

EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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May 8, 2003

Florence L. Finkle
Executive Director
Civilian Complaint Review Board
40 Rector Street, 2nd Floor
New York, New York 10006

Re: Preliminary Determination Pursuant to the Audit of the Civilian Complaint Review Board (CCRB) Equal Employment Opportunity Program from January 1, 2000 through June 30, 2002

Dear Ms. Finkle:

Pursuant to Chapter 36 of the New York City Charter, the Equal Employment Practices Commission (EEPC) is empowered to audit and evaluate the employment practices, programs, policies and procedures of city agencies and their efforts to ensure fair and effective equal employment opportunity for minority group members and women. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "agency of government, where the majority of the board members of such agency are appointed by the mayor or serve by virtue of being city officers or the expenses of which are paid in whole or in part from the city treasury." The Civilian Complaint Review Board is funded by the City of New York and is therefore considered a city agency pursuant to Chapter 36, section 831(a) of the New York City Charter.

The audit measures the CCRB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in city guidelines. The relevant sections of these guidelines and documents are cited in parenthesis, where applicable, at the end of each recommendation.

The purpose of this audit is to evaluate the agency's compliance with the standards cited above, not to issue findings of discrimination pursuant to the New York City Human Rights Law.

Scope and Methodology

Audit methodology included a review of CCRB's Equal Employment Opportunity Policy and a review of responses to a Commission Document and Information Request form. EEPC auditors also conducted an in-depth, on-site interview with CCRB's current EEO Officer and EEO Counselor. In addition, EEPC auditors interviewed 12 supervisors to determine awareness of their rights and responsibilities under the agency's EEO Policy. The results of these interviews are attached. (Appendix I)

A survey of 167 people currently employed by the CCRB was distributed (This number excludes four surveys which were returned as undeliverable). Thirty-two people (19%) responded. Significant survey findings are discussed in the proceeding pages (Appendix 5).

Description of the Agency

The CCRB is an independent agency with the power to receive, investigate, hear, make findings and recommend action, pursuant to complaints by members of the public against members of the New York City Police Department alleging use of excessive or unnecessary force, abuse of authority, discourtesy, or use of offensive language. The CCRB advises the Police Commissioner of its findings and makes disciplinary recommendations and facilitates mediation. The Board is comprised of 13 civilian members appointed by the Mayor, including the Chair, five members are appointed by the City Council and three members are designated by the Police Commissioner.

Personnel Activity During the Audit Period

During the audit period, 118 people were hired: 91 Caucasians, 13 African-Americans, 6 Hispanics and 8 Asians. Sixty-one of the hires were women. One hundred and fifteen people were promoted during the audit period: 64 Caucasians, 27 African-Americans, 14 Hispanics and 10 Asians. Sixty-five of those promoted were female (Appendix 4). Ten people were terminated during the audit period: 5 Caucasians, 2 African-Americans, 1 Hispanic and 2 Asians. Three of those terminated were female.

Discrimination Complaint Activity During the Audit Period

Four internal discrimination complaints were filed during the audit period. Three complaints were based on sexual harassment/gender and one was based on sexual orientation, religion and gender. Two complaints (sexual harassment) received probable cause determinations. One external complaint with the EEOC was filed during the audit period. That case, which was based on allegations of disability discrimination and retaliation, was dismissed.

PRELIMINARY DETERMINATION

Following are our preliminary determinations with required corrective actions and recommendations pursuant to the audit.

Plan Dissemination – Internally

CCRB is in partial compliance with the following requirements:

1. Although the agency has issued a comprehensive Sexual Harassment Policy Statement and a Discrimination Complaint Procedure, there is no general EEO Policy Statement. Corrective action is required.

Recommendation: CCRB should issue a general EEO Policy Statement.

2. The agency's Sexual Harassment Policy and Discrimination Complaint Procedure are discussed at the new employee orientation session.

3. The agency's Sexual Harassment Policy Statement and Discrimination Complaint Procedure are posted on the bulletin board.

4. The agency's Sexual Harassment Policy Statement and Discrimination Complaint Procedure are readily accessible on each employee's desktop computer.

