United States General Accounting Office

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Report to the Chairman, Special Committee on Aging, U.S. Senate

February 1994

EEOC'S EXPANDING WORKLOAD

Increases in Age Discrimination and Other Charges Call for New Approach

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GAO

United States
General Accounting Office
Washington, D.C. 20548

Health, Education, and
Human Services Division

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February 9, 1994

The Honorable David H. Pryor
Chairman, Special Committee on Aging
United States Senate

Dear Mr. Chairman:

The mission of the Equal Employment Opportunity Commission (EEOC) is "to ensure equality of opportunity by vigorously enforcing federal legislation prohibiting discrimination in employment...."[1] This report responds to your request that we review how EEOC investigates discrimination charges under both the Age Discrimination in Employment Act of 1967 (ADEA) and other federal nondiscrimination laws. You specifically asked about EEOC's ability to meet the demands of its workload, plans for investigations of systemic discrimination,[2] and plans for litigation. You also asked that we identify options that might allow EEOC to better use its resources so that its investigation efforts will result in greater impact for more charging parties.

To respond to your request, we reviewed the laws, regulations, policies, and procedures that pertain to EEOC's responsibilities. We also reviewed EEOC-related reports from individuals, government agencies, and private-sector organizations with expertise in civil rights issues. In addition, we interviewed current EEOC commissioners and three former EEOC chairpersons, EEOC headquarters and field staff, Fair Employment Practice Agency (FEPA) staff,[3] lawyers for charging parties (people who file discrimination charges) and for respondents (the employers charged), and representatives of interest groups. The options for improvement in

[1]EEOC's mission statement, as quoted on the first page of the Commission's Office of Program Operations annual report for fiscal year 1992, reads: "To ensure equality of opportunity by vigorously enforcing federal legislation prohibiting discrimination in employment through investigation, conciliation, litigation, coordination, regulation in the federal sector, and through education, policy research, and provision of technical assistance."

[2]EEOC investigates workplace patterns and practices that discriminate—or could discriminate—against a class of employees or applicants for employment. These investigations are done pursuant to charges, which are called "class actions" when private parties originate them and "systemic charges" when brought by EEOC. Systemic charges under the Americans With Disabilities Act (ADA) and title VII of the Civil Rights Act of 1964 (title VII) require (1) a signed request by a commissioner and (2) notification of the employer that an investigation will be started and the basis for that investigation. Under ADEA, such "commissioner" charges may also be undertaken, but field offices also may initiate "directed" charges, which require neither a basis for the investigation, a request by a commissioner, nor even advance notification to the employer that an investigation will be initiated.

[3]FEPAs are state and local agencies that investigate charges of employment discrimination. In general, a person may file discrimination charges with either EEOC or a FEPA.

appendix I came from these reports and interviews. As agreed to by your staff, we used existing EEOC data without verifying them. We did our work between January and September 1993, in accordance with generally accepted government auditing standards.

Results in Brief

The amount of time a person may wait to have EEOC process a discrimination charge under ADEA and the other nondiscrimination laws could more than double and approach 21 months by fiscal year 1996.[4] The current trend of a steadily increasing workload without commensurate increases in resources is expected to continue. As a result, unless substantial changes occur in EEOC's responsibilities, policies, and/or practices, it is likely that processing times will increase.

Former and current EEOC officials and civil rights experts have suggested several options that they believe could improve the federal government's ability to enforce employment nondiscrimination laws. The one mentioned most often is increased use of alternative dispute resolution (ADR) approaches, such as mediation. ADR approaches, which have considerable support across the federal government, may forego the usual attempts to develop evidence suitable for litigation in favor of achieving agreement through less formal, and perhaps less adversarial, processes. (See app. I.) We believe that the Congress should establish a commission of experts to consider this and other options for improvement.

EEOC officials do not believe EEOC will initiate substantially more systemic charges or litigate significantly more charges under ADEA and other nondiscrimination laws because resources are limited. Systemic charges are labor intensive; and, under EEOC's current guidelines for investigating these charges, fewer situations qualify. EEOC officials say that the litigation rate is low (about 1 percent of all charges received for processing) because (1) laws and EEOC policy favor other means of resolving discrimination charges, such as conciliation,[5] and (2) EEOC does not have

[4]In general, charges brought under the ADEA are treated like charges brought under other federal employment nondiscrimination statutes. Until November 1991, when the Civil Rights Act of 1991 was enacted, ADEA charges were a priority for investigation because charging parties generally had only 2 years from when the alleged discrimination occurred to take their cases to court. The 1991 act removed this time limit, and EEOC no longer treats age cases as a priority.

[5]Conciliation consists of EEOC's working with both parties to obtain a written agreement on actions that will be taken to correct the problem and provide appropriate compensation for the charging party. Compensation may include reinstatement to the job that the charging party would have had without discrimination, back pay, restoration of lost benefits, or payment to compensate for actual monetary loss. When the agreement requires future actions by the employer, EEOC follows up to verify compliance.

sufficient legal staff to substantially increase the number of charges it can litigate effectively.

Background

EEOC is one of several federal agencies responsible for enforcing equal employment opportunity laws and regulations. Other agencies include (1) the Department of Justice, which is authorized, only after EEOC has processed a case and failed in conciliation efforts, to file suit in federal district court against state and local government employers charged with discrimination under title VII of the Civil Rights Act of 1964 (title VII) or the Americans with Disabilities Act (ADA); (2) the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), which enforces laws against discrimination by federal government contractors and subcontractors; and (3) the Department of Education's Office for Civil Rights, which enforces laws against discrimination in educational institutions.

By law, the EEOC consists of five members. The President appoints them, with the consent of the Senate, for rotating 5-year terms. No more than three members can be in the same political party. The President designates one member to serve as chairman and another as vice-chairman. As of February 1994, EEOC lacked one commissioner and the President had not appointed a chairman or vice-chairman.

Under title VII, EEOC investigates—and may litigate, on its own or on behalf of another charging party—charges of employment discrimination because of race, color, religion, sex, or national origin. EEOC has similar responsibility under ADEA, which prohibits employment discrimination against workers aged 40 and older; under the Equal Pay Act of 1963 (EPA), which prohibits payment of different wages to men and women doing the same work; and under ADA, which prohibits employment discrimination against workers with physical or mental disabilities. Charging parties can, in one charge, allege discrimination under more than one statute, for example, ADEA and title VII.

About 90 percent of EEOC's annual budget is used for enforcement, mainly in the private sector.[6] EEOC carries out its mission through 50 field offices. Its investigators are generalists, who are expected to work on charges pertaining to any of the laws that EEOC enforces. All of the nondiscrimination laws, except ADEA, require that each charge be fully

[6]In 1978, Executive Order 12067 gave EEOC the responsibility to provide leadership for, and coordination among, the other federal agencies that enforce equal employment opportunity laws.

investigated. By policy, EEOC requires that ADEA charges be fully investigated. At a minimum, the full investigation process includes obtaining pertinent evidence, interviewing relevant witnesses, and verifying the accuracy and completeness of the evidence obtained.

Most states and many localities have laws that generally parallel the federal nondiscrimination laws. In the 46 states and 36 localities that have established FEPAs to investigate charges of employment discrimination, individuals generally may file charges with either EEOC or the FEPAs.[7] Under contractual agreements, EEOC shares investigative responsibility with the FEPAs by reimbursing them $450 for each charge they resolve. By reviewing sample cases, EEOC monitors FEPA investigations to ensure that they meet EEOC standards. However, in the past, both EEOC and the FEPAs have been criticized for not meeting these standards. For example, in our 1988 report,[8] we noted that several EEOC and FEPA cases had been closed because of faulty investigations. Deficiencies included failure to verify information, obtain pertinent evidence, and interview relevant witnesses.

From fiscal year 1989 to fiscal year 1994, EEOC's appropriations increased from $180.7 million to $230 million, or about 27 percent. However, in real dollars, the amount increased only about 6 percent.

