



# EQUAL EMPLOYMENT PRACTICES COMMISSION

City of New York

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June 19, 2008

Franklin Stone, Esq.  
*Chair*  
and  
Joan Thompson  
*Executive Director*  
Civilian Complaint Review Board  
40 Rector Street, 2<sup>nd</sup> Floor  
New York, NY 10006

Re: Resolution #08/14-054/Preliminary Determination Pursuant to the Audit of the Civilian Complaint Review Board (CCRB) Equal Employment Opportunity Program from January 1, 2005 through December 31, 2006

Dear Chair Stone and Executive Director Thompson:

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, women and other protected classes. (New York City Charter, Chapter 36, sections 831(d)(2) and (5).)

The Charter defines city agency as any "city, county, borough or other office, administration, board, department, division, commission, bureau, corporation, authority, or other 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.

This Commission is empowered by Section 831 of the City Charter to recommend all necessary and appropriate actions to ensure fair and effective affirmative employment programs for minority group members and women; and other protected classes per the City's EEO Policy.

The audit measures the CCRB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the 2005 Citywide EEO Policy. All recommendations for corrective actions are consistent with both the audit's findings and the parameters set forth in the Citywide EEO Policy. 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 the CCRB's Equal Employment Opportunity Policy and review of responses to a Commission Document and Information Request Form. The EEOC auditors also conducted an in-depth, on site interview with the EEO Officer. A survey of 193 people employed by the CCRB during the audit period was distributed. Forty people (20.7%) responded. The results of these surveys are discussed in the proceeding pages and also attached. (Appendix 1) The survey methodology was established by the EEOC with the assistance of an academic expert from the City University of New York.

### **Description of the Agency**

The Civilian Complaint Review Board is an independent agency with the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the New York City Police Department that allege misconduct involving the use of excessive or unnecessary force, abuse of authority, discourtesy, or use of offensive language. All personnel on staff are civilians. The Board is comprised of 13 civilian members, five members selected by the Mayor, including the chair; five members designated by the City Council (one representative for each borough) and three members designated by the Police Commissioner.

### **Personnel Activity During the Audit Period**

During the audit period, 137 people were hired: 89 Caucasians, 23 African Americans, 14 Hispanic, 7 Asians, and 4 unknown. Seventy-two of the hires were women. There were 111 promotions during the audit period: 87 Caucasians, 12 African-Americans, 8 Hispanics, and 4 Asians. (Appendix 4)

The CCRB reported that 2 employees were involuntarily separated during the period in review: 1 African-American male and 1 African-American female. Between January 1, 2005 and December 31, 2006, the total number of CCRB employees increased by 4%, going from 179 to 186. There were percentage decreases for African-Americans (6%), Asians (6%), and women (2%). (Appendices 2 and 3)

## **Discrimination Complaint Activity During the Audit Period**

Five internal discrimination complaints (all based on sexual harassment) were filed during the audit period. Two received a "probable cause" determination and 3 received a "no probable cause" determination. There were 3 external discrimination complaints filed during the audit period: one with the NY State Division of Human Rights, one with the NYC Commission on Human Rights, and one with the U.S. Equal Employment Opportunity Commission. One was based on sex and two were based on multiple categories. One external complaint was listed as "pending", one was withdrawn, and one was dismissed.

## **PRELIMINARY DETERMINATION**

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

### **Plan Dissemination – Internally**

The CCRB is in compliance with the following requirements:

1. The CCRB has adopted the Citywide EEO Policy and issued an EEO Policy Statement from the agency head.
2. The CCRB distributed the Citywide EEO Policy, the Citywide EEO Policy Handbook (*About EEO: What You Need to Know*), and an EEO policy statement to all current and new employees in 2005. In addition, the CCRB has included the policies in the new hire package, which is distributed during new employee orientation sessions. The EEO officer informed EEPC auditors that EEO updates are distributed with paychecks. Further, 82.5% of survey respondents indicated they were given those documents.
3. The Citywide EEO policies are posted on the agency's bulletin boards and available as a shortcut on the computer desktop of all CCRB employees.
4. The EEO Officer informed the EEPC auditors that he and the EEO counselor periodically checks the bulletin board for continued posting of EEO documents.
5. The EEO counselor discusses the agency's EEO policies during new employee orientation sessions.

