

Slides and Narration from:

**A Community Strategy for Changing Police Practices:
Federal Funding and Civil Rights Complaints**

A Public Webinar Presented By:

NAACP Legal Defense and Educational Fund, Inc.
&
Office for Civil Rights, Office of Justice Programs, U.S. Department of
Justice

3:00PM EDT
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A Community Strategy for Changing Police Practices

Federal Funding and Civil Rights Complaints

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Welcome



Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice



NAACP Legal Defense and
Educational Fund, Inc.
@NAACP_LDF

Good afternoon, my name is Monique Dixon and I am a Senior Policy Counsel at the NAACP Legal Defense and Educational Fund (LDF). I'd like to welcome you to today's webinar – A Community Strategy for Changing Police Practices: Federal Funding and Civil Rights Complaints.

A Community Strategy for Changing Police Practices: Federal Funding and Civil Rights Complaints Webinar Presentation and Narration

For the past year, primarily through bystander video recording, this country has witnessed incidents of police violence against civilians, particularly unarmed African Americans, on a monthly basis. The spontaneous protests that erupted in cities nationwide have been coupled with demands for justice, police accountability and an end to policing practices that result in the serious injury or death of civilians. Today's webinar is intended to provide you with a tool that you could use to hold local police departments accountable. This tool is a civil rights complaint that any person may file with the Office for Justice Programs' Office for Civil Rights (OCR) if he/she believes that a police department is discriminating against civilians based on race, color, or national origin in its delivery of policing services. By the end of the webinar, we hope that you will have a better understanding of how the Office for Civil Rights accepts and investigates complaints. We will also provide a sample complaint that you could use if you decide to submit a complaint to OCR. There will be a question and answer period at the end of the session. As questions occur to you, please submit them to us through the chat function on the WebEx platform. We will get through as many questions as we can during today's session and will follow up with participants whose questions are not answered. Now, I will turn over the webinar to George Mazza of the Office for Civil Rights who will welcome you and begin the training.

I am George Mazza, Senior Counsel at the Office for Civil Rights at the Office of Justice Programs. I am here with my colleagues, attorneys Shelley Langguth and Lisa Taylor. Welcome to today's webinar on how the Office for Civil Rights at the Office of Justice Programs serves you and others in enforcing federal civil rights laws. The Office of Justice Programs (or OJP) is the grant-making division of the U.S. Department of Justice. OJP funds most criminal justice agencies in the United States, including many law enforcement agencies. Today's training program provides information on one way to effect police reform, which is through the filing of administrative complaints with our office. This is just one way that the Justice Department works to ensure that all people in the United States are treated fairly.



Fundamental Principle:

Federal Funding = Civil Rights Obligation

To understand the role of the Office for Civil Rights (or OCR) at OJP, it is important to understand a fundamental principle. Congress has tied receipt of federal funding to compliance with federal civil rights laws. Whenever an organization receives federal funding, it has civil rights obligations. A fundamental principle that is important to our discussion today is the link between federal financial assistance and the obligation to comply with federal civil rights laws. The obligation is a condition of receiving federal funding.

Federal Funding is Leverage to Ensure Compliance with Federal Civil Rights Laws

- The Goal is Compliance with Federal Civil Rights Laws
- Failure to Comply Risks Suspension or Termination of Federal Funds

Federal funding is leverage to ensure that recipients comply with federal civil rights laws. The primary goal is to have recipients comply with civil rights laws. However, if an agency fails to comply it risks the suspension or termination of its federal funding.

Office for Civil Rights (OCR) Office of Justice Programs (OJP)

Responsible for Ensuring that
Recipients of **Justice Department Funding**
Do Not Discriminate

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Many of you are aware of the civil rights offices connected to financial assistance at other federal agencies. For example, the Office for Civil Rights at the U.S. Department of Education has a history of enforcing civil rights laws in the context of school desegregation. The Office for Civil Rights at the U.S. Department of Health and Human Services ensures that hospitals do not discriminate in providing medical care. Similarly, the Office for Civil Rights at the Office of Justice Programs ensures that recipients of financial assistance from the Justice Department do not discriminate.

When OCR acts, it does so on behalf of the Justice Department. It is ensuring that the people's money is not being used in a discriminatory way. Consequently, lawyers at OCR are not the private attorneys of complainants; instead, they are acting to hold organizations accountable to their duties as recipients of DOJ funding. OCR consists of just 16 people who work diligently, with limited resources, to ensure that recipients of DOJ funding throughout the country comply with applicable federal civil rights laws.

What is the difference?

Office for Civil Rights (OCR) & Civil Rights Division

OCR has jurisdiction to enforce administrative complaints against any agency receiving DOJ funding

Civil Rights Division enforces civil rights laws primarily through litigation

Many people confuse the Office for Civil Rights and the Civil Rights Division at the Department of Justice. The OCR, similar to civil rights offices at any other federal agency, such as at the Department of Education or at the Department of HHS, enforces civil rights laws through an administrative process. The OCR is the external civil rights enforcement office not only for the Office of Justice Programs but for the Office of Community Oriented Policing Services and the Office on Violence Against Women. OCR investigates complaints (including from individuals) ; OCR issues findings; and if warranted, OCR, on its own, fashions the remedies. By contrast, the Civil Rights Division, for the most part, enforces civil rights laws by going to court. Because of its focus on litigation the Civil Rights Division rarely addresses complaints of an individualized nature.

