

2019 President's Budget
Office of Civil Rights

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OFFICE OF CIVIL RIGHTS

Purpose Statement

The Office of Civil Rights' (OCR) mission is to facilitate the fair and equitable treatment of USDA customers and employees while ensuring the delivery and enforcement of Departmental civil rights programs and activities. OCR seeks innovative methods to make progress towards meeting the regulatory standards for processing the Department's Equal Employment Opportunity (EEO) and program complaints, as well as to become a more efficient and effective operation. OCR utilizes assigned staff and contract attorneys to assist with the final agency decision (FAD) workload. In addition, OCR utilizes contract services and detailed staff to assist with the elimination of the program and EEO complaint inventory.

OCR reviews agency standard operating procedures and employee performance standards to ensure that systems and workload analyses are in place to prevent future backlogs and to maintain the complaint inventory at a manageable level while working to meet all processing regulatory timeframes. OCR focuses Alternative Dispute Resolution (ADR) efforts solely on EEO and program conflicts that could evolve into discrimination complaints. This new focus allows more conflicts and/or disputes to be resolved prior to becoming discrimination complaints. Non-EEO conflicts will be addressed outside of OCR. OCR has incorporated a conciliation function that will provide follow up to ensure that all parties are managing their conflicts in a healthy and productive manner. OCR provides periodic ADR orientations, updates, and targeted conflict management training to USDA Subcabinet officials, recognized employee organizations, agency civil rights directors, and headquarters and agency employees.

As of September 30, 2017, there were 133 full-time permanent employees, all located in Washington, D.C.

OIG Reports – Completed

#50099-0001-12	September 2015	Review of Expenditures Made by the Office of the Assistant Secretary for Civil Rights
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GAO Reports – In Progress

GAO-09-62	August 2008	U.S. Department of Agriculture: Recommendations and Options to Address Management Deficiencies in the Office of the Assistant Secretary for Civil Rights
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Available Funds and Staff Years (SYs)
(Dollars in thousands)

Item	2016 Actual		2017 Actual		2018 Estimate		2019 President's Budget	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
	Salaries and Expenses:							
Discretionary Appropriations.....	\$24,070	116	\$24,206	124	\$24,042	116	\$22,345	104
Lapsing Balances.....	-34	-	-292	-	-	-	-	-
Subtotal Obligations, OCR.....	24,036	116	23,914	124	24,042	116	22,345	104
Obligations under other USDA appropriations:								
Employment Adjudication.....	777	-	1,098	-	800	-	800	-
Conflict.....	189	-	279	-	187	-	187	-
Employment Investigation.....	3,681	8	5,478	10	3,613	10	3,613	10
Misc. Reimbursements.....	154	-	184	-	150	-	150	-
Total, Other USDA.....	4,801	8	7,039	10	4,750	10	4,750	10
Total, OCR.....	28,837	124	30,953	134	28,792	126	27,095	114

Permanent Positions by Grade and Staff Year Summary

Item	2016 Actual		2017 Actual		2018 Estimate		2019 President's Budget	
	Wash. D.C.		Wash. D.C.		Wash. D.C.		Wash. D.C.	
	SES.....	3		3		3		3
GS-15.....	14		17		17		14	
GS-14.....	20		22		21		20	
GS-13.....	55		53		45		44	
GS-12.....	8		5		9		5	
GS-11.....	7		8		6		6	
GS-10.....	1		1		2		1	
GS-9.....	3		5		4		4	
GS-8.....	7		8		8		7	
GS-7.....	7		8		7		7	
GS-6.....	4		2		2		2	
GS-4.....	2		1		2		1	
Total Perm. Positions.....	131		133		126		114	
Total, Perm. Full-Time.....	131		133		126		114	
Employment EOY.....	131		133		126		114	
Staff Year Est.....	124		134		126		114	

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Shared Funding Projects
(Dollars in thousands)

