<u>52</u>	<u>221</u>	<u>273</u>
<b>Asian Americans:</b>			
Hires	27	77	104
Separations	<u>-5</u>	<u>-57</u>	<u>-62</u>
Net gain	<u>22</u>	<u>20</u>	<u>42</u>
<b>Native Americans:</b>			
Hires	6	6	12
Separations	<u>-2</u>	<u>-5</u>	<u>-7</u>
Net gain	<u>4</u>	<u>1</u>	<u>5</u>

### CONCLUSIONS

The INS work force grew during the period July 1, 1974, to December 31, 1976--from 7,720 to 9,254. Normally, EEO progress can be achieved at a faster rate under an expanding work force than when an agency is not hiring or is reducing its work force.

INS has made EEO progress with respect to Hispanics, but more progress toward improving the employment situation of women and other minorities, especially Blacks, is needed.

## CHAPTER 3

### NEED FOR MORE SYSTEMATIC

#### PLANNING AND IMPLEMENTATION

For INS to have an effective EEO program, certain basic improvements in planning and implementation are needed. INS should

- analyze its internal situation to determine where its EEO program should be placed in the organization and what the program's structure should be,
- clarify its EEO director position,
- demonstrate its commitment to EEO by providing sufficient staff resources,
- determine financial resources,
- help insure timely and continuous training for EEO personnel,
- help insure EEO training and evaluations on EEO responsibilities for managers and supervisors, and
- evaluate how well its EEO program is working.

#### PLACEMENT AND STRUCTURE OF EEO STAFF

CSC has neither taken a position nor furnished specific guidance to agencies on where an EEO staff should be placed in the organization. This decision has been left to the discretion of each Federal agency. The Department of Justice has not taken a position on this matter; the placement of EEO staffs within the Justice bureaus varies.

The EEO affirmative action staff in INS is located within the personnel division. However, the EEO officer who is responsible for handling complaints of discrimination is separate from personnel and reports to the Deputy Commissioner. The Associate Commissioner, Management, serves as the director of EEO and has appointed the Chief of Staffing in the central office personnel division to coordinate INS EEO programs and projects. This individual reports to the Assistant Commissioner for Personnel.

In the INS regional offices, the EEO specialist who is responsible for EEO activities reports to the Assistant Regional Commissioner, Personnel, who is three levels removed from the Regional Commissioner. Therefore, the EEO specialist, by virtue of the chain of command, must work through several layers of management to accomplish his EEO responsibilities.

Some EEO specialists in INS believe that the EEO office should be separate from the personnel division because such placement would give the specialist greater authority to implement EEO actions and would reduce the possibility of conflicts-of-interest for the personnel officer. However, the Chief of Staffing and the EEO director believe that having EEO as a personnel function is the most efficient way to conduct the program.

The complaints portion of the EEO program has been separate from the personnel office since October 1976. Prior to that time, for a period of about 10 months, the personnel division was involved in complaint processing. This situation, in our opinion, raised questions of fairness and impartiality.

We believe that the complaint system should be separate from personnel, as is now the case, to preserve the objectivity and credibility of the system. In view of disagreement among persons responsible for implementing the EEO program in INS, we believe that INS should also analyze the organization of other parts of the program and determine the most effective alignment.

In a memorandum dated June 3, 1977, the Assistant Attorney General for Administration recommended that the INS Commissioner review the location of the EEO programs within INS to assure that they are in the best position to fulfill their mission and to provide staff assistance to the Commissioner and other managers.

The EEO affirmative action programs have been removed from the staffing function and are now a separate branch in the personnel division. The EEO complaints process remains as a separate office within the office of the Deputy Commissioner.

## NEED TO CLARIFY EEO DIRECTOR POSITION

Section 713.204, title 5, Code of Federal Regulations (CFR), requires the head of each agency to designate a Director of EEO who shall be under the immediate supervision of the head of the agency and also to designate as many EEO officers as may be necessary to assist him in carrying out EEO functions in all organizational units and locations of the agency.

The Department of Justice has designated a Director of EEO for the entire Department and EEO officers for each of its bureaus. However, INS has also designated a director of EEO. In our opinion the EEO director position in INS has potential for administrative confusion for INS employees since the Department of Justice guidance on EEO does not recognize this individual. Justice regulations include responsibilities for the Department's Director of EEO, bureau heads, and bureau EEO officers, but do not mention bureau directors of EEO. Also, the Department's organizational chart for EEO staffs in its bureaus includes the EEO officer and positive action coordinator for INS, but does not include the INS EEO director. (The INS EEO director has several functions in addition to his EEO responsibilities. He told us that it is difficult to give EEO the necessary time and attention.)

Justice needs to make it clear to INS that there is only one EEO Director for the Department. Justice should decide if there should be a counterpart in INS to the Department's EEO Director and state the title and responsibilities of this individual.

## INSUFFICIENT PERSONNEL RESOURCES

In an organization, top management's commitment to EEO is usually evident in the way personnel resources are applied. Within Justice, bureau heads are responsible for providing sufficient personnel resources to meet the objectives of the EEO program; however, lack of personnel resources was found to be a problem in INS.

As of February 5, 1977, there was a backlog of 83 formal complaints of discrimination in the INS central office. The cases were at various stages of processing, and 48 were with the EEO officer for his review. Of the 83 cases, 58 (about 70 percent) had exceeded the 180-calendar-day standard established by the EEO Act of 1972. (See p. 35.) As of July 6, 1977, 86 INS formal complaints were

pending, of which 41 were at the Department level and 45 at INS for processing.