DOJ funds a range of recipients

- Law enforcement agencies
 - Criminal justice agencies
 - Juvenile justice agencies
 - Adult and juvenile correctional facilities
 - Shelters and services for victims of crime
 - Criminal justice research institutions
 - Nonprofit organizations

The Justice Department has a range of recipients. For our discussion today, we will focus on state, county, and local law enforcement agencies. Because many law enforcement agencies receive DOJ funding, they must comply with federal civil rights laws to be eligible for the funding. It is important, however, to remember that DOJ recipients may also include criminal justice agencies; juvenile justice agencies; adult and juvenile correctional facilities; shelters and services for victims of crime; criminal justice research institutions, including colleges and universities; and nonprofit organizations that provide social services, including faith-based organizations.

Sources for finding DOJ funding to law enforcement agencies

- Websites of DOJ Grant-making Components
 - Office of Justice Programs (OJP)
<http://ojp.gov/index.htm>
 - Office of Community Oriented Policing Services (COPS)
<http://www.cops.usdoj.gov/>
 - Office on Violence Against Women (OVW)
<http://www.justice.gov/ovw>
- Local Offices of U.S. Senators and U.S. Representatives
- Website of USA Spending: www.usaspending.gov

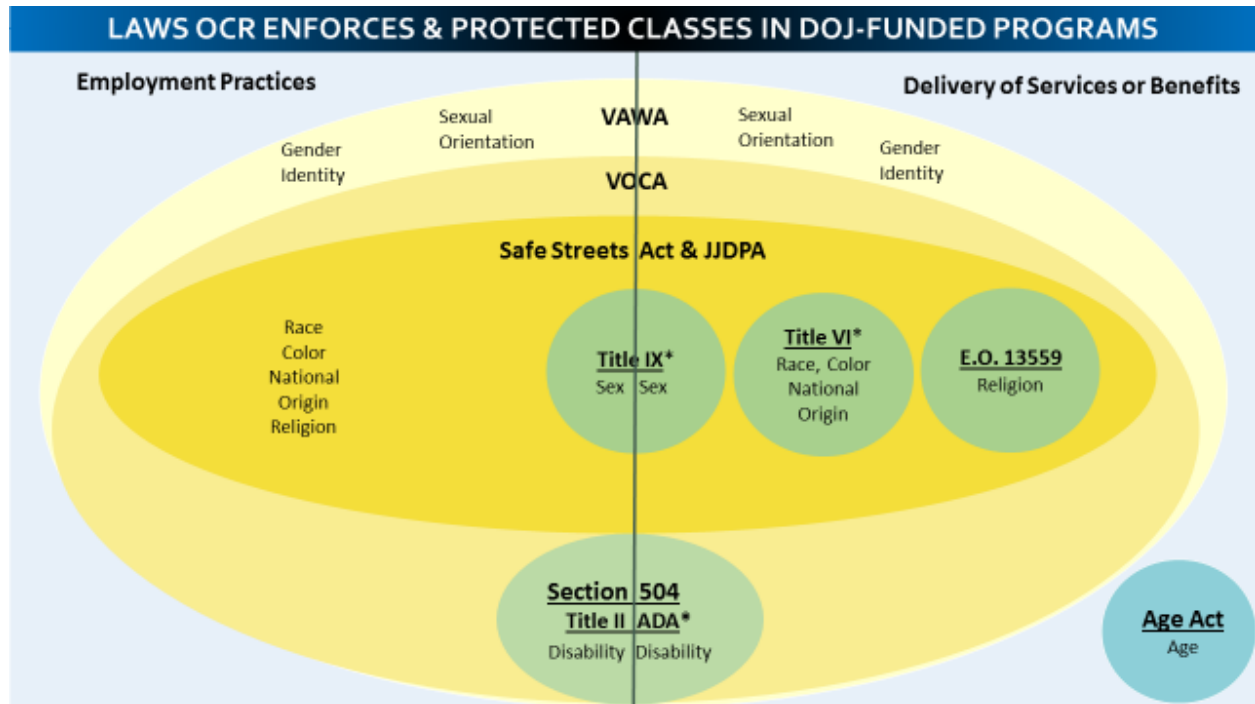
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When OCR receives a complaint we will check for funding to make sure OCR has the authority to investigate, a complainant may also want to research whether a particular law enforcement agency is a recipient of DOJ funding. Potential complainants may want to check the listed sources to see if a law enforcement agency is receiving DOJ funding. Sources include, the websites of DOJ grantmaking offices (i.e., OJP, COPS, and OVW), the local offices of federal elected officials particularly U.S. Representatives, and the website USA Spending.gov.

What Laws Apply?

Civil Rights enforcement can be confusing because there are many different civil rights laws that cover different situations and groups. Every federal civil rights office does not have jurisdiction, meaning the authority, to enforce every federal civil rights law.

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So, what civil rights laws does OCR enforce? Let's build a chart that will show both the laws that OCR enforces and the protected classes for each law.

First let's make two major distinctions. Some civil rights laws prohibit discrimination in employment; some laws prohibit discrimination in the delivery of services or benefits, and some laws prohibit discrimination in both areas.

Next, there are cross-cutting federal civil rights laws that apply to all recipients of federal financial assistance, while other civil rights requirements are part of DOJ Program Statutes, and apply only to recipients of funding from the Justice Department.

