

## A Community Strategy for Changing Police Practices: Federal Funding and Civil Rights Complaints Questions and Answers from the Webinar

### 1. Can you file a complaint under “color or law” in addition to possible “hate crime” civil rights violations? If so, what department would handle those complaints?

Not every federal civil rights office has jurisdiction over every federal civil rights claim. The Office for Civil Rights (OCR) at the Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has jurisdiction to enforce federal civil rights laws that apply to recipients of federal financial assistance from DOJ (e.g., Title VI and the Safe Streets Act). OCR does not have jurisdiction over claims alleging a civil rights violation under “color of law” or a “hate crime.” The same underlying facts that might support either of these claims could, however, also support a claim under one of the civil rights laws that OCR enforces. If you would like to file a “color or law” claim or a “hate crime” claim, you may want to contact the Justice Department’s Civil Rights Division. Please visit the website, Civil Rights Division, How to File a Complaint, <http://www.justice.gov/crt/complaint/>.

### 2. Is it possible to file a complaint with human right violations with OJP?

As noted in the response to Question 1, OCR’s authority extends to civil rights laws that apply to recipients of financial assistance from DOJ. OCR does not have jurisdiction over broad human rights violations, but it does have jurisdiction over civil rights claims against DOJ-funded organizations. The underlying facts that support a human rights claim, however, may also support a civil rights discrimination claim under the laws that OCR enforces. To file a claim alleging a human rights violation, you may contact your local U.S. Attorney’s Office or the Human Rights and Special Prosecutions Section (HRSP) of DOJ’s Criminal Division. See the website, U.S. Department of Justice, Criminal Division, Human Rights and Special Prosecutions, <http://www.justice.gov/criminal-hrsp>.

### 3. Is it difficult to prove discrimination in racially isolated (segregated) cities? How do you prove discrimination in those areas?

Assuming that this question relates to discrimination claims based on disparate impact, the questioner is correct. It is often difficult to collect the appropriate statistical data to support a disparate impact claim. If a community is predominantly of one race, finding similarly situated comparators may be challenging. It is important, however, to remember that in analyzing the services of law enforcement agencies the correct comparison is between similarly situated persons. If a police department stops a driver of one race for exceeding the speed limit, the appropriate comparators for a disparate impact claim are drivers of a different race within the police department’s jurisdiction who have also exceeded the speed limit. It would be incorrect to compare the racial composition of persons who received traffic citations from a police department to the racial composition of residents within the police department’s service area.

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4. **Would the following situation be the factual basis for a civil rights complaint: if a police force is 80-85% white and it historically gives a larger amount of tickets to the black minority of the city population?**

See the response to Question 3 above. The racial composition of a police department is immaterial when it comes to proving a disparate impact claim alleging that the police department discriminated on the basis of race in the delivery of services.

As a practical matter, to enhance effective policing, DOJ holds many funded law enforcement agencies accountable for their employment practices by requiring them to analyze whether their workforces reflect the communities that they serve. Law enforcement agencies that have more than fifty employees and receive a grant of \$25,000 or more subject to the administrative provisions of the Safe Streets Act must develop an Equal Employment Opportunity Program (EEO) (see 28 C.F.R. pt. 42, subpt. E). Law enforcement agencies that complete an EEO must determine whether their workforces exhibit significant underutilization in major job categories, cross-classified by race, national origin, and sex, in comparison to the relevant labor market. If the funded law enforcement agency identifies significant underutilization, it must then develop a corrective action plan that ensures equal employment opportunity. Law enforcement agencies subject to the administrative provisions of the Safe Streets Act that receive \$500,000 in a single award from DOJ must submit the workforce utilization portion of their EEOs to OCR for review.

5. **How would one go about filing a complaint alleging disparate impact?**

See the response to Question 3 above regarding disparate impact claims. The ordinary way to file a complaint with OCR is to download, complete, and return to OCR two documents that are available online: (1) the Complaint Verification Form and (2) the Identity Release Statement. To access both documents, visit the website, Office of Justice Programs, Filing a Civil Rights Complaint, <http://ojp.gov/about/ocr/complaint.htm>.

6. **If a complaint is filed and names agencies that were not involved with the incident, would OCR still investigate the allegations?**

If a complaint alleges that multiple organizations engaged in discriminatory practices and OCR finds that some named organizations receive DOJ funding while others do not, OCR will investigate only those organizations that receive DOJ funding. If an organization named in a complaint does not receive DOJ funding, but OCR has reason to believe that it receives funding from another federal agency, OCR will ordinarily refer the complaint against that organization to the civil rights office of the federal agency that most likely funds the organization.

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- 7. Does OCR at OJP work with or support local government offices that also handle cases of alleged civil rights violations by police? What programs or avenues for communication exist for such interactions?**

The grant-making offices of the Justice Department (e.g., OJP, the Office on Violence Against Women (OVW), and the Office on Community Oriented Policing Services (COPS)) have strong ties to the local governments that they fund. Whether OJP, or another DOJ grant-making office, has a connection to a particular governmental office that reviews police misconduct depends on whether that local office receives DOJ funding. In some instances, local government offices that oversee complaints against law enforcement agencies have relied on OCR's investigative work. At times, OCR and local police oversight boards have consulted with each other regarding the disposition of complaints pending with both bodies.

- 8. How does OCR pull funding if agencies are noncompliant with remedies and existing civil rights laws?**

Federal regulations for each of the civil rights laws that OCR enforces have a detailed, step-by-step process for suspending or terminating funding when OCR finds that a DOJ-funded organization is in violation of the law. For example, the implementing regulations for the Safe Streets Act, 28 C.F.R. pt. 42, supt. D, provide the framework and timeline for withdrawing funding to a recipient that fails to comply with the civil rights requirements of the Safe Streets Act.

- 9. Who enforces the Violence Against Women Act (VAWA)? Please include an explanation of how OVW relates to DOJ.**

OVW is a component of DOJ. OCR is the external civil rights enforcement office for OVW. Consequently, OCR is responsible for enforcing the civil rights protections in VAWA, which prohibit recipients that receive funding under VAWA, or funding from OVW, from discriminating in both employment and in the delivery of services or benefits based on actual or perceived race, color, national origin, sex, religion, disability, sexual orientation, or gender identity. For more information on the nondiscrimination grant condition in VAWA and how one might file a VAWA-related complaint with OCR, see the Frequently Asked Questions posted online at [ojp.gov/about/ocr/pdfs/vawafaqs.pdf](http://ojp.gov/about/ocr/pdfs/vawafaqs.pdf).

- 10. Is it easier for OJP to enforce complaints grounded more in the Safe Streets Act than Title VI?**

In comparison to Title VI's implementing regulations, the Safe Streets Act's implementing regulations have clearer timelines, allow for a longer period of time for filing a complaint from the date of the alleged discriminatory incident, and contain automatic fund-termination provisions (i.e., OCR's issuance of a finding of discrimination triggers a process that leads to suspension or termination of funding unless the recipient corrects the discriminatory practice). When OCR receives a complaint against a funded agency that is subject to the administrative provisions of the Safe Streets Act and the complaint alleges discrimination based on race, color, or national origin in the delivery of services or benefits, OCR will investigate the claim under the Safe Streets Act's regulations even though Title VI's regulations would also apply.