

Ms. Monica Rainge, Deputy Assistant Secretary for Civil Rights Transcript

Chair Reed: Welcome back everyone. Thank you all for being with us today. This is still the Minority Farmer Advisory Committee. We're still here and we're still working hard. Last session was real good. At this time I would like to introduce our next speaker, Ms. Monica Range. She's a Deputy Assistant Secretary for Civil Rights and I'll let her bring the message to us this morning. Ms. Range, all yours.

Ms. Monica Rang...: Thank you so much, Chair Reed. I'm going to switch things up just a little bit. I think it's the prosecuting attorney in me and a former college instructor. So I enjoy standing when I speak, but let me just say good morning, good afternoon to some in other time zones. And thank you for the opportunity to present today to the Advisory Committee on Minority Farmers. I'm Monica Range, Deputy Assistant Secretary for Civil Rights at the USDA. And I have had the honor of serving in this position since February of 2021. I am joined by my colleague, Dr. Penny Brown Reynolds, who joined the office of the Assistant Secretary for Civil Rights in September of 2022 as our Deputy Assistant Secretary for Management and Operations.

Under our leadership, the office has acted to directly and on multiple levels, address issues of efficiency in our processes and increased internal and external trust in USDA civil rights activities.

I want to repeat that word trust, because that's going to be a big focus of what I want to share with you here today. Let me thank Dr. Ramirez, the deputy, the director of the office of OPPE, and I want to thank Deputy Director Nicholas for inviting me to join in this meeting. I have enjoyed the sessions today, Chair Reed, and the discussions have been very robust. So I am looking forward to spending some time with this committee today and I have been following your work Chair Reed, and I want to commend this committee for the outstanding work that you are doing and the thoughtful consideration that you are giving to the commitments that we're making at USDA. It's this type of partnership that helps USDA to achieve its ultimate goal of equitable and fair participation by all farmers.

And so we appreciate the work that you all are doing to help us to advance this. For my briefing today, I understand that the committee has requested an update on the office of the Assistant Secretary for Civil rights and more specifically, you've asked me to provide a statistical analysis of the program complaints that we've seen over the last five years. I'll instruct when I want to move forward. So if you could just back

up for just a second. I'm going to move a little bit slower than that. Thank you so much. Okay, so what I will provide today is a free statistical analysis of the last five years. What have we seen in terms of complaints we're receiving from our customers and give you some interpretation on what that data is telling us from the Office of the Assistance Secretary of Civil Rights. I also hope that this is an interactive dialogue and I think that has been proven so far that this is an interactive group and I love the fact that you're asking the hard questions.

I came a long way to hear you ask some hard questions and I appreciate that. You have proposed already in advance of this meeting, a few guiding questions. And what I will do is an interplay of some of those questions that you've asked me to answer during my presentation today. So let's start with the first slide which is our mission statement. Everybody has started out with their mission statement, but I want to do something a little bit different today. Because you can read what the mission statement says, but what is more important to me is what is the mission, not the mission that you read, but what is the mission that you see in action when you go into our offices? How are we showing up as a civil rights department? How many of you have gone into a county USDA office and noticed that on the wall, usually in those offices you see posters?

Anybody can tell me a name of one of those posters?

Chair Reed: [inaudible 01:51:18] for service.

Ms. Monica Rang...: [inaudible 01:51:20] service.

Ms Cotton: Civil rights. There's one on civil rights.

Ms. Monica Rang...: There's one on civil rights. And I'm glad you said that because as I travel across the United States and I visit County offices, it's one of the first things I look for in that office. Are those civil rights posters up there. And you're absolutely right, Ms. Cotton, you see those posters and one that I really like in particular is our poster that says, "And justice for all." We print hundreds of thousands of those posters each year and in accordance with the federal law, the US Department of Agriculture, Civil Rights Regulation and Policies, that poster says, "This institution is prohibited from discriminating on the basis of race, color, national origin, sex, religious creed, disability, age, political beliefs, reprisals or retaliation for prior civil rights activity."