Among the cross-cutting laws that OCR enforces are three (3) laws which prohibit discrimination in the delivery of services or benefits. Title VI, which prohibits discrimination based on three protected classifications race, color, or national origin; the Age Act, which prohibits discrimination based on age; and Executive Order 13559, which prohibits discrimination based on religion. OCR also enforces three (3) laws which prohibit discrimination in both employment and the delivery of services or benefits. These laws are Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disability Act (of ADA), which prohibits discrimination based on disability; and Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in educational programs. Again, all of these cross-cutting laws, apply to all recipients of federal financial assistance, not just recipients of funding from the Justice Department.

There are also program statutes that apply only to recipients of federal financial assistance from the Justice Department. These statutes authorize funding and contain a nondiscrimination provision. DOJ program statutes include the Safe Streets Act and the Juvenile Justice and Delinquency Prevention Act, which prohibit discrimination in both employment and in the delivery of services or benefits based on race, color, national origin, sex, and religion. The Victims of Crime Act or VOCA has the same protections as the Safe Streets Act and the Juvenile Justice and Delinquency Prevention Act, but it includes disability as an additional protected classification. The Violence Against Women Act or VAWA adds two additional protected classifications sexual orientation and gender identity. So VAWA has the broadest protection of any law that applies to recipients of federal financial assistance—but it applies only to organizations that receive funding under this statute or from the Office on Violence Against Women. VAWA prohibits funded organizations from discriminating either in employment or in the delivery of services or benefits based on actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, and gender identity.

Key laws applicable to law enforcement agencies' interaction with minority communities

Title VI

- Prohibits discrimination based on race, color, national origin in delivery of services or benefits
- Requires appropriate interpretation and translation services to people with limited English proficiency

Safe Streets Act

- Prohibits discrimination in both **employment** and in the delivery of services or benefits based on race, color, national origin, sex, and religion
- Has automatic fund-termination provisions

The key laws that are the focus of this webinar are Title VI of the Civil Rights Act of 1964 and the nondiscrimination provisions in the Omnibus Crime Control and Safe Streets Act of 1968 (or the Safe Streets Act).

Title VI prohibits discrimination based on race, color, and national origin in the delivery of services or benefits.

Title VI also requires recipients of Justice Department funding to provide appropriate interpretation and translation services to beneficiaries who have limited English proficiency.

The Safe Streets Act prohibits discrimination in both employment and in the delivery of services or benefits based on race, color, national origin, sex, and religion. One of the distinguishing characteristics of the Safe Streets Act is that it has automatic fund-termination provisions. A finding of discrimination triggers the process for suspending or terminating funding.

How does OCR enforce civil rights laws?

- Investigates administrative complaints
- Conducts compliance reviews
- Provides technical assistance
- Formulates policy guidance

The Office for Civil Rights enforces civil rights laws in four ways: (1) OCR investigates complaints that it receives from people who are either employees (or potential employees) or beneficiaries (or potential beneficiaries) of programs that receive financial assistance from the Justice Department; (2) OCR conducts compliance reviews—OCR-initiated audits—to determine whether a funded organization is in compliance with applicable civil rights laws; (3) OCR provides technical assistance and guidance to help recipient agencies meet their civil rights obligations; and (4) OCR formulates policies to clarify what the civil rights laws mean and how to comply with them.

What is discrimination under federal civil rights laws?

- Asserting discrimination as member of “protected class”
 - Race, color, national origin, sex, religion, disability, age, sexual orientation, & gender identity
 - National origin discrimination includes denying appropriate language-access services to people with limited English proficiency (LEP)
- Being a member of a protected class is not enough
- Showing mistreatment based on membership in a protected class

What is discrimination under federal civil rights laws? Discrimination under federal law means asserting discrimination as a member of a “protected class.” As we noted previously, the laws that OCR collectively enforces include the following protected classes: race, color, national origin, sex, religion, disability, age, sexual orientation, and gender identity. As we also noted previously, national origin discrimination includes denying appropriate language access services to people with limited English proficiency.

To make a discrimination claim under federal law, being a member of a protected class, however, is not enough. One has to show mistreatment based on membership in a protected class.

Proving discrimination relies on facts & laws

- Does the evidence support a basic civil rights claim?
 - Who are the parties?
 - What happened?
 - When did the alleged discrimination occur?
- What is the legal basis for the claim?
 - Was the complainant treated differently based on race, color, or national origin? (disparate treatment)
 - Did the grant recipient's actions have a different impact on people based on race, color, or national origin? (disparate impact)
- OCR assumes the burden of proof, not the complainant

Proving discrimination relies on facts and laws.

A complaint must assert certain facts: who are the parties involved, what happened, and when did the discrimination occur?

The complaint also must rely on the application of the law to the facts. What is the legal basis for making a discrimination claim? One option is to show that the complainant was treated differently based on race, color, or national origin. This legal basis is called disparate treatment. Another option is to show that a grant recipient's neutral policy has a different adverse impact on people based on race, color, or national origin. The grant recipient's intentions are immaterial. This legal basis is called disparate impact.

Unlike proceedings in court, the burden of proof in making a discrimination claim through the administrative process does not lie with the complainant. At the first stage of the administrative process, OCR gathers facts from the complainant, the law enforcement agency, and others. In the second stage, however, OCR determines whether the evidence supports a discrimination claim. OCR assesses whether the law enforcement agency's explanation of how it interacted with the complainant is a pretext for discrimination. OCR, not the complainant, assumes the burden of showing that the evidence supports a finding of discrimination.