A January 10, 1977, memorandum from the Associate Deputy Commissioner stated:

"\* \* \* Additional discussions with the EEO officer have indicated the need for an EEO Specialist to monitor the EEO complaints being received, identify systemic problems and inform the Staffing and EEO Branch of areas which may need more emphasis. It was agreed that this function was more important than that of the Administrative Assistant given the withdrawal of the proposed acquisition of the EEO program development function."

This memorandum included a request for six full-time positions. The Associate Deputy Commissioner stated that with the current EEO complaints processing workload and the increased workload that can be expected from publicizing the availability of this process, the staff proposals were reasonable. However, as of July 6, 1977, only two of the positions--the EEO officer and clerk typist positions--were filled.

In the INS Southern regional office, the EEO specialist was the only full-time EEO employee responsible for developing and administering an EEO plan for a region consisting of approximately 2,333 full-time and temporary employees. The EEO specialist told us that with additional staff resources to relieve him of clerical functions, he would be able to perform evaluations and analyses and that additional personnel would improve all aspects of the EEO effort. Nor has the specialist been provided the privacy needed to deal with sensitive and confidential EEO matters. His desk is located in an open office area among other personnel division employees, and he had not been provided a telephone. He had no support staff and was required to perform his own clerical duties or seek temporary assistance.

According to CSC guidelines a counselor should be appointed for each organizational subdivision of 50 or more people. As of March 1977, 4 of the 10 field offices in the Western region (Phoenix, San Diego, Tucson, and El Centro) had not designated EEO counselors even though each office had more than 50 employees. Three of the field offices did not have a Spanish-speaking program coordinator, and five did not have a Federal Women's Program coordinator.

The EEO specialist told us he was trying to fill the vacant EEO positions, and the names of four proposed counselors had been submitted to the labor union for comment prior to their appointment.

### DETERMINING FINANCIAL RESOURCES

INS' accounting system is not designed to accumulate reliable EEO costs. Thus, EEO costs reported by INS are based on estimates rather than actual experiences.

CSC requires Federal agencies to submit EEO cost data in the "allocation of personnel and resources" statement in their EEO plan and also in the report of EEO program expenditures required by Office of Management and Budget Circular No. A-11. Justice requires its bureaus to submit bureauwide cost data annually for use in preparing the Justice-wide cost data for CSC. However, Justice has not provided INS or its other component organizations any guidance on how to develop EEO cost data. Also, initially CSC had not provided enough guidance for agencies' use in consistently developing EEO cost data.

INS reported the following cost estimates in its draft EEO plan for 1974.

EEO counseling	\$ 59,375
Complaint processing	42,837
EEO program administration	91,145
EEO subject matter training	19,000
Upward mobility training education	—
Total	<u>\$212,357</u>

The cost data in the 1974 draft plan represented costs as of June 30, 1974. The same cost data was included in the 1975 draft plan. Costs were not included in the 1976 draft plan.

To improve guidance for agencies, CSC revised the format for the cost reporting section of agency EEO plan in its FPM Letter 713-35, dated April 30, 1976. In accordance with CSC's revised format as outlined in FPM Letter 713-35, INS reported costs in its 1977 EEO plan as follows:

	<u>Full-time</u>	<u>Part-time</u>	<u>Percent of time devoted to EEO by part-time staff</u>	<u>Program costs</u>
EEO director	-	1	1	\$ 360
EEO officer	1	-	-	21,399
Federal women's coordinator	1	22	5	36,949
Spanish-speaking coordinator	1	21	5	24,463
Upward mobility coordinator	-	<u>a/4 (14)</u>	10	<u>a/23,584</u>
EEO specialist	4			59,029
EEO counselor	-	41	10	57,195
EEO investigator	-	40	10	76,360
Chief of staffing and EEO	-	1	50	13,899
Clerk typist	-	4	40	11,760
Other administrative expenses	-	-	-	58,659
EEO personnel management and training	-	-	-	<u>21,535</u>
<b>Total</b>				<b><u>b/\$405,192</u></b>

a/Cost is for 4 upward mobility coordinators and 14 upward mobility counselors.

b/Total is incorrectly shown as \$406,192 in the draft plan. Also, total is understated according to the backup data included in the plan showing how the costs were computed. For example, a full-time clerk is shown, but no cost is shown for this individual and details of "other administrative expenses" show them to be \$78,217 rather than \$58,659.

These costs are estimates and in some cases are based on average grades and arbitrary percentages. For example, part-time counselors and investigators' costs were computed as follows:

EEO counselors,  
Average GS-9/1 (\$13,952)

@10% = \$1,395 x 41 counselors = \$57,195

EEO investigators,  
Average GS-11/5 (\$19,085)

@10% = \$1,909 x 40 investigators = \$76,360

These computations did not take into consideration the fact that not all of the 41 counselors and 40 investigators handled cases.

FPM Letter 713-35 has been superseded by FPM Letter 713-40, dated August 17, 1977, which contains revised criteria for reporting costs involved in the allocation of agency personnel and resources.

**NEED TO HELP INSURE TIMELY AND CONTINUOUS TRAINING FOR EEO PERSONNEL**

Training for EEO personnel in INS has not always been provided in a timely, continuous manner. For example, Western region data showed that although their 1976 and 1977 EEO plans mentioned training of EEO staff as an "action item," many of the staff remained untrained. The following table shows the number of EEO personnel in the Western region who had not received training as of March 31, 1977:

<u>Title</u>	<u>Total EEO staff</u>	<u>Received no training</u>		<u>Average number of months in job</u>
		<u>Number</u>	<u>Percent</u>	
Counselors	7	3	43	5.7
Investigators	8	2	25	14.5
Federal Women's Program coordinators	6	5	83	5.8
Spanish-speaking program coordinators	8	7	88	6.4

Personnel officials stated that the training of EEO staff is sometimes delayed because CSC courses are not immediately available. CSC does, however, have a program for training agency personnel to serve as EEO personnel instructors, and it also provides handouts, training material, and course outlines.