EEOC's Process for Investigating and Litigating Cases

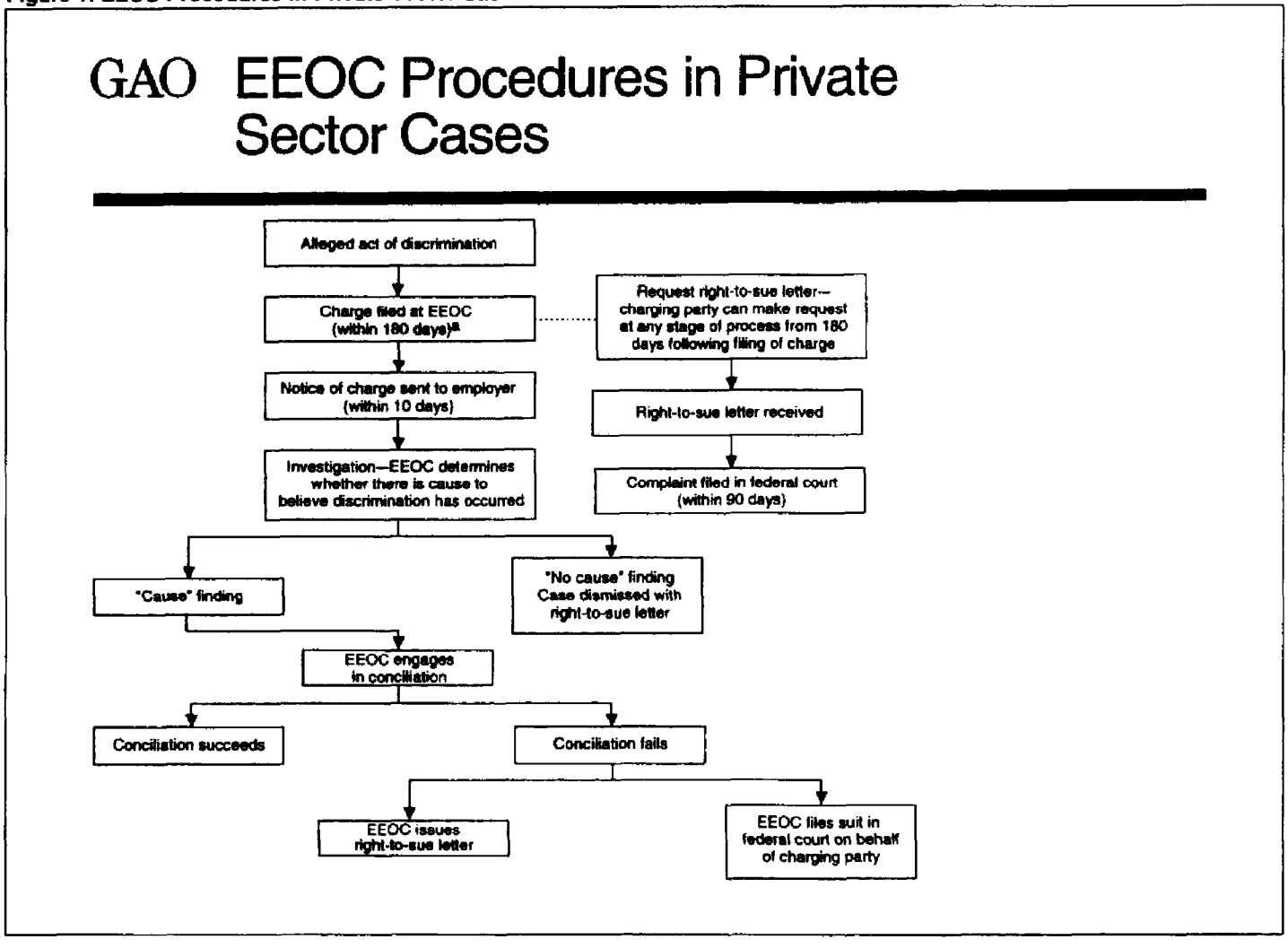
Individuals who believe they have been discriminated against—when applying for a job or while employed—by a private employer, labor union, or employment agency may file a charge, at no cost, with EEOC.[9] EEOC's procedures for processing charges are shown in figure 1.

[7]This total includes the District of Columbia, Puerto Rico, and the Virgin Islands.

[8]Equal Employment Opportunity: EEOC and State Agencies Did Not Fully Investigate Employment Discrimination Charges (GAO/HRD-89-11, Oct. 11, 1988).

[9]Most federal employees must file their employment discrimination complaints with the Equal Employment Office in their own agencies. If dissatisfied with a decision, an employee may file an appeal with EEOC or file a civil action in federal court. EEOC also investigates discrimination charges filed by state and local government employees.

Figure 1: EEOC Procedures in Private Sector Cases



[a]In jurisdictions with state or local laws prohibiting employment discrimination, this period will be 300 days.

Source: This figure is based on an EEOC chart that describes the procedures for processing charges brought under title VII of the Civil Rights Act of 1964. These procedures generally apply to the processing of charges brought under the statutes for which EEOC has responsibility.

Once a charge is filed, EEOC interviews the charging party. EEOC closes the case for administrative reasons if (1) the charge fails to meet legal requirements—for example, not being filed within the time required by the

applicable statute of limitations or (2) the charging party decides not to wait for the results of EEOC's investigation and requests a right-to-sue letter so that he or she can take the case to court. According to EEOC officials, such a document is required by the court and ensures that an attempt has been made to resolve the dispute before litigation.

If the allegation meets EEOC's standard for minimally sufficient, EEOC accepts the charge. EEOC then notifies the employer of the charge and requests information from the employer and any witnesses who have direct knowledge of the situation that led to the discrimination charge. If the evidence does not show reasonable cause to believe discrimination occurred, EEOC dismisses the case after issuing a "no cause" finding and a right-to-sue letter that says that (1) EEOC is not going to sue and (2) a statute of limitations exists that dictates the deadline for the charging parties to file suit.[10]

When the evidence shows that reasonable cause exists to believe discrimination occurred, EEOC generally attempts conciliation.[11] If conciliation attempts fail, EEOC may go to court. EEOC lacked the authority to litigate charges from its inception in 1964 until the Equal Employment Opportunity Act of 1972; this act gave EEOC authority to initiate its own title VII lawsuits and to intervene as a party in title VII lawsuits filed by others.[12] In 1984, EEOC adopted a policy requiring that whenever conciliation efforts failed, the charge be submitted to the commissioners for a decision on whether to pursue litigation. If EEOC decides not to litigate, EEOC issues a right-to-sue letter to the charging party.

Average Time to Process Charges Expected to Increase

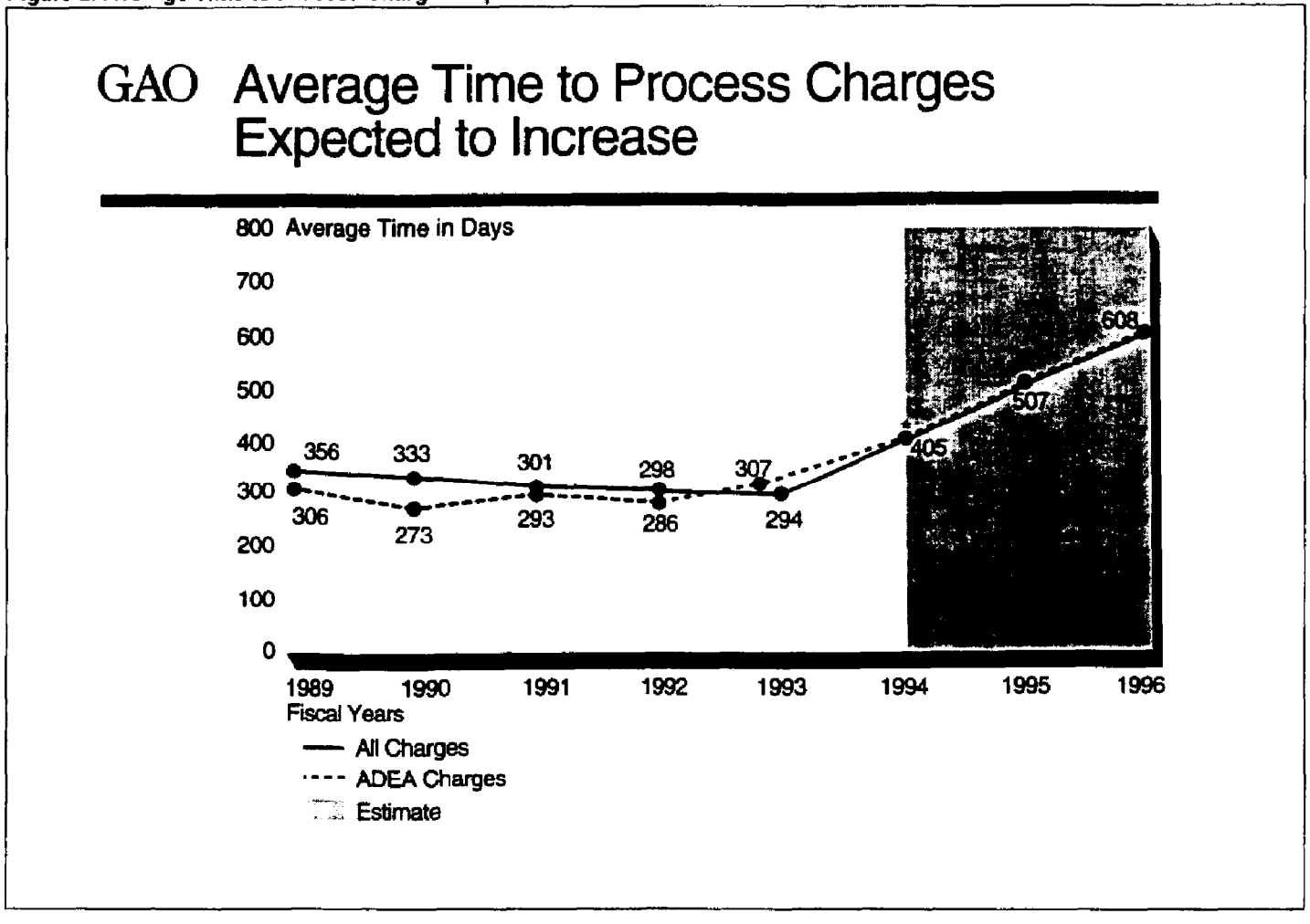
According to EEOC estimates, by fiscal year 1996, a charging party may face an average processing time in excess of 20 months—more than double the processing time that charging parties encountered in fiscal year 1993 (see fig. 2).

