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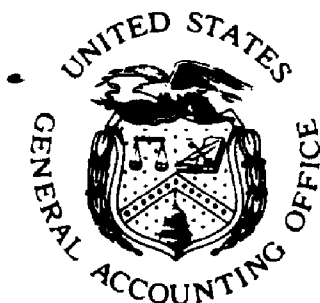
# General Accounting Office

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## Inquiry Into Alleged Operating And Management Problems In EEOC's Office Of Review And Appeals

Equal Employment Opportunity Commission employees made allegations about poor personnel management and other problems at the Commission's Office of Review and Appeals. GAO found that many of the allegations were valid and that the Commission has taken actions to address the problems.

This report was requested by the Chairwoman, Subcommittee on Civil Service, House Committee on Post Office and Civil Service.



GAO/FPCD-82-68  
AUGUST 25, 1982

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FEDERAL PERSONNEL AND  
COMPENSATION DIVISION

B-208355

The Honorable Patricia Schroeder  
Chairwoman, Subcommittee on  
Civil Service  
Committee on Post Office and  
Civil Service  
House of Representatives

Dear Madam Chairwoman:

In a March 5, 1982, letter, you asked us to review allegations made by Equal Employment Opportunity Commission employees about poor personnel management and other problems at the Commission's Office of Review and Appeals (ORA). These allegations, initially made to your office, were relayed to us by Commission employees on February 18, 1982.

OBJECTIVES, SCOPE, AND METHODOLOGY

As agreed in subsequent discussions with your office, the objectives of our inquiry were to provide you with

- a description of the problems that were alleged to exist at ORA,
- our observations about the existence of the problems,
- a description of the Commission's actions taken or planned to resolve the problems,
- the Commission's reasons for not taking remedial action sooner,
- the Commission's views about the existence of the problems, and
- a chronology of events leading to the dismissal of ORA's former Director and the appointment of an Acting Director.

We did work at Commission headquarters in Washington, D.C., and at ORA in Arlington, Virginia. Our review was performed in accordance with our Office's current "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions," from April through June 1982.

To better understand the allegations and to learn about the corrective actions taken or planned and why such actions were not taken sooner, we met with Commissioners and other Commission officials and reviewed the agency's internal studies made of ORA management and operations since 1980. We also examined pertinent ORA planning documents, internal memoranda, periodic reports, and certain ORA operations which were alleged to be the source of many of the problems.

We obtained Commission views about the existence of the alleged problems during discussions with agency officials. Also, we discussed some of the alleged problems with representatives of executive departments and agencies which comprised a task force that reviewed the Federal discrimination complaint processing system. In accordance with the assignment objectives, and because of the sensitivity of this case, we did not interview ORA's former Director. All references in this report to his knowledge of the problems and actions he took were obtained from Commission records and during interviews with other Commission officials.

Senior Commission officials assisted us in developing a chronology of events leading to the dismissal of the ORA Director and the appointment of the Acting Director.