How to file a discrimination complaint with OCR

<http://ojp.gov/about/ocr/complaint.htm>

How do you file a discrimination complaint with OCR? Follow the above ink to get to OCR's website.

The screenshot shows the official website of the U.S. Department of Justice, Office of Justice Programs. The header includes the department's name, logo, and navigation links like 'Contact Us', 'Site Map', 'Careers at OJP', and 'OJP Home'. A search bar is also present. The main content area is titled 'Filing a Civil Rights Complaint' and provides detailed information about the Office for Civil Rights (OCR) and the process of filing a complaint. It mentions that OCR investigates complaints from the public who believe they have been discriminated against by a federal agency. The text explains that OCR has jurisdiction over agencies receiving federal funding, including the Office of Community Oriented Policing Services (COPS Office), the Office on Violence Against Women (OVW), and the Office of Justice Programs. It also states that federal laws prohibit recipients of Justice Department funding from discriminating against individuals or groups. The page concludes by instructing users to download and complete the 'Complaint Verification Form (CVF)' and the 'Identity Release Statement (IRS)' and return them to the OCR at a specific address. A sidebar on the left lists 'OJP TOPICS' such as American Indian & Alaska Native Affairs, Civil Rights, Corrections, Courts, Faith Based & Neighborhood Partnerships, Juvenile Justice, Law Enforcement, Research, Statistics & Evaluation, Substance Abuse & Crime, Technology to Fight Crime, and Victims of Crime. A sidebar on the right lists 'Civil Rights' resources including 'Filing a Complaint', 'Filing Tips', 'FAQs', 'VAWA FAQs', 'Online Training', 'Statutes & Regulations', 'Advisory on Recipients' Use of Arrest and Conviction Records', 'Limited English Proficient (LEP)', 'Title VI Enforcement', 'Equal Employment Opportunity Plans', 'Resources - Sample Documentation', 'Twelve-Step Recovery Programs', 'Español', and '中文版'.

On OCR's website you will find information on how to file a complaint. Here is a screen shot of OCR's website, which contains instructions on filing a discrimination complaint. Anyone can file a complaint, there is no need to retain an attorney to do this. The two key forms for filing a complaint are the Complaint Verification Form and the Identity Release Statement.

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COMPLAINT VERIFICATION INFORMATION

Your name, address, and telephone number(s): _____

Name, address, and telephone number(s) of person(s) who discriminated against you: _____

Name, address and telephone number(s) of agency or organization involved in your complaint: _____

Are there other persons or organizations involved in this discrimination case? ____

IF YES, please give the name, address and telephone number below:

NAME	ADDRESS	TELEPHONE
_____	_____	_____
_____	_____	_____

Which of the following describes the nature of the discrimination involved?

____ Race/Color ____ National Origin ____ Religion ____ Sex ____ Disability ____ Age ____ Sexual Orientation ____ Gender Identity

Describe your charge of discrimination involving:

1. Your job or working conditions?	2A. Do you work for an agency providing services to the public?	2B. Do you work for an agency providing services to the public?
____ If yes, which of the following apply?	____ If yes, how?	____ If yes, how?
____ Hiring	____ Promotion	____ Promotion
____ Work Assignment	____ Termination	____ Termination
____ Promotion	____ Advancing rates/salary	____ Advancing rates/salary
____ Termination	____ Access to benefits/program	____ Access to benefits/program
____ Change in duties	____ Evaluation	____ Evaluation
____ Evaluation	____ Different standards/opportunity program	____ Different standards/opportunity program
____ Advancing rates/salary	____ Other (specify)	____ Other (specify)

Which month(s), day(s), and year(s) did the most recent discrimination against you take place?

Beginning: Month ____ Day ____ Year ____

Ending: Month ____ Day ____ Year ____

Here is a copy of the Complaint Verification Form. This form is for collecting basic information, such as the complainant's name, address and telephone number; the basis of discrimination; an accounting of the discriminatory incident; and the identity of the funded law enforcement agency involved.

COMPLAINANT CONSENT/IDENTITY RELEASE FORM

Your Name: _____

Address: _____

State _____ Zip _____

Complaint number(s) (if known): _____

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Use of Personal Information by the Department of Justice (DOJ). As a complainant, I understand that in the course of an investigation it may become necessary for DOJ to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of DOJ to honor requests under the Freedom of Information Act. I understand that it may be necessary for DOJ to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by DOJ's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by DOJ.

CONSENT/RELEASE

☐ **CONSENT** - I have read and understand the above information and authorize DOJ to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Department of Justice (DOJ) to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

☐ **CONSENT DENIED** - I have read and understand the above information and do not want DOJ to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE

DATE

Here is a copy of the Identity Release Statement. In this form, the complainant gives consent for OCR to use the complainant's name in conducting an investigation. Although OCR may investigate a complaint without obtaining the complainant's agreement to release the complainant's identity, it may be difficult for OCR to track down particular records or other information related to the incident if the complainant fails to complete the identity release statement.