[10]EEOC asks parties who receive right-to-sue letters to notify EEOC if they do in fact go to court. But compliance is not mandatory and, therefore, EEOC does not have reliable information on suits that charging parties filed on their own behalf or on the results of those suits.

[11]Under the ADEA, generally, conciliation must be attempted before EEOC seeks to determine the validity of the charge; however, conciliation may also be tried after this determination is made.

[12]The Department of Justice, not EEOC, has litigation authority, under title VII and ADA, on charges against state or local governments. Referral to the Department of Justice is not required for litigation against state or local governments under the ADEA.

Figure 2: Average Time to Process Charges Expected to Increase



Note: With the removal of the 2-year statute of limitations for taking ADEA cases to court, EEOC officials expect ADEA charge processing generally to take the same amount of time as other charges. ADEA charges include charges filed concurrently under ADEA and any of the other statutes EEOC enforces.

Source: EEOC.

Long processing times could not only delay the outcomes of charges, but could also affect the nature of the outcomes. The longer it takes to investigate a charge, the greater potential for difficulty in (1) locating witnesses, (2) obtaining from witnesses credible accounts of the actions

alleged to be discriminatory, and (3) securing settlements—because the larger liability involved after a long time could make some employers less willing to settle.

EEOC measures average processing times from the date a charge is filed to the date EEOC completes the administrative process—that is, reaches any resolution other than a decision to litigate. In the private sector, EEOC's average time for completing a review of an ADEA charge increased from 286 days in fiscal year 1992 to 307 days in fiscal year 1993. The average time for all charges decreased from 298 days to 294 days. There was little change in processing times even though the average number of completed cases per investigator increased from 92.8 resolutions in fiscal year 1992 to 97.1 in fiscal year 1993 for all charges. (EEOC does not compile this information for ADEA charges.) According to EEOC officials, investigators are working at their maximum, and therefore no further increase in average resolutions per investigator is expected.

Average times to process charges will increase, EEOC officials estimate,[13] because the numbers of unresolved charges carried forward from 1 year to the next are increasing. These unresolved charges are a result of the increasing numbers of new charges EEOC receives for processing each year without any increases in annual staff levels or charge resolutions per investigator. The increasing charges affect the time a person can expect to wait because generally EEOC tries—except for charges that need immediate attention, such as sexual harassment and retaliation—to process charges in the order they are filed. Thus, investigators normally would give priority to cases remaining from previous fiscal years.

This means that although EEOC will receive a charge—and notify the employer and ask for information—the new charge will be processed after previously filed charges unless extenuating circumstances would justify this charge's preceding previously filed charges. Ultimately, EEOC officials predict, for the majority of cases received in a fiscal year for processing, EEOC will conduct intake interviews of complainants, and initial queries will be made to and responses received from employers; then, generally, the cases will be put in order behind all those that remain from previous years.

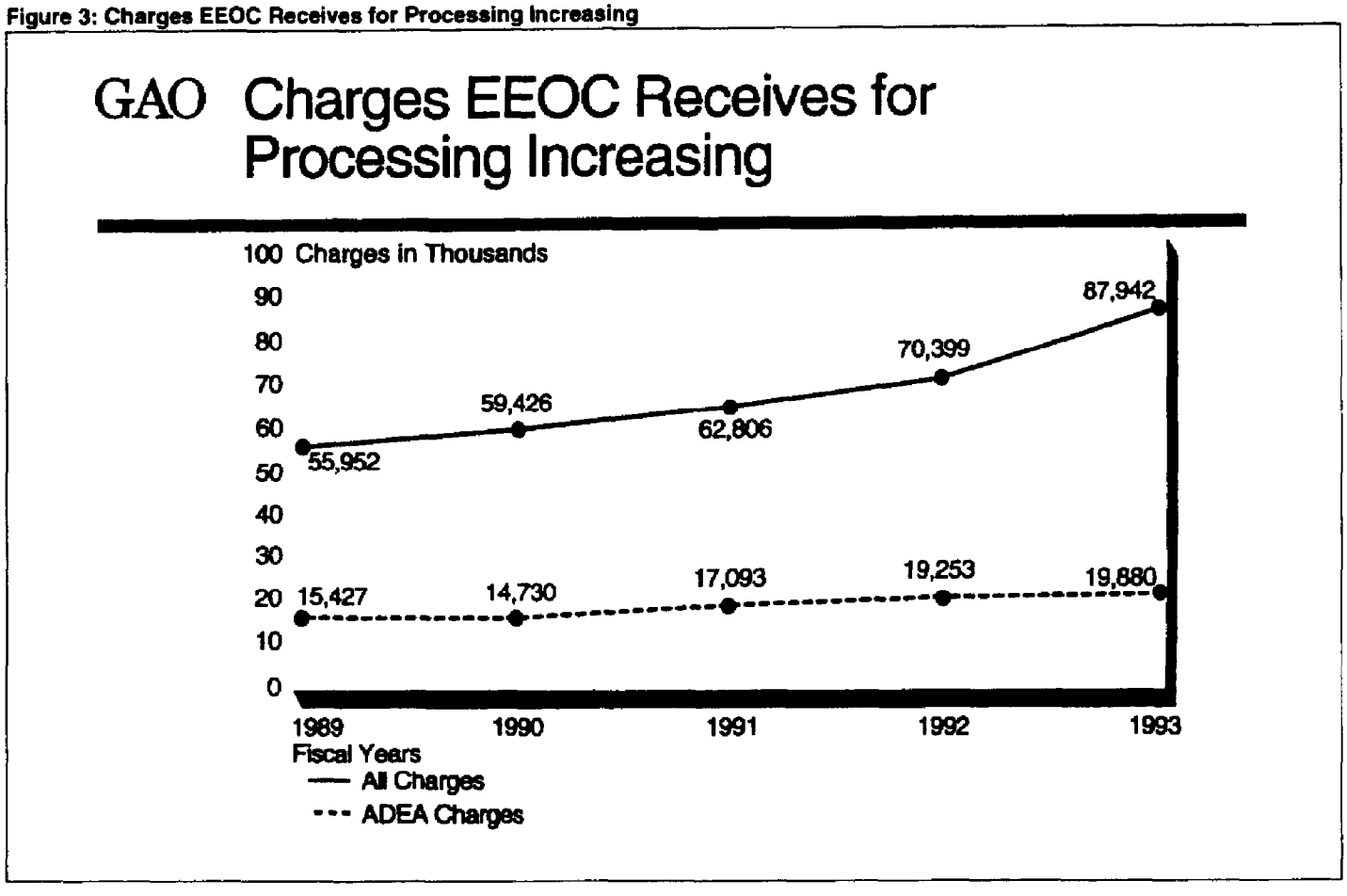
[13]EEOC's present estimates are a straight-line projection, based on actual fiscal year 1993 numbers. EEOC officials believe, on the basis of a comparison of actual current processing times with projections made in the past, that the estimates are somewhat conservative.