#### SUMMARY OF FINDINGS

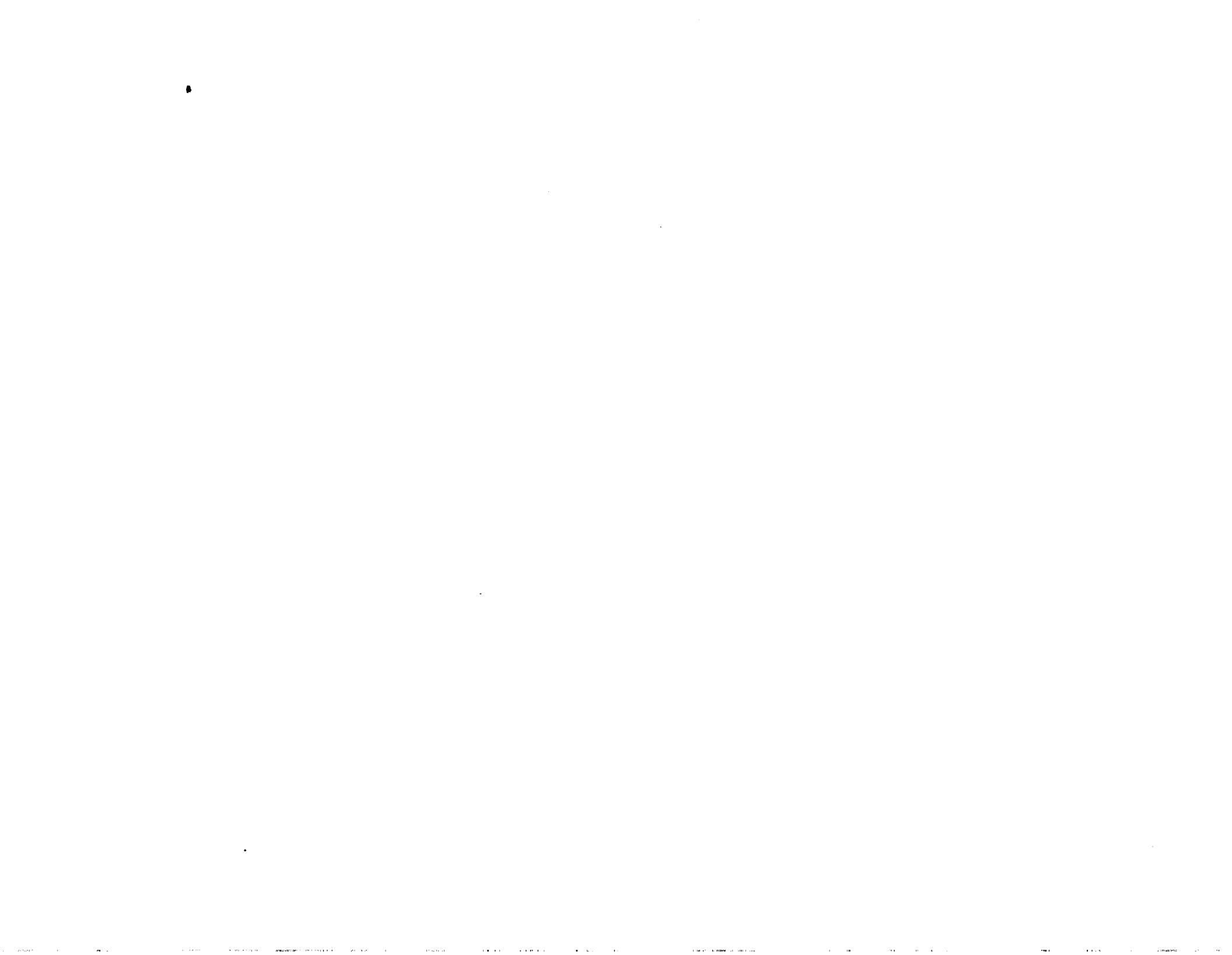
Altogether, 19 allegations were made. They involved a wide range of alleged management and operating problems, such as productivity, records management, employees' time and attendance, use of overtime, morale, and communications. We found that many of the allegations were valid and that Commission officials were aware of the problems and were taking actions to address them. Appendix I discusses the individual allegations, our observations, and corrective actions taken or planned. Appendix II presents (1) a chronology of events leading to the dismissal of ORA's former Director and the appointment of an Acting Director and (2) the Commission's reasons for not acting sooner to correct the alleged problems.

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At the request of your office, we did not obtain official comments from the Commission. However, we discussed the information in this report with Commission officials. Also, as arranged with your office, we are sending copies of the report to the Chairman, Equal Employment Opportunity Commission, and to other interested persons.

Sincerely yours,

  
Clifford I. Gould  
Director



RESULTS OF GAO INQUIRY INTO ALLEGATIONS MADE BY  
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION EMPLOYEES

ALLEGATION 1

The Commission's fiscal year 1983 budget submission stated that ORA had increased productivity by 30 percent from fiscal year 1980 to fiscal year 1981. It is highly unlikely that such an increase in productivity actually occurred.

