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STATEMENT OF HYMAN L. KRIEGER, DIRECTOR,
FEDERAL PERSONNEL AND COMPENSATION DIVISION
U.S. GENERAL ACCOUNTING OFFICE
BEFORE THE SUBCOMMITTEE ON
CIVIL AND CONSTITUTIONAL RIGHTS
HOUSE COMMITTEE ON THE JUDICIARY
ON
AFFIRMATIVE ACTION PROGRAMS
OF FOUR COMPONENT ORGANIZATIONS OF
THE DEPARTMENT OF JUSTICE:
--THE OFFICES, BOARDS, AND DIVISIONS
--THE FEDERAL PRISON SYSTEM
--THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
--THE FEDERAL BUREAU OF INVESTIGATION

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

WE APPEAR HERE TODAY TO DISCUSS THE FOURTH AND FIFTH OF THE SIX REPORTS PREPARED AT YOUR REQUEST. THE REPORTS WE WILL DISCUSS TODAY ARE (1) A CONSOLIDATED REPORT DEALING WITH THE EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS OF THE DEPARTMENT OF JUSTICE'S OFFICES, BOARDS, AND DIVISIONS; THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION; AND THE FEDERAL PRISON SYSTEM, AND (2) A REPORT DEALING WITH THE PROGRAM IN THE FBI. OUR REVIEW COVERED THE AFFIRMATIVE ACTION PROGRAMS FOR THE PERIOD JULY 1974 THROUGH MARCH 1977.

WE ARE ALSO PREPARING FOR ISSUE AN OVERALL REPORT, ~~SUM~~ SUMMARIZING THE EEO AFFIRMATIVE ACTION PROGRAM JUSTICE-WIDE AND DISCUSSING THE RESPONSES TO A GAO QUESTIONNAIRE SENT TO JUSTICE'S EMPLOYEES.

OUR REVIEW WAS DIRECTED TOWARD LEARNING WHAT PROGRESS HAD BEEN MADE IN INCREASING THE REPRESENTATION AND IMPROVING THE DISTRIBUTION OF MINORITIES AND WOMEN IN THE WORK FORCE. WE ALSO IDENTIFIED PROGRAM PROBLEMS AND SUGGESTED NECESSARY CORRECTIVE ACTION.

WE FOUND THAT GENERALLY, TO IMPROVE THEIR EEO PROGRAMS, THE BUREAUS SHOULD

- MONITOR RECRUITING AND SELECTING;
- DEVELOP METHODS FOR INSURING EQUAL OPPORTUNITY IN PROMOTION PRACTICES;
- PERIODICALLY PERFORM EFFECTIVENESS EVALUATIONS; AND
- MODIFY THE COMPLAINT SYSTEM.

OUR REPORTS DISCUSS THESE PROBLEMS IN DETAIL AND CONTAIN RECOMMENDATIONS FOR IMPROVING THE BUREAUS' EEO PROGRAMS.

STATISTICAL DATA PROVIDED BY JUSTICE COVERED THE PERIOD JULY 1, 1974, THROUGH DECEMBER 31, 1976. WE OBTAINED WORK FORCE STATISTICS FROM A CIVIL SERVICE COMMISSION PUBLICATION, AND THESE FIGURES REPRESENT THE FEDERAL WORK FORCE AT NOVEMBER 1976.

THESE STATISTICS, TOGETHER WITH INFORMATION ON THE WORK FORCE AT MARCH 31, 1978, PROVIDED BY THE DEPARTMENT OF JUSTICE, ARE INCLUDED AS AN ATTACHMENT TO OUR STATEMENT.

TO DETERMINE WHETHER SELECTION PRACTICES MAY BE HAVING AN ADVERSE EFFECT ON THE HIRING OF MINORITY AND FEMALE AGENTS, THE FBI SHOULD MONITOR THE SELECTION PROCESS. AS YOU CAN GATHER FROM OUR REPORT, FBI'S EFFORTS TO REACH ALL SOURCES OF JOB CANDIDATES--PARTICULARLY MINORITIES--EFFORTS SUCH AS MEDIA CONTACTS, APPEALS TO LARGE MINORITY GROUPS OR ORGANIZATIONS, USE OF FEMALES AND MINORITIES AS RECRUITERS, AND RECRUITING LITERATURE DISTRIBUTED TO CAREER COUNSELORS AND STUDENTS--ARE RELATIVELY SUCCESSFUL. YET WITH ALL THESE EFFORTS TO ATTRACT QUALIFIED MINORITY APPLICANTS FOR SPECIAL AGENT POSITIONS, THE TOTAL REPRESENTATION OF THESE TWO GROUPS--MINORITIES AND WOMEN--IN THE PROFESSIONAL OCCUPATION OF SPECIAL AGENT REMAINED LESS THAN FOUR PERCENT DURING OUR STATISTICAL PERIOD. AT MARCH 31, 1978, JUSTICE'S STATISTICS SHOW THAT 1.2 PERCENT OF FBI'S SPECIAL AGENTS WERE FEMALES, AND THAT 4.5 PERCENT WERE MINORITIES.