### **Plan Dissemination – Externally**

The CCRB is in compliance with the following requirement:

During the audit period, the CCRB issued job vacancy notices for an investigator, stock worker, supervisor of investigations, and communications associate. All of the notices indicate that the CCRB is an equal opportunity employer. The CCRB placed job ads in the *NY Times* and

*New York Law Journal* for investigative manager, director of investigations, and attorney-assistant deputy director for investigations. All the ads contain the EEO tag line.

### **EEO and Reasonable Accommodation for Persons with Disabilities**

The CCRB is in compliance with the following requirements:

1. The director of personnel/EEO counselor was appointed the disability rights coordinator in June 1993. Employees were notified of that appointment during new employee orientation and when Section 55-A program brochures were distributed.
2. There were 10 requests for reasonable accommodations during the audit period. Nine accommodations were provided (2 ergonomic keyboards, a special chair, 2 keyboard trays, an office HEPA filter, a track ball mouse, and a telephone headset) and one request was later withdrawn by the employee.
3. The CCRB participates in the Section 55-A Program. The program brochure is posted on its bulletin board and distributed to all new employees with their new hire package. One employee is enrolled in the program.
4. According to the EEO officer and the completed *Accessibility for Persons with Disabilities Checklist* (issued by the EEPC), the building is accessible to and usable by persons with disabilities: there is a street level accessible entrance, there are grab bars in the bathrooms, there are wide restroom stalls, low sink and bathroom fixtures, wheelchair accessible elevators, and there is Braille and bells in the elevators.
5. The CCRB's EEO policy statement is available in an alternate format (large print) for persons with disabilities. The EEO officer informed EEPC auditors that the CCRB has access to alternate formats of the citywide EEO policies from DCAS.

### **EEO Complaint and Investigation System**

The CCRB is in compliance with the following requirements:

1. The CCRB maintains a monthly discrimination complaint log that is used to record and update EEO complaints.
2. Eighty percent of survey respondents indicated they know how to file an EEO complaint.
3. The EEO counselor and the previous EEO officer completed the DCAS training program for EEO professionals.
4. The EEO officer meets regularly with the EEO counselor and takes notes of the meetings.

The CCRB is not in compliance with the following requirements:

1. At various times during the audit period, there were two EEO officers (both males) and one EEO counselor (female) authorized to receive and investigate complaints; however, the female EEO counselor (who is also the Director of Personnel) informed EEPC auditors that her authorization to investigate complaints ceased when the current EEO Officer was appointed in May 2005. The current EEO officer said that the executive director appoints an attorney to investigate EEO complaints on an ad hoc basis. The EEO officer also informed EEPC auditors that those appointed attorneys have not received training for EEO professionals. Based on Section III of the City's EEO Policy, only trained EEO professionals (EEO officer or EEO counselors) should conduct discrimination investigations. Corrective action is required.

Recommendation: Only individuals who have received the DCAS EEO training for professionals should investigate discrimination complaints. (Sect. III, EEOP)

Recommendation: To ensure that there are at least two EEO professionals of different genders available to receive and investigate discrimination complaints, the CCRB should appoint an EEO counselor (or co-EEO officer) of a different gender from the EEO officer. (Sect. VB, EEOP)

Recommendation: The new EEO counselor (or co-EEO officer) should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO counselor (or co-EEO officer) should obtain the certificate or otherwise complete the program at the institution selected by the CCRB. (Sect. VB, EEOP)

Recommendation: Due to conflicts of interest, the director of personnel should not serve as an EEO professional.

2. The current EEO officer did not receive formal EEO training during the audit period; however, he attended DCAS' 5-week training in April 2007, after the audit period.

The following section refers to the five internal discrimination complaint files submitted by the CCRB.

The CCRB is in compliance with the following requirements:

1. All five complaint files (1/2005, 2/2005, 3/2005, 4/2005, and 1/2006) contain word-processed investigative interview notes.
2. Four of the five complaint files contain written notice to the complainant and respondent regarding the final determination and one of the five complaint files contains a mediation

program resolution agreement between the complainant and respondent and a statement of outcome of the mediation process.

The CCRB is not in compliance with the following requirements:

1. All five complaint files (1/2005, 2/2005, 3/2005, 4/2005, and 1/2006) do not contain a Discrimination Complaint Intake Form. Corrective action is required.