And I think about when I'm in those offices, the fact that our customers also see those signs. But what I really wonder today is, is that the experience they're having when they're in those offices, do they feel that this is injustice for all?

The challenge we as leaders at the USDA face is that we must ensure that those words on the poster match the culture and the commitments that we make to our customers when they come into our offices. In other words, my grandmom used to say, "The audio has to match the video." And if the audio doesn't match the video, we have a problem. We have to keep working a little bit harder. And that's why the work of this particular committee, Chair Reed, is so important to what we accomplish at USDA because you actually hold us accountable for the words on the poster. When we have customers who walk in, do they feel that we are upholding civil rights, we're building trust, we're reducing barriers and we're increasing investments in underserved communities?

I am committed, and I know Secretary Bill Sack has been committed to building a stronger civil rights office at USDA, one that is trusted and accountable and empowered to protect the civil and constitutional rights of all of our employees as well as all of our customers. But how do we do that? What I want to talk about today is what we have done, the concrete steps that we've taken over the last two years to make our civil rights office one that you can be proud of, that all of our customers can be proud of. Our approach to upholding and advancing civil rights means that we have gone to work to stabilize and rebuild the civil rights office.

In the last administration, that office receded, it was underfunded, understaffed. And so when I got to the Civil Rights Office day one, I looked across the landscape on how we could rebuild that office.

We started by attacking the budget and requesting a sufficient amount of budgetary funds to lift that office. So in FY23, we received a budget appropriation of 12.5 million that was an increase over the past two years. And this included an additional \$6.1 million for EEO programming and \$6 million to address program complaint support. Once we were able to secure the budget that that office needed to function at a high performing level, we then turned our attention to staffing levels, which we found at record lows. Our current staffing ceiling for the Office of Civil Rights is at 172 full-time equal employees. When I reached that office, we were at about 101. So over the last two years we have grown about 10%. We've hired about 20 employees for that office and we now have 131 employees in that office to support the mission of civil rights.

This is provided the necessary infrastructure to position the Office of Civil Rights for greater effectiveness and efficiency, especially in the area of programming complaints. That is the area that many of you have heard the most about, and the fact that the USDA has not done an adequate job to process discrimination complaints in an effective and an efficient manner. What I'd like to do this afternoon is to share, next slide please, some of the data.

Since you've asked me to look at and break down some of our program complaint data, what I'd like to do is share with you what we have seen over the last five years to give you a better picture of where we are in our progress. Now, as we look at this last five years, we're talking 2018, which we were not in the administration then, but from 2021 to 2022, we know that one little event happened that we all can't forget. There was a pandemic and that pandemic impacted the way that we delivered services.

And so what you'll see is that in 2018, we started the year with the beginning inventory of 306 cases. And that was pretty normal because on average we get about 250 program complaint cases for the year. And so we were a little bit above average. And you'll see in 2019, we were slightly above that 250 cases. But in 2022, you'll notice that there was a shift downward, a decrease in the number of civil programmatic complaints to 158 complaints. Now, I'll talk a little bit in this presentation about how we typically get complaints. You can file them online, you can file them with our complaint form that's online. We now have a mobile application that you can file a complaint on. But what we have done is track the data from our beginning inventory, then we look at the number of complaints that we accepted.

That means that if we received a letter, a note from someone saying, Hey, I had a problem in an office, we have the ability to consider that a complaint if it meets jurisdictional issues. So we don't have to have a formal complaint from Proband participant to consider that a complaint. Now, complaint closures, you'll notice that those numbers are relatively high. We received, for example, in 2022, a 132 cases were accepted with jurisdictional capacity. We closed 133 plate cases that year. Now probably the line that most people find pretty disturbing is out of the complaints we filed, the findings of discrimination and there have been an average of one finding of discrimination over the past five years. Now, as a leader, one of my first questions is how does that happen? Out of all of the complaints filed only one finding of discrimination. This means that once we adjudicated the matter, there was a finding on the merits that discrimination did exist in that particular case.

