

A Community Strategy for Changing Police Practices

Federal Funding and Civil Rights Complaints

A Public Webinar Presented By:

NAACP Legal Defense and Educational Fund, Inc. &
Office for Civil Rights, Office of Justice Programs,
U.S. Department of Justice

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Welcome



Office for Civil Rights
Office of Justice Programs
U.S. Department of Justice

LDF
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NAACP Legal Defense and
Educational Fund, Inc.
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Fundamental Principle:

Federal Funding = Civil Rights Obligation



Federal Funding is Leverage to Ensure Compliance with Federal Civil Rights Laws

- The Goal is Compliance with Federal Civil Rights Laws
- Failure to Comply Risks Suspension or Termination of Federal Funds



Office for Civil Rights (OCR)

Office of Justice Programs (OJP)

Responsible for Ensuring that
Recipients of **Justice Department Funding**
Do Not Discriminate



What is the difference?

Office for Civil Rights (OCR) & Civil Rights Division

OCR has jurisdiction to enforce administrative complaints against any agency receiving DOJ funding

Civil Rights Division enforces civil rights laws primarily through litigation



DOJ funds a range of recipients

- Law enforcement agencies
 - Criminal justice agencies
 - Juvenile justice agencies
 - Adult and juvenile correctional facilities
 - Shelters and services for victims of crime
 - Criminal justice research institutions
 - Nonprofit organizations

Sources for finding DOJ funding to law enforcement agencies

- Websites of DOJ Grant-making Components
 - Office of Justice Programs (OJP)
<http://ojp.gov/index.htm>
 - Office of Community Oriented Policing Services (COPS)
<http://www.cops.usdoj.gov/>
 - Office on Violence Against Women (OVW)
<http://www.justice.gov/ovw>
- Local Offices of U.S. Senators and U.S. Representatives
- Website of USA Spending: www.usaspending.gov



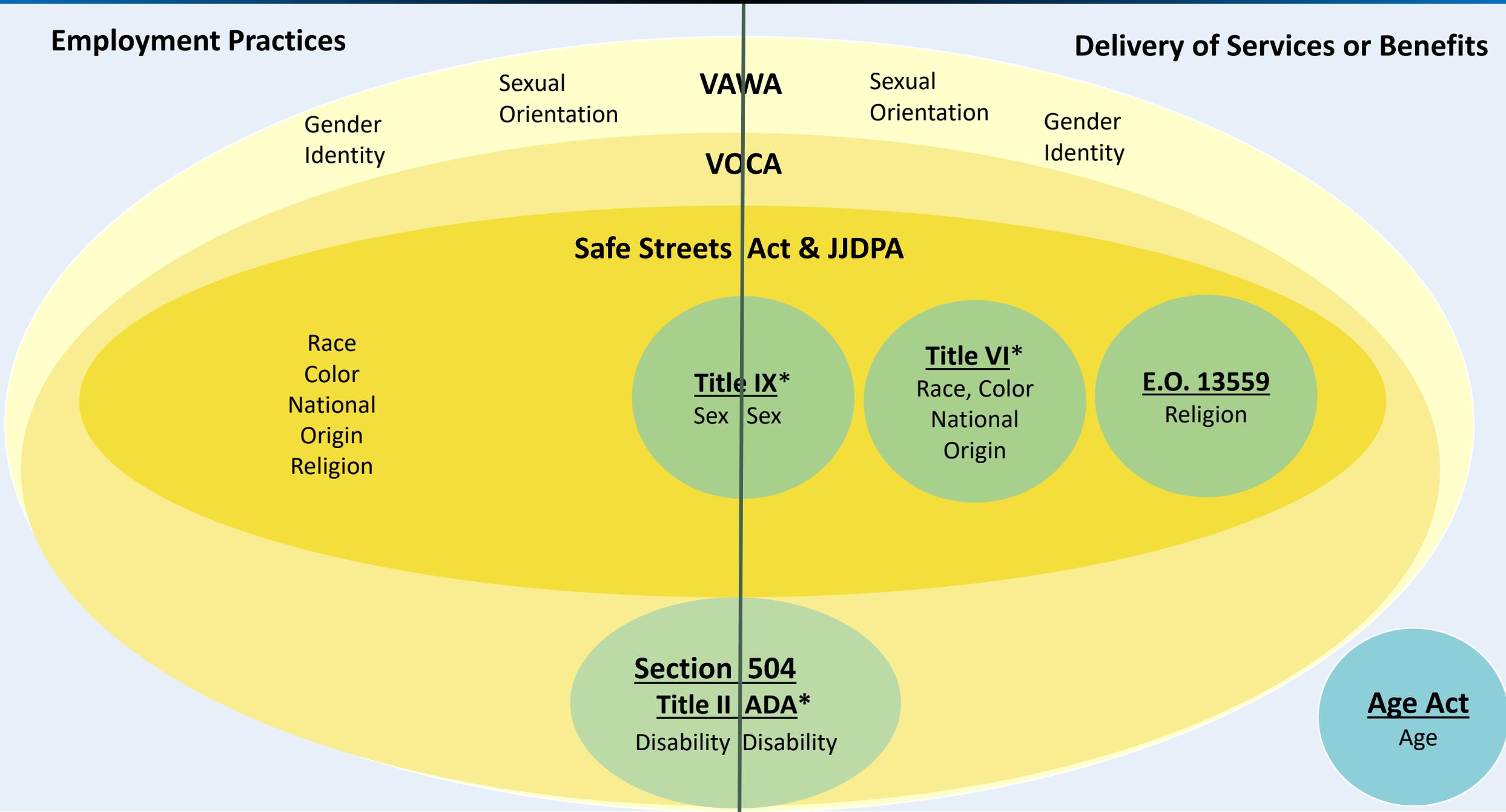
What Laws Apply?