CCRB is not in compliance with the following requirements:

1. While the Discrimination Complaint Procedure is posted on the agency bulletin board and is accessible on the staff members' personal computers, only 8% of the survey respondents indicated that they had a copy of the Procedures, while 43% indicated that they did not, and 31% indicated that they did not remember whether they had copies of the Procedures (in total 74%). Similarly, only 50% of survey respondents indicated that they were given the EEO Policy Statements. Corrective action is required.

Recommendation: All EEO Policy Statements and Discrimination Complaint Procedures should be distributed to all employees. (Sect. VIII, Citywide EEO Policy)

2. The EEO Counselor informed EEPC auditors that the agency's EEO policies are not available in alternate formats for use by persons with disabilities. Corrective action is required.

Recommendation: The agency should follow Section VII of the Citywide EEO Policy and ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities, e.g., audio cassette and Braille.

Plan Dissemination – Externally

CCRB is in compliance with the following requirement:

CCRB submitted copies of five job advertisements, all of which contained the EEO tag line.

Affirmative Action and Reasonable Accommodation for Persons with Disabilities

CCRB is in compliance with the following requirement:

1. According to the EEO Counselor, the agency made reasonable accommodations for two dyslexic employees and an employee with carpal tunnel syndrome.
2. According to the EEO Counselor, all facilities are accessible to and usable by persons with disabilities.

CCRB is in partial compliance with the following requirements:

1. Although the CCRB's EEO Policy Statement indicates that a person who needs a reasonable accommodation may contact the EEO Counselor, there is no reasonable accommodation procedure to accompany the Policy. Corrective Action is required.

Recommendation: To provide additional information and guidance to agency employees and EEO professionals, the CCRB should adopt and tailor the "Reasonable Accommodation Procedure" and "Request for Reasonable Accommodation" form contained in the Citywide EEO Policy (Appendices 3 & 4).

2. According to the EEO Counselor, although the 55-A program is mentioned in the employee manual, detailed information about the program has not been distributed. Corrective Action is required.

Recommendation: CCRB should obtain and distribute Section 55-A Program brochures issued by the Department of Citywide Administrative Services.

EEO Complaint and Investigation System

CCRB is in compliance with the following requirements:

1. During the audit period, there were two EEO Counselors (a male and a female), and a female EEO Officer, all of whom were authorized to receive complaints and conduct investigations. Currently, there is a male EEO Officer and a female EEO Counselor, both of whom are authorized to conduct investigations. This is consistent with the Citywide EEO Policy, which requires that persons of both sexes be available to conduct investigations (Sect. VII (A) (1))

2. The EEO Counselor stated that she received a 3-day DCAS EEO training in 1995 as well as a half-day course in preventing sexual harassment. She also receives yearly personnel training from DCAS which incorporates some EEO training. She further indicated that she has received informal individual training from the General Counsel for the City Commission on Human Rights (CCHR). Finally, the EEO Counselor has attended Proskauer Rose (Law Firm) Breakfast Seminars on EEO issues. The former EEO Counselor and the former EEO Officer also received training from the CCHR General Counsel.

CCRB is in partial compliance with the following requirements:

1. The current EEO Officer told EEPC auditors that although he is authorized to receive and investigate all discrimination complaints, he has not received any training, other than academic studies of employment discrimination and sexual harassment at Cardozo Law School. The EEO Officer did not indicate what procedure he relies on in investigating discrimination complaints. Corrective action is required.

Recommendation: The EEO Officer should be scheduled for DCAS training or attend the Cornell University School of Industrial and Labor Relations (EEO Studies Program).

Recommendation: The EEO Officer should follow the Discrimination Complaint Procedures Implementation Guidelines (issued by DOP, now DCAS, in 1993).

CCRB is not in compliance with the following requirements:

1. The investigator's final reports in three discrimination complaint files (5/3/00, 6/29/00 and 11/5/01) were addressed only to the EEO Officer, as opposed to the agency head. The agency head was copied on only one of the discrimination complaint files (11/5/01). Corrective action is required.