And I will say that programmatic complaints can be some of the most difficult cases to investigate and adjudicate. Why? Because we don't normally have a nice set of facts. Suppose we get a letter from someone who said, "I visited my FSA office and I believe I was discriminated against." And so sometimes those complaints are not filed timely. So information disappears, witnesses disappear. But there are many challenges with investigating some of the programmatic complaints. And so what we have to do is engage investigators who will go out, interview witnesses, and basically build a body of facts around the case to make a determination. And so it becomes more difficult because we investigate both employee complaints, which are on our employment directorate, and we investigate program complaints. Our program complaints clearly present some of the greater challenges in this area. Now I want to go back to that question of why so few discrimination findings?

And this is an area that I think we are looking at holistically across the department. We know that the discrimination is happening because we hear about it. But what we have noticed with the trending downward of the discrimination complaints are people just giving up on filing complaints. Why are the numbers going down? Our goal is to operate an office that meets the needs of our customers, whatever those needs are. And so we're not trying to create a situation where we don't have people following discrimination complaints because it exists. But we want people to be able to file those complaints in such a way that they can provide us with the information that is necessary to substantiate the complaint.

This is one of the reasons why the receipt for service is so important. And as I go out and speak to audiences, I remind people that if you are in our offices, you are entitled to receive a receipt for service showing that you were in the office today, showing what you requested, service or program you requested information about. So that if there is a situation, you have that receipt for service to show what your encounter was in our office.

I want to point out just a few of the statistical trends and some of the other things that are included and some of the numbers that you see. Over the five-year period, including FY23 year to date, USDA averaged... And I said this, about 250 program complaints per year. Over that five year period, and this is probably something that's very interesting. Our food nutrition service and rule development represented about 84% of that total number, 84%. And over the five-year period, FPAC which is our food production and conservation mission area complaints represented in 12% of the USDA program complaints.

And so I like to point out that the program complaints coming from rural development and food nutrition service, certainly we saw an increase in those over the last two years, particularly during the pandemic with the Food nutrition service and the fact that many people were applying for SNAP benefits during the pandemic. Quite normally, the FNS complaints over the last two years became about 50% of our portfolio for program complaints. Now, one of the challenges that we've had is at the very bottom, and that's the line that I think keeps me up at night. How long is it taking us to process these complaints once we get them in the door? On average, our processing times have gone down and the processing times have been a historic challenge for the Office of Civil Rights. Currently, we are processing at about 491 days.

As most of you know, and I know because I come from the background of being a farm advocate and working with farmers, that's a long time to put your livelihood on hold and it's unacceptable. And what we have worked to do is to develop an appropriate processing time. And I think by building our staff, we've positioned ourself to be more efficient with the average processing time. But as I said, many factors will impact the time in which it takes us to investigate a particular case, the timeliness from the complainant, the complexity of the matter, the particular USDA program that's involved and the resources needed to investigate the complaint.

For our program complaints, we are now working towards a timeline of 365 days for this fiscal year. That means that we will start our intake, investigation and adjudication and issue final decisions within 365 days. That is our target. And this particular issue is being solidified by establishing new departmental guidance to standardize our program complaint processing and maximize efficiency.

We're making assessments for the purpose of establishing what is the appropriate benchmark for processing program complaints. And once it is established, it is our intent as an office to communicate to the public internally and externally what they can expect as a reasonable processing time for their complaints. We are holding ourselves to a higher standard and we expect that you as our stakeholders, key stakeholders will also hold us to that standard. Over the last two years, one of the other things that we have tried to do to manage our inventory of program complaints is we have offered alternative dispute resolution. And this is a way we partner with our mission areas. When we receive a complaint, we first provide an opportunity for the mission areas to resolve those cases.

Here's what we find often. I went into an office, I asked about a program. Someone told me they would call in two weeks. They never called. I called back and he said, "Oh, I'm sorry, I was busy. I'll call you back." So he never calls back. And what this essentially appears to be is a customer service issue, but because the individual happens to be Native American or African American, then this may end up as a discrimination complaint.