LAWS OCR ENFORCES & PROTECTED CLASSES IN DOJ-FUNDED PROGRAMS

Employment Practices

Delivery of Services or Benefits



Gender Identity

Sexual Orientation

VAWA

Sexual Orientation

Gender Identity

VOCA

Safe Streets Act & JJDPA

Race
Color
National Origin
Religion

Title IX*
Sex Sex

Title VI*
Race, Color
National Origin

E.O. 13559
Religion

Section 504
Title II ADA*
Disability Disability

Age Act
Age



Key laws applicable to law enforcement agencies' interaction with minority communities

Title VI

- Prohibits discrimination based on race, color, national origin in delivery of services or benefits
- Requires appropriate interpretation and translation services to people with limited English proficiency

Safe Streets Act

- Prohibits discrimination in both **employment** and in the delivery of services or benefits based on race, color, national origin, sex, and religion
- Has automatic fund-termination provisions



How does OCR enforce civil rights laws?

- Investigates administrative complaints
- Conducts compliance reviews
- Provides technical assistance
- Formulates policy guidance



What is discrimination under federal civil rights laws?

- Asserting discrimination as member of “protected class”
 - Race, color, national origin, sex, religion, disability, age, sexual orientation, & gender identity
 - National origin discrimination includes denying appropriate language-access services to people with limited English proficiency (LEP)
- Being a member of a protected class is not enough
- Showing mistreatment based on membership in a protected class



Proving discrimination relies on facts & laws

- Does the evidence support a basic civil rights claim?
 - Who are the parties?
 - What happened?
 - When did the alleged discrimination occur?
- What is the legal basis for the claim?
 - Was the complainant treated differently based on race, color, or national origin? (disparate treatment)
 - Did the grant recipient's actions have a different impact on people based on race, color, or national origin? (disparate impact)
- OCR assumes the burden of proof, not the complainant



How to file a discrimination complaint with OCR

<http://ojp.gov/about/ocr/complaint.htm>



U.S. DEPARTMENT OF JUSTICE Office of Justice Programs

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Filing a Civil Rights Complaint

The Office for Civil Rights (OCR) investigates complaints from members of the public who believe that an agency that receives funding from the Justice Department has discriminated against them, either in employment or in the delivery of services or benefits.

More specifically, the OCR has jurisdiction to investigate agencies that receive funding from the [Office of Community Oriented Policing Services \(COPS Office\)](#), the [Office on Violence Against Women \(OVW\)](#), and the [Office of Justice Programs](#) and its components. The OCR can investigate not only recipients that receive funding directly from the Justice Department, but it can also investigate agencies that receive Justice Department funding from state and local government agencies.

