

GAO

Testimony

Before the Subcommittee on the Constitution, Committee
on the Judiciary, House of Representatives

For Release on Delivery
Expected at 10:00 a.m.
Thursday, July 17, 1997

U.S. COMMISSION ON CIVIL RIGHTS

Agency Lacks Basic Management Controls

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U.S. Commission on Civil Rights: Agency Lacks Basic Management Controls

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the management of the U.S. Commission on Civil Rights.

Racially motivated church burnings across the country; racial and civil unrest in major metropolitan cities such as St. Petersburg, Florida; and the national debate over the continuing need for federal affirmative action programs and policies are only some of the issues the U.S. Commission on Civil Rights is working on today. Established by the Civil Rights Act of 1957, the Commission had a budget of \$8.75 million, 8 part-time commissioners, and a staff of 91 in fiscal year 1996. The commissioners have two principal responsibilities: (1) investigating claims of voting rights violations and (2) studying and disseminating information, often collected through specific projects, on the impact of federal civil rights laws and policies.

Last year, amid complaints of mismanagement and in preparation for the agency's reauthorization, your Subcommittee began to look into how the Commission carries out its responsibilities and manages its resources. You asked us to assist you in this effort by providing information on the Commission's management of projects during fiscal years 1993 through 1996. The Commission identified 22 projects in this time frame—5 were completed, 7 were ongoing, and 10 were deferred. Commission projects entail collecting and analyzing information on civil rights issues, such as racial and ethnic tensions in American cities and fair housing, in order to appraise applicable federal laws and regulations. While our review initially addressed the Commission's management of its projects, problems we encountered during our work caused us to be concerned with general management at the Commission as well.

My comments today will summarize the findings discussed in our recent report on the management of the Commission, focusing first on general management issues and then on the management of the Commission's projects.¹ Our report is based on reviews of Commission records; interviews with all of the current commissioners, the staff director at the time of our review, and other responsible Commission officials; and our observations from Commission meetings we attended.

¹U.S. Commission on Civil Rights: Agency Lacks Basic Management Controls (GAO/HEHS-97-125, July 8, 1997).

In summary, we found broad management problems at the Commission on Civil Rights. The Commission appears to be an agency in disarray, with limited awareness of how its resources are used. For example, the Commission could not provide key cost information for individual aspects of its operations, such as its regional offices; its complaints referral process; its clearinghouse; public service announcements; and, in one case, a project. Furthermore, significant agency records documenting Commission decision-making were reported lost, misplaced, or nonexistent. The Commission has not established accountability for resources and does not maintain appropriate documentation of agency operations. Lack of these basic, well-established management controls makes the Commission vulnerable to resource losses due to waste or abuse.

Commission records indicate that projects accounted for only about 10 percent of the agency's appropriations during fiscal years 1993 through 1996 despite the broad array of civil rights issues addressed. Furthermore, our work showed that management of the 12 Commission projects completed or ongoing during this 4-year period appeared weak or nonexistent. The Commission's guidance for carrying out projects is outdated, and the practice described to us for conducting projects—including specifying anticipated costs, completion dates, and staffing—was largely ignored. For instance, 7 of the 12 projects had no specific proposals showing their estimated time frames, costs, staffing, or completion dates. Specific time frames were not set for most projects, and when they were, project completion dates exceeded the estimates by at least 2 years. Overall, projects took a long time to complete, generally 4 years or more. Some projects took so long that Commission staff proposed holding additional hearings to obtain more current information. Poor project implementation likely contributed to the lengthy time frames. Moreover, we found that Commission management did not systematically monitor projects to ensure quality and timeliness. Finally, Commission project reports are disseminated to the public through three different offices, none of which appears to coordinate with the others to prevent duplication.

We made several recommendations in our report about improving management at the Commission. Even though the commissioners did not all agree with our findings, they did agree to implement the recommendations.

Background

The Commission on Civil Rights was created to protect the civil rights of people within the United States. It is an independent, bipartisan, fact-finding agency directed by eight part-time commissioners. Four commissioners are appointed by the president, two by the president pro tempore of the Senate, and two by the speaker of the House of Representatives. No more than four commissioners can be of the same political party, and they serve 6-year terms. The Commission accomplishes its mission by (1) investigating charges of citizens being deprived of voting rights because of color, race, religion, sex, age, disability, or national origin; (2) collecting and studying information concerning legal developments on voting rights; (3) monitoring the enforcement of federal laws and policies from a civil rights perspective; (4) serving as a national clearinghouse for information; and (5) preparing public service announcements and advertising campaigns on civil rights issues. The Commission may hold hearings and, within specific guidelines, issue subpoenas to obtain certain records and have witnesses appear at hearings. It also maintains state advisory committees and consults with representatives of federal, state, and local governments and private organizations to advance its fact-finding work.