EEOC's Workload Has Increased

From 1989 to 1992, the number of ADEA charges that EEOC received for processing[14] increased about 25 percent; the number of charges received for processing under the other nondiscrimination laws increased about 26 percent. During this same period, EEOC's staff decreased 6 percent. For fiscal year 1993, the number of all charges received for processing, including those under ADEA, increased another 25 percent over fiscal year 1992, with a staff increase of less than 2 percent. EEOC said the increase in total workload occurred primarily because of increases in sexual harassment charges (see fig. 3).

[14]EEOC distinguishes between charges received and charges received for processing. The former includes some charges that FEPAs end up processing; charges for processing means those charges that EEOC actually processes.

Figure 3: Charges EEOC Receives for Processing Increasing



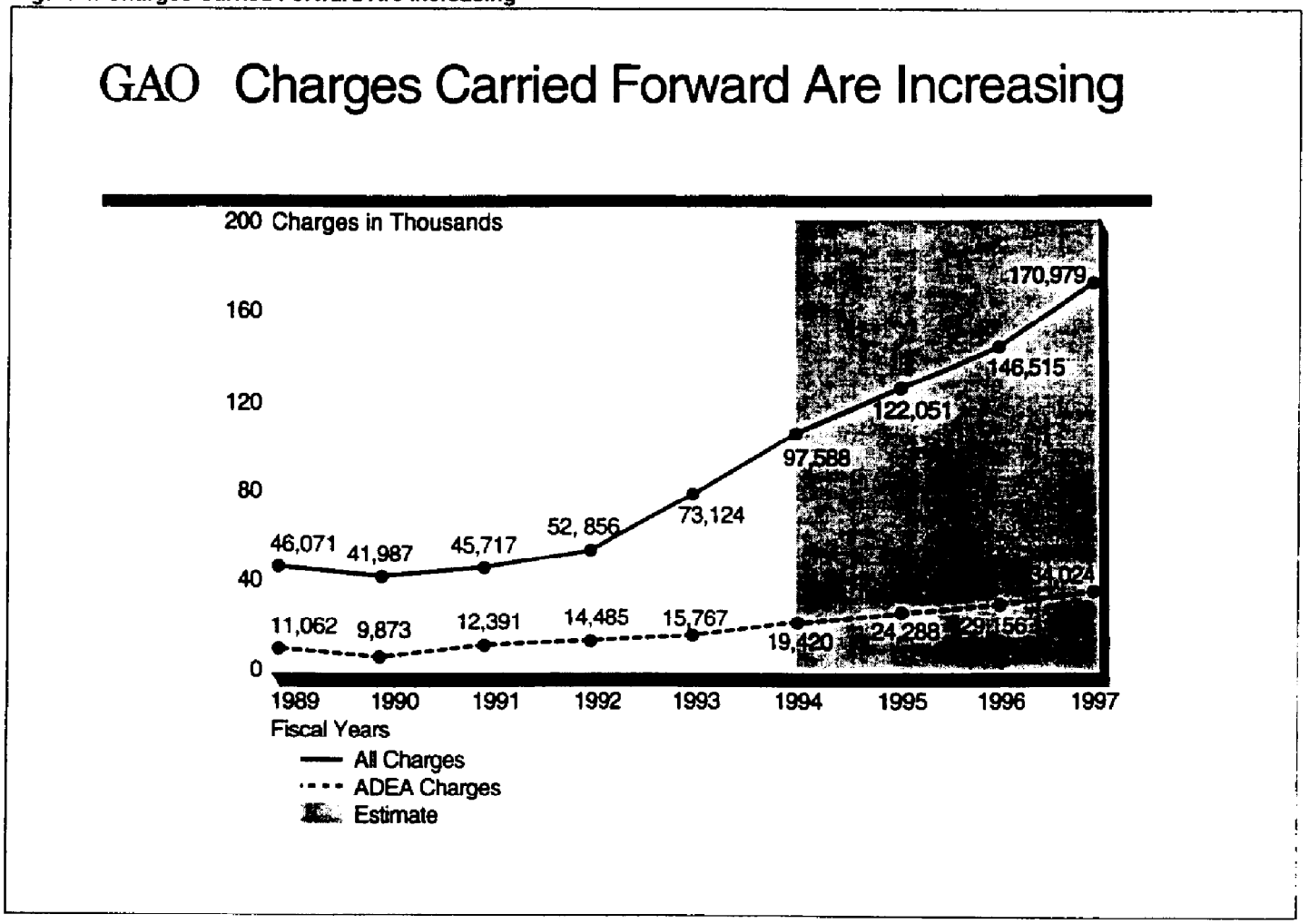
Note: These annual totals include charges filed concurrently under ADEA and any of the other statutes EEOC enforces.

Source: EEOC.

The Number of Unresolved Charges Carried Forward Is Increasing

The number of unresolved charges carried forward from fiscal year 1993 to fiscal year 1994 totaled 73,124, a 38 percent increase over the 52,856 charges carried forward into fiscal year 1993. The 15,767 ADEA charges carried forward to fiscal year 1994 represented an increase of about 9 percent over the 14,366 ADEA charges carried forward to fiscal year 1993. However, as shown in figure 4, beginning in fiscal year 1995, EEOC expects that the number of ADEA charges carried forward will increase significantly.

Figure 4: Charges Carried Forward Are Increasing



Note: ADEA charges include charges filed concurrently under ADEA and any of the other statutes EEOC enforces.

Source: EEOC.

Suggested Options for Improving the Federal Government's Ability to Enforce Employment Nondiscrimination Laws

Former EEOC chairpersons, as well as present commissioners, staff, and others familiar with civil rights issues have suggested several options for improving the government's ability to respond to allegations of employment discrimination. These options—some of which would require the Congress to amend laws—are summarized below and discussed in more detail in appendix I:

- One option is the use of ADR, including various forms of mediation and total removal of disputes from the court system.[15] (See page 2.)
- Another option—that EEOC is piloting in two field offices—seeks to improve screening of new charges so that not all have to be fully investigated; thus, resources will become available for other uses, such as investigating more systemic charges.
- Other options include improving investigation by (1) making investigators more capable; (2) encouraging investigators to put more effort into systemic investigations; and (3) in a variety of ways, restructuring federal enforcement of equal employment opportunity laws.

Substantial Increases in Systemic Charges Unlikely

EEOC officials said that, primarily because of resource constraints, it is unlikely that the number of systemic charges will increase substantially. In fiscal year 1989, the special EEOC units that process systemic charges began investigations of 17 systemic charges; in 1990, 36; in 1991, 35; in 1992, 50; and in 1993, 77. During this period, under ADEA, the number of systemic investigations initiated were 4, 2, 4, 1, and 3, respectively.

According to EEOC officials, under ADEA, EEOC may initiate directed charges of discrimination against groups or classes of people without going through the formalities associated with systemic charges. These charges (192 were initiated in fiscal year 1992 and 243 in fiscal year 1993) resemble systemic charges but often are narrower in scope. For instance, a directed charge might focus on just the downsizing policies that a company used during a layoff, rather than all employment patterns and practices that might be addressed in a systemic charge.

Although the recent trend has shown an increase in systemic charges, the total number remains relatively small; outside parties and EEOC officials agree that it would be appropriate for EEOC to do more. In spite of this, EEOC officials do not believe that the number of systemic charges will increase substantially because (1) limited resources prevent EEOC from

[15]Mediation provides for a neutral third party to assist in negotiating agreements; the mediator does not render a decision; rather, resolutions are by agreement of the disputants.

assigning more investigators to systemic investigations—which also require a full investigation and can be labor intensive—because that would result in fewer investigators for the individual cases that EEOC is required by law to investigate and (2) fewer opportunities exist because of EEOC guidance that the targets of systemic charges generally have at least 500 employees and that discrimination be indicated by anecdotal as well as statistical evidence. However, they do expect to file more systemic charges under ADEA because the 2-year statute of limitations with respect to litigation has been eliminated, allowing more time for investigations.