OCR investigates and resolves administrative complaints

- Verifies jurisdiction, timeliness, funding
- Collects data from complainant
- Contacts funded agency, sends complaint notice & data request

OCR investigates and resolves administrative complaints. When OCR receives a complaint, it verifies whether it has jurisdiction, whether the complaint is timely, and whether the law enforcement agency is currently receiving financial assistance from the Justice Department.

OCR collects data from the complainant. If there is insufficient information in the Complaint Verification Form, an OCR attorney may write or call the complainant to provide additional information.

If the complaint on its face makes out a discrimination complaint and OCR does have jurisdiction, OCR will then contact the funded agency, generally sending a notice of the discrimination complaint as well as a data request related to the alleged discrimination.

What does OCR ask for in a data request?

- Written policies, general orders, procedures
- Accounting of incident (e.g., police reports, filings, audio or video recordings)
- Similar incidents in last three years
- Similar internal or external complaints against the law enforcement officers involved in the last three years

What does OCR ask for in a data request? The data request ordinarily asks for (1) written policies, general orders, or procedures; (2) the law enforcement agency's accounting of the incident under investigation, which may include police reports, information related to the filing of a complaint, and audio or video recordings; (3) data on similar incidents in the last three years; and (4) data on similar internal or external complaints against the law enforcement officers involved in the complaint over the last three years.

What is the investigative process?

OCR Reviews

OCR attorneys

- review every complaint

- assess whether the complaint is sufficient on its face

- decide whether there is a basis to open an investigation

What is the investigative process? (1) OCR reviews every complaint that it receives and decides whether it is sufficient on its face to open an investigation. OCR keeps complainants informed about the status of their complaints. At times, OCR attorneys will call or write to the complainant to clarify facts or obtain additional information.

What is the investigative process?

OCR Investigates

OCR staff attorneys collect information
from the complainant and the recipient

(2) OCR investigates. OCR staff attorneys gather data, sometimes going into the field to interview complainants, community representatives, and officials and staff from the recipient agency. The length of a complaint investigation depends on how complicated the complaint is. Most take a couple of months; some can be longer whereas some can also be shorter.

What is the investigative process?

OCR Issues Finding

OCR decides whether there is sufficient evidence to issue a finding

OCR may

- Close matter based on insufficient evidence
- Make recommendations for improvement
- Issue a noncompliance finding

OCR's investigative findings appear on its website

<http://ojp.gov/about/ocr/investfind.htm>

(3) After OCR gathers the relevant data, it evaluates the record and issues a finding. If there is insufficient evidence, OCR will close the matter. If the evidence supports a civil rights violation, OCR issues a noncompliance finding. The finding is in the form of a written report that OCR places on its website. The noncompliance finding contains specific recommendations for bringing the funded organization into compliance with federal law. Even when OCR may not have sufficient evidence to issue a noncompliance finding, it may still make recommendations based on prevailing best practices in law enforcement administration. When OCR issues a noncompliance finding, it will work with the recipient to come into compliance.

Examples of OCR's investigative findings are available on its website.

What is the investigative process?

OCR Seeks Remedy

OCR works with recipient to remedy discriminatory practice

OCR monitors recipient's progress to implement OCR's compliance recommendations

(4) OCR seeks remedies for discrimination complaints. When OCR issues a noncompliance finding, it will work with the recipient to come into compliance. Often OCR and a funded law enforcement agency develop a written corrective-action plan or resolution agreement. OCR then monitors the progress the law enforcement agency makes in implementing the corrective-action plan. OCR is available to hold the funded agency accountable and to provide technical assistance.

What remedies are available from OCR?

- The preferred remedy is voluntary compliance
- Alternative remedies may include suspending or terminating funding

What remedies are available from OCR? The preferred remedy to address a civil rights violation is to work with the funded agency and develop a plan to bring it into voluntary compliance. If efforts to achieve voluntary compliance are futile, OCR may then seek through the administrative process the suspension or termination of funding.

What makes a good complaint?

- **Is the complaint timely?**
 - Title VI—**180 days** from incident
 - Safe Streets Act—**one year** from incident
- **Is the complaint complete?**
 - Does the complaint contain relevant facts?
 - Are the appropriate forms signed?
 - Are all the documents cited in the complaint attached?
- **Does the complaint involve a recipient of DOJ funding?**
 - Complainant need not know whether a law enforcement agency receives DOJ funding to file a complaint
 - OCR will check funding

What makes for a good administrative complaint? Here are some things to consider in filing a good complaint:

- ✓ *Is the complaint timely? A complaint is timely under Title VI if it is filed within 180 days of the discriminatory incident. A complaint is timely under the Safe Streets Act if it is filed within one year of the discriminatory incident.*
- ✓ *Is the complaint complete? Does the complaint contain relevant facts? Are the appropriate forms (i.e., the Complaint Verification Form and the Identity Release Statement) signed? Are all the documents cited in the complaint attached?*
- ✓ *Does the complaint involve a recipient of DOJ funding? The complainant does not need to know whether a particular law enforcement agency receives funding from the Justice Department to file a complaint. OCR will check to see whether the law enforcement agency is receiving funding.*

Tips for filing a good complaint

- Avoid generalities, be specific
- Write down what happened as soon as possible—you may forget important details
- Include relevant records if you have them, or direct OCR to records that you believe the law enforcement agency has
- If OCR contacts you after you filed a complaint, make sure to return OCR's phone calls and requests for additional information
- Do not make unreasonable demands for remedies, such as for monetary damages
- You may contact OCR at any time for a status update

Here are tips for filing a good administrative complaint:

- ✓ *Avoid generalities; be as specific as you can be.*
- ✓ *Write down what happened as soon as possible—otherwise, you may forget important details related to the discriminatory incident.*
- ✓ *Include relevant records in the complaint if you have them, or direct OCR to records that you believe the law enforcement agency has.*
- ✓ *If an OCR attorney contacts you after you filed a complaint, make sure to return the OCR attorney's telephone calls and requests for additional information.*
- ✓ *Do not make unreasonable demands for remedies, such as for monetary damages.*
- ✓ *Remember that you can contact OCR at any time to request an update on the status of your complaint.*

What makes a bad complaint?