Federal laws prohibit recipients of Justice Department funding from discriminating against individuals or groups, either in employment or in the delivery of services or benefits, on the basis of race, color, national origin, religion, sex, or disability. In addition, federal law prohibits recipients of Justice Department funding from discriminating on the basis of age in the delivery of services or benefits.

To file a civil rights complaint, download and complete the [Complaint Verification Form \(CVF\)](#) and the [Identity Release Statement \(IRS\)](#) and return both forms to the OCR at the following address:

Civil Rights

- [Filing a Complaint](#)
 - [- Filing Tips](#)
- [FAQs](#)
- [VAWA FAQs](#)
- [Online Training](#)
- [Statutes & Regulations](#)
- [Advisory on Recipients' Use of Arrest and Conviction Records](#)
- [Limited English Proficient \(LEP\)](#)
- [Title VI Enforcement](#)
- [Equal Employment Opportunity Plans](#)
- [Resources](#)
 - [-Sample Documentation](#)
- [Twelve-Step Recovery Programs](#)
- [Español](#)
- [中文版](#)

COMPLAINT VERIFICATION INFORMATION

Your name, address, and telephone number(s):

Name, address, and telephone number(s) of person(s) who discriminated against you:

Name, address and telephone number(s) of agency or organization involved in your complaint:

Are there other persons or organizations involved in this discrimination case? ____

If YES, please give the names, addresses and telephone numbers below:

NAME	ADDRESS	TELEPHONE
_____	_____	_____
_____	_____	_____

Which of the following describes the nature of the discrimination involved?

__Race/Color __National Origin __Religion __Sex __Disability __Age __Sexual Orientation __Gender Identity

Does your charge of discrimination involve:

a. Your job or seeking employment?	OR b. You using facilities or someone providing services/protection to you (or others)?
If yes, which of the following apply?	If yes, how?
Hiring	Brutality
Work Assignment	Harassment
Promotion	Language
Demotion	Applying rules/laws differently
Discipline	Access to buildings/programs
Layoff/Recall	Retaliation
Retaliation	Different standards/opportunities/programs
Termination	Segregation
Other (Specify)	Other (Specify)

Which month(s), day(s), and year(s) did the most recent discrimination against you take place?

Beginning: Month ____ Day __ Year ____

Ending: Month ____ Day __ Year ____

COMPLAINANT CONSENT/IDENTITY RELEASE FORM

Your Name: _____

Address: _____

_____ State _____ Zip _____

Complaint number(s): (if known) _____

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Uses of Personal Information by the Department of Justice (DOJ). As a complainant, I understand that in the course of an investigation it may become necessary for DOJ to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of DOJ to honor requests under the Freedom of Information Act. I understand that it may be necessary for DOJ to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by DOJ's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by DOJ.

CONSENT/RELEASE

CONSENT - I have read and understand the above information and authorize DOJ to reveal my identity to persons at the organization or institution under investigation. I hereby authorize the Department of Justice (DOJ) to receive material and information about me pertinent to the investigation of my complaint. This release includes, but is not limited to, personal records and medical records. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

CONSENT DENIED - I have read and understand the above information and do not want DOJ to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

SIGNATURE

DATE



OCR investigates and resolves administrative complaints

- Verifies jurisdiction, timeliness, funding
- Collects data from complainant
- Contacts funded agency, sends complaint notice & data request



What does OCR ask for in a data request?

- Written policies, general orders, procedures
- Accounting of incident (e.g., police reports, filings, audio or video recordings)
- Similar incidents in last three years
- Similar internal or external complaints against the law enforcement officers involved in the last three years



What is the investigative process?

OCR Reviews

OCR attorneys

- review every complaint

- assess whether the complaint is sufficient on its face

- decide whether there is a basis to open an investigation



What is the investigative process?

OCR Investigates

OCR staff attorneys collect information from the complainant and the recipient



What is the investigative process?

OCR Issues Finding

OCR decides whether there is sufficient evidence to issue a finding

OCR may

- Close matter based on insufficient evidence
- Make recommendations for improvement
- Issue a noncompliance finding

OCR's investigative findings appear on its website

<http://ojp.gov/about/ocr/investfind.htm>



What is the investigative process?