Recommendation: All internal discrimination complaint files should contain a Discrimination Complaint Intake Form. (NYC Discrimination Complaint Procedure: Implementation Guidelines, Sect. 12(b))

2. Complaint files 2/2005, 3/2005, 4/2005, and 1/2006 do not contain the agency head signature on the final determination reports.

Recommendation: The CCRB agency head should sign off on all confidential written reports concerning EEO complaints to indicate that he/she reviewed the report and whether the recommendation if any, has been approved and adopted. (Sect. VB, EEO and DCPIG, Sect.12(b))

3. None of the written reports are labeled “confidential”, or divided into three sections.

Recommendation: All confidential written reports should be divided into three sections (Section 1: Findings of Facts, Section 2: Discussion and Conclusion, and Section 3: Recommendation) and be labeled “confidential” in large bold print. (DCPIG, Sect. 12b)

## **EEO Training**

The CCRB is in compliance with the following requirement:

The CCRB conducted EEO training in 2006, which included a component on preventing sexual harassment, for all its employees. In addition, 79% of survey respondents indicated that they received such training. The EEO officer informed the EEOC auditors that line employees received computer-based EEO training approved by DCAS, which is available through “www.wecomply.com”. Managers and supervisors received training from consultants recommended by DCAS. He added that the agency is developing a plan to have the agency’s EEO officer conduct EEO training.

## **Recruitment and Selection**

The CCRB is in compliance with the following requirements:

1. The EEO Officer said that he analyzed the CCRB’s agency workforce statistics and found underrepresentation of Asians, Hispanics, and African Americans. As a result, the agency has developed targeted recruitment strategies, such as recruiting at most of the local colleges and

universities with substantial minority populations such as Brooklyn College, Hunter College, City College, John Jay College, Pace University, and Stony Brook, and at the New York Times Diversity Fair. In addition, the CCRB posts their job vacancies on Monster Track and on the Citywide job vacancy list.

2. The EEO counselor provides structured interview training periodically to personnel involved in the recruitment and hiring process. All personnel involved in job interviewing are required to watch a video called "*You be the Judge*", which provides how-to training points on asking legal questions, taking objective, job-related notes, avoiding discrimination during the interviewing process, avoiding questions of age, race, sex, religion, and national origin, and using a structured interview plan. Trainees also receive additional materials, including a handout of sample interview questions.

### **EEO Officer Reporting Arrangement**

The CCRB is in partial compliance with the following requirement:

The EEO officer reports directly to the agency head on EEO matters and meets with her on a regular basis. However, the EEO officer does not maintain notes or documentation of these meetings.

Recommendation: It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the agency head regarding EEO program operational decisions should be maintained.

### **EEO Officer Responsibilities**

The CCRB is not in compliance with the following requirements:

1. The EEO officer told EEPC auditors that he was not involved in developing recruitment strategies and selecting recruitment media during the audit period; however, he is currently involved in developing recruitment strategies and selecting recruitment media.
2. Although the EEO officer (who is also the director of mediation) devotes 30% of his time to EEO matters, he told EEPC auditors that because he does not have adequate mediation staff, he cannot devote more time to EEO. During the course of the audit, the EEO officer informed the EEPC auditors that he is resigning and the CCRB has identified a new EEO officer.

Recommendation: The agency head should ensure that the new EEO officer has adequate administrative staff so that the EEO officer can devote sufficient time to his/her EEO duties.

## SUMMARY OF RECOMMENDED CORRECTIVE ACTIONS

1. Only individuals who have received the DCAS EEO training for professionals should investigate discrimination complaints. (Sect. III, EEOP)
2. To ensure that there are at least two EEO professionals of different genders available to receive and investigate discrimination complaints, the CCRB should appoint an EEO counselor (or co-EEO officer) of a different gender from the EEO officer. (Sect. VB, EEOP)
3. The new EEO counselor (or co-EEO officer) should attend the next available DCAS training session for EEO professionals or enroll in training conducted by another appropriate agency or school, such as the EEO Studies Program of Cornell University's School of Industrial and Labor Relations. The EEO counselor (or co-EEO officer) should obtain the certificate or otherwise complete the program at the institution selected by the CCRB. (Sect. VB, EEOP)
4. Due to conflicts of interest, the director of personnel should not serve as an EEO professional.
5. All internal discrimination complaint files should contain a Discrimination Complaint Intake Form. (DCPIG, Sect. 12(b))
6. The CCRB agency head should sign off on all confidential written reports concerning EEO complaints to indicate that they have been reviewed and whether the recommendations, if any, have been approved and adopted. (Sect. VB, EEOP and DCPIG, Sect.12(b))
7. All confidential written reports should be divided into three sections (Section 1: Findings of Facts, Section 2: Discussion and Conclusion, and Section 3: Recommendation) and be labeled "confidential" in large bold print. (DCPIG, Sect. 12b)
8. It is the Commission's position that appropriate documentation of meetings and other communications between the EEO officer and the agency head regarding EEO program operational decisions should be maintained.
9. The agency head should ensure that the new EEO officer has adequate administrative staff so that the EEO officer can devote sufficient time to his/her EEO duties.