The Commission is required to issue reports on the findings of its investigations to the Congress and the president, and to recommend legislative remedies. The Commission also must submit to the president and the Congress at least once annually a report that discusses the Commission's monitoring of federal civil rights enforcement in the United States. Because it lacks enforcement powers that would enable it to apply remedies in individual cases, the Commission refers specific complaints it receives to the appropriate federal, state, or local government agency for action.²

Projects conducted by the Commission to study various civil rights issues are largely the responsibility of its Office of the General Counsel (OGC) with a staff of 15 and the Office of Civil Rights Evaluation (OCRE) with a staff of 12 in fiscal year 1996. The largest component of the Commission is the Regional Programs Coordination Unit with 2 staff members in the Washington, D.C., office and 25 staff members in six regional offices. The regional offices direct the Commission's work, which is carried out

²Several agencies have enforcement authority for civil rights issues. For example, the Equal Employment Opportunity Commission is charged with enforcing specific federal employment antidiscrimination statutes, such as title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act of 1990, and the Age Discrimination in Employment Act of 1967. Also, the Assistant Attorney General for Civil Rights in the Department of Justice is the enforcement authority for civil rights issues for the nation.

through 51 advisory committees—one in each state and the District of Columbia—composed of citizens familiar with local and state civil rights issues.

Commission's Management Reflects an Agency in Disarray

The Commission's management of operations at the time of our review showed a lack of control and coordination. The Commission had not updated its depiction of its organizational structure as required under the Freedom of Information Act (FOIA) nor its administrative guidance to reflect a major reorganization that occurred in 1986. Obsolete documentation of the agency's operating structure and administrative guidance leaves the public and Commission employees unsure of the agency's procedures and processes for carrying out its mission. Moreover, Commission officials reported key records as lost, misplaced, or nonexistent, which leaves insufficient data to accurately portray Commission operations. Agency spending data are centralized, and Commission officials could not provide costs for individual offices or functions. We also found that the Commission has never requested audits of its operations, and information regarding Commission audits in its fiscal year 1996 report on internal controls was misleading.

Agency Policies and Procedures Unclear

The Commission has no documented organizational structure available to the public that reflects current information on procedures and program processes of the Commission. FOIA requires federal agencies to publish and keep up to date their organizational structure and to make available for public inspection and copying the agencies' orders, policies, and administrative staff manuals and instructions. The Code of Federal Regulations, the principal document for publishing the general and permanent rules of federal agencies, shows the Commission's organizational structure as of May 1985,³ but the Commission's current organizational structure is substantially different because of a major reorganization in 1986.

In addition, the Commission's Administrative Manual was issued in May 1975, but the Commission has paid little attention over the last 10 years to maintaining and updating it to accurately reflect agency operations. The purpose of the manual is to translate administrative policy derived from the various legislative and regulatory policies affecting the day-to-day operations of the Commission into procedures that the Commission staff can rely on for guidance in carrying out the agency's

³U.S. Commission on Civil Rights mission and functions: 45 C.F.R., part VII.

mission. The Commission's major reorganization in the mid-1980s, coupled with a high turnover of staff in key positions, makes up-to-date operating guidance especially important for maintaining continuity and performing work efficiently and effectively. The directors of the two offices responsible for conducting projects, however—who had been employed at the Commission for 5 and 2-1/2 years, respectively—had only the 1982 version of the manual to rely on for official procedures for conducting projects.

Commission officials told us that, although it was outdated, the guidance in the manual still reflects the basic Commission policy for conducting projects. We found, though, that projects did not follow all steps outlined in this guidance and could not, for some steps, because the offices no longer existed.

Commission officials told us that they were in the process of updating the Commission's Administrative Manual and had updated 8 of 73 administrative instructions; but the administrative instruction for implementing projects is not one of the 8. The staff director⁴ told us that she had recently convened a task force, made up of the two office directors responsible for conducting projects and the special assistant to the staff director, to revamp the administrative instruction for projects. As of June 16, 1997, Commission officials said that the task force had met at least three times over the past several months and that the Commission expected to have a final version of the administrative instruction to propose to the new staff director when appointed.