But when we provide an opportunity for that agency to look into and address the issue, perhaps call the farmer in, have a discussion, then the matter can be resolved because everybody has a clear understanding of what needs to happen so that that producer gets the customer service that he or she deserves. So it is our intent to try to resolve as many program complaints in the early phases of the complaint before it becomes a situation that we need to adjudicate.

Ms Cotton: Ms. Range.

Ms. Monica Rang...: Yes, ma'am.

Ms Cotton: I hate to interrupt you, but I don't want you to change from this screen.

Ms. Monica Rang...: Okay. Sure.

Ms Cotton: Is there any way that I can ask you a question?

Ms. Monica Rang...: Sure, absolutely. Please jump in.

Ms Cotton: Can you just go down the list of 2018 and explain it to me? Because my understanding is that in 2018 we all received 306 complaints.

Ms. Monica Rang...: That was our beginning inventory.

Ms Cotton: The beginning inventory. So you already had that, right?

Ms. Monica Rang...: Yes ma'am.

Ms Cotton: Okay, so then you got another 142?

Ms. Monica Rang...: Yes.

Ms Cotton: Okay, but you closed at 182?

Ms. Monica Rang...: Yes.

Ms Cotton: What do you mean by closure?

Ms. Monica Rang...: Okay, so there was either a merit determination, which means we adjudicated the case and there was a FAD, a final agency decision, or the case was closed because it did not have enough to merit moving further into the adjudication phase.

Ms Cotton: Okay. So what is the process then that you go through before you close that case as far as the complainant?

Ms. Monica Rang...: Okay. Thank you for asking that question. So we have basically three key phases in our process. The first is intake, where we will examine and take in the complaint or the letter, whatever we receive to determine is there enough for us to have jurisdictional authority over that case. And once we have determined that we have jurisdictional authority, then we move into our investigation phase. Our investigations include a comprehensive look at the facts. It may include taking statements from witnesses. It may include us taking statements from our department personnel or anyone else who has facts involving the case. So if we can conclude that there is evidence to support an allegation of discrimination, then that matter will move into our adjudication phase.

So if a case does not have a threshold amount of evidence, it is closed. If it does have a threshold amount of evidence, it moves into our adjudication phase where we will then make a determination on the merit about whether or not discrimination occurred.

Ms Cotton: Okay. I don't mean to be disrespectful, but I'm on the ground [inaudible 02:10:33]. I'm going to these officers, and I'm just finding it really, really disheartening, that out of 142, only one finding of discrimination? So let me ask you this, in talking to the complainant then, what recourse do they have? If they don't agree with your decision, what's the next step for them?

Ms. Monica Rang...: That's another very good question. Our complaint process on the program side, there is no appeals process. So at that point, if the matter is closed, there is no appeals process. The only cases that we will do appeals for are cases that we have jurisdiction under. On the disability side, we have some jurisdiction to review cases on the disability. If disability is the basis of discrimination.

Ms Cotton: Okay. So let me get this straight. We're talking about farm service agency, take farm service agency.



Ms. Monica Rang...: Well, this is all agencies.

Ms Cotton: We are mostly with farm service agency.

Ms. Monica Rang...: Yes.

Ms Cotton: So if we've got a farmer that goes into a farm service agency office and they feel that they were discriminated against, they file a complaint. USDA [inaudible 02:11:58] makes a decision as far as whether or not there was discrimination and then the farmer has no recourse. So what's the purpose of the whole process, basically? Because there's no recourse for the problem. So still USDA wins basically. Am I missing something here, or is it just me?

Speaker 12: Can I add on to the question?

Speaker 10: Mm-hmm.

Speaker 12: In that investigation, if the complaint is just on that single matter, does the investigator ever call the complainant, review the complainant?

Speaker 11: Oh, absolutely. Absolutely.

Speaker 12: Are they required to do so in every case?