In addition, personnel involved in the discrimination complaint systems should have enough knowledge of these systems and of the Federal personnel system to perform their assigned duties and responsibilities effectively. Since most complaints are personnel related, it is essential that those persons who are responsible for resolving problems involving personnel matters be knowledgeable in and have ready access to personnel information.

We talked to three of the seven trained counselors in the Southern region and to two of the four trained counselors

in the Western region. Three counselors expressed the need or desire for additional training. One counselor said the basic CSC course was weak because CSC is not acquainted with procedures in his agency. Two counselors said they were generally confused about their duties and believed they needed more guidance and training to improve their counseling skills.

To help insure continuous and timely training for EEO personnel within INS in 1976, the Associate Commissioner, Management, revised the method of appropriating budgeted training funds for EEO so that they were directly appropriated to regional and field officers from the central office personnel division. Also, INS' draft 1977 EEO plan contained the objective of providing for continued training of EEO personnel by identifying appropriate training requirements and insuring that training is received.

#### NEED TO HELP INSURE EEO TRAINING FOR ALL MANAGERS AND SUPERVISORS

According to Department of Justice regulations, managers and supervisors are responsible for providing equal opportunity in employment matters and for eradicating discriminatory practices within their part of the organization. INS needs to help insure that EEO training is provided to managers and supervisors.

In 1976 the Commissioner of INS directed that EEO be made an agenda item in all INS conferences, training sessions, and other activities as a means of providing training for managers and supervisors. An EEO specialist advised us this was being accomplished on a "piecemeal" basis. The training has no core curriculum and is taught by whoever is available in the EEO office. The EEO specialist told us that length of the instruction has varied from a half an hour to 4 hours. Statistics were not kept on employees receiving EEO training.

The Southern regional office had not provided EEO training for supervisors and managers during the period of our review. Information was not readily available to determine whether any managers or supervisors had any previous EEO training. An EEO training course was to be prepared and given for supervisors and managers during fiscal year 1977. This course was to include orientation on the EEO discrimination complaint system.

In the Western region, the EEO specialist was attempting to implement a regionwide in-house EEO orientation for all

levels of management and employees. He conducted three in-house sessions in 1976 and four in January 1977 at various locations in the region.

Many INS employees with whom we spoke in the Western region agreed that the orientation was beneficial, badly needed, and should be held frequently.

### SUPERVISORY EVALUATION FOR EEO NEEDED

The Federal Personnel Manual, chapter 430, subchapter 3-2, requires that agencies include in the rating of supervisors an evaluation of their performance in the area of EEO. This had not been done in INS. The 1977 INS draft EEO plan included the objective of providing an evaluation method for supervisors' and managers' performance in EEO activities and responsibilities.

### NEED FOR EEO PROGRAM EVALUATION AND FOLLOWUP

The EEO Act of 1972 requires that CSC be responsible for reviewing and evaluating the operation of all agency EEO programs.

Code of Federal Regulations, title 5, section 713.204, provides that in implementing its EEO program, an agency shall assign to the Director of EEO the function of evaluating from time to time the sufficiency of the total agency program and reporting thereon to the head of the agency with recommendations as to any improvements needed, including remedial or disciplinary action with respect to managerial or supervisory employees who may have failed in their responsibilities. However, INS has not conducted an indepth bureauwide review of its EEO program. Further, we found that the Southern and Western regional offices had not evaluated their EEO program results. Because the regions do not collect information on the activities of EEO personnel throughout the region, INS has limited data with which to assess the program.

The INS central office and/or CSC had conducted some EEO reviews at the region, district, or sector level, generally as a part of their personnel management evaluations. However, implementation of recommendations did not always occur in a timely manner, and we were unable to find any evidence of a CSC or INS central office followup to determine if some actions were taken.

In its 1977 draft EEO plan, INS stated as one of its objectives the establishment of ongoing program evaluations at the national, regional, and field levels.

## CONCLUSIONS

Based on our review, we believe ~~more~~ systematic planning and implementation of the INS EEO program are needed. We agree with the Assistant Attorney General for Administration's recommendation that the INS Commissioner review the location of INS' EEO programs in the organization to help insure that they are in the best position to fulfill their mission and provide staff assistance to the Commissioner and other managers. We believe the administrative status of the EEO director's position in INS is potentially confusing and should be clarified or the position eliminated. In addition, if management is to make a true EEO program commitment, adequate resources, properly accounted for, will have to be provided, particularly to help insure that EEO complaints are processed in a timely manner. Also, EEO training should be provided to supervisors, supervisors need to be evaluated for their EEO responsibilities, and EEO personnel need to be adequately trained. Lastly, procedures for EEO program evaluation and followup need to be implemented.

## RECOMMENDATIONS

We recommend that the Attorney General direct the INS Commissioner to:

- Provide adequate resources for processing complaints of discrimination.
- Provide timely and continuous in-house training for EEO personnel.
- Evaluate INS' bureauwide EEO program on an annual basis.
- Provide EEO training for all managers and supervisors.
- Evaluate supervisors on their EEO responsibilities.
- Resolve the confusion over the EEO director position.

We also recommend that the Attorney General provide guidance to INS and Justice's other component organizations on how to develop EEO cost data.

IMPROVEMENTS NEEDED IN EEO PLANS

The EEO Act of 1972 requires Federal agencies to submit national and regional EEO plans to CSC for annual review and approval. According to CSC, an EEO plan is an agency's pledge of its commitment to assure true EEO in all aspects of its operations affecting employees and applicants for employment. Thus, the plan is a key element in an agency's EEO program.