Key Commission Records Missing

The Commission reported that key records—which either were the basis for or documented decisions about Commission operations and management of projects—were lost, misplaced, or nonexistent. And minutes of certain Commission meetings were reported to be lost. According to officials, minutes of Commission meetings discussing the initiation of 7 of the 22 projects were lost or misplaced. Additionally, the files for these seven projects were misplaced, misfiled, or not available for review.⁵ Other key records outlining critical information about projects did not exist, such as project proposals, or were not available, such as the actual start dates for projects. The Commission also did not have a record

⁴The staff director at the time of our review resigned effective December 31, 1996. A new staff director joined the Commission on June 30, 1997.

⁵These projects included six on racial and ethnic tensions in American communities that were completed or ongoing and one completed project on funding federal civil rights enforcement.

showing the total cost of its project on funding federal civil rights enforcement.

Spending Data Not Maintained by Office or Function

Commission officials told us that they maintain a central budget and could not provide the amount or percentage of the budget used by individual offices or functions, such as complaint referrals or clearinghouse activities. The only function Commission officials gave us separate financial information on was the projects' costs. But even for project costs, records were poorly maintained, and it is unclear whether they reflect the true costs for projects. For example, the Commission approved one project's report for publishing on September 9, 1994, and the report shows an issuance date of September 1994. Yet financial information provided to us showed costs incurred through fiscal year 1996 for this project. A November 1, 1995, letter from the Commission to the House Constitution Subcommittee showed actual costs for the project of \$261,529, but data Commission officials provided us showed total project costs of \$531,798. At the time of our audit work, the Commission was not able to reconcile these differences.⁶

Commission's Management Controls Are Weak

The Commission's management controls over its operations are weak and do not ensure that the Commission can meet its statutory responsibilities⁷ or program objectives. Federal agencies are required under the Federal Managers' Financial Integrity Act to report annually on internal controls to the president and the Congress, but the Commission did not do such a report for fiscal year 1995. Furthermore, the Commission's internal controls report for fiscal year 1996 appears to misrepresent information concerning audits of the Commission. The report claims that several administrative activities are randomly audited by the U.S. Department of Agriculture's Inspector General, when in fact no such audits were done. The only direct connection between the Commission and the Department of Agriculture is that the Commission's financial transactions are handled through Agriculture's National Finance Center. Vendors submit invoices directly to the National Finance Center for payment, and the Commission

⁶The project evaluated the enforcement of the Fair Housing Amendments Act of 1988. In responding to a draft of our report, the Office of the Staff Director said that the project produced two reports and that data provided to the Congress reflected fiscal year 1994 costs, while our request represented all costs on the project, and adding the costs associated with the two reports reconciles the difference. Records provided us during the audit do not support these comments.

⁷The Subcommittee on the Constitution, House Committee on the Judiciary, reported that for fiscal year 1995 the Commission did not meet its statutory requirement to submit to the Congress at least one report that monitors federal civil rights enforcement. (104th Congress, House Report 104-846, Sept. 1996).

does not verify the accuracy of the invoices submitted. The Agriculture Inspector General is responsible for auditing the automated systems of Agriculture's National Finance Center. But the Inspector General's office told us that the Commission has never requested any audits of its transactions. We did not find that any other audits of Commission expenditures had been performed.⁸

Recent reviews of the Commission's operations by the Office of Personnel Management (OPM) and a civil rights advocacy group have been critical of Commission management. OPM reviewed the Commission's personnel practices and concluded in a 1996 report that the Commission is "badly in need of managerial attention."⁹ The OPM report has resulted in proposed corrective actions that, if fully implemented, should improve the situation. A 1995 report by the Citizens' Commission on Civil Rights reported that the Commission's performance has been "disappointing."¹⁰ The report noted that projects take so long to complete that changing conditions may render them out of date by the time the project is completed, reducing the effectiveness of the Commission's work.

Commission Projects Are Poorly Managed and Take Years to Complete

Although Commission projects address a broad array of civil rights issues, including racial and ethnic tensions in American communities; the enforcement of fair housing, fair employment, and equal education opportunity laws; and naturalization and citizenship issues, its project spending accounts for a small percentage of the Commission's budget. Furthermore, the Commission's efforts to manage these projects fall short in areas such as following project management guidance, meeting projected time frames for completing projects, and systematic monitoring of projects. During fiscal years 1993 through 1996, the Commission completed 5 projects, deferred 10 others, and worked on another 7 that were still ongoing at the end of fiscal year 1996.

⁸The Commission is not required by statute to have an Inspector General, and its operations have not been audited by an outside accounting firm.