Speaker 11: Well, that's the core of the case, it's basically taking a statement or information from... Most cases, the complainant will have to do some form of affidavit about the facts in the case. So that's usually the first step that we take in the investigation. And then we speak with other witnesses in the process as we investigate. One of the reasons why the process takes so long is that it is a comprehensive process of speaking to witnesses and gathering a record from the department, what interactions have been done with that particular person? What communications? Are there emails between our personnel and the complainant? Are there receipts from service which someone can produce to show that the individual interacted? What were they told? What was said? So all of that information is necessary to complete what we call our record in the case.

Speaker 12: So back to her question, then what's the point if there's no ability to appeal, if this is... What did you say? It's in your jurisdiction, and it's not regarding disabilities, what is the point? It's almost like, having an insurance claim and having to hire an attorney, because the insurance claim adjuster is going to fight to win on behalf of the insurance company, and not the person who's been paying their premiums.

Speaker 11: Well, our role as an adjudicator is to look at the facts of the case, and to build a record. We are looking at both, the facts alleged by the complainant. We're also researching information that's been provided by the department. We do so in a way that we take a high level look and apply the regulations of the department in trying to do so. But I certainly understand your point. And I think Ms. Jones, you make a good point as well that, we're seeing a decrease in the number of people filing complaints.

Speaker 12: This is why.

Speaker 11: And people may be saying, "Why file a complaint? There's a five-year history of [inaudible 02:14:56] discrimination." So we certainly understand that, but our job is to ensure that we have a defensible process, that we can provide a fair and equitable review of the case and consideration of the complaint. And if that complaint merits a finding, then we will issue a final agency decision in that case.

Speaker 13: I was the one that made a comment. That's why I could report or that they need to have a witness or bring a document. Because they don't have any information to back up what that person was saying. [inaudible 02:15:28].

Speaker 10: I understand what you're saying here.

Speaker 13: Yeah. I agree with what you're saying.

Speaker 10: Maybe there needs to be an outside to come back in and see what USDA Civil Rights Division is doing because you got... That's over 600 cases, and you only find five. That's basically impossible. I've worked as a paralegal. Or else you all have a threshold that is so high, until the farmers can't meet that threshold. But there's a problem, I have a serious problem with this because the numbers aren't making sense to me. When I'm saying, it is because I'm on the field. I'm out in the field. I've worked with these farmers. I've taken complaints, and those are valid complaints going by USDA rules regulations, but they're not making it to your [inaudible 02:16:19] here.

So I really have a problem with that. And I'm not saying that you're a liar. I'm not saying anything like that, but there's a problem with the numbers, and the system that you all have in place. I don't know what that problem is, but there is a problem. I think it needs to be checked in too because your numbers are going to continue to go down. Is that what USDA... What's your numbers for that in complaints? Because I wouldn't

complain. With stats like that, I wouldn't complain because it's not even worth my [inaudible 02:16:47].

Speaker 12: But what is your percentage of the ADR being effective in this process? Because what you're really saying to me is that we're going to make our employees do what they should have done in the first place in order to render better customer service. But because this employee is protected by federal, got whatever, they're going to be tenured. They're an employee for life. They're going to be protected. It's as if, we can't trust you to do your job, but we can have provide an ADR to keep you safe and to satisfy a customer. But it's not in the way that your sign says that, let's see, this organization is prohibited from discrimination and retaliation. It's not addressing that. You did it, and we going to do something to give some good customer service, but we're not stopping it because-

Speaker 11: Well, let me be clear. The Office of the Assistant Secretary for Civil Rights is there-

Speaker 12: Yes, ma'am.

Speaker 11: ... to enforce civil rights and protect the rights of all of our customers and our employees. What we realized that... And we started this pilot two years ago, just trying out the ADR. We recognize that farmers want to farm. They don't want to focus on having to deal with another situation. They need to focus on getting crops in the ground. And that happens on a cyclical basis as everyone knows. So they're always getting ready to move forward. So by the ADR has allowed us to try a different way. We're not discrediting or discounting the fact that if discriminated shouldn't exists, you should push that to the full extent of the law. But if there is another issue, and I'm going to talk a little bit about, further in my presentation. Some of the basis that we're seeing complaints filed on, and what are some of the issues that we're seeing most frequently? And I think that helps to understand.