Recommendation: In keeping with Section 12 (b) of the Discrimination Complaint Procedures Implementation Guidelines (issued by DOP, now DCAS, in 1993), the investigator's written report should be addressed to and signed off by the agency head.

CCRB is in partial compliance with the following requirements:

1. Three of four discrimination complaint files contain copies of notification letters to the parties to the complaints. One of the files (5/3/00), however, does not contain a notification letter; rather, there is a handwritten notation attached to an e-mail that the complainant was notified orally that his complaint would not need to be addressed because the respondent was being terminated. Corrective action is required.

Recommendation: In keeping with section 12 (b) of the Discrimination Complaint Procedures Implementation Guidelines, the EEO investigator should always inform all parties to complaints in writing of the outcome of the investigation.

CCRB is not in compliance with the following requirement:

1. The EEO Officer informed EEPC auditors that he does not maintain a formal complaint log, but that the EEO Counselor would take note of and address each complaint. The EEO Counselor stated that since there are only a small number of complaints, she does not keep a log; rather, she keeps all of the complaints in a locked drawer. Corrective action is required.

Recommendation: CCRB should maintain and update a monthly discrimination complaint log. (Sect. III, Citywide EEO Policy)

EEO Training

CCRB is in compliance with the following requirements:

1. According to the EEO Counselor, during the audit period the entire CCRB staff received in-house EEO training by an attorney from the New York City Commission on Human Rights with a sexual harassment module conducted by the EEO Counselor. According to the current EEO Officer the supervisory staff has received a computerized sexual harassment prevention training called "We Comply." In addition, 83% of the supervisors interviewed indicated that they received sexual harassment prevention training. The EEO Officer and EEO Counselor both reported that there is a plan in place to train the entire staff using this program.

EEO Officer Reporting Arrangement

CCRB is in compliance with the following requirement:

The current EEO Officer stated that he reports directly to the Executive Director. The former EEO Officer reported to the Deputy Director of the agency, a direct report to the agency head.

CCRB is not in compliance with the following requirement:

1. The EEO Counselor stated to EEPD auditors that during the audit period meetings were not held between the EEO Officer and the EEO Counselors to discuss EEO matters. The current EEO Officer and EEO Counselor both reported, however, that they meet regularly to discuss EEO matters.

EEO Officer Responsibilities

CCRB is not in compliance with the following requirement:

According to the current EEO Officer, he devotes approximately 1% to 5% of his time on EEO matters because very few EEO matters arise. According to the EEO Counselor, the prior EEO Officer spent approximately 1% of her time on EEO. Corrective action is recommended.

Recommendation: During previous audits, the Commission has found numerous EEO program deficiencies in agencies that did not have full-time EEO Officers. For this reason, the Commission has adopted the position that the agency EEO Officers should devote 100% of their time to EEO matters.

Special Problems/Contingencies

In the course of conducting the audit of the CCRB, EEPD auditors observed that both during and after the audit period, the current EEO Counselor performs all of the functions of the EEO Officer. Specifically, the EEO Counselor appears to be the only EEO Professional who is primarily responsible for maintaining the EEO Complaint files and conducting the investigations, she is the only EEO Professional in the agency who has been trained by the Department of

Citywide Administrative Services on the New York City EEO Policy; and she conducts the in-house training for new employees on EEO Policies. In addition, 37% percent of survey respondents indicated that they believed that the EEO Counselor was, in fact, the EEO Officer while only 25% of survey respondents indicated that they knew who the correct EEO Officer was. At the audit exit meeting of May 6, 2003, however, the agency indicated that the EEO Officer will be assuming more responsibility. Corrective action is required.

Recommendation: The EEO Officer should perform all of the EEO functions identified in the City's EEO Policy.

SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. CCRB should issue a general EEO Policy Statement.
2. All EEO Policy Statements and Discrimination Complaint Procedures should be distributed to all employees. (Sect. VIII, Citywide EEO Policy)
3. The agency should follow Section VII of the Citywide EEO Policy and ensure that its EEO policies are available in formats accessible to applicants and employees with disabilities, e.g., audio cassette and Braille.
4. To provide additional information and guidance to agency employees and EEO professionals, the CCRB should adopt and tailor the "Reasonable Accommodation Procedure" and "Request for Reasonable Accommodation" form contained in the Citywide EEO Policy (Appendices 3 & 4).
5. CCRB should obtain and distribute Section 55-A Program brochures issued by the Department of Citywide Administrative Services.
6. The EEO Officer should be scheduled for DCAS training or attend Cornell University School of Industrial and Labor Relations (EEO Studies Program).
7. The EEO Officer should follow the Discrimination Complaint Procedures Implementation Guidelines (issued by DOP, now DCAS, in 1993).
8. In keeping with Section 12 (b) of the Discrimination Complaint Procedures Implementation Guidelines (issued by DOP, now DCAS, in 1993), the investigator's written report should be addressed to and signed off by the agency head.
9. In keeping with section 12 (b) of the Discrimination Complaint Procedures Implementation Guidelines, the EEO investigator should always inform all parties to complaints in writing of the outcome of the investigation.
10. CCRB should maintain and update a monthly discrimination complaint log. (Sect. III, Citywide EEO Policy)

11. During previous audits, the Commission has found numerous EEO program deficiencies in agencies that did not have full-time EEO Officers. For this reason, the Commission has adopted the position that the agency EEO Officers should devote 100% of their time to EEO matters.

12. The EEO Officer should perform all of the EEO functions identified in the City's EEO Policy.

In addition to the above recommendations, during the compliance process, the Commission requires that the agency head distribute a memorandum to all staff informing them of the changes that are being implemented in the agency's EEO Program pursuant to the audit. This memorandum should emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.

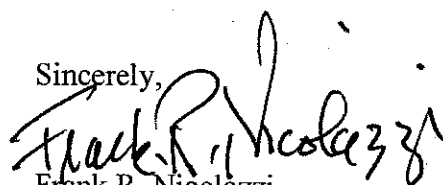
Conclusion

Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to EEPC's audit of CCRB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in City guidelines, we respectfully request your response to the aforementioned preliminary determinations.

Your response should indicate what corrective actions your office will take to bring the agency in compliance with the aforementioned policies and which recommendations it intends to follow. Please forward your response within thirty days of receipt of this letter.

In closing, we want to thank you and your staff for the cooperation extended to the Equal Employment Practices Commission auditors during the course of this audit. If you have any questions regarding these preliminary determinations, please let us know.

Sincerely,



Frank R. Nicolazzi
Vice-Chair

APPENDIX - 1

Civilian Complaint Review Board Supervisor Interview Results

We interviewed 12 supervisors at the Civilian Complaint Review Board. All of those individuals supervise one or more employees. The supervisors interviewed work in various areas of the CCRB. Five of the supervisors interviewed were men; seven were women.

1. Do you supervise at least one employee?

Yes: [12] No: [] NA: []

2. Are you familiar with your agency's EEO policies?

Yes: [12] No: [] NA: []

3. Have you received your agency's EEO and Sexual Harassment Policy Statements?

Yes: [12] No: [] NA: []

4. Are your EEO and sexual harassment policies available on your computer?

Yes: [11] No: [1] NA: []

5. If so, did you find accessing the policies difficult?

Yes: [1] No: [10] NA: [1]

6. If you have been employed for less than 5 years, did you receive a new employee orientation session?

Yes: [6] No: [] NA: [6]

7. Did the new employee orientation session include information on your agency's EEO policies?

Yes: [6] No: [] NA: [6]

8. Did you hold meetings with your staff to discuss your agency's EEO policies?

Yes: [4] No: [8] NA: []

9. Do you know who your agency's EEO Officer is? What is his/her name?

Yes: [8] No: [4] NA: []

10. Did the EEO Officer meet with you, either as an individual or in a group setting, to discuss your agency's EEO policies?