IN THEIR COMMENTS ON OUR REPORT, THE FBI AGREED THAT FEMALES AND MINORITIES WERE UNDERREPRESENTED IN THE KEY PROFESSIONAL OCCUPATION OF SPECIAL AGENT, AND SAID THAT "THE NEED FOR DRASTIC IMPROVEMENT" IN THIS CATEGORY IS "WELL RECOGNIZED BY FBI'S MANAGEMENT." FBI FURTHER COMMENTED THAT IT IS MAKING "HIGHLY CONCERTED EFFORTS . . . TO INSURE MEASURABLE GAINS WILL BE ACHIEVED . . . IN AS SHORT A TIME AS POSSIBLE." IN THIS REGARD, FBI INFORMED US THAT WILLIAM H. WEBSTER, WHO BECAME THE FBI'S DIRECTOR IN FEBRUARY OF THIS YEAR, HAS SHOWN A PERSONAL INTEREST IN INCREASING THE NUMBER OF FEMALES AND MINORITIES IN THE SPECIAL AGENT OCCUPATION. SIMILAR EFFORTS TO IMPROVE THEIR EEO PROFILES SHOULD BE MADE BY THE OFFICES, BOARDS, AND DIVISIONS AND THE OFFICES OF THE U.S. ATTORNEYS.

THE OTHER TWO BUREAUS HAVE INDICATED TO US THAT THEY HAVE BEGUN SOME IMPROVEMENTS IN THEIR EEO PROGRAMS. FOR EXAMPLE, FPS HAS INCREASED ITS FEMALE REPRESENTATION BY 18 PERCENT AND ITS MINORITY REPRESENTATION BY 22 PERCENT. LEAA HAS ALSO INCREASED ITS FEMALE REPRESENTATION--BY 5 PERCENT--AND ITS MINORITY REPRESENTATION BY 47 PERCENT.

A TIME-IN-GRADE, AVERAGE GRADE COMPARISON BETWEEN MINORITIES AND FEMALES' PROMOTIONS AND THOSE OF NON-MINORITIES AND MEN WOULD SHOW WHETHER DISCRIMINATION EXISTED IN PROMOTION PRACTICES. DURING OUR REVIEW, WE REQUESTED TIME-IN-GRADE STATISTICS IN AN ATTEMPT TO DETERMINE WHETHER DISCRIMINATION EXISTED IN PROMOTION PRACTICES, BUT WE WERE TOLD THAT SUCH INFORMATION WAS NOT KEPT BECAUSE JUSTICE LACKED THE STATISTICAL CAPABILITY TO PREPARE THE NECESSARY COMPUTER RUNS.

SUCH INFORMATION CAN BE OBTAINED BY SIMPLY UPDATING AN EMPLOYEE'S TIME-IN-GRADE STATISTICS WHENEVER A STANDARD FORM 50 IS ISSUED THAT CHANGES THE STATUS OF THAT EMPLOYEE. THESE STATISTICS WOULD BE HELPFUL IN PINPOINTING POSSIBLE DISCRIMINATORY PRACTICES IN PROMOTIONS.