	2016	2017	2018	2019
	Actual	Actual	Estimate	President's Budget
Working Capital Fund:				
Administration:				
Materiel Management Service Center.....	\$19	\$19	\$18	\$18
HR Enterprise System Management.....	1	1	1	2
Mail and Reproduction Management.....	252	288	285	287
Procurement Operations.....	106	107	111	113
Integrated Procurement System.....	92	92	62	63
Subtotal.....	470	507	477	483
Communications:				
Creative Media & Broadcast Center.....	62	50	70	33
Finance and Management:				
NFC/USDA.....	42	41	42	43
Financial Management Service.....	28	53	56	56
Subtotal.....	70	94	98	99
Information Technology:				
Client Technology Service.....	612	617	583	592
NITC/USDA.....	60	55	68	68
Telecommunications Services.....	38	29	33	40
Subtotal.....	710	701	684	700
Correspondence Management.....	16	21	19	20
Total, Working Capital Fund.....	1,328	1,373	1,348	1,335
Departmental Shared Cost Programs:				
1890's USDA Initiatives.....	4	5	4	4
Classified National Security Information.....	1	1	2	2
Continuity of Operations Planning.....	2	2	3	3
Identity & Access Management (HSPD-12).....	9	9	8	8
Emergency Operations Center.....	3	3	3	3
Facility and Infrastructure Review and Assessment.....	1	1	1	1
Faith-Based & Neighborhood Partnerships.....	-	1	-	-
Hispanic-Serving Institutions National Program.....	2	2	2	2
Human Resources Transformation (inc. Diversity Council)..	2	2	2	2
Medical Services.....	10	9	11	11
People's Garden.....	1	1	1	1
Personnel Security Branch (PDSD).....	1	3	3	3
Pre-authorizing Funding.....	5	4	4	4
Retirement Processor/Web Application.....	1	1	1	1
TARGET Center.....	2	2	2	2
USDA 1994 Program.....	1	1	1	1
Virtual University.....	2	3	2	2
Total, Departmental Shared Cost Programs.....	47	50	50	50
E-Gov:				
Enterprise Human Resources Intigration.....	3	3	3	3
E-Rulemaking.....	2	2	2	2
FOIA.....	-	-	-	2
E-Training.....	3	-	-	-
Integrated Acquisition Environment.....	2	-	-	-
Total, E-Gov.....	10	5	5	7
Agency Total.....	1,385	1,428	1,403	1,392

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The estimates include appropriation language for this item as follows (new language underscored; deleted matter enclosed in brackets):

Salaries and Expenses:

For necessary expenses of the Office of Civil Rights, [\$24,042,000] \$22,345,000.

Lead-Off Tabular Statement

Budget Estimate, 2019.....	\$22,345,000
2018 Annualized Continuing Resolution.....	<u>24,042,000</u>
Change in Appropriation.....	<u><u>-1,697,000</u></u>

Project Statement

Adjusted Appropriations Detail and Staff Years (SYs)
(Dollars in thousands)

Program	<u>2016 Actual</u>		<u>2017 Actual</u>		<u>2018 Estimate</u>		<u>Inc. or Dec.</u>		2019 President's	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Appropriations:										
Office of Civil Rights	\$24,070	116	\$24,206	124	\$24,042	116	-\$1,697	(1) -12	\$22,345	104
Lapsing Balances.....	-34	-	-292	-	-	-	-	-	-	-
Total Obligations.....	<u>24,036</u>	<u>116</u>	<u>23,914</u>	<u>124</u>	<u>24,042</u>	<u>116</u>	<u>-1,697</u>	<u>-12</u>	<u>22,345</u>	<u>104</u>

Project Statement

Obligations Detail and Staff Years (SYs)
(Dollars in thousands)

Program	<u>2016 Actual</u>		<u>2017 Actual</u>		<u>2018 Estimate</u>		<u>Inc. or Dec.</u>		2019 President's	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
Discretionary Obligations:										
Office of Civil Rights	\$24,036	116	\$23,914	124	\$24,042	116	-\$1,697	(1) -12	\$22,345	104
Lapsing Balances.....	34	-	292	-	-	-	-	-	-	-
Total Appropriation.....	<u>24,070</u>	<u>116</u>	<u>24,206</u>	<u>124</u>	<u>24,042</u>	<u>116</u>	<u>-1,697</u>	<u>-12</u>	<u>22,345</u>	<u>104</u>

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Justification of Increases and Decreases

The base funds for OCR will provide overall leadership for Department-wide activities, including equal employment opportunity, program non-discrimination policy development, enforcement, adjudication, analysis, coordination and compliance. OCR is responsible for the Department’s alternative dispute resolution process as well as providing services to all USDA agencies to conduct Equal Employment Opportunity investigations, final agency decisions and conflict cases on a reimbursable basis.