CSC in implementing the EEO Act of 1972 has required the Department of Justice to submit a national EEO plan for annual review and approval. Beginning with fiscal year 1977, four of the bureaus within Justice, including INS, were also required to submit EEO plans to CSC. These plans have to be approved by Justice before going to CSC. In addition, INS regional offices have been required to submit EEO plans for CSC's review and approval.

PLAN DEVELOPMENT

In FPM Letter 713-35, CSC has advised agencies that in developing EEO plans, the first step is to assess the current status of EEO within the agency or installation to identify problem areas. The agency should assign objectives and develop action items designed to overcome the problems that are identified. These action items must include target dates. INS has attempted to follow these guidelines, but its EEO plans need to be improved. It should

- involve managers and supervisors in developing the plans,
- coordinate the plans with other Justice bureaus, and
- evaluate the plans to help insure implementation of action items.

CSC has now, in FPM Letter 713-40, August 17, 1977, stated that the person responsible for preparing the plan must request and consider input from managers, supervisors, and other parties having a responsible interest in the agency's EEO program. The agency must also draw upon the results of personnel management and EEO program evaluations conducted by CSC or agency internal evaluation units.

### Need to involve managers and supervisors in EEO plans

CSC regulations state that managers and supervisors shall be made aware that furthering EEO is an integral part of their positions and, in addition, that they will be evaluated upon the effectiveness of their performance in the EEO area. To be effective, they should become involved in developing the EEO plans. However, recent practice at INS does not indicate that such involvement is being encouraged. For example, after 1975 INS discontinued the practice of giving division heads the opportunity to comment on draft EEO plans. Also, except for EEO personnel there was no contribution to the 1977 plan by managers and supervisors in the Western regional office.

### Need for coordination

Justice requires each of its bureaus to forward its annual EEO plan to the Department and other Justice bureaus. However, Justice has not enforced this requirement. The INS plans have not been routinely submitted to Justice or to other bureaus as required. Nor have any of the INS national EEO plans for 1973 through 1976 received final approval in INS. Administrative delays have been the cause of this.

INS is now required to submit its national plan to CSC through Justice, thereby insuring that Justice receives and reviews the plan. It would be even more helpful if INS also sent its plan to other Justice bureaus, as required. This would assist in Justice-wide coordination efforts.

### EVALUATION OF EEO PLANS IS NEEDED TO HELP INSURE IMPLEMENTATION OF ACTION ITEMS

In the national and Western regional plans, several action items have been repeated each year with no indication that they had been acted on and with no accompanying explanation of why not. The problem has been a lack of EEO program and plan evaluation at the national, regional, and field levels. This problem was identified in the INS draft plan for 1975, but because the implementation of the plans is not properly monitored, the draft plans for 1976 and 1977 identified the same problem. They did not include any explanation of why corrective action had not been taken.

Better monitoring is clearly needed.

## RECOMMENDATIONS

We recommend that the Attorney General direct INS to:

- Emphasize the importance of involving managers and supervisors in the development of the EEO plan and require that this be done annually.
- Establish a system for monitoring and reporting on the implementation of the EEO plan, including reasons why action has not been taken.
- Use CSC guidance in developing and preparing EEO plans.

## CHAPTER 5

### NEED TO IMPROVE MINORITY AND

#### FEMALE RECRUITING EFFORTS

INS does not have a formal, coordinated recruiting program for hiring women and minorities. The 1973 INS draft EEO plan stated that numerical guidelines would be established, where feasible, for minority hiring, and that programs would be developed to implement these guidelines. The draft also stated that data would be analyzed reflecting the employment of women and minorities and that progress reports would be provided to the INS personnel office. The 1974 draft plan reported that establishment of these goals was not accomplished and included the following action item:

"Establish realistic Service-wide goals which will be used as a guide for effectiveness of recruiting and promotion of women, Spanish-speaking, American Indian, Asian American and Black employees throughout calendar year 1974."

Similar actions were included in the respective draft plans for 1975, 1976, and 1977, but no explanation of the failure to accomplish the items was included in the plans.

The 1977 INS draft EEO plan also recognized the need to increase coordination and promote action objectives in its recruiting activities.

A district director for the Western region stated that women and Blacks did not apply for the border patrol, and that his office did not seek out minority or women's organizations in its recruiting efforts. An administrative officer and chief patrol agent in the Western region said women were reluctant to enter law enforcement jobs. The administrative officer said that this was because women do not like to carry guns nor do they enjoy working in the street, and frequently their husbands object to their doing this type of work.

A personnel specialist explained that it could not be determined if Blacks were applying for officer corps positions since (1) race cannot be recorded on applications, (2) most of these positions are filled from the ranks of INS employees, and (3) interviews are not required of in-service personnel.

The EEO specialist in the Southern region said he plans to prepare a statistical analysis of the concentration of

racess and sexes by job series. The EEO specialist contends that at present INS' problems do not relate mainly to utilization but rather minority and female representation within various professional occupations. He believes that once equitable representation is achieved, an assignment analysis would be beneficial to assess personnel utilization. He stressed that management's attitude and the methods of recruiting needed to be changed before minority and female representation could be increased.

Minority and female recruiting efforts in INS appear to have been minimal, and some officials believe that because of the selection requirements and the lack of direct-hire authority, minority and female recruiting programs are of minimal value. INS' 1977 draft EEO plan stated that although there are a number of items which contribute to the low percentages of minorities and women in specific occupations, it is recognized that sustained efforts have not been instituted to correct these imbalances. It stated that any actions taken by INS to improve and balance its work force in certain occupations will have to be specific and sustained over a period of time.

#### CONCLUSIONS

While INS has recognized that there are low percentages of minorities and females in certain occupations, no specific recruiting goals have been established to help remedy this situation.