A PERIODIC EVALUATION OF THE EFFECTIVENESS OF THE EEO PROGRAMS COULD BE HELPFUL IN DISCOVERING PROGRAM PROBLEMS AND WORK FORCE DISPARITIES. APPROPRIATE ACTIONS COULD THEN BE TAKEN TO CORRECT PROBLEMS. FOR EXAMPLE, FBI'S DISCRIMINATION COMPLAINT SYSTEM IS LOCATED WITHIN THE PERSONNEL FUNCTION. THIS MEANS THAT THE PERSONNEL OFFICE, WHICH IS ULTIMATELY RESPONSIBLE FOR PERSONNEL ACTIONS, WOULD ALSO BE RESPONSIBLE, AT THE BUREAU LEVEL, FOR DECIDING CASES OF ALLEGED DISCRIMINATION WHICH MAY HAVE ARISEN FROM ITS OWN PERSONNEL ACTIONS. SUCH A SITUATION COULD CAUSE EMPLOYEES TO QUESTION THE OBJECTIVITY OF THE COMPLAINT PROCESSING SYSTEM AND TO CHOOSE NOT TO USE THE SYSTEM. DURING THE 39-MONTH PERIOD FROM JULY 1975 TO OCTOBER 1976, A TOTAL OF 12 FORMAL CASES OF ALLEGED DISCRIMINATION WERE FILED AGAINST THE FBI. SUCH A SMALL NUMBER OF COMPLAINTS COULD INDICATE THE FBI HAS FEW EEO-RELATED PROBLEMS, OR THAT SUCH PROBLEMS ARE USUALLY RESOLVED INFORMALLY. (AS A MATTER OF FACT, WHEN WE TRIED TO TEST OUR HYPOTHESIS AND DETERMINE THE NUMBER OF COMPLAINTS WHICH HAD BEEN HANDLED INFORMALLY, WE COULD NOT DO SO BECAUSE RECORDS OF INFORMAL COUNSELING WERE NOT BEING KEPT.)

A SMALL NUMBER OF COMPLAINTS COULD ALSO INDICATE THE EMPLOYEES' RELUCTANCE TO USE THE SYSTEM. IN RESPONSE TO A QUESTIONNAIRE ON EEO MATTERS WHICH WE SUBMITTED TO JUSTICE EMPLOYEES, 154 FBI EMPLOYEES, OR ABOUT 20 PERCENT OF THE FBI EMPLOYEES RESPONDING SAID THEY HAD BEEN DISCRIMINATED AGAINST, YET 91 PERCENT OF THESE DID NOT CONTACT AN EEO COUNSELOR. AN EVALUATION OF FBI'S EEO PROGRAM WOULD HAVE INDICATED WHETHER THE COMPLAINT SYSTEM WAS EFFECTIVE AND WHETHER IT SHOULD HAVE BEEN RELOCATED OUTSIDE THE PERSONNEL OFFICE.

ANOTHER PROBLEM WITH THE COMPLAINT SYSTEM AT FBI IS THE USE OF TOP MANAGEMENT PERSONNEL AS EEO COUNSELORS. EMPLOYEES OR APPLICANTS FOR FEDERAL EMPLOYMENT WHO BELIEVE THEY HAVE BEEN DISCRIMINATED AGAINST BECAUSE OF RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, OR AGE--AND WHO WISH TO RESOLVE THE MATTER--ARE REQUIRED FIRST TO DISCUSS THE PROBLEM WITH AN EEO COUNSELOR, TO ATTEMPT TO RESOLVE THE MATTER INFORMALLY IN A SHORT PERIOD OF TIME. THE CIVIL SERVICE COMMISSION HAS SAID THAT THE ROLE OF AN EEO COUNSELOR IS TO SERVE AS A BRIDGE BETWEEN EMPLOYEES AND MANAGEMENT. THE DESIGNATION OF TOP-LEVEL MANAGEMENT EMPLOYEES AS COUNSELORS MAY ADVERSELY AFFECT THE COMPLAINT SYSTEM BY LOWERING THE COMPLAINANT'S TRUST IN THE PROCESS.

THE SUBCOMMITTEE MAY WANT TO PURSUE THESE POINTS IN FUTURE HEARINGS INVOLVING THE DEPARTMENT OF JUSTICE. WE HAVE

DISCUSSED THESE PROBLEMS AND OTHER POINTS APPEARING IN OUR REPORTS WITH THE BUREAUS' EEO AND PERSONNEL OFFICIALS. AS PREVIOUSLY AGREED WITH THE SUBCOMMITTEE, WE HAVE FURNISHED THE BUREAUS AND JUSTICE COPIES OF THE REPORTS.

THIS COMPLETES MY PREPARED TESTIMONY. MY COLLEAGUES AND I WILL BE PLEASED TO RESPOND TO ANY QUESTIONS THE SUBCOMMITTEE MAY HAVE.

THANK YOU.