Yes: [9] No: [3] NA: []

11. Did you agency provide you with training and a structured interview guide for interviewing new hires?

Yes: [10] No: [2] NA: []

12. Have you been evaluated on your EEO performance in your annual evaluation/appraisal?

Yes: []

No: [12]

NA: []

13. Have you received preventive sexual harassment training from your agency?

Yes: [10]

No: [2]

NA: []

14. Did all the employees in your unit receive preventive sexual harassment training?

Yes: [6]

No: [6]

NA: []

15. Do you have a copy of your agency's discrimination complaint procedures?

Yes: [10]

No: [2]

NA: []

16. Have you discussed the agency's discrimination complaint procedures with your staff?

Yes: [4]

No: [8]

NA: []

17. Do you feel you have enough training to respond knowledgeably to an employee who complains about discrimination or harassment?

Yes: [12]

No: []

NA: []

18. Do you have any additional comments about EEO in your agency?

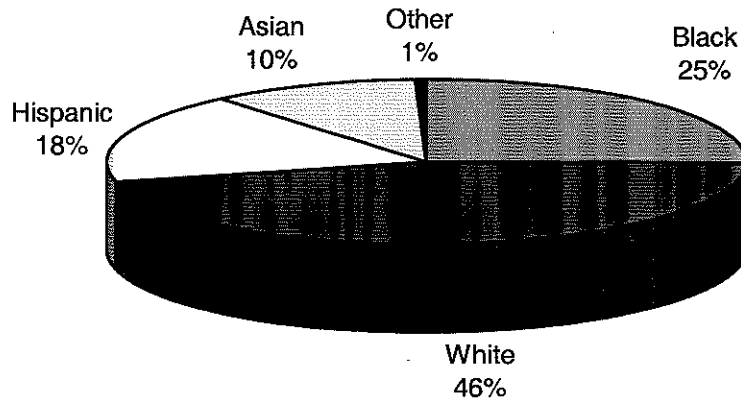
Yes: [4]

No: [8]

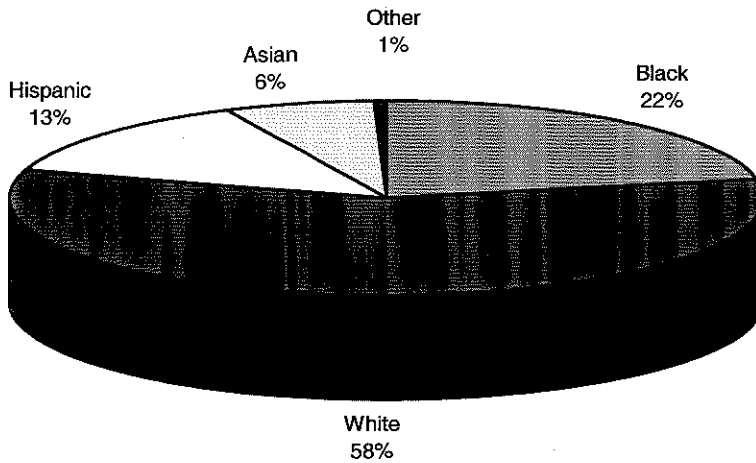
NA: []