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 re-emphasize the agency head's commitment to the agency's Equal Employment Opportunity Program.



## Conclusion

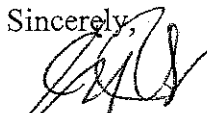
Pursuant to Chapter 36 of the New York City Charter and the previously cited preliminary determinations relating to the EEPC's audit of the CCRB's compliance with its Equal Employment Opportunity Policy, as well as Commission policies and EEO standards expressed in the Citywide EEO Policy, we respectfully 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 specify those corrective actions in your response. Because agency heads are responsible for the implementation of their agencies EEO Program, your response must be a formal letter signed by you. Please forward your response within thirty days of receipt of this letter.

Pursuant to Section 832 of the New York City Charter, if you do not implement all of these recommendations for corrective actions during a compliance period not to exceed six months, this Commission may publish a report and recommend to the Mayor the appropriate corrective actions that you should implement in your agency's EEO Plan.

In closing, we 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,



Ernest F. Hart, Esq.  
Chair

**Civilian Complaint Review Board  
EMPLOYEE SURVEY RESULTS**

**A. GENERAL OVERVIEW**

1. Do you know who your agency's EEO Officer is?  
Yes (35)                      No (4)
2. Is your agency's EEO Policy Statement or the Citywide EEO Policy Statement posted on your agency's bulletin boards?  
Yes (38)                      No (1)
3. Were you given the EEO Policy Statement or the Citywide EEO Policy Statement?  
Yes (33)                      No (0)                      Do not remember (7)
4. Were you given a copy of the EEO Policy Handbook – *About EEO: What You Need to Know*?  
Yes (33)                      No (4)
5. Do you agree with the principles of equal employment opportunity?  
Yes (36)                      No (1)
6. Do you believe your agency practices equal employment opportunity?  
Yes (22)                      No (14)

**B. EEO COMPLAINTS**

7. Do you know how to file an EEO complaint?  
Yes (32)                      No (8)
8. If you had an EEO complaint, would you bring it to your agency's EEO Office?  
Yes (14)                      No (12)                      Undecided (14)
9. Would you prefer to file an EEO complaint with an office outside your agency?  
Yes (17)                      No (11)                      Undecided (12)
10. Did you ever file an EEO complaint with your agency's EEO Office? If No, please skip to question #14.  
Yes (3)                      No (35)
11. What was the basis of the complaint?
 

Age (0)	Partnership Status (0)
Alienage or Citizen Status (0)	Predisposing genetic characteristic (0)
Arrest or Conviction Record (0)	Race (1)
Color (0)	Sexual Harassment (1)
Creed (1)	Sexual Orientation (0)
Disability (0)	Veteran's Status (0)
Gender (incl. gender identity) (0)	Victim of Domestic Violence, Stalking, and Sex Offenses (0)
Marital Status (0)	Other (0)
Military Status (0)	
National Origin (0)	

**Civilian Complaint Review Board SURVEY RESULTS CONTINUED**

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

Yes (3) No (0)

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

Yes (2) No (0) Not Applicable (1)

**C. EEO TRAINING**

14. Did you receive EEO training? If No, please skip to question #16.

Yes (30) No (8)

15. Did you find this training helpful?

Very (5) Somewhat (14)  
Not really (4) Waste of time (7)

**D. JOB PERFORMANCE/ADVANCEMENT**

16. Did you see your agency's job postings for vacant positions on agency bulletin boards prior to the application deadline?

Yes (22) No (6) Do not remember (12)

**E. AFFIRMATIVE ACTION FOR PERSONS WITH DISABILITIES**

17. Are your agency's facilities accessible for persons with disabilities?

Yes (21) No (8) Don't Know (0)

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

If No, skip to question #28.