- (1) A net decrease of \$1,697,000 and 12 staff years (\$24,042,000 and 116 staff years available in 2018).

The funding change is requested for the following item:

- a. A decrease of \$1,600,000 and 12 staff years for unfilled vacant positions.

The Office of Civil Rights will not fill critical vacancies, resulting in a reduction of twelve staff years. These positions are in the program and employment complaint area, and their caseloads will be distributed to onboard employees.

- b. A decrease of \$97,000 in non-personnel costs.

This decrease will be achieved through the reduction of non-investigation related travel.

Geographic Breakdown of Obligations and Staff Years
(Dollars in thousands and Staff Years (SYs))

State/Territory	2016 Actual		2017 Actual		2018 Estimate		2019 President's Budget	
	Amount	SYs	Amount	SYs	Amount	SYs	Amount	SYs
District of Columbia.....	\$24,036	116	\$23,914	124	\$24,042	116	\$22,345	104
Lapsing Balances.....	34	-	292	-	-	-	-	-
Total Available.....	24,070	116	24,206	124	24,042	116	22,345	104

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Classification by Objects
(Dollars in thousands)

	<u>2016 Actual</u>	<u>2017 Actual</u>	<u>2018 Estimate</u>	<u>2019 President's Budget</u>
Personnel Compensation:				
Washington D.C.....	\$12,260	\$12,779	\$11,807	\$11,068
11 Total personnel compensation.....	12,260	12,779	11,807	11,068
12 Personal benefits.....	3,853	4,134	4,007	3,816
13.0 Benefits for former personnel.....	20	-	20	20
Total, personnel comp. and benefits.....	16,133	16,913	15,834	14,904
Other Objects:				
21.0 Travel and transportation of persons.....	395	174	415	318
22.0 Transportation of things.....	45	2	5	5
23.1 Rental Payment to GSA.....	1,494	2,214	2,178	2,178
23.3 Communications, utilities, and misc. charges.	448	306	448	408
24.0 Printing and reproduction.....	185	160	185	165
25.2 Other services from non-Federal sources.....	1,183	1,167	1,098	1,098
25.3 Other purchases of goods and services from Federal sources.....	3,926	2,889	3,674	3,064
26.0 Supplies and materials.....	105	85	85	85
31.0 Equipment.....	77	4	75	75
42.0 Insurance Claims.....	45	-	45	45
Total, Other Objects.....	7,903	7,001	8,208	7,441
99.9 Total, new obligations.....	24,036	23,914	24,042	22,345
DHS Building Security Payments (included in 25.3).....	\$258	\$282	\$283	\$283
Position Data:				
Average Salary (dollars), SES Position.....	\$165,900	\$165,900	\$169,200	\$172,400
Average Salary (dollars), GS Position.....	\$101,400	\$99,000	\$97,400	\$95,000
Average Grade, GS Position.....	13.4	13.3	12.8	12.7

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Status of Programs

The Office of Civil Rights' (OCR) activities include: 1) timely and cost-effective complaint processing of equal employment opportunity (EEO) and program complaints; and 2) the implementation of initiatives to prevent EEO and program complaints through the use of alternative dispute resolution (ADR) and civil rights related activities including training and compliance.

Current Activities:

OCR's performance measurement is to increase civil rights compliance through guidance and oversight provided to the agencies. The compliance assessment activities are designed to proactively evaluate the civil rights and equal opportunity policies, procedures, and practices of USDA agencies.