⁹OPM, Office of Merit Systems Oversight and Effectiveness, Report of an Oversight Review: U.S. Commission on Civil Rights-Washington, D.C. (Washington, D.C.: OPM, Nov. 1996).

¹⁰Citizens' Commission on Civil Rights, New Challenges: The Civil Rights Record of the Clinton Administration Mid-term: Interim Report on Performance of U.S. Commission on Civil Rights During the Clinton Administration (Washington, D.C.: Citizens' Commission on Civil Rights, 1995). The Citizens' Commission on Civil Rights is a private bipartisan group of officials who formerly served in federal government positions with responsibility for equal opportunity. The Citizens' Commission was established in 1982 to monitor the federal government's civil rights policies and practices and seek ways to accelerate progress in the area of civil rights.

Project Spending Accounts for Small Percentage of Commission Budget

Although the Commission appears to spend about 10 percent of its resources annually on projects, we were unable to verify project spending because of the Commission's poor record-keeping. According to Commission records, costs incurred for ongoing and completed projects during fiscal years 1993 through 1996 ranged from about \$33,000¹¹ for a completed project on funding for federal civil rights enforcement to about \$764,000 for a project on racial and ethnic tensions in Los Angeles that had been ongoing throughout the 4-year period.

Project Management Guidance Often Ignored

The Commission's Administrative Manual, which governs the process for conducting projects, has not been updated since 1982 and does not accurately reflect the current practices as described to us. Furthermore, our review of the projects showed that the process described was often not followed. According to Commission officials, the process that should be used to develop an idea into a project and ultimately a report includes five stages: (1) initiating an idea as a concept, (2) selecting concepts to develop into proposals for projects, (3) conducting project research, (4) approving final publication of a report, and (5) publishing and disseminating the report.

Project documentation showed that this process was frequently ignored; less than half of the projects during the period we studied followed these procedures. Of the 12 completed and ongoing projects, only 4 had both concept papers and detailed proposals specifying the focus of the project, time frame, budget, and staff level. None of the racial and ethnic tensions projects included proposals indicating the time frame for completion, proposed budget, or anticipated staff level. These six projects have absorbed years of staff time and accounted for more than 50 percent of the Commission's total project spending, yet only two have been completed. Although concept papers are required for deferred projects, only 3 of the 10 deferred projects had concept papers.

Projects Take Years to Complete

The Commission has no overall standard for assessing a project's timeliness or for estimating the time needed for specific projects. While an estimate of the time needed to conduct projects is required in proposals, very few projects had estimated time frames for completing projects. For the projects that did specify time frames, the actual time a project took to complete was 2 to 3 years beyond its planned duration. Only two of the

¹¹The total cost of this project is not known because Commission officials did not, as they had for other projects, account for staff salaries spent to conduct the project.

five completed projects had anticipated start and finish dates, but both overran their time frames. Both had anticipated time frames of 1 year, but one project took 3 years (Federal Title VI Enforcement to Ensure Nondiscrimination in Federally Assisted Programs, issued June 1996), and the other took 4 years (The Fair Housing Amendments Act of 1988: The Enforcement Report, issued Sept. 1994). The Commission attributed delays in meeting estimated time frames to staff turnover, limited staff resources, and the need to update factual information.

Although the duration of the projects cannot generally be compared with an expected or approved length, we found that their actual time frames spanned several years. During the period of our review, projects took an average of 4 years to complete from the time they were approved by the commissioners.¹² Four of the five completed projects had data available on time frames—three of the projects took 4 or more years to complete, and one was completed in about 2-1/2 years. For one project, the Commission held a hearing in May 1992 and in the ensuing 3 years incurred additional costs of about \$50,000. In 1995, it issued the hearing transcript, accompanied by a summary of its contents without any further analysis, as a final product.¹³ The Commission's staff director reported in a November 1995 letter to the House Judiciary Committee's Subcommittee on the Constitution that the Commission originally scheduled publication of the hearing transcript for fiscal year 1993 but "subsequently, the decision was made to publish an executive summary in addition to the transcript, which delayed publication of the document." Ongoing projects appeared likely to overrun estimated time frames as well: Six of the seven ongoing projects were approved nearly 6 years ago.

Problems with the quality of the planning and implementation of certain projects have apparently contributed to the lengthy time frames. For example, the Commission's General Counsel requested additional hearings on three projects because of poor planning for the initial hearings and the resulting inadequate data gathering. For the racial and ethnic tensions projects for New York, Chicago, and Los Angeles, the General Counsel determined that the information gathered at previous hearings was

¹²Because the Commission did not have information on actual start dates, we determined our cycle time calculations using the project approval date as the start date and the report issuance date as the end date.