Speaker 14: I have a question [inaudible 02:19:20].

Speaker 11: Yes.

Speaker 14: Of those 491 days [inaudible 02:19:24] cases that are there, how much time of that is spent on the case versus the same queue?

Speaker 11: We have broken those numbers down. I don't have those numbers in front of me, and I'd really be guessing, but we've actually broken it down to show number. As I've challenged the team to really think about this

and get to 365 days, I asked the team where are we seeing the most time being spent? I think obviously the intake stage is on the lower end. The investigation side, that's a little bit higher. But the adjudication stage, I think is the one that takes a little bit more time. So they've actually broken this down for me. I didn't include a slide on the life cycle, but I spent a lot of time looking at this because from day one I said, "We have to get down. We have to get this number down." I asked my team, "Where is it we can make up some of this time?" So we have actually looked at that. I don't have those numbers in front of me, but typically the adjudication phase is the longest phase of the process.

Speaker 13: I'm sorry. Just quick.

Speaker 11: Yes.

Speaker 13: Could you distinguish, clarify the two processing times, all mission areas versus non-effort at-

Speaker 11: Yeah. So as I was saying, we have two mission areas that are special and that's our HUD cases and our food nutrition cases. HUD, because we shared jurisdiction with the Department of

Speaker 13: Housing.

Speaker 11: ... Housing and Urban Development with those cases. So-

Speaker 13: [Inaudible 02:20:56].

Speaker 11: ... we give all of those cases to them to process. And we have an MOU with them that establishes that they will process all of the housing related... And it's mostly multi-family housing cases. Now, the problem with that MOU was that we didn't specify a time limit to get those cases done. So in the top number, we've included all mission areas, and in the bottom number we've included anything non-FNS. So FNS would be included in that top line. Non-FNS, the number is much higher. So with FNS, the Food and Nutrition Service, as I said, we saw a real surge in those complaints from people who were looking for SNAP benefits during the pandemic. So the processing time on those cases also a little bit longer. But we did do a revised MOU with the Food and Nutrition Service in 2021, so that they are starting to be able to address those cases in a faster manner.

Speaker 15: I have a question-

Speaker 11: Yes ma'am.

Speaker 15: ... just because I'm confused about the numbers. Complaints accepted is same as complaints filed, or is there another process? Once you file a complaint, do you have to be accepted to be included in that line?

Speaker 11: Yes.

Speaker 15: Because that number seems so-

Speaker 11: Yes.

Speaker 15: ... minuscule.

Speaker 11: So sometimes we get-

Speaker 15: Are they lawsuits that are brought against USDA? Is that what it is or-

Speaker 11: No. No. These are just complaints we received. And if they meet the jurisdictional requirements, they are counted in this number. So if there is a complaint that does not sufficiently allege any basis of discrimination, then they are considered non-juristical.

Speaker 15: So what are those criteria?

Speaker 11: So we base those criteria on just what I read off, is there protected bases? I talked about, when I began, some of those protected bases, race sets, religion, national origin. Those are the bases that we look at. Is there a legal basis that's been alleged in that complaint?

Speaker 12: Do any of the percentages of the complaint enclosures... Not enclosures. Closures, include any payment whatsoever or it's just close, no, it doesn't need it? [inaudible 02:23:19].

Speaker 11: Well, we do have some. If your case is adjudicated, and there is a finding of discrimination, you are eligible to receive possibly some payment behind it. I'll talk a little bit about that later in the presentation. But we are able to award attorney's fees, damages if there is a finding of discrimination. I've actually had one of those cases where we adjudicated it, there was a finding of discrimination and there was an award that went out to the person.

Speaker 12: So is that the finding of discrimination, or does that include the closures of any of those complaints?