Although the 500 number reflects EEOC's interest in using limited resources to get the greatest effect, EEOC officials said it is simply a guideline. When a legal issue has arisen or EEOC's presence in a certain region was needed, systemic charges have been lodged against companies with fewer than 500 employees. In commenting on a draft of this report in November 1993, EEOC provided information on 80 open systemic charges to show that 37 charges involved employers with more than 500 employees, 15 charges involved employers with between 251 and 500 employees, and 16 charges involved employers with 250 or fewer employees. The remaining 12 charges were brought against employment agencies. EEOC also stated that it believed that anecdotal evidence serves to improve the quality of systemic charges brought, rather than limit the number of possible filings.

Significant Increases in the Number of Charges Litigated Also Unlikely

Similarly, EEOC officials said that the number of charges litigated probably will not increase significantly. The number of ADEA charges that EEOC litigates annually is equal to about 1 percent of the ADEA charges it receives for processing; the percentage of all charges that EEOC receives for processing that are litigated is about the same (see table 1).

Table 1: Suits Filed Expressed as a Percentage of Charges Received for Processing

Fiscal year	Charges received for processing	Number of suits filed	Percentage of suits filed
1989	55,952	598	1.07
1990	59,426	643	1.08
1991	62,806	593	.94
1992	70,399	447	.63
1993	87,942	471	.54

Law and EEOC policy favor the use of litigation only after attempts at conciliation have failed. In addition, EEOC officials say that the Commission lacks sufficient legal staff (headquarters and field) to significantly increase

the number of cases it can litigate effectively. From fiscal year 1988 to the end of fiscal year 1992, EEOC's legal staff decreased from 514 to 386. EEOC officials do not believe the legal staff will increase.

In commenting on a draft of this report, EEOC reiterated that the low rate of litigation cases is a function of many variables, including statutory policies requiring that EEOC attempt conciliation before litigation. EEOC also commented that legal staff shortages have not directly resulted in the filing of fewer litigation cases, but have limited its ability to prosecute aggressively and manage effectively a substantial increase in litigation cases.

Conclusion

The extensive processing times—expected to average more than 20 months by fiscal year 1996—that charging parties can expect to face in EEOC appear incompatible with the mission of the Commission "to ensure equality of opportunity by vigorously enforcing federal legislation prohibiting discrimination in employment...." Processing—and thus waiting—times will not decrease without substantial changes in Commission responsibilities, policies, practices, or resources. Officials and experts whom we interviewed both from within and outside of EEOC agreed: change is necessary.

Options for change in responsibilities, policies, and practices within the framework of vigorously enforcing federal nondiscrimination legislation involve complex and sensitive issues. During our review, we found many opinions but no real consensus on what EEOC should do to improve its operations. The option mentioned most often was ADR. In addition, proposals for substantial resource increases conflict with present efforts to achieve efficiencies in public service and decrease, rather than expand, federal agency personnel.

Although increased processing times to investigate charges hinder EEOC's ability to perform its mission, efforts aimed solely at reducing these times would not, for some experts and advocates from the civil rights community, represent a satisfactory response. While some favor options to facilitate continuation of the present corrective actions approach, which uses most of EEOC's annual budget to investigate and litigate individual complaints, others prefer a proactive, preventive approach, which would devote greater resources to systemic cases and to education and training. Still others have offered options to remove the processing of discrimination charges from the courts altogether. Finally, some say that

in the 30 years since enactment of the Civil Rights Act of 1964, the entire federal response to employment rights enforcement has become disjointed and uncoordinated. They say it is time for a new look at the federal response and that this could affect federal agencies other than EEOC, such as the Department of Justice.

Many actions proposed, including some of the options discussed here, would require legislative changes. To ensure consideration of all views, any review of employment rights issues should include experts and advocates from the civil rights community.

Recommendation to the Congress

We recommend that the Congress establish a commission of experts, including representatives from the civil rights community, to develop legislative and administrative means that would enable EEOC to better carry out its mission as part of an overall federal strategy for enforcing federal employment nondiscrimination laws.

Agency Comments

In commenting on a draft of this report, EEOC's Acting Chairman stated that EEOC's workload growth now far surpasses the point where making internal adjustments or reorganizing will solve its problems. He also stated that EEOC's present case management system is based on years of experience and that EEOC has retained the methods and practices that have proven effective and eliminated those that impede the system. He also commented that while EEOC welcomes recommendations to improve its charge resolution system, adjusting the charge process alone will not solve the underlying problem of too few resources for the amount of work to be done.

The Acting Chairman stated that our report generally provided a balanced depiction of EEOC's ability to meet the demands of its current enforcement responsibilities. However, he stated some specific concerns and observations, clarified several technical matters, and provided revised data on fiscal year 1993 activities and accomplishments. We have considered EEOC's comments and the additional information and revised our report as necessary. EEOC's comments on our draft report appear in appendix II.

Unless you publicly announce its contents earlier, we plan no further distribution of this report until 7 days from its issue date. At that time, we will send copies to the appropriate congressional committees, the Acting

Chairman of the Equal Employment Opportunity Commission, and other interested parties. We will make copies available to others on request. This report was prepared under the direction of Linda G. Morra, Director, Education and Employment Issues, who can be reached on (202) 512-7014. The major contributors to this report are listed in appendix III.

Sincerely yours,

Janet L. Shikles

Janet L. Shikles
Assistant Comptroller General

Contents

Abbreviations

ADA	Americans with Disabilities Act
ADEA	Age Discrimination in Employment Act of 1967
ADR	alternative dispute resolution
EEOC	Equal Employment Opportunity Commission
EPA	Equal Pay Act of 1963
FEPA	Fair Employment Practice Agency
OFCCP	Office of Federal Contract Compliance Programs

Suggested Options for Improving the Federal Government's Ability to Enforce Employment Nondiscrimination Laws

The following are suggested options for improving the federal government's ability to enforce employment nondiscrimination laws. We have not evaluated these options and have no comment on them beyond noting that some, such as restructuring the federal effort to enforce employment nondiscrimination laws, would require actions beyond EEOC's control.

Federal Use of ADR Approaches and EEOC's ADR Pilot

Advocates of alternative dispute resolution approaches believe that their use usually minimizes the time and resources needed to resolve disputes. For this reason, federal agencies' interest in resolving disputes using these approaches as alternatives to the traditional judiciary process is growing. For example, in specific statutes, such as the Administrative Dispute Resolution Act of 1990 and the Civil Rights Act of 1991, the Congress has included language encouraging federal agencies to use ADR. In addition, on October 23, 1991, the President's Executive Order 12778 was issued; it requires federal agencies to consider the use of an ADR approach in cases involving a civil claim, if this approach (1) is warranted in the context of a particular case and (2) will contribute to the prompt, fair, and efficient resolution of such a case. Further, in response to the Civil Justice Reform Act of 1990, 38 of the 94 federal district courts have used ADR to reduce civil justice delays and expenses. The scope of ADR use varies greatly, but some of these courts have made ADR mandatory.

By March 1994, EEOC expects to have the results of a mediation pilot program that began in April 1993 in the Commission's Houston, New Orleans, Philadelphia, and Washington, D.C., field offices. In this pilot, 75 charges at each location were randomly selected to be—with the concurrence of the charging parties—ADR cases; an additional 75 charging parties were randomly selected to be control (non-ADR) cases that will be processed in the usual manner. For the ADR charges, the charging party and the respondent (employer) may have a neutral party outside of EEOC assist them through mediation to reach a voluntary, negotiated settlement of the dispute. Participation in the ADR group is voluntary for both the charging party and the employer.

The mediators in this pilot have no power to decide the outcome of charges. Resolution of the dispute is negotiated by the charging party and the employer, and either side in the dispute may end mediation at any time. If mediation does not lead to resolution of the dispute, the charging party may pursue the matter through EEOC's regular investigation process. The mediator may not discuss the case with EEOC or court officials and

cannot be called as a witness for a lawsuit. Formal agreements that the charging party and the employer reach (1) will have the same force as settlements EEOC would make and (2) are enforceable in court.