TOTAL WORK FORCE COMPLEMENT

	<u>12/31/76</u>	<u>03/31/78</u>	<u>INCREASE (DECREASE)</u>
OBD -	4,295	8,303	10.0%
OUA -	3,252		
FPS -	8,807	9,303	5.6%
LEAA -	846	823	(2.7%)
FBI -	<u>20,062</u>	<u>18,967</u>	(5.5%)
	<u>37,262</u>	<u>37,396</u>	

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THE FOLLOWING STATISTICS REPRESENT A WORK FORCE OF 37,262 EMPLOYEES AT DECEMBER 31, 1976, AND 37,396 AT MARCH 31, 1978.

EVEN THOUGH SOME OF THE BUREAUS' FEMALE AND MINORITY REPRESENTATIONS SHOWED PROGRESS DURING THE PERIOD JULY 1, 1974, THROUGH DECEMBER 31, 1976, MORE CAN BE DONE TO IMPROVE THE BUREAUS' EEO PROFILE. SOME OF THE BUREAUS' FEMALE AND MINORITY REPRESENTATIONS SHOWED NO PROGRESS, AND SOME ACTUALLY DECREASED DURING OUR STATISTICAL PERIOD. FOR INSTANCE, THE INCREASE OF FEMALES IN LEAA'S, FPS', AND OBD'S WORK FORCES WAS RELATIVELY GOOD, COMPARED TO THE PERCENT OF INCREASE IN THE TOTAL WORK FORCE OF EACH, YET WHILE THE WORK FORCE OF THE OFFICE, BOARDS, AND DIVISIONS INCREASED 10 PERCENT, ITS MINORITY REPRESENTATION INCREASED ONLY 7 PERCENT; AND WHILE THE OFFICES OF THE U.S. ATTORNEYS' TOTAL WORK FORCE INCREASED 11 PERCENT, ITS MINORITY REPRESENTATION IN THAT WORK FORCE DECREASED 6 PERCENT, TO AN 8 PERCENT MINORITY REPRESENTATION AT DECEMBER 31, 1976. IN THE OCCUPATION OF ATTORNEY IN THIS SAME UNIT (OFFICES OF THE U.S. ATTORNEYS), MINORITY REPRESENTATION DECREASED 26 PERCENT DURING THE STATISTICAL PERIOD. IN THIS SAME COMPONENT OF THE OFFICES, BOARDS, AND DIVISIONS, MINORITY REPRESENTATION IN GRADES GS-7 AND ABOVE WAS 5 PERCENT, WHILE 40 PERCENT OF THE MINORITIES IN THE FEDERAL WORK FORCE WERE IN THESE GRADES. BOTH FEMALE AND MINORITY REPRESENTATION IN "OTHER OCCUPATIONS"--PRIMARILY TECHNICAL AND CLERICAL--IN ALL OF THE OFFICES, BOARDS, AND DIVISIONS WAS

RELATIVELY HIGH, WHICH MEANS THAT WOMEN AND MINORITIES WERE CONCENTRATED IN THESE NON-PROFESSIONAL OCCUPATIONS.

JUSTICE'S STATISTICS FORMERLY INCLUDED SEPARATE EMPLOYMENT FIGURES FOR THE OFFICES OF THE U.S. ATTORNEYS AND THE OFFICES BOARDS, AND DIVISIONS, AND WE USED THESE IN PREPARING OUR REPORT. NOW, HOWEVER, EMPLOYMENT STATISTICS FOR ALL OF JUSTICE'S OFFICES, BOARDS, AND DIVISIONS ARE REPORTED AS ONE UNIT. THE MINORITY AND FEMALE PROFILE FOR ALL OF THE OFFICES, BOARDS, AND DIVISIONS, AS OF MARCH 31, 1978, SHOWS THAT MINORITIES REPRESENTED 19.4 PERCENT OF OBD'S EMPLOYEES, AND FEMALES REPRESENTED 51.7 PERCENT. AS OF MARCH 31, 1978, OBD HAD A TOTAL OF 3,373 ATTORNEYS. OF THESE, 528, OR 15.7 PERCENT, WERE WOMEN, AND 204, OR 6 PERCENT WERE MINORITIES. MINORITY REPRESENTATION IN GRADES GS-7 AND ABOVE WAS 14.3 PERCENT, AND FEMALES REPRESENTED 44.5 PERCENT OF ALL EMPLOYEES IN THESE GRADES.