OCR Seeks Remedy

OCR works with recipient to remedy discriminatory practice

OCR monitors recipient's progress to implement OCR's compliance recommendations



What remedies are available from OCR?

- The preferred remedy is voluntary compliance
- Alternative remedies may include suspending or terminating funding



What makes a good complaint?

- **Is the complaint timely?**
 - Title VI—**180 days** from incident
 - Safe Streets Act—**one year** from incident
- **Is the complaint complete?**
 - Does the complaint contain relevant facts?
 - Are the appropriate forms signed?
 - Are all the documents cited in the complaint attached?
- **Does the complaint involve a recipient of DOJ funding?**
 - Complainant need not know whether a law enforcement agency receives DOJ funding to file a complaint
 - OCR will check funding



Tips for filing a good complaint

- Avoid generalities, be specific
- Write down what happened as soon as possible—you may forget important details
- Include relevant records if you have them, or direct OCR to records that you believe the law enforcement agency has
- If OCR contacts you after you filed a complaint, make sure to return OCR's phone calls and requests for additional information
- Do not make unreasonable demands for remedies, such as for monetary damages
- You may contact OCR at any time for a status update



What makes a bad complaint?

- Omitting name, address, telephone number
- Providing incorrect information
- Submitting dated complaints
- Exaggerating
- Naming agencies that have nothing to do with the alleged discrimination
- Failing to return (or returning incomplete) Complaint Verification Forms and ID Release Statements



What makes a bad complaint?

- Identifying witnesses who cannot verify allegations
- Failing to claim discrimination based on race, color, national origin, and so forth
- Failing to identify, when applicable, more than one basis of discrimination (e.g., race and sex)
- Identifying all bases for discrimination on the complaint form (e.g., not distinguishing among the protected classes)

Case Study



Incident

- On November 1, 2014, Tim Jackson, an African-American male, was driving his vehicle when Officer Allen of the Center Police Department (CPD) stopped him for having an expired inspection sticker in violation of state law.
- Officer Allen asked to search Mr. Jackson's vehicle; Mr. Jackson did not consent because he believed Officer Allen was racially profiling him.
- Officer Allen radioed his colleague, Officer Neal, to come to the scene. Officer Neal is a certified canine officer trained to detect narcotics. Officer Neal circled his dog around Jackson's vehicle and the dog did not alert to narcotics.
- Officer Allen issued Jackson a ticket for an expired inspection sticker and released him.



Tim Jackson's Complaint

- The following day, Tim filed a written complaint with CPD alleging that the officers engaged in discrimination and misconduct.
- On February 1, 2015, after not receiving any response from CPD, Tim filed an administrative discrimination complaint with OCR based on the incident. Tim claimed he was the subject of race and sex discrimination.



Questions

Based on the information contained in the complaint,

1. Is Tim's complaint timely?

(a) Yes

(b) No

2. Does Tim's complaint involve a potential civil rights issue?

(a) Yes

(b) No

3. Would your analysis change if you knew that both officers were African American?

(a) Yes

(b) No



OCR Investigation

- After searching its records, OCR found that DOJ funded the police department, so OCR had jurisdiction to investigate Mr. Jackson's complaint.
- The OCR determined that the facts Jackson alleged were sufficient to establish a basic claim of discrimination.
- The OCR sent the police department a Data Request to gather documentation and other information relevant to the complaint.



Questions

4. What additional information would be helpful to the OCR's investigation of Mr. Jackson's complaint?
 - (a) Officer Allen's explanation of why he requested consent to search Mr. Jackson's vehicle and called a canine officer to the scene
 - (b) The total duration in time of the traffic stop
 - (c) Data on the vehicle canine sniffs that the police department conducted in the past three years, including the race and sex of the subjects
 - (d) The police department's policies on vehicle stops, vehicle searches, discrimination, and the processing of complaints of misconduct
 - (e) All of the above



Police Department's Response & Actions

While denying Jackson's allegations, the police department provided a credible explanation for the police officers' actions. Nonetheless, it took the following steps:

- Issued a departmental memorandum on the legal guidelines for requesting consent to search a vehicle and requiring officers to document all such requests with supporting facts;
- Mandated that officers obtain supervisory approval for canine sniffs and be able to articulate objective facts for believing contraband is present;
- Mandated that all officers receive annual training on traffic stops, consent searches, and racial profiling; and
- Revamped its internal complaint procedures to ensure that complainants receive written notice of the disposition of their complaints.