#### RECOMMENDATIONS

We recommend that the Attorney General require INS to:

- Develop specific recruiting goals based on the extent of problems, so that "benchmarks" can be established for program evaluation.
- Establish a formalized minority and female recruiting program with concentrated efforts at meeting established goals. Minority and female recruiting goals and efforts should be based on anticipated vacancies to the extent practical, and efforts should be coordinated among headquarters, regional, district, and sector personnel.
- Monitor and evaluate minority and female recruiting efforts to determine whether established goals are being achieved, and if not, determine why not.

## CHAPTER 6

### NEED TO HELP INSURE EEO IN

#### TRAINING AND PROMOTIONS

Executive Order 11478 and the EEO Act of 1972 require that agencies provide maximum feasible opportunity for employees to enhance their skills so they may perform at their highest potential and advance according to their abilities.

We could not determine if equal opportunity was provided in training given because statistics were not kept. In our opinion, this management weakness can be readily corrected.

#### EEO IN CAREER DEVELOPMENT TRAINING

The employee development division of the INS central office has responsibility for formulating training policy and direction. It has delegated much of the authority for training to the regions. The INS central office has not monitored career development training to determine if minorities and women are provided equal opportunity for training.

Normally, mandatory and optional training are provided to INS employees. Some training is required for advancement within certain career fields; some is voluntary for the enhancement of a person's job skills.

In the Southern region, we were unable to determine whether all employees were being afforded equal opportunities for training because employee training statistics were not being kept. Beginning with the third quarter of calendar year 1976, the training specialist started keeping a file of CSC Optional Form 170, "Request Authorization, Agreement, and Certification of Training." From this file, lists of students who attended specific courses could be prepared; however, to obtain information on prior employee training would require reviewing each individual's personnel record.

The Western region did not maintain records which would allow us to make an adequate assessment of mandatory training. However, records for optional training were available. We examined these records for 1973 to 1976 to determine the race and sex of individuals throughout the region who received optional training and compared the percentages of minorities and women who received optional training with their percentages in the work force:

## Instances of Optional Training

<u>Race</u>	<u>Male</u>	<u>Female</u>	<u>Total</u>	<u>Percent</u>	<u>Work force composition</u>
Black	2	3	5	2.3	9.5
Spanish-speaking	12	21	33	15.0	15.0
American Indian	2	2	4	1.8	0.8
Asian American	2	9	11	5.0	6.6
Other	109	49	158	71.8	68.1
Unidentified	<u>4</u>	<u>5</u>	<u>9</u>	<u>4.1</u>	<u>-</u>
Total	<u>131</u>	<u>89</u>	<u>220</u>	<u>a/100.0</u>	<u>b/100.0</u>

a/Of this total, 40.5 percent are women.

b/Of this total, 31.1 percent are women.

For Blacks, the percent of optional training instances was 7.2 percent less than the percent of their representation in the work force. However, the comparison does not consider the types of training offered, the availability of optional training to those in certain job categories, and the race and sex composition of those in each job category. It was not feasible for us to do sufficient work to determine whether discriminatory factors were the root cause; however, we suggested to the EEO specialist that this would be a worthwhile question to examine.

### EEO IN PROMOTIONS

INS has not analyzed its promotions with respect to EEO. The Department of Justice's 1976 EEO plan contained an action item to develop a time-in-grade, average-grade promotion survey in each of its bureaus for Hispanics, Blacks, Native and Asian Americans, and women in key occupations, to compare with that of nonminorities and men in these occupations. However, in its 1977 EEO plan Justice stated that the survey was not developed, primarily because of lack of time and statistical capability to prepare the computer runs. The action item was not repeated in the 1977 plan.

We analyzed statistical data on INS' work force available at June 30, 1974, 1975, and 1976, and data on promotions in INS from July 1, 1974, to December 31, 1976; it showed that

minorities and women received promotions at a rate sufficient to maintain or increase their current work force representation in INS. However, analysis would have to be made by INS to determine if discriminatory practices exist for promotions by occupational categories.

INS has not analyzed its promotions by race, sex, grade level, or occupation, even though EEO complaints concern promotions more than any other matter. (See p. 35.) INS had made no analysis of EEO complaints to identify trends, possible management deficiencies, or systemic discriminatory practices. Analyses, in our opinion, should be part of a continuing effort in INS to identify and eliminate discriminatory practices.

### RECOMMENDATIONS

We recommend that the Attorney General direct the INS Commissioner to maintain and analyze training and promotion statistics as part of INS' overall EEO effort. Analyses are important to help insure that equal opportunity in training and promotions is provided for all employees. The analyses should include (1) time-in-grade comparison studies of promotions for minorities and women versus promotions for nonminorities and men and (2) studies of discrimination complaints concerning promotions to identify potential management deficiencies, EEO problems, and discriminatory practices. (See ch. 7.)

## CHAPTER 7

### IMPROVEMENTS NEEDED IN THE

#### DISCRIMINATION COMPLAINT SYSTEM

When an employee or applicant for employment believes he or she has been discriminated against and wishes to voice a complaint, the employee or applicant must first contact an EEO counselor, who attempts to resolve the complaint informally. (This is commonly referred to as the precomplaint phase of the overall complaint process.) The EEO counselor functions as an intermediary between employees and managers or supervisors and attempts to resolve problems informally. If this is successful, a time-consuming and expensive formal complaint process is avoided.

Precomplaints (informal complaints) are handled within the INS central office and regions by EEO counselors. Formal complaints are processed by the central office EEO officer. Regional officials, at the request of the central office, may become involved in the formal complaint process in two ways:

- EEO investigators from the region may be appointed and assigned to make formal complaint investigations.
- After the investigation has been completed and a report is prepared, the central office EEO officer may ask the regional commissioner to assign an individual to review the case and attempt to resolve the problem.