EEOC will evaluate the results of this pilot program by comparing the costs, timeliness, and effectiveness of processing ADR charges to those of the control charges. EEOC also will request charging parties and employers to complete questionnaires giving their opinions and perspectives on the effectiveness of the charge processing and resolution.

Mediation: An ADR Approach

Mediation was the ADR approach discussed most often in our interviews and the documents we reviewed. Mediation offers the potential for a quick resolution, instead of the usually protracted legal process. Mediation provides an option for those whose claims involve small amounts of money; it may help to create a more positive climate between the charging party and the employer, who could be involved with each other after the dispute is resolved. Finally, if mediation does take less time and staff resources than a full investigation, mediation could free resources for EEOC to do more individual and systemic investigations.

However, mediation has potential drawbacks. Like some other forms of ADR, mediation without a commensurate increase in systemic investigations could be seen as an indication that EEOC's mission has changed from law enforcement to claims settlement, which may be an inappropriate use of funds allocated to law enforcement. Another concern is that mediation may provide the incentive for the charging party and the employer to take the quickest or least expensive way to settle the charge, without regard to whether discrimination has occurred. Without a full EEOC investigation, (1) a charging party may not receive the full redress to which he or she is entitled or (2) an employer may agree to compensate the charging party even though the charges may lack merit. Another potential drawback arises when charges not resolved through mediation revert to EEOC. Because these charges would be older, they might be difficult to investigate.

Mediation would need to avoid the problems of the fact-finding conference used in the era of EEOC's rapid charge-processing system (1979-83). Under that system, charging parties, as well as employers, too often agreed to settle when it was not in their best interests. This system was designed to reduce the large number of backlogged charges; it offered the charging

party and the employer an early opportunity to resolve the charge through negotiation of a no-fault settlement with minimal investigation.

In the rapid charge-processing system, an investigator would use information from the intake interview to prepare questions to forward to the employer, along with a summons to appear, usually within a month, with records and documents relevant to the charge. At the conference, the investigator could play multiple roles: a neutral party who controlled the process, a helper to the party needing assistance, and a mediator when settlement appeared possible. The support for this approach says that it avoids delays due to written requests for information.

In our 1988 report, we criticized this approach as insufficient to provide a full and proper investigation. Moreover, by encouraging settlement, this approach could exert a potentially unfair influence on the outcome of the dispute. The approach did provide more timely relief to charging parties, as we noted in our October 1988 report; however, it overemphasized negotiating charges that had little merit.[1]

Another suggested ADR approach—the use of hearing examiners—would completely remove employment discrimination disputes from the courts. The rationale for this approach includes the view that (1) the overwhelming majority of disputes do not involve questions of law but of fact; (2) the large majority of charges are individual cases, not systemic; and (3) by having an administrative procedure to prevent employers from enforcing discriminatory policies and practices, the resources saved could be used to educate employers and employees alike—and reduce employment discrimination. Removing employment discrimination cases from the courts would require legislative changes.

Screening Charges to Make Better Use of Resources

In two of its field offices, EEOC is experimenting with a screening process (called triage) to deal with new charges. This process is designed to begin an investigation at intake to (1) improve the development of evidence when discrimination appears to have occurred, (2) allocate staff resources more appropriately, and (3) resolve all charges more quickly.

During intake, at one field office, staff are expected to obtain from charging parties all evidence that supports their discrimination claims and assess the weight of evidence obtained. The staff then assign each new

[1]Equal Employment Opportunity: EEOC and State Agencies Did Not Fully Investigate Employment Discrimination Charges (GAO/HRD-89-11), Oct. 11, 1988).

charge to one of four case categories: (1) lacks direct or circumstantial evidence to support the discrimination claim although the charging party was in a position to obtain such evidence; (2) contains some evidence of discrimination, but the evidence is weak; (3) contains some discrimination evidence that is moderately strong; and (4) contains strong discrimination evidence. In the last category, the case offers possible cause to believe discrimination occurred.

A supervisor and the field office deputy director or director review the assigned category, as well as the intake staff's strategy for the case. The office's senior attorney also reviews cases assigned to category 3 or 4 above. After these reviews, the regular investigation process starts. Under this approach, however, only the charges in categories 3 and 4 receive full investigation by EEOC staff.

The EEOC field offices expect cases assigned to category 1 to be closed quickly as no-cause determinations, with minimal investigation after the employer provides the requested evidence. Cases assigned to category 2 or 3 are candidates for conciliation and settlement. Cases assigned to category 4 are to be discussed bimonthly with legal staff to develop evidence supporting a reasonable-cause determination, which could also be resolved through conciliation and settlement. A case's category will be changed, if necessary, as the case develops. The second EEOC field office in the experiment also assigns incoming charges into one of the four categories and follows up accordingly; however, this office's process is less formal.

The first EEOC field office is evaluating the success of its program by tracking four measures: (1) average processing time, (2) reasonable-cause finding rates, (3) settlement rates, and (4) charging parties' complaints to EEOC and the Congress about the resolution process. EEOC is comparing these data with those compiled using the regular investigation process.

EEOC headquarters officials regard these experiments in screening charges as tentative. However, preliminary results from the first field office show that during a 17-month period, the rate of reasonable-cause determinations increased slightly; the rate of settlements remained about the same, as did the number of complaints by charging parties to EEOC officials or the Congress or both. The average processing time during this period decreased significantly, however, from 598 days in fiscal year 1990 to 303 days in fiscal year 1992. During the first 6 months of fiscal year 1993, the average processing time was 204 days.

EEOC officials who endorse this approach believe that many charges have little or no merit and that investigators may be able to identify some of these during intake or early in an investigation. These officials believe such cases should receive little of EEOC's attention; more EEOC efforts should be focused on cases with more potential merit. Others believe triage is inappropriate; this is because, for the vast majority of charges, determining a case's potential merit requires more evidence than can be obtained using triage at intake; triage could do a disservice to some charging parties whose cases may be dismissed, without a full investigation, with a no-cause finding.

In commenting on a draft of this report, EEOC stated that other EEOC field offices also routinely emphasize certain aspects of charge resolution systems for fine tuning and improvements and that it was through such methods that its existing charge processing system was developed and such experiments are encouraged.

Options to Improve the Quality of Investigations

Options offered to improve the quality of investigations include

- giving investigators more training in the kind of evidence needed to (1) determine the merits of charges and (2) refer cases that may warrant litigation to EEOC commissioners for review;
- having investigators specialize in certain charges, such as ADEA, ADA, or title VII, rather than having them continue as generalists who must attempt to master the technical requirements and nuances of all equal employment opportunity laws;
- involving EEOC lawyers earlier in the investigative process to better educate investigators on legal issues and to ensure that cases are properly investigated and developed to facilitate litigation when warranted;
- creating specialized professional intake positions, giving investigators—who usually must work intake for a portion of each month—more time to investigate charges; and
- revising the practice of evaluating investigators' annual performance on the basis of the number of charges processed during the evaluation period.

EEOC officials noted that (1) since 1987, investigators have received more extensive training, partly due to some new laws, such as ADA, which are complex and require special training, and (2) having investigators specialize in types of charges would require more, rather than fewer, investigators, and EEOC would lose the flexibility of investigators who are qualified to handle any charge assigned to them. In addition, when

concurrent charges are filed—that is, charges involving two or more laws—more than one investigator would have to work on the case. According to an EEOC official, involving attorneys when a charge is received would require more attorneys and is not warranted at the intake stage. EEOC's policy is to involve its attorneys at an early stage and have them available for advice whenever needed.

An advantage of using investigators at intake is that their training and experience enhance their ability to obtain appropriate evidentiary information at the initial interview. However, some believe that investigators may narrow the scope of the charges at intake so that they may be resolved more quickly.

Another concern is that management may pressure investigators to resolve cases in a certain number of days because an investigator's annual performance is evaluated on the basis of the number of charges processed rather than on (1) the completion of full investigations or (2) whether the cases were brought to appropriate conclusions based on complete evidence. This evaluation system encourages investigators to resolve more charges as no-cause determinations or administrative closures, one official said, because these are usually processed quickly.

In commenting on a draft of this report, EEOC stated that—rather than pressure from management—it is the large workload and related exigencies, including the pressure from all parties involved in each case, that drives productivity. EEOC acknowledged, however, that the sheer size of the workload forces investigators to feel pressured and that an old inventory of charges has a detrimental impact on quality.