Results of inquiry

The Commission's fiscal year 1983 budget submission stated that, in fiscal year 1981, appeals process staff productivity increased by 30 percent over fiscal year 1980 with an additional 10-percent increase projected for fiscal year 1982. <sup>1/</sup> According to an ORA official, the increases cited in the budget submission probably pertained to the number of appeals cases reviewed and related decisions written by attorneys. In fiscal year 1981, 23 attorneys wrote 2,611 case decisions compared to 1,938 written in fiscal year 1980 by the same number of attorneys--a 35-percent increase.

Since fiscal year 1981, ORA has kept statistics on the length of time it takes to send a decision to an appellant once a case is received. This data shows that the average time to process an appeal increased from 314 days in fiscal year 1981 to 355 days in the first half of fiscal year 1982. The increase occurred primarily because it was taking more time to reproduce, log, and mail case decisions after they were written. A similar comparison cannot be made for fiscal years 1980 and 1981, because data was not available for fiscal year 1980.

The Acting Director agreed that ORA's productivity needs to be improved and, as discussed in the following sections, he has taken a number of actions to address this problem.

ALLEGATION 2

The control unit was in complete chaos. This sometimes resulted in more than one decision being rendered on the same case. Also, some of the duplicate decisions were conflicting.

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<sup>1/</sup>Presented before the Subcommittee on Commerce, Justice, State, the Judiciary, and Related Agencies, House Committee on Appropriations, on Feb. 25, 1982.

Results of inquiry

Commission studies have documented that staffing and procedural problems in the control unit have long been a major ORA concern. However, an attempt to permanently correct these problems was not made until fiscal year 1982.

All case processing, except decision writing, is performed in the control unit. The control unit receives incoming appeals, assigns each one a docket number, acknowledges receipt of appeals, establishes files, and mails out decisions. At the time of our inquiry, three clerical employees were assigned to the unit.

Control unit problems were documented as early as 1979, when the former Director acknowledged that ORA would not be successful until the unit worked smoothly and efficiently. At that time, ORA had a backlog of over 1,000 cases to process. By the end of March 1982, the backlog had increased to more than 2,500 cases--over a year's work--and most of the cases were located in the control unit.

According to Commission officials, numerous problems existed in the control unit. For example,

- files were in disarray and often more than one file was prepared for the same appeal;
- correspondence on the status of cases was usually unanswered because the control unit did not forward it to attorneys for reply; and
- older cases were not kept separate from more current cases, making it difficult to process cases in order of receipt.

At the former Director's request, the Commission's Office of Administration conducted a study of the control unit. The study, which was completed in April 1980, recommended (1) delegating authority for control unit operations to a control unit supervisor, (2) assigning specific duties to control unit personnel, (3) developing control unit operating procedures, and (4) establishing additional paralegal and clerical positions, including a mail clerk. The study also recommended hiring three additional persons. ORA did not implement these recommendations for various reasons, one of which was that staffing ceilings prohibited the hiring of additional personnel.

In an October 8, 1981, memorandum to the Commission's Deputy Executive Director, an ORA division director described the need for additional control unit staff. He pointed out that, when ORA was originally established, nine clerks were assigned to control



functions and, because of personnel reductions, the control unit staff was down to three clerks. Also, on March 17, 1982, the former Director told an ORA consultant that, in his opinion, nine clerks were needed to complete control unit tasks.

Although the former Director frequently asked for more clerical workers, the Commission did not provide additional permanent positions because of staffing ceilings. Instead, the Commission sent detailees from headquarters and authorized ORA additional overtime funds for fiscal years 1980 and 1981. According to ORA officials, the situation was never completely resolved because (1) the detailees were assigned for only short periods and (2) the Commission did not allow ORA to use overtime in fiscal year 1982 because of budget cuts.

At the request of a former Acting Commission Chairman, the Commission's Office of Program Planning and Evaluation conducted a second study. This study, issued in December 1981, indicated that some of the recommendations of the April 1980 study were still appropriate, particularly those concerning the need for different control unit procedures and a mail clerk. In addition, the study recommended that two detailees' assignments to the control unit be extended 6 months. The former Acting Commission Chairman told us he did not implement these recommendations because of other priorities, such as Commission-wide budget cuts and reductions-in-force.