We found that INS could improve its EEO discrimination complaint system. It needs to

- help insure that complete and accurate data on its counseling is collected;
- better organize its formal complaint files;
- emphasize freedom from reprisal;
- improve the supervision, control, and evaluation for EEO counselors and investigators;
- analyze complaint data;
- help insure that when discrimination is found, disciplinary action is taken if warranted and reasons for not taking disciplinary action are documented; and

--help insure that every effort is being made to avoid unnecessary delays in processing EEO complaints of discrimination.

NEED TO HELP INSURE ACCURATE AND COMPLETE DATA ON EEO COUNSELING ACTIVITIES

Executive Order 11478 and CSC's regulations encourage resolution of EEO discrimination complaints on an informal basis. We were unable to determine the importance and success of the informal resolution process in INS because counseling activities are not monitored to help insure accurate reporting and not all reports are submitted.

A comparison of the number of precomplaints and formal complaints, as reported to INS for calendar years 1974, 1975, and 1976, follows:

<u>Calendar year</u>	<u>Precomplaints</u>	<u>Formal complaints</u>
1974	17	15
1975	186	69
1976	<u>74</u>	<u>52</u>
Total	<u>277</u>	<u>136</u>

This comparison shows that a high percentage of precomplainants are filing formal complaints. This strongly suggests that INS needs to study and place more emphasis on its informal resolution stage. However, because reporting is not accurate and complete, we could not conclusively determine if more emphasis is actually needed.

Counseling activities have not been sufficiently monitored by the INS central office and until March 1977 had not been monitored at all by the regional office.

The Department of Justice regulations require EEO counselors to document precomplaint counseling cases, including issues raised, resolutions attempted, and record of counseling provided. Counselors are required to submit directly to the central office a "Monthly Report on Precomplaint Counseling" and an "EEO Counselor Time and Travel Report" that describe their activities and the time and money they spend. The EEO officer advised us that about 50 percent of the precomplaint counseling reports for calendar year 1976 were not submitted to the central office. One counselor said that she frequently failed to prepare the counseling report and

never prepared the time and travel report. She was not contacted by the central office for failure to report.

Counselors are not required to submit copies of their reports or any other documentation to the EEO specialists in the regions. The EEO specialist in the Dallas region receives a copy of the reports from only one counselor and is not sure how the counselors compile the statistics or what types of statistics are or are not included.

Effective March 1977, EEO counselors were required to submit their reports through the regional office rather than directly to the central office. If reports are filed, this procedure should aid in making the EEO specialist more aware of EEO complaints. However, we believe guidance should be provided on how statistics should be compiled; this would help insure consistency in reporting by all counselors.

Since counselors' records are not being monitored, documentation to support the number of cases counselors report may not exist. For example, one counselor told us she had counseled 20 to 25 employees, but her files contained only four of the checklists required to be prepared immediately following the final interview with a complainant. These four cases were the ones that had become formal complaints.

One EEO specialist said that he believes the informal complaint process is not as effective as it should be due to managers' and supervisors' lack of EEO awareness, lack of commitment to develop a viable EEO program, and resistance to change. He told us that constructive recommendations by EEO counselors in attempting to informally resolve complaints are sometimes rejected.

One counselor and a former counselor described difficulties they had in trying to resolve informal complaints with supervisors who apparently resented interference by EEO personnel. They believed that formal EEO training would help supervisors have a better understanding of the program and be more supportive of the counselors' efforts.

Although the above views indicate possible problems in the informal stage, we cannot conclusively state that more emphasis needs to be placed on informal resolution. INS should determine if this is true.

## FORMAL COMPLAINT FILES NEED BETTER ORGANIZATION

INS' formal complaint files were totally disorganized. In trying to determine if cases were processed in a timely manner and trying to find where delays were occurring, it was extremely difficult for us to follow cases chronologically because documents were not filed in order. Some files had superfluous material, while others lacked such essential information as the formal complaint of discrimination itself.

During our review the EEO officer instituted a logging system for the files, requiring all complaint documents to be logged and kept in chronological order. This should help to alleviate some of the disorganization in the files.

## NEED TO EMPHASIZE FREEDOM FROM REPRISAL OR INTERFERENCES

CSC regulations provide that EEO counselors and complainants and their representatives and witnesses shall be free from reprisal or interferences. We cannot conclusively say that such incidents have actually occurred in INS, but EEO personnel and other employees we interviewed told us reprisals against EEO counselors, investigators, and complainants may be occurring. They also told us that some employees feared reprisal actions might be taken against them.

INS should determine the extent of both the fear of reprisal and actual reprisals against EEO counselors and investigators, since this can, in our opinion, greatly affect the quality of their work and their fairness and impartiality in handling EEO complaints. Such a determination should also be made with respect to complainants. If either an actual or perceived problem is found to exist, corrective action should be promptly taken.

## IMPROVED SUPERVISION, CONTROL, AND EVALUATION FOR EEO COUNSELORS AND INVESTIGATORS ARE NEEDED

EEO collateral assignments are official EEO duties and responsibilities assigned to an employee in addition to those of the primary position the employee occupies. In INS the EEO counselor and investigator positions are collateral assignments.

Evaluations have not been made for individuals performing EEO functions on a part-time basis. This has contributed to a lack of effective control over these individuals.

Two EEO investigators and a former investigator expressed the opinion that non-EEO complaints are unnecessarily processed in INS, and they believe that these can be reduced by appointing better qualified and more competent counselors.

Also, studies conducted by the EEO officer and a criminal investigator found that one-third of the EEO investigations were evaluated as "satisfactory" but may lack evidentiary depth, one-third were evaluated as outstanding, and one-third as unsatisfactory.