Questions

5. What additional remedies, if any, could Tim seek by filing a complaint with OCR?
 - (a) Monetary compensation for pain and suffering
 - (b) Dismissal of the ticket for the expired inspection sticker
 - (c) Written notice of the Center Police Department's resolution of the complaint he filed with the Department.



Sample Complaint

- Sections of a complaint
 - Complaint verification and Complainant Consent/Identity Release forms
 - Introduction
 - The Facts
 - Jurisdiction
 - Remedies
 - Conclusion

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Work Assignment	Harassment
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Demotion	Applying rules/laws differently
Discipline	Access to buildings/programs
Layoff/Recall	Retaliation
Retaliation	Different standards/opportunities/programs
Termination	Segregation
Other (Specify)	Other (Specify)

Which month(s), day(s), and year(s) did the most recent discrimination against you take place?

Beginning: Month ____ Day __ Year ____

Ending: Month ____ Day __ Year ____

COMPLAINANT CONSENT/IDENTITY RELEASE FORM

Your Name: _____

Address: _____

_____ State _____ Zip _____

Complaint number(s): (if known) _____

Please read the information below, check the appropriate box, and sign this form.

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CONSENT/RELEASE

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SIGNATURE

DATE

Sample Complaint – The Introduction

- Briefly state your name, the name of the police department and officers involved, a description of the discriminatory conduct, and the federal civil rights law(s) violated.

- Example:

I, Tom Driver, am filing this complaint against the Center Police Department (“CPD”) and police officers Bob Allen and Ralph Neal for conducting a discriminatory traffic stop and search of my vehicle in Center, State in violation of Title VI of the Civil Rights Act of 1964 (Title VI) and the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act). Officers Allen and Neal stopped and searched my vehicle because of my race and sex. Also, there is evidence that CPD officers have stopped and searched the cars of other African-American males in a discriminatory manner.

Sample Complaint – The Facts

- In this section, describe the incident(s) in detail, including the date(s), names of the persons involved and any witnesses, and why you believe the police department's actions were discriminatory.

- *Example:*

I am an African-American male. On November 1, 2014, I was driving in a residential area in Center, State when Officer Allen followed my vehicle and flashed the lights of his police car indicating that I should pull over... He stopped me for an expired inspection sticker...He asked to search my car... I did not consent to the search...Officer Neal arrived on the scene with a dog that sniffed for drugs and found nothing...A few month ago, CPD officers stopped my white female friends for expired inspection tickets... They received a warning...I believe that Officers Allen and Neal followed, stopped and searched my vehicle because of my race and sex.



Sample Complaint - Jurisdiction

- In this section, provide any information you have showing that the police department has received federal funding.
- State why you believe your complaint is timely.

- *Example:*

The Office for Civil Rights has the authority to investigate this complaint of race and sex discrimination against the CPD. According to the website of the Department of Justice's Community Oriented Policing Services Program, the CPD received several federal grants in 2013 and 2014. Also, this complaint is timely because it is being submitted within 180 days of the date when CPD officers stopped and searched my vehicle, as required by Title VI, and within one year of that date, as required by the Safe Streets Act.



Sample Complaint - Remedies

- In this section, please list the changes you would like to see if the Office for Civil Rights finds that the police department discriminated against you and others based on race and sex in violation of Title VI and the Safe Streets Act.

- Example:

I respectfully request that the Office for Civil Rights require the Center Police Department to end its racially discriminatory traffic stop and search practices. Additionally, the CPD should...



Sample Complaint - Conclusion

- Ask OCR to investigate your complaint and to be notified of the outcome

- Example

For the reasons stated above, I urge the Office for Civil Rights to investigate CPD's traffic stop and search practices and remedy violations of Title VI and Safe Streets Act. Please acknowledge receipt of this complaint and notify me of its resolution.



Questions & Answers



Office for Civil Rights

Office of Justice Programs

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