Because of the problems in the control unit, duplicate decisions were sometimes rendered. According to ORA's Acting Director, this probably happened because clerical workers sometimes established separate files when they received new material on cases for which files had already been established. Instances of duplicate decisions rendered on the same appeals were documented in congressional correspondence sent to the Commission's Office of Congressional Affairs. Moreover, officials we interviewed in several agencies cited cases in which they had received more than one decision from ORA on the same case. They also said that, in some instances of duplicate decisions, the decisions were conflicting. (See p. 7.)

The Acting Director estimated that, when he arrived at ORA, as many as 10 percent of the case files awaiting attorney action were duplicates. He plans to eliminate duplicate and conflicting decisions by strengthening procedures in the control unit and, with the help of an attorney detailed to work directly for him, providing for a central review of all decisions. (See p. 7.)

In April 1982, the Acting Director established a special task force, made up of detailees from other Commission offices, to eliminate the backlog at ORA. He also assigned specific

duties to the control unit staff and some attorneys and required that daily status reports be prepared on the backlog. The results of the efforts to reduce the backlog are shown below:

	<u>Mar. 31, 1982</u>	<u>Apr. 30, 1982</u>	<u>May 30, 1982</u>
Appeals received but not yet acknowledged	800	400	0
Appeals acknowledged and in process	1,300	1,600	1,912
Appeals which were received and acknowledged and on which decisions were rendered but not mailed out	<u>800</u>	<u>400</u>	<u>0</u>
Total backlog	<u>2,900</u>	<u>2,400</u>	<u>1,912</u>

According to the Acting Director, since the task force began its work, the control unit staff has been able to process all appeals promptly upon receipt.

### ALLEGATION 3

Overtime was excessive and unnecessary at ORA. One clerical employee received about \$7,000 of overtime during fiscal year 1981 doing work that could and should have been done during regular working hours.

### Results of inquiry

According to ORA officials, there was no excessive or unnecessary overtime. Rather, overtime was used to help eliminate backlogs in the control unit. About \$30,000 of overtime was paid to ORA staff in fiscal year 1981, involving an average of six employees each pay period. This was a significant increase over the \$3,000 overtime paid in fiscal year 1980. During fiscal year 1981, two clerical employees were paid about \$7,000 each for overtime worked in the control unit that, we were told, could not be done during regular working hours.

Officials in the Commission's Office of Program Planning and Evaluation told us that ORA maintained a tightly controlled overtime log. Also, ORA required overtime approval by supervisors, direct supervision during performance of overtime, and completion of predetermined quantities of work during the overtime period. No overtime was funded for ORA in fiscal year 1982 because of budget cuts.

ALLEGATION 4

The standard of two case completions a week for each attorney was not changed and was much too low. The standard probably should have been five or six cases a week. When someone exceeded the standard of two cases a week, he or she was asked to slow down to avoid making the other attorneys look bad.

Results of inquiry

ORA's two-case standard existed from fiscal year 1979, when it was established, until April 1982. Commission officials informed us that this standard may have been too low. The average number of cases written by an attorney was two cases a week in fiscal year 1981 and 2.08 cases a week during the first half of fiscal year 1982.

An ORA division director told us that, when one attorney began completing 5 to 10 cases a week, other attorneys in her division asked her to reduce her completion rate to 2 cases a week. After she told the division director about the other attorneys' request, he ordered the attorneys to be as productive as they could and not be concerned with just meeting the standard. He also told them he would take disciplinary action against any attorney who tried to persuade other attorneys to reduce their completion rates.

The Acting Director said that, to his knowledge, there have been no further attempts to have attorneys reduce their case completion rates. Also, because he believed the two-case standard was too low, the Acting Director increased it in April 1982 to three case completions a week for each attorney. During April and May 1982, attorneys equaled or exceeded the new standard and, in June 1982, the Acting Director raised the standard to 3.5 cases a week.

ALLEGATION 5

Attorneys were often required to spend a great deal of time doing clerical work because a high percentage of the clerical staff was either incompetent, absent, or refused to perform assigned duties. Some attorneys were content doing clerical work, but when other attorneys complained to ORA's former Director about being used to perform excessive amounts of clerical work, he refused to take corrective action.