¹³Commission on Civil Rights, Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination - A National Perspective, executive summary and transcript of hearing held in Washington, D.C. (Washington, D.C.: U.S. Commission on Civil Rights, May 21-22, 1992). Commission data provided us showed that the Commission approved the transcript and executive summary for publication as of March 1995, but the actual document is dated May 1992.

insufficient, outdated, or too weak to support a quality report. The New York project had insufficient testimony and documentation in eight different areas. The Chicago project was criticized by city officials as presenting an unbalanced picture, including unsubstantiated testimony, mischaracterized information, inadequate or nonexistent analyses, and missing certain recent city initiatives. The Los Angeles report contained information that the Commission's General Counsel viewed as outdated and therefore required further investigation for the Commission's report to be current.

**Projects Not
Systematically Monitored**

The Commission does not systematically monitor projects to ensure quality and timeliness of project results and to help set priorities. The only formal mechanism in place to inform the commissioners about the status of projects is used at the discretion of the staff director, who may report the status orally or in a monthly report to the commissioners.¹⁴ We found that the commissioners received only limited updates on some projects in the staff director's monthly report. The staff director did receive periodic updates about the progress of projects being conducted by OCRE. However, because of frequent staff turnover and misfiled or lost records, we could not determine whether the staff in the General Counsel's office similarly informed the staff director about project progress.

Commissioners do not receive information routinely on the costs of projects or personnel working on the projects. After a vote to approve a project, commissioners are not informed of (1) which projects the staff director decides to start, (2) when projects are actually started, (3) cost adjustments for projects, (4) time frame changes, or (5) personnel changes, all of which can affect the timeliness and quality of projects. All of the commissioners told us that they are not involved in assigning projects or specific tasks to the staff and that this is strictly a responsibility of the staff director. However, most commissioners expressed a desire to receive routine reports on the status of individual projects, specifically, costs and time frames for completion, so they would know when to expect draft reports. In fact, most of the commissioners told us that they frequently have no knowledge of the status of a particular project from the time they approve it until a draft report is given to them for review. Some commissioners said that communication is a big problem at the Commission and that improvement in this area up and down staff levels could help resolve the problem.

¹⁴While the Commission holds planning meetings to discuss future projects, these meetings are held annually and therefore do not serve to routinely inform the commissioners about the status of projects.

Dissemination of Project Reports

The Commission uses three different offices to disseminate project reports, but a lack of coordination among these offices raises the potential for duplication. The responsible project office; the Congressional Affairs Unit; and the Office of Management, Administrative Services and Clearinghouse Division, all maintain mailing lists but do not coordinate to prevent duplicative mailings.

Conclusions and Recommendations

Our overall assessment of the Commission is that its operations lack order, control, and coordination. Management is unaware of how federal funds appropriated to carry out its mission are being used, it lacks control over key functions, and it has not requested independent audits of Commission operations. These weaknesses make the Commission vulnerable to misuse of its resources. The lack of attention to basic requirements applying to all federal agencies, such as up-to-date descriptions of operations and internal guidance for employees, reflects poorly on the overall management of the Commission.

Projects embody a key component of the Commission's operations, yet the management of projects is haphazard or nonexistent. No overall standard exists for assessing the timeliness of projects or for estimating how long projects should take. And the lack of project documentation, systematic monitoring to detect delays and review priorities, and coordination among offices that disseminate reports seriously hamper the Commission's ability to produce, issue, and disseminate timely reports. Results from independent reviews of the Commission's operations, such as the Citizens' Commission on Civil Rights and OPM, substantiate our assessment of the Commission's management and the need for improvements.

In our report, we recommended that the Commission develop and document policies and procedures that (1) assign responsibility for management functions to the staff director and other Commission officials and (2) provide mechanisms for holding them accountable for properly managing the Commission's day-to-day operations. We specified some actions that such an effort should include.

In the Commission's comments on our draft report, half of the commissioners agreed with our assessment, while the other half challenged the report. All of the commissioners agreed, however, to implement the recommendations. In fact, the Commission Chairperson and the Office of the Staff Director reported that some efforts already

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were under way to implement the recommendations. We hope that these efforts will significantly improve management of the Commission.

Mr. Chairman, this concludes my prepared remarks. We would be happy to answer any questions you or Members of the Subcommittee may have.

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