Yes (2) No (0)

19. Did the agency accommodate you?

Yes (1) No (0)

**OPTIONAL**

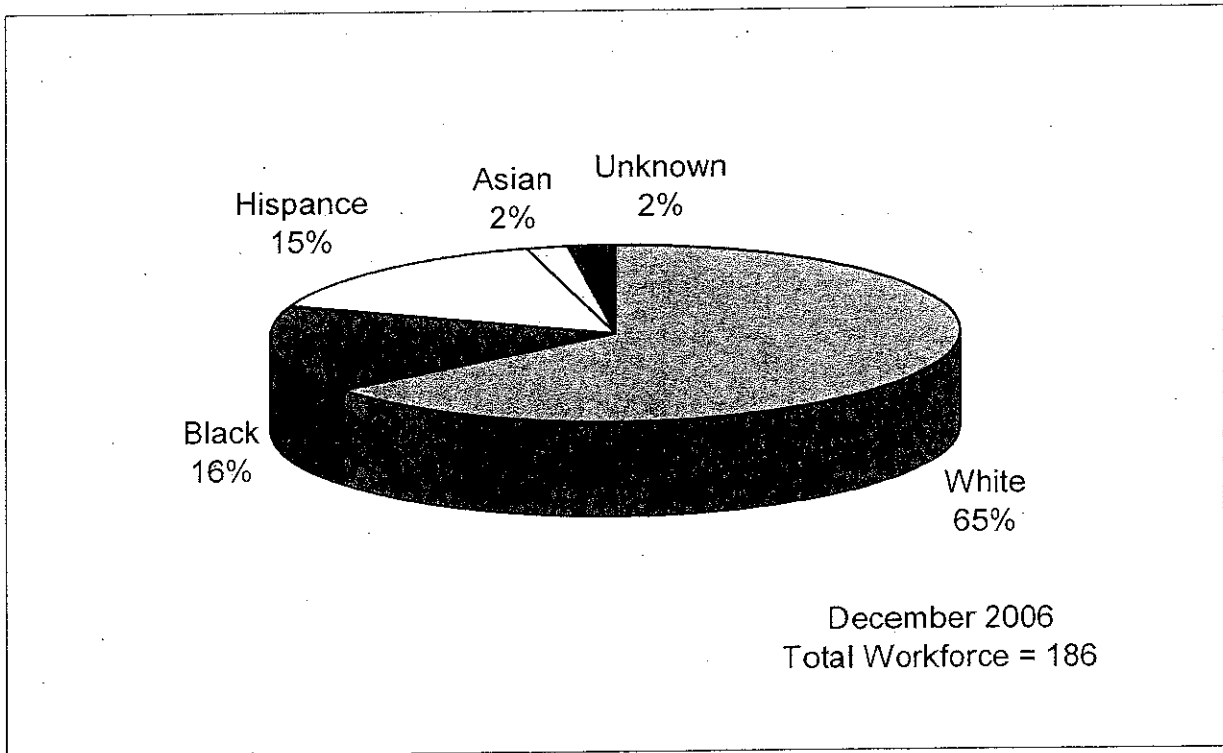
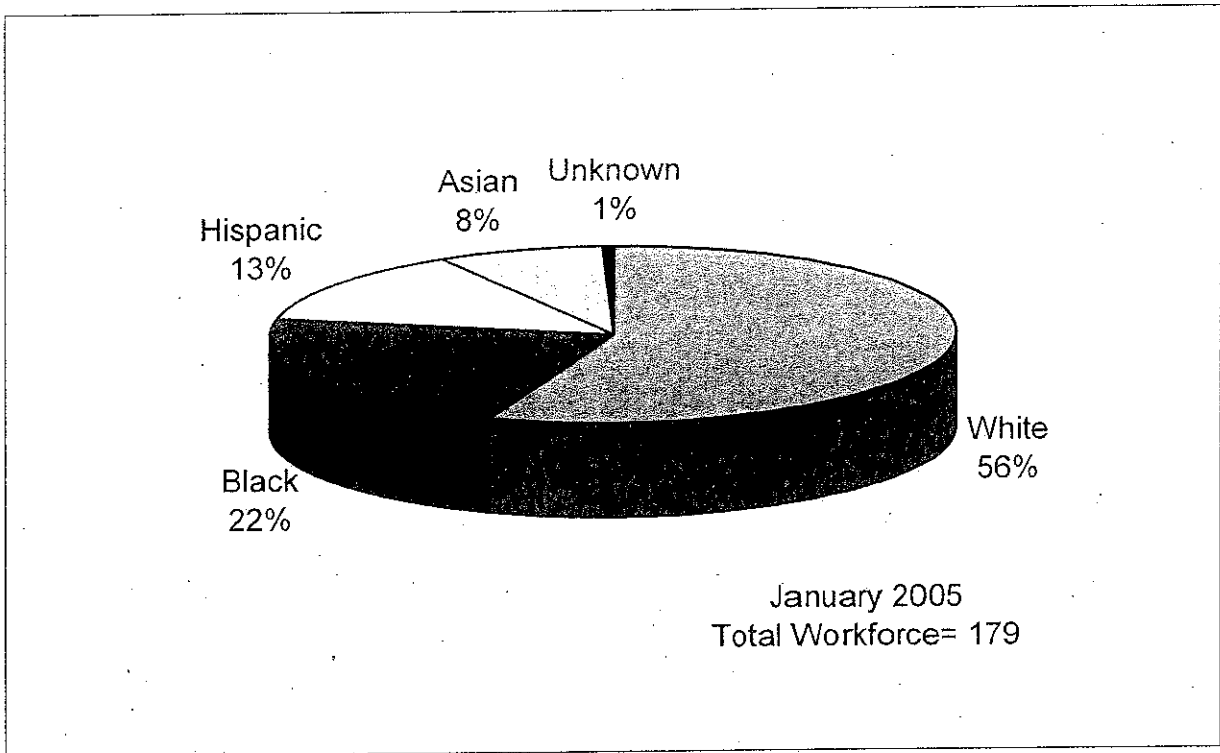
20. What is your race/ethnicity?