Selected Examples of Recent Progress:

Timely and Cost Effective Complaint Processing

This office continues to seek innovative methods to make progress towards meeting the regulatory standards for processing the Department's EEO and program complaints, as well as to become a more efficient and effective operation. The office utilizes assigned staff and contract attorneys to assist with the final agency decision workload. A lean six sigma process improvement initiative was conducted on a segment of employment complaint processing as well as a six-month 180-day initiative to address the timeliness of the employment complaint process. As a result, in FY 2017, OCR reduced its aged inventory while processing the current inventory of cases timely and efficiently.

USDA received 560 EEO complaints in FY 2017—a 6 percent increase from FY 2016, of which 517 were accepted for processing—an 8 percent increase from FY 2016. OCR closed 516 EEO complaints, including 2 findings of discrimination.

The Employment Investigations Division (EID) processed 481 investigations in FY 2017, which represents a 17 percent increase over FY 2016 and a 13 percent increase over FY 2015. This caused an impact to the timeliness rate which increased to 89 percent in FY 2017. EID continues to maintain cost savings with the investigations. There was a total savings of \$17,168 in FY 2017.

The Conflict Complaints Division (CCD), formerly the Corporate Services Division, is responsible for processing conflict of interest and highly sensitive complaints for the Department. In FY 2017, CCD streamlined its processes and developed new procedures to track and monitor conflict of interest EEO complaints. In FY 2017, CCD processed 80 informal EEO complaints - a decrease of 8 percent from the previous fiscal year. CCD also processed 41 formal complaints, accepted 38 complaints for investigation, and issued 30 reports of investigation. Additionally, 100 percent of CCD's complaints were processed timely. CCD has maintained a 100 percent timeliness rate since FY 2015.

In FY 2017, the Employment Adjudication Division reduced its case load by 12 percent from FY 2016. In FY 2017, 178 program discrimination complaints were accepted, 46 percent increase from FY 2016. The number of program complaints filed is on a decline due to successful early intervention efforts. OCR closed 315 program complaints, including 2 findings of discrimination.

The Program Investigation Division reduced the processing time by 28 percent from FY 2016 to 322 days in FY 2017. The programs investigation inventory decreased from 257 in FY 2016 to 154 in FY 2017.

In FY 2017, the Program Adjudication Division realized a 59 percent increase in its inventory from 88 cases in FY 2016 to 140 cases. Additionally, the division reduced its average processing time by 24 percent, down to 103 days.

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EEO and Program Complaint Inventory Reduction.

The Early Resolution and Conciliation Division (ERCD) reviewed standard operating procedures and employee performance standards to ensure systems and workload analyses were in place to prevent future backlogs and to maintain the complaint inventory at a manageable level while working to meet all regulatory timeframes for processing.

EEO Complaint Prevention Activities.

ADR efforts have been increased in the area of EEO disputes to aid in the prevention of future EEO complaints.

Alternative Dispute Resolution (ADR).

ERCD's goal is to create an environment that encourages the early intervention and resolution of workplace disputes, and Program and EEO complaints. ERCD has taken numerous steps to increase the availability and usage of ADR within USDA.

In FY 2017, ERCD processed 171 cases (62 employment and 109 programmatic [Title VI] cases) compared to 232 cases in FY 2016. ERCD provided early intervention consultations to 248 USDA employees and customers who experienced workplace conflict with a peer and/or supervisor/manager. ERCD received 109 programmatic (Title VI) referrals. Of the 109 referrals, ERCD settled 9 cases and the remaining 100 were referred to the Program Complaints Division for investigation.

Training is an essential aspect of the ERCD mission. During FY 2017, ERCD focused on training USDA employees and providing outreach to make them aware of ADR and the different techniques available to address workplace as well as customer complaints. The training also focused on dealing with conflict in areas of communication, trust, feedback, civility, perceptions, and unconscious bias. ERCD coordinated 7 conflict management workshops and approximately 5,000 employees attended and/or participated in the workshops in person or via webinar.