These statements about counselors' performance and the study of the investigations indicate that the EEO duties of part-time counselors and investigators should be evaluated to provide final results to counselors and investigators and establish a basis for encouraging better performance or relieving individuals of their collateral duties when necessary.

CSC has issued guidance concerning EEO collateral assignments. In its FPM Letter No. 713-37, dated May 20, 1977, CSC states that official EEO duties and responsibilities assigned to employees on a collateral basis must be described in the official position description that covers the position the employee occupies. CSC also states that as with any other official work assignment given to an employee, certain conditions involving how and when work will be assigned, adjusted, appraised, and supported by resources should accompany the EEO collateral assignment in order to assure that it is carried out in an effective manner.

#### NEED TO ANALYZE COMPLAINT DATA

Though the inaccuracy of precomplaint data has been discussed (see pp. 29 and 30), we analyzed the bases and causes of precomplaints and formal complaints reported for January 1, 1974, to December 31, 1976, as shown below.

### Precomplaints

<u>Basis</u>	<u>Number of complaints</u>	<u>Cause</u>	<u>Number of complaints</u>
Race/color	128	Initial appointment	64
Religion	19	Promotion	95
Sex--female	72	Reassignment	18
Sex--male	6	Separation	21
National origin	29	Suspension	1
Age	<u>23</u>	Reprimand	11
		Duty hours	7
Total	<u>277</u>	Job training	11
		Detail	4
		Other	<u>45</u>
		Total	<u>277</u>

### Formal Complaints

<u>Basis</u>	<u>Number of complaints</u>	<u>Cause</u>	<u>Number of complaints</u>
Race/color	44	Initial appointment	20
Religion	2	Promotion	42
Sex--female	34	Reassignment	7
Sex--male	17	Separation	22
National origin	26	Suspension	1
Age	<u>13</u>	Reprimand	0
		Duty hours	5
Total	<u>136</u>	Job training	2
		Detail	4
		Other	<u>33</u>
		Total	<u>136</u>

Although several of the complaints concern initial appointment, promotion, separation, and reassignment, INS had not performed any analysis of precomplaints or formal complaints to identify trends, potential management deficiencies, or systemic discriminatory practices.

INS' efforts have been directed at the processing of individual complaints.

### LITTLE DISCIPLINARY ACTION TAKEN

When discrimination is found, agencies are authorized by CSC to take certain actions, including:

--Appropriate remedies, including reinstatement or hiring of employees or applicants for employment with or without back pay.

--Disciplinary action, if warranted, against discriminatory officials.

INS took seemingly appropriate remedies for employees when discrimination was found, but generally took no disciplinary action against discriminatory officials. During the period January 1975 to March 1977 a decision of discrimination or no discrimination was made in 49 cases. In the six cases in which discrimination was found, the complainant received some type of remedial action such as promotion, transfer, and so forth, but in only one case did a discriminating official receive any type of disciplinary action. The reasons for not taking disciplinary action were not documented as required by CSC.

One EEO specialist told us that one reason why so few discriminating officials are punished is that such punishments become a part of the officials' records and might ruin their career. Another EEO specialist said there is no well defined method of deciding what punishments should be given for various offenses.

CSC has formally advised us that its position is--and will be in future guidance to agencies--that appropriate disciplinary action should be initiated when personnel are found to have been culpable of discrimination.

#### 180-DAY TIME REQUIREMENT NOT MET

The EEO Act of 1972 states that a complainant may file a civil action

- within 30 days of notice of final action taken by an agency or by CSC upon an appeal from a decision of an agency on a complaint of discrimination based on race, color, religion, sex, or national origin;
- after 180 calendar days from the date of filing a complaint with his agency if there has been no decision; or
- after 180 calendar days from the date of filing an appeal with the Commission if there has been no Commission decision.

In response to this provision of the act, CSC has issued regulations which impress upon agencies the importance of timely complaint processing by emphasizing the importance of not exceeding 180 calendar days in processing formal EEO complaints.

Our analysis of formal complaints in process at December 31, 1976, showed that the above time requirement had not been met. INS has not, however, analyzed how and why delays are occurring. We were advised that many of the delays occur in the review and investigative stage.

As of February 5, 1977, there were 83 formal EEO complaints of discrimination in process in INS. Our analysis showed that 58 (about 70 percent) were in process more than 180 calendar days. Of the 58 cases, 49 were 300 or more days old.

In our report entitled "System for Processing Individual Equal Employment Opportunity Discrimination Complaints: Improvements Needed," B-178929, dated April 8, 1977, we stated that CSC has never reviewed the relevance of the 180-calendar-day time frame for processing complaints. We recommended that the Chairman of CSC "develop criteria for and assess the effectiveness and efficiency of complaint systems that consider qualitative cost aspects in addition to timeliness consideration." In the meantime, however, we believe that INS should review its complaint system to determine if every effort is being made to avoid unnecessary delays and to process complaints in a timely manner.

## CONCLUSIONS

We believe that INS should review its informal resolution stage to determine if more emphasis on it is needed. INS has taken steps which we believe will help, if properly implemented, to alleviate some of the disorganization of the files that we found.

We further believe there is a need for the Department of Justice to emphasize to INS its obligations to see that complainants, counselors, and investigators are free from reprisals.

INS was not (1) adequately supervising, controlling, and evaluating employees performing as EEO counselors and investigators, (2) analyzing its EEO complaints to identify trends, management deficiencies, or systemic discriminatory practices, (3) generally taking disciplinary action when discrimination was found nor documenting its reasons for not taking such action, and (4) processing EEO complaints in a timely manner.