- Omitting name, address, telephone number
- Providing incorrect information
- Submitting dated complaints
- Exaggerating
- Naming agencies that have nothing to do with the alleged discrimination
- Failing to return (or returning incomplete) Complaint Verification Forms and ID Release Statements

Examples of Bad Complaints

- ✓ The Omission of Name, Address and/or Telephone Number
- ✓ Incorrect information (wrong addresses or out of service numbers)
- ✓ Dated complaints (**Example:** We received a complaint that was three years old)
- ✓ Organizations exaggerating complaint
 - **Example:** A non-profit group asserts that 300 people are the victim of the discrimination. When OCR contacts the organization, it can only provide 7 names
- ✓ Naming agencies in the complaint that have nothing to do with discrimination
 - **Example:** Complainant's son was tasered by police for resisting arrest. Complainant files a complaint against the Police Department (which was involved), the Sheriff's Department (which was not involved), and the local hospital (which was not involved)
- ✓ Failure to return (or returning an incomplete) Complaint Verification Form or Identity Release Statement.

What makes a bad complaint?

- Identifying witnesses who cannot verify allegations
- Failing to claim discrimination based on race, color, national origin, and so forth
- Failing to identify, when applicable, more than one basis of discrimination (e.g., race and sex)
- Identifying all bases for discrimination on the complaint form (e.g., not distinguishing among the protected classes)

Other elements that make a bad complaint:

- ✓ Identifying witnesses who cannot verify the allegations
 - **Example:** Complainant alleges that he was a victim of excessive force by police during an arrest on the road. Complainant offers witnesses at the hospital who repeat the story of the complainant but who have no firsthand knowledge of the arrest or evidence of physical harm.
- ✓ Failure to state a claim that the alleged discrimination was because of race, color, national origin, religion, sex, disability, age, sexual orientation, or gender identity.
 - **Example:** A mother complains that her son was pushed by a school employee. The mother learned that the school employee's motive was to retaliate against her son because he refused to play on the high school football team.
- ✓ Failure to identify, when applicable, more than one basis of discrimination (for example, race and sex).
- ✓ Identifying all bases for discrimination on the complaint form, not distinguishing among the protected classes. Failing to state the discrimination is based particularly on race or color or national origin or another protected class.

Case Study

Incident

- On November 1, 2014, Tim Jackson, an African-American male, was driving his vehicle when Officer Allen of the Center Police Department (CPD) stopped him for having an expired inspection sticker in violation of state law.
- Officer Allen asked to search Mr. Jackson's vehicle; Mr. Jackson did not consent because he believed Officer Allen was racially profiling him.
- Officer Allen radioed his colleague, Officer Neal, to come to the scene. Officer Neal is a certified canine officer trained to detect narcotics. Officer Neal circled his dog around Jackson's vehicle and the dog did not alert to narcotics.
- Officer Allen issued Jackson a ticket for an expired inspection sticker and released him.

Tim Jackson's Complaint

- The following day, Jackson filed a written complaint with CPD alleging that the officers engaged in discrimination and misconduct.
- On February 1, 2015, after not receiving any response from CPD, Jackson filed an administrative discrimination complaint with OCR based on the incident. Mr. Jackson claimed he was the subject of race and sex discrimination.

Questions

Based on the information contained in the complaint,

1. Is the complaint timely?
(a) Yes
(b) No
2. Does the complaint involve a potential civil rights issue?
(a) Yes
(b) No
3. Would your analysis change if you knew that both officers were African American?
(a) Yes
(b) No

Question 1: Is Tim's complaint timely? Yes or No? The incident Tim described in his complaint took place on November 1, 2014. He filed a his complaint with the Office for Civil Rights on February 1, 2015. As Tim filed his complaint within 180 days from the date of the alleged incident, his complaint was timely under Title VI. As Tim filed his complaint within one year from the date of the alleged incident, his complaint is timely under the Safe Streets Act. **The answer is (a) yes, Tim's complaint is timely.**

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Question 2: Does Tim's complaint involve a potential civil rights issue? **The answer is yes**, as Tim is asserting that the funded police department treated him differently in delivering police services based on his membership in two protected classes: race and sex.

Question 3: Would your analysis change if you knew that both officers were African American? **The answer is no**. The race of the police officers is not a factor in determining whether the funded police department discriminated against Tim based on race or sex.

OCR Investigation

- After searching its records, OCR found that DOJ funded the police department, so OCR had jurisdiction to investigate Mr. Jackson's complaint.
- The OCR determined that the facts Jackson alleged were sufficient to establish a basic claim of discrimination.
- The OCR sent the police department a Data Request to gather documentation and other information relevant to the complaint.