Asian (0) Native American (1)  
Black (7) White (18)  
Hispanic (5) Other (1)

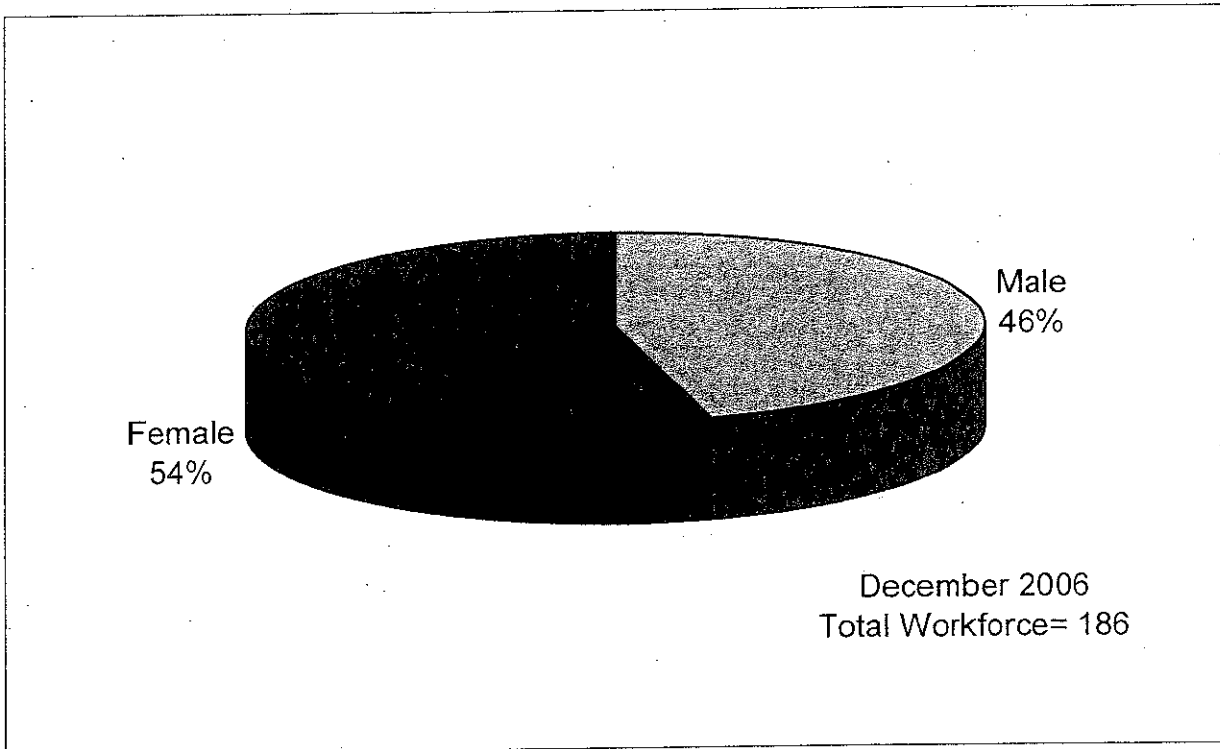
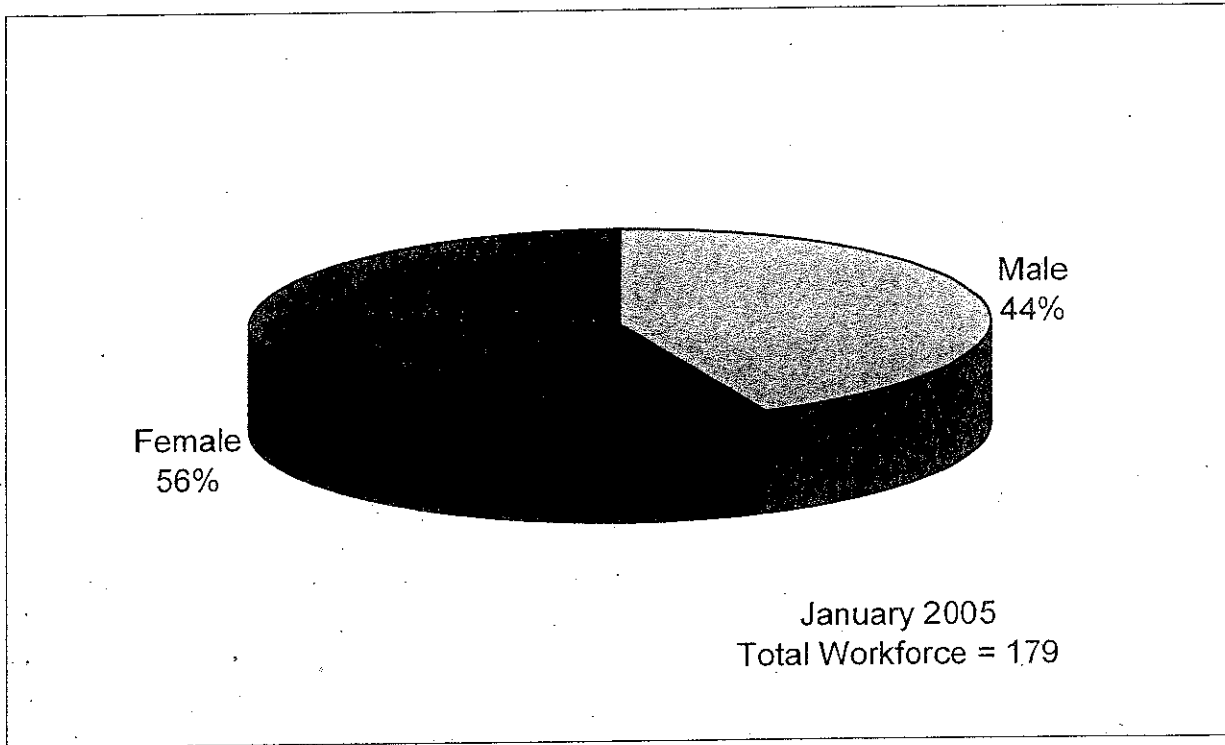
21. What is your gender?

Male (14) Female (22)

Civilian Complaint Review Board  
Workforce by Ethnicity



Civilian Complaint Review Board  
Workforce by Sex



## Appendix – 4

The following table indicates personnel activity during the audit period, January 1, 2005 through December 31, 2006.

### Civilian Community Review Board

#### Hires by Sex and Ethnicity

Total Hires: 137

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
65	72	137	89	23	14	7	4	137

#### Promotions by Sex and Ethnicity

Total Promotions: 111

Male	Female	Total	Caucasian	African American	Hispanic	Asian	Unknown	Total
52	59	111	87	12	8	4	0	111

Source: CCRB