Results of inquiry

In December 1980, the former Director did tell attorneys to stop their normal work for 1 week to help mail out decisions and to match case files with related correspondence. According

to ORA officials, however, the order was made, not because the clerical staff was incompetent, absent, or refused to perform assigned duties, but because ORA did not have enough clerical staff to keep up with the workload in the control unit. Two attorneys filed a grievance about having to do clerical work. This resulted in a union inquiry and direction from the Commission for ORA to discontinue requiring attorneys to perform clerical duties. The former Director responded by asking for volunteers, and all ORA's attorneys volunteered, except the two who filed the grievance.

As in the past, attorneys continue to perform clerical duties. For example, they respond to telephone inquiries concerning the status of appeals, distribute and send out mail, and type and file decisions. A consultant to the Commission estimated that, in March 1982, 20 percent to 50 percent of ORA attorneys' time was spent doing clerical work. He recommended to the Commission that this practice be discontinued, even if it meant exchanging attorney positions for clerical positions.

The Acting Director believes there is nothing wrong with attorneys doing clerical work occasionally. He said that past problems may have resulted from how the attorneys were approached, that is, being required rather than being asked to do clerical work. A team of nine attorneys volunteered, at his request, to help the special task force in the control unit do the same kind of clerical work that the two attorneys filed a grievance about under the former Director.

The Acting Director wants to minimize the time spent by attorneys typing their own cases. He believes that word processing equipment could help increase typing production and alleviate typists' backlogs. The Commission bought two of three word processing stations that the Acting Director requested for ORA.

#### ALLEGATION 6

Some ORA attorneys consistently received easier cases than others. ORA generally based performance ratings on the number of case completions without considering the cases' complexity, and this caused a morale problem.

#### Results of inquiry

Until August 1981, supervisors selected cases from the control unit for their staffs' review. Since then, to expedite case tracking, ORA has assigned cases to supervisors alphabetically, according to the last name of the appellant. For example, one supervisor might be responsible for all cases filed by appellants whose last names begin with the letters A through F, another from G through K, and so on. Supervisors, in turn, assign the cases

to their attorneys. Some supervisors assign cases alphabetically, while others assign cases in a manner that results in more difficult cases being handled by more experienced attorneys.

The Acting Director requires attorneys to work with their supervisors to plan for completing all assigned cases in time to meet merit pay performance appraisal standards. Attorneys' ratings will be based on the timely completion of all cases assigned to them as well as other factors which recognize the quality of the attorneys' work. According to the Acting Director, complexity of cases will be considered as one of the qualitative factors in preparing performance appraisals.

#### ALLEGATION 7

Standards for appeals reviews were inadequate at ORA. The lack of adequate standards resulted in a pattern of inconsistent decisions.

#### Results of inquiry

Commission officials confirmed that ORA's standards for appeals reviews were inadequate. Further, attorneys had little information about whether one decision might be inconsistent with another. Although the former Director and his division directors reviewed decisions prepared by ORA attorneys, they provided little formal feedback to the attorneys. Several agencies complained to us about duplicate and inconsistent decisions, including inconsistent decisions on the same cases. The Acting Director is taking steps to ensure that case decisions will be more consistent in the future.

In May 1982, the Commission detailed a GS-15 attorney-assistant to review all decisions rendered on current ORA cases for completeness and consistency. After familiarizing herself with the types of appeals cases and the nature of inconsistencies, she will issue a monthly memorandum and develop a manual to make appeals decisions more uniform. The manual will include examples of cases and memoranda concerning various types of appeals.

Also, the attorney-assistant will help prepare standard paragraphs which can be stored in and recalled from the word processing equipment when typing decisions on similar matters. Finally, the Acting Director or the attorney-assistant will meet regularly with attorneys and their supervisors to discuss selected cases. The Acting Director believes these steps will lead to more consistent decisions than in the past.

ALLEGATION 8

Time and attendance records were either not kept or not checked.

Results of inquiry

According to ORA officials, individual timecards were prepared and maintained for all employees by the administrative assistant and her supervisor. In preparing the timecards, they relied upon flexitime logs, leave slips, and other attendance information provided by supervisors. The former Director signed the timecards, indicating his approval of them. However, the timecards were not verified by either the employees or their supervisors.