Questions

4. What additional information would be helpful to the OCR's investigation of Mr. Jackson's complaint?
 - (a) Officer Allen's explanation of why he requested consent to search Mr. Jackson's vehicle and called a canine officer to the scene
 - (b) The total duration in time of the traffic stop
 - (c) Data on the vehicle canine sniffs that the police department conducted in the past three years, including the race and sex of the subjects
 - (d) The police department's policies on vehicle stops, vehicle searches, discrimination, and the processing of complaints of misconduct
 - (e) All of the above

Question 4: What additional information would be helpful to the OCR's investigation of Mr. Jackson's complaint? The options are (a) Officer Allen's explanation of why he requested consent to search Jackson's vehicle and called a canine officer to the scene, (b) the total duration in time of the traffic stop, (c) data on the vehicle canine sniffs that the police department conducted in the past three years, including the race and sex of the subjects, (d) the police department's policies on vehicle stops, vehicle searches, discrimination, and the processing of complaints of misconduct, and (e) all of the above. **The answer is (e), all of the above.**

As to (a), in assessing whether the stop was discriminatory, OCR would want to know Officer Allen's explanation of why he stopped Mr. Jackson's vehicle—Officer Allen may provide additional details that would show that he acted appropriately or not.

As to (b), the total duration in time of the traffic stop might provide information on whether the officers adhered to standard procedures and federal laws or were treating Mr. Jackson differently.

As to (c), OCR would want to review data related to other canine sniffs that the police department conducted in the past three years. OCR would be particularly interested to see whether the police department may have a history of taking the race of a subject into account in performing canine sniffs.

As to (d), OCR would want to review the police department's policies on vehicle stops, vehicle searches, discrimination, and the processing of complaints of misconduct. OCR would be interested in seeing whether the officers adhered to or strayed from the police department's standard operating procedures. OCR would want to review whether the police department has issued any guidance to avoid racial profiling. OCR would want to review the police department's process for accepting and investigating complaints from the public to see whether it adhered to its own policies in responding to Jackson's complaint.

Police Department's Response & Actions

While denying Jackson's allegations, the police department provided a credible explanation for the police officers' actions. Nonetheless, it took the following steps:

- Issued a departmental memorandum on the legal guidelines for requesting consent to search a vehicle and requiring officers to document all such requests with supporting facts;
- Mandated that officers obtain supervisory approval for canine sniffs and be able to articulate objective facts for believing contraband is present;
- Mandated that all officers receive annual training on traffic stops, consent searches, and racial profiling; and
- Revamped its internal complaint procedures to ensure that complainants receive written notice of the disposition of their complaints.

Questions

5. What additional remedies, if any, could Mr. Jackson seek by filing a complaint with OCR?
 - (a) Monetary compensation for pain and suffering
 - (b) Dismissal of the ticket for the expired inspection sticker
 - (c) Written notice of the Center Police Department's resolution of the complaint he filed with the Department.

Question 5: What additional remedies, if any, could Tim seek by filing a complaint with OCR?

The options are (a) monetary compensation for pain and suffering, (b) dismissal of the ticket for the expired inspection sticker, or (c) written notice of the Center Police Department's resolution of the complaint he filed with the Department.

A Community Strategy for Changing Police Practices: Federal Funding and Civil Rights Complaints Webinar Presentation and Narration

As to (a), for complaints alleging discrimination in the delivery of services or benefits, usually OCR would **not** be able to provide monetary compensation.

As to (b), OCR would **not** seek dismissal of the ticket for the expired inspection sticker, especially as Tom does not contest that the sticker had indeed expired.

As to (c), OCR **could** require the police department to adhere to standard complaint procedures for law enforcement agencies, which include issuing a written notice to the complainant about the disposition of the complaint. **The answer is c.**

Sample Complaint

- Sections of a complaint
 - Complaint verification and Complainant Consent/Identity Release forms
 - Introduction
 - The Facts
 - Jurisdiction
 - Remedies
 - Conclusion

Monique Dixon of the NAACP Legal Defense and Educational Fund: Now that you know how the Office of Civil Rights accepts and investigates complaints, we would like to use the facts in Tim's traffic stop and vehicle search case to show you what an actual complaint should contain. We recommend that you divide the complaint into six sections: The complaint verification and complainant consent/identity release forms; Introduction; The Facts; Jurisdiction; Remedies; and Conclusion. We will discuss how to craft each of these sections and provide examples in the following slides.

A Community Strategy for Changing Police Practices: Federal Funding and Civil Rights Complaints Webinar Presentation and Narration

COMPLAINT VERIFICATION INFORMATION

Your name, address, and telephone number(s): _____ Name, address, and telephone number(s) of person(s) who discriminated against you: _____

Name, address and telephone number(s) of agency or organization involved in your complaint: _____

Are there other persons or organizations involved in this discrimination case? ____

IF YES, please give the name, address and telephone number(s) below:

NAME	ADDRESS	TELEPHONE
_____	_____	_____
_____	_____	_____

Which of the following describes the nature of the discrimination involved?