Pursuing Systemic Discrimination Charges More Actively

EEOC's critics have charged that the Commission should do more to eliminate systemic discrimination, which many believe would be the best use of EEOC resources. They have suggested that EEOC could increase its systemic actions by (1) working with constituency groups to identify likely targets for compliance reviews and (2) making greater use of testers—people who apply for jobs with the sole purpose of uncovering discriminatory employment practices. In our October 1988 report, we noted an additional option suggested by a former EEOC official—reallocating responsibilities between EEOC and FEPAs, with FEPAs handling more individual charges and EEOC focusing on broader investigations, including class action and systemic charges.

In its November 1993 comments on a draft of this report, EEOC objected to the suggestion of shifting more individual charges to FEPAs so that EEOC might initiate more systemic charges. EEOC pointed out that FEPAs do not have the capacity to handle more charges because of decreasing budgets at the state and local government levels.

EEOC could not enhance the systemic investigation effort, officials said, without taking funds and staff from other critical areas. Systemic case investigators have to be more knowledgeable and experienced than the average investigators who work on individual cases, one EEOC official noted. Systemic case opportunities were less today than in the 1970s and 1980s because not as many potential cases meet EEOC's systemic charge standards, EEOC officials said; numbers alone are no longer sufficient justification to begin developing a systemic case. In addition, companies have become more skilled in avoiding actions that might provide evidence of systemic discrimination.

Restructuring EEOC, Related Agencies, and Civil Rights Laws

Several proposals suggested promoting efficiency by restructuring EEOC or related federal agencies and the ways that civil rights laws are enforced or both.

One proposal is to reorganize EEOC so that a director heads it—rather than a commission. Critics of a commission structure cited the (1) relative lack of power and authority of individual commissioners other than the chairman; (2) infrequency of commission meetings, as well as the fact that most meetings are not public; and (3) the potential for commissioners' oversensitivity to issues involving specific constituencies. Critics of the commission structure suggested that one person—a director—would provide less expensive, more responsive leadership.

A second proposal is to assemble equal opportunity efforts under one agency. Critics complain that federal enforcement of equal opportunity is unnecessarily fragmented among EEOC, the Department of Justice, the Department of Education, and the Department of Labor's Office of Civil Rights Compliance and Office of Federal Contract Compliance programs. For example, EEOC must refer the results of an investigation of civil rights charges under title VII and ADA against a state or local government to the Department of Justice for prosecution—a requirement that delays litigation, one EEOC official said, because Justice officials need more time to familiarize themselves with the details and issues.

A third proposal is to increase the United States Commission on Civil Rights' oversight role of federal efforts to protect civil rights. Established in 1957 to be an independent, bipartisan, fact-finding agency, the Commission is led by eight commissioners—four appointed by the President and two each appointed by the President Pro Tempore of the Senate and the Speaker of the House. No more than four commissioners may be affiliated with any one political party. The President designates the Commission's chairperson and vice chairperson as well as the Commission's staff director. Although it has no rulemaking or enforcement powers, many viewed the Commission as extremely influential during the 1960s and 1970s; it was characterized as serving, through its reports and recommendations, as "America's conscience." The option proposed would have the Commission provide more frequent evaluations of federal civil rights policies and enforcement.

Comments From the Equal Employment Opportunity Commission

Note: GAO comments supplementing those in the report text appear at the end of this appendix.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF THE CHAIRMAN

November 1, 1993

Ms. Janet L. Shikles
Assistant Comptroller General
Human Resources Division
U.S. General Accounting Office
Washington, D.C. 20548

Dear Ms. Shikles:

Thank you for the opportunity to review GAO's draft report, Equal Employment Opportunity Commission: Increases in Age Discrimination and Other Charges Call for New Approach.

Although the draft report generally provides a balanced depiction of EEOC's ability to meet the demands of its current law enforcement responsibilities, the Commission provides the following specific concerns and observations:

See comment 1.
See p. 10.

The report notes that workload under the ADEA has increased substantially from 1989 (14,789 ADEA charges received) to 1992 (19,350 ADEA charges)(Page 3, para. 2). EEOC's FY 1993 end-of-year receipts indicate ADEA receipts were 17,491 -- a decrease of 10 percent since FY 1992. Overall charges have increased substantially since FY 1989 but FY 1993 charge receipts were up (See Tab A, Workload Estimates) primarily because of increased sexual harassment charges and also as a result of increased charges under the Americans with Disabilities Act, not as a result of the ADEA.

See comment 2.

ADEA Directed charges in the Systemic program did in fact take a downturn in FY 1992, but in FY 1993 these charges increased (Pages 4-5). EEOC's submission to GAO on September 23 reflects a total of 3 ADEA systemic charges during FY 1993. Further, we also indicated that we expect to bring more systemic charges under the ADEA now that the two-year statute of limitations has been eliminated. Also in FY 1993, field offices initiated a total of 243 Directed ADEA charges which vary in employer size and scope, at least 21 of which contained multiple issues (See Tab B).

See p. 12.

See comment 2.

It should be noted that systemic charges contained a variety of bases and issues, as shown on the enclosed list (See Tab C), updated as of the end of the fiscal year from a similar list sent on October 1.

See comment 2.

See pp. 13, 14.

See comment 3.

GAO states that the Commission's current litigation rate of 1 percent of charges filed is due to legal staff shortages (Pages 5, 23). However, the litigation rate is a function of many variables, including statutory policies (ADEA, Title VII and ADA) requiring that the Commission attempt conciliation prior to litigation. Legal staff shortages have not directly resulted in the filing of fewer litigation cases, but these shortages do limit the degree of interaction between the investigators and the legal staff as well as the agency's ability to prosecute aggressively and manage effectively a substantial increase in litigation cases.

See pp. 3, 6.
See comment 4.

GAO's report fails to recognize statutory differences between Title VII and the ADA on the one hand, and the ADEA on the other, with respect to the requirement that the EEOC refer cases against state and local governments to the Department of Justice for litigation (Pages 6, 12, 42). It should be made clear that the Commission has independent litigation authority against state and local governments under the ADEA and the EPA, and must refer these issues to the Department of Justice only when allegations are raised under Title VII or the ADA.

See comment 5.

GAO states (Pages 7-8) that it is EEOC policy that "every charge ... receive the same degree of attention, regardless of the merit of the charge." This statement is a misleading characterization of what is meant by full investigation -- apparently consistent with GAO's conclusions in its 1988 study. Full investigation simply means that investigation of each charge is conducted as far as the evidence and facts in the matter warrant -- no more and no less. This policy has been articulated in the agency's case management system since 1988 and is based on the principle that with vigorous front-end management of the caseload, each charge is evaluated as work proceeds. Supervisors take a "hands on" approach and work closely with investigators every step of the way so that the investigation is tailored to the specific needs of each case.

In this way, the resolution is accomplished efficiently, with the investigator and supervisor -- including legal/higher management involvement where appropriate -- having regular dialogue about the case as it is developed. This approach ensures that each charge is brought to its appropriate conclusion quickly; that there is a proactive, not a reactive approach; and that the need for returning charges for rework is significantly reduced since all parties are involved from the beginning. We have achieved significant productivity and quality improvements using this system.

The existing case management system ensures that complex charges get the attention they need and those charges that can be resolved quickly are identified early for the most appropriate

charge resolution method. Full investigation in no way implies that each charge is treated the same "regardless of the merit of the charge". The handbook entitled, "Case Management System" -- previously provided to GAO Auditors -- summarizes the case management system under which field offices operate. Another copy is appended to these comments (See Tab D).

See comment 2.

See comment 6.
See p. 6.

The statement that "If a charge satisfies all legal requirements, EEOC notifies the employer of the charge;..." is not technically correct (Page 11, para. 2). If the allegation meets the standard for "minimally sufficient", as defined by EEOC regulation 1601.12, a charge is then taken by EEOC. Once a charge is taken, EEOC always notifies the employer of the charge.

See p. 8.

The report implies that charges are put in line, one behind the other, and not touched until some specifically appointed time (Pages 15-16). The matter is not that simple. Obviously, all charges cannot receive the same amount of attention simultaneously because of the size of the workload; work necessarily must proceed in stages. Preliminary information is requested; cases are monitored for new developments by reviewing incoming correspondence; and investigators respond to telephone inquiries about charges and receive additional information from charging parties and respondents. Should some circumstance develop which warrants giving the charge a greater priority, then more active investigative work commences.