APPENDIX - 2

CCRB Workforce by Ethnicity



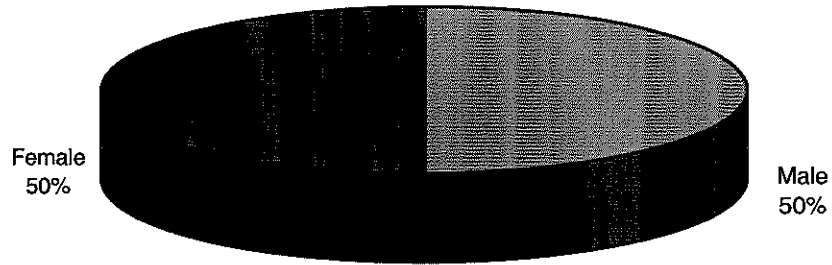
January 2000
Total Workforce 162



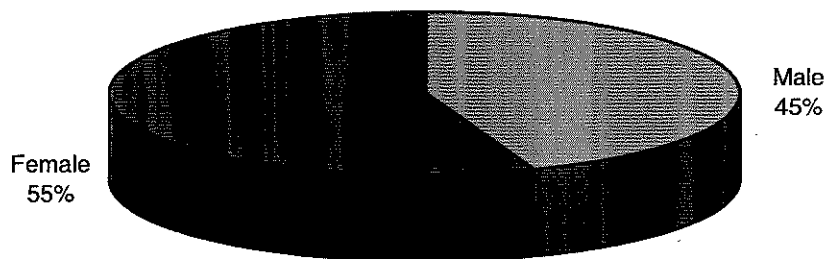
June 2002
Total Workforce 173

APPENDIX - 3

CCRB Workforce by Gender



January 2000
Total Workforce 162



June 2002
Total Workforce 173

APPENDIX - 4

The following tables indicate personnel activity during the audit period, January 1, 2000 through June 30, 2002.

Civilian Compliant Review Board Hires by Sex and Race

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Total
57	61	118	91	13	6	8	118

Total: 118

Civilian Complaint Review Board Promotions by Sex and Race

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Total
50	65	115	64	27	14	10	115

Total: 115

Source: Audit data supplied by CCRB

APPENDIX - 5

CIVILIAN COMPLAINT REVIEW BOARD SURVEY RESULTS

A. GENERAL OVERVIEW

1. Do you know who your agency's EEO Officer is?
Yes (20) No (12)
2. Is your agency's EEO policy statement posted on the agency bulletin boards?
Yes (25) No (6)
3. Is your agency's Sexual Harrassment Policy Statement posted on the agency bulletin boards?
Yes (24) No (5)
4. Were you given the EEO Policy Statement?
Yes (16) No (4) Do not remember (12)
5. Were you given the Sexual Harassment Policy Statement?
Yes (24) No (3) Do not remember (5)
6. Do you have a copy of the Discrimination Complaint Procedures?
Yes (8) No (14) Do not remember (10)
7. Do you agree with the principles of Affirmative Action?
Yes (26) No (5)
8. Do you know what your agency's EEO Plan is?
Yes (5) No (24)
9. Do you know how to obtain your agency's EEO Plan?
Yes (10) No (20)
10. Did your supervisor hold meetings with staff to discuss the agency's EEO policies?
Yes (7) No (16) Do not remember (9)

B. EEO COMPLAINTS

11. Do you know how to file an EEO Complaint?
Yes (22) No (9)
12. If you had a discrimination complaint, would you bring it to your agency's EEO Officer?
Yes (10) No (12) Undecided (9)

CCRB SURVEY RESULTS CONTINUED

13. Did you ever file a discrimination complaint with the EEO Office?

(If No, please skip to question #17)

Yes (3) No (29)

14. What was the basis of the complaint?

Disability(1) Race(2) Age(1) National Origin(1) Sexual Harassment(2)
Sexual Orientation(1)

15. Were you satisfied with the manner in which your complaint was managed?

Yes (0) No (3)

16. Was your manager or supervisor supportive of your right to file a complaint?

Yes (0) No (2) N/A (2)

C. SEXUAL HARASSMENT

17. Did you receive Sexual Harassment Prevention training? (If No, please skip to question #19)

Yes (22) No (10)

18. Did you find this training helpful?

Very (0) Somewhat (0)
Not really (4) Waste of time (2)

19. Would you prefer to file a sexual harassment complaint with an office outside your agency instead of your agency's EEO office?

Yes (23) No (8)

D. JOB ADVANCEMENT

20. Do you see job postings on agency bulletin boards for vacant positions prior to the application deadline?

Yes (21) No (8) Do not remember (2)

21. Do you believe your agency practices equal employment opportunity?

Yes (12) No (17)

AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES

22. Has your agency made facilities accessible for persons with disabilities?

Yes (20) No (6)

CCRB SURVEY RESULTS CONTINUED

23. Did you ever ask for an accommodation for a physical or mental disability?

Yes (3) No (25)

24. If so, did the agency accommodate you?

Yes (2) No (1)

OPTIONAL

25. What is your race/ethnicity? _____

Black (9) White(12) Hispanic (4)

26. What is your sex?

Male (15) Female (15)