When the Acting Director arrived, he concluded that additional time and attendance controls were needed to assure the accuracy of attendance records. Therefore, he required that all employees and their supervisors review the timecards before they were sent to him for approval. To assist him in developing additional time and attendance controls, we provided him with a copy of GAO's "Pay, Leave, and Allowance" manual, prepared for use by executive departments and agencies. He believes the manual will help him make needed improvements.

ALLEGATION 9

Certain employees at ORA appeared to come and go as they wanted without being charged annual leave. In addition, clerical staff were frequently absent from work.

Results of inquiry

The Acting Director told us that attendance at ORA has been a problem. His major concern involved employees who were absent for long periods during the day without being charged annual leave. Other attendance problems centered on certain individuals.

The problem of absenteeism during the day is exacerbated by ORA's location. According to the Acting Director, employees are tempted to visit the shopping mall in the building complex in which ORA is located. A former ORA detailee also expressed concern that there was no management control to prevent such unauthorized absenteeism.

The Acting Director said he was aware of two individuals who had serious attendance problems. One was a clerical employee. Under the former Director, this individual received two written reprimands for time and attendance problems. The other case is

The Acting Director advised us that he has addressed attendance problems mainly by changing the "tone" of the office. He issued a memorandum on April 15, 1982, instructing employees to check with their supervisors before leaving their work area. He discussed leave policy at a staff meeting and followed this with a memorandum to employees concerning the Commission's leave policy. He also had the clerk with continuing attendance problems placed on leave without pay for 22 hours and is having her more closely supervised.

#### ALLEGATION 10

Some ORA employees were forced to use annual leave when the regulations permitted use of administrative leave (for example, taking time off for bar examinations).

#### Results of inquiry

According to ORA officials, only one person was not allowed to take administrative leave for a bar examination. In their opinion, this refusal was in accordance with Commission leave policy. The refusal involved an individual who requested administrative leave to take the District of Columbia bar examination. The attorney had previously passed the California bar examination and, since the Commission requires its attorneys to pass only one bar examination, the former Director refused to grant the attorney administrative leave.

#### ALLEGATION 11

One ORA official frequently did not report for work, and the days he was absent far exceeded the number of days leave he could possibly have accrued.

#### Results of inquiry

ORA time and attendance records were the only documents we could examine that related to this allegation. These records show that the individual referred to in this allegation took about 450 hours of annual and sick leave during 1981. They also show that the leave balances he had available at the beginning of the year, when combined with the leave earned during the year, more than covered the leave taken.

From January to March 1982, this official used about the same amount of leave which he had used during the same period in 1981. However, in April, after taking over management at ORA, the Acting Director counseled the official on improving his attendance. (The Acting Director knew of the official's attendance problems from a previous work association with him.) During April, this individual took only 5 hours of leave and the Acting Director believes his attendance is no longer a problem.

ALLEGATION 12

An ORA official was excused from work for a lengthy period to serve jury duty when he lived in a jurisdiction that might prohibit attorneys from participating on juries.

Results of inquiry

Time and attendance records show that the ORA official referred to in the allegation served on jury duty for about 2 weeks in 1982. The time spent on jury duty was certified by the circuit court at which the individual served.

ALLEGATION 13

A proposal was made to reorganize ORA into three divisions--appeals, review, and compliance. About 98 percent of the work at ORA is done on appeals, and the primary purpose of the proposed reorganization was to justify three GS-15 positions.

Results of inquiry

ORA currently consists of two divisions--appeals and review. The appeals division processes appeals filed by Federal employees and applicants for Federal employment. The review division processes appeals of Merit Systems Protection Board decisions that involve equal employment opportunity issues. The review division also reviews Federal employees' and job applicants' appeals, when time permits.

Two GS-15 division directors formally reported to the former Director. Also, three attorneys--one GS-15 and two GS-14s--reported informally to the former Director on administrative matters. The two GS-15 division directors were designated as GM-1 (supervisory attorneys), which specifically credits them with supervising three or more employees. The other GS-15 and the two GS-14s were designated as GM-4 (general attorneys), which does not credit them with supervising any specific number of employees. Because the GS-14s believed they were doing work comparable to the division directors, including the supervision of staff, they filed a grievance with the Commission. As a result, the former ORA Director asked that the Commission's Office of Administration review the attorneys' positions.