See p. 10.
See comment 2.

For final FY 1993 charge figures (Pages 16-17), refer to the enclosed workload table in Tab A entitled, "Private Sector EEOC Enforcement Compliance Activity." (This table shows charge receipts were up slightly more than originally estimated -- by 24.9 percent over FY 1992.) We believe Figure 3 illustrates the heart of EEOC's dilemma. We have more work than is physically possible to resolve in a timely manner without additional resources. The present case management system is based on lessons learned from our history. We have taken the best of those methods which have proven effective and eliminated those which are obstacles to completing quality and timely work. While EEOC welcomes recommendations to improve its charge resolution system, it is clear that adjusting the charge process alone will not solve the underlying problem of too little resources to address the amount of work to be accomplished.

See comment 7.

During informal discussions, GAO has suggested that EEOC curtail the number of charges taken into the system. This solution would only exacerbate the problems associated with discriminatory conduct; it would serve only to limit individuals' rights to pursue their allegations and send a message to employers that flies in the face of the spirit and intent of the very foundation of civil rights laws.

See p. 13.

See p. 13.

The profile of existing systemic charges suggests that EEOC does not adhere unreasonably to the general guideline that systemic charges should include at least 500 employees (Page 22, para. 1, Item (3)). Less than half the existing systemic charges meet the 500-employee size. As GAO suggests (Page 22, note 18), EEOC can be flexible. However, one would generally conclude the larger the size of an employer, the greater impact an investigation will have. Thus, systemic investigations usually focus on large employers. We have responded previously to the matter of using anecdotal evidence to bolster statistical evidence. We believe anecdotal evidence serves to improve the quality of charges brought, not limit the number of possible filings.

EEOC's current systemic docket is comprised of 80 open charges of varying sizes:

Work Force Size	Number of Charges
Below 100	8
100-250	8
251-500	15
500+	37
Employer size not applicable (Respondents are personnel employment agencies)	12

Appendix I

See pp. 22-24.

We are encouraged that GAO visited the Washington and Baltimore offices to review EEOC's charge screening methods (Pages 35-36). We are always in the process of improving existing systems; the efforts GAO observed in Washington and Baltimore are not unique to these offices. Other EEOC offices also routinely emphasize certain aspects of charge resolution systems for fine-tuning and improvements. It was through these very methods that our existing Case Management System was developed and we continue to encourage these efforts.

During the five years since GAO last investigated the quality of EEOC's investigations, EEOC has instituted a charge resolution review system whereby a headquarters office reviews certain field office resolutions as a further check for quality (Page 37). Further, the agency instituted major improvements when it introduced a comprehensive Case Management System, beginning late in FY 1988. Effective case management (which includes effective

and efficient case development) are central to this system. Managers and supervisors have been trained in the use of the system and it is emphasized extensively through regular annual reviews of field offices' practices and through performance appraisals from the top, down.

See p. 25.

Without qualification, GAO's report states (Page 39), "Some believe that management pressures investigators to resolve cases within a set number of days because an investigator's annual performance is evaluated on the basis of the number of charges processed rather than on (1) the completion of full investigations or (2) whether the cases were brought to appropriate conclusions based on complete evidence." Rather than pressures from management, we believe the magnitude of the workload and the exigencies connected with it -- not the least of which is pressure from all parties to each case -- play a greater role in driving productivity.

See comment 2.

Enclosed in Tab E is a copy of the current "Employee Performance Plan" for Enforcement Investigators. Critical Performance Element I, "Quality of Case Development" expressly addresses the two areas mentioned above. Each investigator is evaluated against four factors: I. Quality of Case Development, II. Productivity, III. Case Management and IV. Professionalism.

It should be noted that under the element of Productivity the performance plan states, "These numbers may be adjusted depending on various factors including, but not limited to, availability of cases, complexity of cases or Investigator availability." Again, we wish to emphasize that investigators are encouraged -- through their appraisals and other systems -- to tailor the investigative/charge resolution methodology to the charge, not the reverse, and to bring each charge to its appropriate conclusion. We acknowledge, however, that the sheer size of the workload cannot but force investigators to feel pressured, as we have now exceeded the saturation point. An aged inventory by its very nature has a detrimental impact on quality.

An informal study we conducted shows those with the highest ratings are not always those with the highest productivity. Of the investigators producing at the highest level, 26.3 percent received a rating of 3 (Proficient). An excerpt from this study is enclosed in Tab F.

See comment 2.

See p. 25.

The report (Page 40) notes an option for freeing up EEOC resources for systemic investigations by reallocating more responsibility to FEPAs for handling a greater number of individual charges. This option simply is not feasible. During FY 1993, EEOC received a net gain of over 4,194 deferral charges from FEPAs for processing as a result of our worksharing agreements. FEPAs do not

Ms. Janet L. Shikles
Page six

have the capacity to handle more charges because State and Local government budgets are shrinking at an alarming rate and the $450 per charge paid by EEOC falls far short of the cost for full compensation.

See pp. 26-27.

See pp. 2-4.

While we have no comment about the specific recommendations for restructuring EEOC (Pages 41-42), we emphasize that the agency has been asked to assume substantially increased responsibilities with fewer resources, as GAO indicates (Pages 3-4). In FY 1989, EEOC was resolving 1.18 charges for every charge it received and was making significant progress toward reducing its pending inventory until the end of FY 1991. Now -- despite productivity at a record-breaking level for the third year in a row -- we are resolving fewer than 1 (0.82 charge) for each charge received.

EEOC's workload growth is now far beyond the point where making internal adjustments to the system alone, or reorganizing, will solve the problem. EEOC's present systems were adequate to handle workloads that are, in relation to staff and resources, two or three times that of other Federal agencies handling similar work. We will continue to make every effort to improve our ability to process more charges fairly and efficiently, but we believe that it is important to recognize as well the vital need for resources commensurate with our increased responsibilities.

Sincerely,

Tony E. Gallegos
Chairman

Enclosures

The following are GAO's comments on the Equal Employment Opportunity Commission's letter dated November 1, 1993.

GAO Comments

1. Subsequent to its November 1, 1993, letter, EEOC revised the workload totals it had given us. Page 10 of the final report contains the revised numbers.

2. The document referred to as Tab A and other documents that accompanied EEOC's November 1, 1993, letter are not included in this report.

3. The statement referred to was revised to reflect EEOC's emphasis on the number of litigation cases the Commission can manage effectively.

4. Recognition of the statutory differences is provided on pages 3 and 6.

5. The quoted language has been deleted.

6. The phrase "minimally sufficient" has replaced the phrase "satisfies all legal requirements."

7. We do not suggest that EEOC curtail the number of charges taken into the system. Although a number of the options for improving the federal government's ability to enforce employment discrimination laws address the handling of charges once they are received, we did not evaluate these options.

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Related GAO Products

EEOC: Federal Affirmative Planning Responsibilities (GAO-T-GGD-94-20, Oct. 13, 1993).

EEOC: An Overview (GAO/T-HRD-93-30, July 27, 1993).

Federal Employment: Sexual Harassment at the Department of Veterans Affairs (GAO/T-GGD-93-12, Mar. 30, 1993).

Affirmative Employment: Assessing Progress of EEO Groups in Key Federal Jobs Can Be Improved (GAO/GGD-93-65, Mar. 8, 1993).

Information on EEO Discrimination Complaints (GAO/GGD-93-6RS, Dec. 31, 1992).

Age Employment Discrimination: EEOC's Investigation of Charges Under 1967 Law (GAO/HRD-92-82, Sept. 4, 1992).

Federal Workforce: Continuing Need for Federal Affirmative Employment (GAO/GGD-92-27BR, Nov. 27, 1991).

Federal Affirmative Employment: Status of Women and Minority Representation in the Federal Workforce (GAO/T-GGD-92-2, Oct. 23, 1991).

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ADP Systems: EEOC's Charge Data System Contains Errors but System Satisfies Users (GAO/IMTEC-90-5, Dec. 12, 1989).

Equal Employment Opportunity: Women and Minority Aerospace Managers and Professionals, 1979-86 (GAO/HRD-90-16, Oct. 26, 1989).

Discrimination Complaints: Payments to Employees by Federal Agencies and the Judgment Fund (GAO/HRD-89-141, Sept. 25, 1989).

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