## RECOMMENDATIONS

We recommend that the Attorney General direct the INS Commissioner to:

- Institute a monitoring system for counselors' activities to help insure that all required reports are submitted and substantiated and help insure that maximum effort is made to resolve complaints on an informal basis.
- Help insure that the logging system for formal complaint files is continuously maintained.
- Reemphasize its obligation to see that persons who have initiated or are involved in the processing of EEO complaints are not subjected to reprisal.
- Make a determination of the extent of actual or perceived reprisal and take action to correct any such problem found.
- Institute and implement a systematic approach for monitoring and evaluating employees performing EEO functions on a collateral duty basis.
- Analyze EEO complaints to identify trends, potential personnel management problems, and systemic discriminatory practices.
- Help insure that when discrimination is found, disciplinary action is taken if warranted and reasons for not taking disciplinary action are documented.
- Review its complaint system to determine if every effort is being made to avoid unnecessary delays and to process complaints in a timely manner.

## CHAPTER 8

### AGENCY COMMENTS

On January 27, 1978, we discussed our findings and recommendations with INS officials who are responsible for the EEO program. They concurred in most of our findings but found it necessary in some instances to make certain clarifications and correct minor inaccuracies.

INS further provided us with the following updated information.

1. The EEO affirmative action programs have been removed from the staffing function and are now a separate branch in the personnel division. The EEO complaints process remains in a separate office within the office of the Deputy Commissioner.
2. The EEO specialist in the Southern regional office has been provided private working space as well as a phone and clerical assistance.
3. INS has determined that the placement of 1 EEO counselor at locations of 100 or more employees was more appropriate for their needs than the ratio of 1 counselor for every 50 employees, as CSC requires.
4. INS included EEO cost data in the 1976 EEO draft plan of \$309,000. Of this amount \$90,090 was expended at headquarters level and \$218,910 at field locations.
5. The merit staffing plan II, an appraisal system implemented in 1977, contains a rating element to measure supervisors' EEO performance. A Justice annual performance appraisal system will be implemented in INS in 1978 and will provide for appraisal of EEO responsibilities.
6. Supervisors and managers were involved in the development of the fiscal year 1978 EEO plan. A national EEO plan development conference was held with Department of Justice central office and INS regional managers and EEO representatives in January 1977.
7. Recruiting goals for minorities and women have been established nationwide for fiscal year 1978, and a 5-year plan is being developed.

8. Counselor reporting requirements were expanded in 1977 to include the collection and review of all monthly reports by the regional EEO specialist, plus expanding the required information of the forms themselves. The forms now include precomplaint counseling, resolution, actions taken, other contacts and time travel reports.
9. Evaluations of employees who serve as collateral duty counselors and investigators will now include an EEO appraisal section.

## CHAPTER 9

### SCOPE OF REVIEW

Our examination of the INS EEO affirmative action program included a review of the laws, Executive orders, policies, and regulations that guide CSC, Justice, and INS in governing the program. As part of our review, we examined the practices and procedures at the INS headquarters office in Washington, D.C., and the INS Western and Southern regional offices.

Our review covered the INS EEO affirmative action program for the period July 1974 through March 1977. Statistical data provided by Justice covered the period July 1, 1974, to December 31, 1976, and was used by us to analyze the INS EEO profile, with emphasis on the representation of women and minorities in the various occupations and grade levels. We wanted to know what progress had been made in terms of increasing the representation and improving the distribution of women and minorities in the INS work force.

We met with appropriate EEO, personnel management, and other officials of CSC, Justice, and INS. We examined the national and regional EEO plans, program guidelines, pertinent correspondence and program evaluations, and EEO complaint files.

INS' viewpoints expressed in this report represent those of management. Employees' assessments of INS' affirmative action policies and programs will be the subject of our overall report to be prepared in the future. That report will deal with employees' responses to an indepth questionnaire which was designed to reflect attitudes toward and assessments of INS' affirmative action program.

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July 29, 1976

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The Honorable Elmer B. Staats  
 Comptroller General of the United States  
 General Accounting Office  
 441 G Street, N.W.  
 Washington, D.C. 20548

Dear Mr. Staats:

The Subcommittee on Civil and Constitutional Rights of the House Judiciary Committee has recently concluded a series of hearings on equal employment opportunity at the Department of Justice. In three days of hearings, my Subcommittee received testimony from several civil rights organizations which charged that minorities and women have been excluded from employment and promotion opportunities at the Justice Department.

We plan to continue monitoring the agency's employment practices over the next year to determine the progress of the Justice Department towards meeting the equal opportunity mandate. To assist the Subcommittee in the performance of its oversight function, I would like to request that the General Accounting Office study and evaluate the operation of the affirmative action program of the Department of Justice and each of its component organizations. The inquiry should focus on the entire range of policies and practices impacting on the structure and implementation of the affirmative action program, recruitment, selection, promotion, training, assignment, management, and the complaint process.

The Subcommittee has tentatively scheduled further hearings on this issue for early in the 95th Congress, and we would appreciate a report at that time from the GAO on your findings and recommendations. If I or my staff can assist in any manner towards your efforts in this study, please contact me.

Thank you once more for your continued assistance.

Sincerely,



Don Edwards  
Chairman  
Subcommittee on Civil  
and Constitutional Rights

DE:vs

**PRINCIPAL OFFICIALS OF THE**  
**DEPARTMENT OF JUSTICE RESPONSIBLE FOR**  
**ADMINISTERING ACTIVITIES DISCUSSED IN THIS REPORT**

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
<b>ATTORNEY GENERAL:</b>		
Griffin B. Bell	Jan. 1977	Present
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975
<b>ASSISTANT ATTORNEY GENERAL, ADMINISTRATION:</b>		
Kevin D. Rooney	May 1977	Present
Glen E. Pommerening	Jan. 1974	Apr. 1977
<b>COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE:</b>		
Leonell J. Castillo	May 1977	Present
Leonard . . Chapman, Jr.	Nov. 1973	May 1977