The review, which was completed in January 1982, recommended that ORA be restructured to provide for "full use of resources" and "maximum delegation of authority." To accomplish this, the Office of Administration suggested a structure with three divisions--appeals, review, and compliance. The appeals and review divisions would retain their current responsibilities and the compliance division would follow up on cases in which departments



and agencies did not carry out the Commission's appeals decisions. Each division would have a GS-15 director, and the two GS-14 supervisors would report to the director of the appeals division. This would result in three, instead of five, supervisors reporting to the ORA Director.

The former Director concurred with the Office of Administration's recommendations but had not implemented them before being removed from his position. At the time of our inquiry, the Acting Director was studying the proposal.

#### ALLEGATION 14

Morale was low among ORA staff because of poor management.

#### Results of inquiry

Low morale was a problem at ORA. However, according to a former Acting Commission Chairman, the morale problem was caused by factors other than just poor management. In fact, he believed morale was a problem throughout the Commission.

The former Acting Chairman said that the Commission's morale problems were partially caused by external circumstances, such as budget cuts and the threat of staff reductions. However, he said that some Commission components, such as ORA, also suffered from internal morale problems. He believed ORA's internal morale problems were caused, in large part, by its physical separation from the Commission headquarters and the mainstream of Commission activities. Also, according to another Commission official, the inefficient control unit procedures caused (1) a high turnover rate for clerical staff and (2) a perception on the part of detailees that a transfer to ORA was undesirable.

ORA's Acting Director is aware of the morale problems. He plans to remedy them by conducting periodic staff meetings, case discussions, and daily supervisory meetings.

#### ALLEGATION 15

Management at ORA was so poor that some clerical workers were permitted not to work.

#### Results of inquiry

According to the Acting Director, the former Director expected clerical workers to work. Assignment of clerical work, however, was documented as a problem at ORA in the Office of Administration's April 1980 study. According to the study, the control unit lacked supervision and clearly defined operating instructions. The lack of direct supervision caused instances where control unit staff

were receiving different instructions from attorneys and the former Director's assistant. Furthermore, the staff were working under several verbal and written operating procedures, none of which designated responsibilities to specific individuals.

To better control clerical workload, the study recommended that specific duties be assigned to control unit personnel and formal authority for control unit responsibilities be given to a single individual. Although a control unit supervisor was later assigned, specific duties were not given to control unit staff and work emphasis continued to be based on day-to-day priorities.

The Acting Director acknowledged that assignment of clerical work had been a problem at ORA, which may have permitted some clerical staff to work less than expected. To remedy the problem, he issued a memorandum on April 21, 1982, which established individual responsibilities for all ORA clerical employees, including those in the control unit.

#### ALLEGATION 16

There was a breakdown in communications between ORA's former Director and the attorneys.

#### Results of inquiry

According to an ORA division director, communications between the former Director and the attorneys were limited. His management style was not conducive to frequent staff meetings and, although he had an open-door policy, attorneys' supervisors frequently were not asked to participate in his conversations with attorneys.

The Acting Director plans to increase communications between himself and the staff through daily supervisory meetings, periodic staff meetings, and case discussions with both the cognizant supervisor and the cognizant attorney present.

#### ALLEGATION 17

Promotions at ORA were more likely to be based on concern about equal employment opportunity profiles than on who was best qualified.

#### Results of inquiry

According to ORA officials, promotions were not based on equal employment opportunity profiles. There have not been any promotions to supervisory positions (grades GS-14 and above) since fiscal year 1979, and attorneys are in career ladder positions--the level to which an attorney can expect to progress

without competition--through grade GS-13. Clerical staff have been promoted to the GS-4 clerk-typist level.

We identified one instance where an equal employment opportunity-related promotion was alleged to have occurred. A sex discrimination complaint was filed by a male clerk, who claimed that the grade of a female clerk, doing the same work he was doing, was raised while his was not. At the time of our inquiry, the Commission was investigating this complaint.