FY 2017 Civil Rights Training

OCR continues to place a high priority on and is actively engaged in educating and training all USDA employees (including supervisors, managers, and political appointees) at all USDA locations. To further strengthen and emphasize the importance of civil rights training throughout the Department, OASCR established Departmental Regulation (DR) 4120-001, "Annual Departmental Civil Rights Training" in FY 2016. As a result, in FY 2017, orientation sessions for civil rights staff of 15 agencies and staff offices were conducted on the new departmental regulation. The interactive sessions provided critical information on new reporting and training requirements for agencies, staff offices, and OASCR, including collaboration.

Training topics addressed include: civil rights laws; problematic, systemic and emerging trends; customer service requirements; and employee rights and responsibilities. Summary complaint data and case studies illustrate: 1) impacts of unintentional actions; and 2) expected EEO and customer service practice when interacting with the public. Employee feedback suggests that the training is meaningful, well received and delivered in a non-confrontational manner, especially when addressing sensitive topics such as sexual orientation and gender identity/expression.

OCR continues to utilize e-learning technology to efficiently deliver training to the greatest number of employees. In addition, in FY 2017, OCR conducted 21 training sessions. Apart from two sessions in Denver, Colorado, training activities were held in the Washington Headquarters area.

The EEO comprehensive and refresher training was offered twice and fulfilled the eight-hour annual EEOC refresher requirement. Topics discussed included the formula to frame the claim from the aggrieved party, reasonable accommodation, retaliation in the workplace, and case law updates, including genetic discrimination (GINA) requirements.

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OCR launched a new online training course on AgLearn, Unconscious Bias, which was the FY 2017 mandatory civil rights training topic. An interactive video, “Unconscious Bias: Hidden Barriers” by Howard Ross and produced by Skillsoft, was selected as the training course. By September 30, approximately 77 percent of the workforce had completed the course. The FY 2016 mandatory civil rights training course, Anti-Harassment, was continued so that Employees who had not completed the course by September 30, 2016, could do so; 90 percent had completed the course by September 30, 2017.

Civil Rights Policy.

OCR revised DR 4300-010, Civil Rights Accountability Policy and Procedures for USDA and drafted [DR 4710-001](#), USDA Alternative Dispute Resolution, which is currently going through Departmental Clearance. In addition, throughout the year OCR worked with USDA agencies to conduct and assist programs to ensure language services, such as translation of materials and interpretation were available for Limited English Proficient customers.

Civil Rights Impact Analysis (CRIA).

During fiscal year 2017, OCR reviewed over 56 major CRIAs and worked collaboratively with Agency civil rights and program staff to ensure planned actions did not adversely impact protected groups. OCR consistently provided technical assistance to agencies, as needed, when preparing CRIAs for regulations, advisory committees and/or reorganizations. Throughout fiscal year 2017, OCR completed Contingent Concurrence responses from various USDA agencies.

Compliance Reviews

Compliance reviews are used – both proactively and reactively – to evaluate the Civil Rights and equal opportunity policies, procedures, practices of an agency within USDA. In FY 2017, OCR dedicated resources to finalize four compliance review reports. In addition, OCR monitored the sufficiency of compliance efforts across the Department by evaluating 19 compliance reviews conducted by the agencies, four Orders of Relief issued on cases with findings of discrimination, and four settlement and conciliation agreements.

Data and Records Management.

The Data and Records Management Division (DRMD) instituted system updates to the Civil Rights Enterprise System (CRES) to allow for the electronic filing of employment complaints of discrimination. Working with the data warehouse vendor, DRMD initiated establishing an executive dashboard to display real-time information on employment and program complaint processing. In addition, DRMD worked with the vendor to incorporate an EEO Counselor form into CRES for use USDA-wide.

Program Reviews Conducted.

OCR responded to two Office of Inspector General (OIG) recommendations regarding OIG Audit 50099-0001-12 (involving a review of all procurement activities within OCR). In FY 2016 OIG reached management decision on two recommendations and in FY 2017 the Office of the Chief Financial Officer closed out the pending matters. OCR has no pending audit reviews.