☐ Race/Color ☐ National Origin ☐ Religion ☐ Sex ☐ Disability ☐ Age ☐ Sexual Orientation ☐ Gender Identity

Does your charge of discrimination involve:

1. Your job or working conditions?	2. You using facilities at someone providing services to you (or others)?
<input type="checkbox"/> If yes, which of the following apply?	<input type="checkbox"/> If yes, how?
Work Assignment	Boundary
Discrimination	Discrimination
Discrimination	Language
Discrimination	Applying rules/policies differently
Discrimination	Access to benefits/program
Discrimination	Eviction
Discrimination	Discrimination regarding program
Discrimination	Discrimination
Other (Specify)	Other (Specify)

Which month(s), day(s), and year(s) did the most recent discrimination against you take place?

Beginning: Month _____ Day _____ Year _____

Ending: Month _____ Day _____ Year _____

George Mazza shared this form with you earlier. It is the Complaint Verification Form that a person filing a complaint must complete and submit to the Office for Civil Rights. The form collects basic information, such as the complainant's name, address and telephone number; the basis of discrimination; an accounting of the discriminatory incident; and the identity of the funded law enforcement agency involved.

COMPLAINANT CONSENT/IDENTITY RELEASE FORM

Your Name: _____

Address: _____

State _____ Zip _____

Complaint number(s) (if known): _____

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Use of Personal Information by the Department of Justice (DOJ). As a complainant, I understand that in the course of an investigation it may become necessary for DOJ to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of DOJ to honor requests under the Freedom of Information Act. I understand that it may be necessary for DOJ to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by DOJ's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by DOJ.

CONSENT/RELEASE

☐ **CONSENT** - I have read and understand the above information and authorize DOJ to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Department of Justice (DOJ) to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

☐ **CONSENT DENIED** - I have read and understand the above information and do not want DOJ to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE

DATE

With the Complaint Verification Form, a person must also submit a completed Complainant Consent/Identity Release Form, which gives OCR permission to use the complainant's name in conducting an investigation.

Sample Complaint – The Introduction

- Briefly state your name, the name of the police department and officers involved, a description of the discriminatory conduct, and the federal civil rights law(s) violated.

- Example:

I, Tim Jackson, am filing this complaint against the Center Police Department ("CPD") and police officers Bob Allen and Ralph Neal for conducting a discriminatory traffic stop and search of my vehicle in Center, State in violation of Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act). Officers Allen and Neal stopped and searched my vehicle because of my race and sex. Also, there is evidence that CPD officers have stopped and searched the cars of other African-American males in a discriminatory manner.

Sample Complaint – The Facts

- In this section, describe the incident(s) in detail, including the date(s), names of the persons involved and any witnesses, and why you believe the police department's actions were discriminatory.

- Example:

I am an African-American male. On November 1, 2014, I was driving in a residential area in Center, State when Officer Allen followed my vehicle and flashed the lights of his police car indicating that I should pull over... He stopped me for an expired inspection sticker...He asked to search my car... I did not consent to the search...Officer Neal arrived on the scene with a dog that sniffed for drugs and found nothing...A few months ago, CPD officers stopped my white female friends for expired inspection stickers... They received a warning...I believe that Officers Allen and Neal followed, stopped and searched my vehicle because of my race and sex.

Sample Complaint - Jurisdiction

- In this section, provide any information you have showing that the police department has received federal funding.
- State why you believe your complaint is timely.
- *Example:*

The Office for Civil Rights has the authority to investigate this complaint of race and sex discrimination against the CPD. According to the website of the Department of Justice's Community Oriented Policing Services Program, the CPD received several federal grants in 2013 and 2014. Also, this complaint is timely because it is being submitted within 180 days of the date when CPD officers stopped and searched my vehicle, as required by Title VI, and within one year of that date, as required by the Safe Streets Act.

Earlier, George Mazza of the Office for Civil Rights shared that the office investigates complaints of discriminatory actions taken by police departments that receive federal funding. In the jurisdiction section, you could share any information you have showing that the police department has received federal funds. You may find this information by visiting the websites of the Office of Justice Programs at <http://ojp.gov/index.htm>, Office of Community Oriented Policing Services Program at <http://www.cops.usdoj.gov>, Office on Violence Against Women at <http://www.justice.gov/ovw>, or USA Spending at www.usaspending.gov. Also, you may contact the local offices of your U.S. Senators or Representatives who could determine whether law enforcement agencies in their districts have received federal funding. See the text in the slide.

Sample Complaint - Remedies

- In this section, please list the changes you would like to see if the Office for Civil Rights finds that the police department discriminated against you and others based on race and sex in violation of Title VI and the Safe Streets Act.

- Example:

I respectfully request that the Office for Civil Rights require the Center Police Department to end its racially discriminatory traffic stop and search practices. Additionally, the CPD should...

Sample Complaint - Conclusion

- Ask OCR to investigate your complaint and to be notified of the outcome

- Example

For the reasons stated above, I urge the Office for Civil Rights to investigate CPD's traffic stop and search practices and remedy violations of Title VI and Safe Streets Act. Please acknowledge receipt of this complaint and notify me of its resolution.

In the conclusion, ask OCR to investigate your complaint and to notify you of the outcome. [Read the example in the slide]. We will email to you a full copy of this sample complaint for your reference in the days after this webinar.

Questions & Answers

If you have any questions, please submit them through the chat function on the WebEx platform. We will get through as many questions as we can during today's session and will follow up with participants whose questions are not answered. We will also provide a copy of the webinar to participants in the days after the presentation.

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Should you have any questions, you may direct them to our respective organizations at the contact information listed on the above slide.