#### ALLEGATION 18

The former Director rated five supervisors substantially the same and said he planned to give each of them an award. Upon finding out that he could provide only two such awards, he went to the five supervisors and suggested having a lottery. This was vetoed by the group, and the former Director ultimately made the selections.

#### Results of inquiry

ORA records show that the awards referred to in the allegations were, in fact, merit pay, which was first provided to employees in 1981.

In annual performance ratings, the former Director rated his supervisors the same and, according to ORA officials, he planned to provide merit pay to each of them. Later, however, he learned that the Commission restricted the distribution of merit pay, and he could provide such payments to only two of his supervisors.

Two of the three supervisors who were not selected for awards filed a grievance over the former Director's selections. They believed he lacked objective standards. Their grievance stated that the former Director had even been thinking about using a lottery. In responding to the grievance, the former Director said he had not used a lottery and that the two supervisors who received merit pay had done work in the control unit beyond their normal duties. He also stated that his reasons for the merit pay recommendations were "objective, valid, legitimate and non-discriminatory." The former Director's response did not resolve the issue, and the grievance is still pending in the Commission's personnel office.

#### ALLEGATION 19

The former Director was aware of all of these problems but refused to take corrective action.

Results of inquiry

As discussed on page 2 of the letter, we did not speak to the former Director about the allegations and, therefore, do not know whether he was aware of all the problems cited above. However, he did take or request some kind of corrective action on a number of the problems. For example,

- to improve the control unit's operations and work output, he requested more staff and special studies (see pp. 2 and 3) and
- to improve case tracking, he authorized the use of alphabetical assignment of cases to supervisors (see p. 6).

EVENTS LEADING TO THE  
REMOVAL OF ORA'S FORMER DIRECTOR

Responsibility for handling appeals on discrimination complaints filed by Federal employees was transferred from the former Civil Service Commission (now Office of Personnel Management) to the Equal Employment Opportunity Commission in January 1979. At that time, about 3,000 appeals cases were pending and were processed by a special ORA task force created to handle this backlog. Newly received cases were processed separately by ORA.

By fiscal year 1980, problems associated with processing appeals had become a major concern to ORA management. ORA's former Director asked the Commission's Office of Administration to advise him how to establish a system to improve procedures for ORA's control unit, where most of the appeals processing, other than actual case writing and review, is done. Control unit responsibilities include receiving, logging in, and acknowledging appeals and mailing decisions.

The Office of Administration completed a study of the control unit operations in April 1980 and recommended establishing (1) additional clerical and paralegal positions to perform control unit functions and (2) a series of systematic procedures for processing appeals. However, as discussed on page 2, appendix I, the former Director did not implement these recommendations.

During fiscal years 1980 and 1981, the Commission assigned several task forces and temporary detailees to ORA to improve the efficiency of appeals processing. Also, ORA used overtime extensively to assist in keeping case processing current. Nevertheless, the Commission received an increasing amount of congressional correspondence complaining about delays in processing constituents' appeals. Also, ORA's former Director continued to ask for more permanent clerical staff. As a result, in late 1981, the then Acting Commission Chairman asked the Commission's Office of Program Planning and Evaluation to do another study of ORA's appeals process to determine whether additional staff and supervisory controls were needed. The December 1981 report reaffirmed the recommendations of the earlier study concerning establishing additional clerical and paralegal positions and establishing new processing procedures in the control unit. The former Acting Commission Chairman told us that he was generally aware of growing problems at ORA but did not implement the Office of Program Planning and Evaluation's recommendations because of other priorities, such as Commission-wide budget cuts and reductions-in-force.

A new Acting Chairman and a new Acting Executive Director were appointed on March 4, 1982, 1/ and on March 31, 1982, they removed the former ORA Director and appointed an Acting Director. According to the Commission's Acting Executive Director, this action was taken because Commission officials had concluded that, while ORA did need additional staff, most of its problems were caused by inadequate supervision by the former Director.

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1/A Commission Chairman was appointed on May 12, 1982, and serves as his own Executive Director. All references in this report to Commission Chairmen or Executive Directors refer to his predecessors.

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