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Summary of Budget and Performance

The Office of Civil Rights' (OCR) mission is to provide overall leadership, coordination, and direction for USDA's civil rights programs including matters related to program delivery, compliance and equal employment opportunity. OCR provides leadership and direction for the fair and equitable treatment of all USDA customers and employees while ensuring the delivery of quality program and enforcement of civil rights. OCR ensures compliance with applicable laws, regulations, and policies for USDA customers and employees.

Strategic Goal 1: Ensure USDA programs are delivered efficiently, effectively, and with integrity and a focus on customer service.

Performance Measures:

Data Records and Management Division (DRMD)							
	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Target	2019 Target
Disposition Century past & closed paper-based files for transfer to the Federal Records Center (number of EEO and Program files transferred to the Federal Records Center)	n/a	n/a	30,000	30,000	30,000	6,000	5,000
Convert open case files to electronic format	n/a	n/a	30,000	30,000	30,000	6,000	5,000
EEO Formal Complaint Processing (EEO)							
EEO informal cases received-Corporate Services Division (Conflict Cases)	43	24	91	67	86	80	80
EEO formal cases received-Employment Complaints Division	546	480	507	521	560	500	500
Number of days to complete an employment investigation process	199	196	159	193	142	159	159
EEO inventory of complaints pending Final adjudication	179	111	122	111	98	136	136
Early Resolution and Conciliation Division (ERCD)							
Number of complaints handled through ADR	63	87	41	58	34	30	30
Hours saved by using early intervention & training	2,000+	2,000+	2,000+	2,000+	2,000+	2,000+	2,000+
Program ADR cases received	23	59	105	116	110	100	100
Program Alternative Dispute Resolution settlement agreements	17	15	15	18	9	20	20
Program Alternative Dispute Resolution settlement rates	74%	25%	14%	16%	9%	15%	15%
Office of Compliance, Policy, Training & Cultural Transformation (OCPTCT)							
Number of compliance reviews	15	15	15	17	7	15	15
Number of civil rights departmental regulations reviewed	2	8	7	3	3	5	5
Number of trainings conducted	n/a	50	63	33	21	15	15
Number of employees trained across the Department	n/a	3,000	3,780	2,850	87,000	90,000	91,500
Mandatory certifications and accreditations completed	100%	100%	100%	100%	100%	100%	100%

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Program Complaint Processing							
	2013 Actual	2014 Actual	2015 Actual	2016 Actual	2017 Actual	2018 Target	2019 Target
Intake average case processing days	52	35	44	31	21	15	15
Investigations conducted per investigator	6	7	8	8	8	12	12
Processing time in days for reports of investigations	483	969	716	450	322	270	270
Overall number of program investigations	158	115	207	257	153	150	150
Overall number of program adjudications	125	102	94	88	140	120	120

Selected Past Accomplishments Toward the Achievement of the Key Outcome:

- As a result of the President’s FY 2017 Executive Order, specifically on regulation reform, there has been a reduction in the number of Civil Rights Impact Analysis reviewed.
- In FY 2017, the Departmental Regulation on Training (Annual Civil Rights Training, DR 4120-001, June FY 2016), which established the official USDA policy on training for civil rights and equal employment opportunity, was reviewed for internal consistency and appropriate role delineations by a 13-member workgroup comprised of agency and staff office civil rights staff. The review resulted in five new concepts with definitions being added to the regulation.
- In FY 2017 OASCR secured and launched an online civil rights training course in AgLearn: *Unconscious Bias: Hidden Barriers*, which was also available for classroom instructor-led presentation. By September 30, 2017, over 87,000 USDA employees (77 percent) had completed the training. Feedback about the course content and delivery method was very positive, as the course was video-based and featured Howard Ross, a well-known trainer. Using AgLearn to deliver civil rights training reduced the number of training presentations conducted by staff during the year and the cost for the same and increased the number of employees trained across the Department.

Selected Accomplishments Expected at the FY 2019 Proposed Resource Level:

- OCR will focus efforts on reducing the inventory and processing time of EEO and program discrimination complaints through enhanced technology and reassignment of essential resources to this mission critical function.
- DRMD will focus efforts on implementing a fully functional enterprise-wide civil rights dashboard providing real-time data.