Speaker 11: So we've lumped those two numbers together, and I'll try to break down. I think I have another slide that breaks down the number of findings that we've had. But you can see the findings of discrimination. So in terms of cases that would be eligible for an award of monetary damages-

Speaker 12: They will excuse that.

Speaker 11: ... it will be one-

Speaker 12: There.

Speaker 11: ... over that year.

Speaker 12: What does, does not include SOL mean?

Speaker 11: Okay. So the SOL means statute of limitation cases.

Speaker 12: Oh.

Speaker 11: And I'll just make a note that we had cases that were open from a time period, I think it was 1998 to 2009 that expired. The statute of limitations expired in those cases. So we don't count those in any of our inventory, and it was 82 cases. So we've actually began a process of reviewing those statute of limitation cases, and even having some discussions about the new inflation reduction act and possible settlement there of about 21 of those cases that could fall under that jurisdiction. But those cases are being held in abeyance. We can't do anything with them because the statute of limitation expired on those cases. So we're just constantly holding them in abeyance.

Speaker 13: But they were open to the USDA? The USDA didn't get it closed within the-

Speaker 11: Within the statute-

Speaker 13: The statute.

Speaker 11: ... of limitation that expired.

Speaker 13: Okay.

Speaker 11: Yes.

Speaker 12: But did the people involved know that? Are they just hanging out there, and they [inaudible 02:25:33].

Speaker 11: They probably do. I would say, yes.

Speaker 13: Yes. Yes.

Speaker 11: But like I said, they're not forgotten cases. We have just, like I said, started some communications with our Office of the General Counsel about what's possible. Now that we have the Inflation Reduction Act, is it possible for us to hold some of those cases with a settlement?

Speaker 12: Thank you.

Speaker 14: I have another question.

Speaker 11: Yes.

Speaker 14: What is the amount of complaints you receive versus settlement?

Speaker 11: I don't have complaints received on this particular slide, but complaints accepted means that they have passed the jurisdictional requirement. I'll just say, we received a handwritten note that says I was discriminated against by us today, nothing else. Typically, that's not going to pass our jurisdictional master because it has to allege a sufficient amount of information for us to determine that there is a likelihood that the allegations are true, for us to get past a jurisdictional hurdle.

Speaker X: So on there-

Speaker 14: Is there a percentage then of the total-

Speaker 11: I don't. I don't.

Speaker 13: Sorry. One more question.

Speaker 11: Yeah, I don't have the number. I think the question that you're asking is, do we have a breakdown of how many we get through the door, and then how many we accept? I don't have that slide, but that may be information that I could get back to you.

Speaker 13: Okay. And does USDA accept verbal complaints? Someone who just called you-

Speaker 11: No.

Speaker 13: Okay. No [inaudible 02:27:12].

Speaker 11: No. And that's one of your questions, I think, that you all posed. Do we have a hotline where we report complaints over the phone? No, there has to be something written. Even if it's written on the back of a napkin. We have to receive something written. So let me just move forward now to the next slide because some of you have asked about, what are some of the bases that we're seeing on complaints. And this is just FY 22. I wanted to point out in particular that the top legal bases we're seeing are race. 27% of the complaints that we accept, they're based on allegations of racial discrimination. 25% of the cases that we accept are based on disability, and then 13% of those cases are based on age. So as you can see, the remainder of the pie chart falls into smaller categories, including religion, sex, color, national origin, and not much around sexual orientation, political beliefs. Some on reprisal, not much on marital status or source of income.

Speaker X: What is source of income?

Speaker 11: Source of income could include a matter where a person feels discriminated against because they were receiving public assistance.

Speaker 13: So these numbers they've compiled, are employees as well?

Speaker 11: No. This-

Speaker 13: USDA employees?

Speaker 11: No. No, these are just customers.

Speaker 13: Just customers. Okay.

Speaker 11: Yeah. We have a separate employment directorate. Because of committee asked about program complaints, I just pulled some data from just our stakeholders and customers.

Speaker 13: Thank you.

Speaker 11: And let me just say, the numbers that we're looking at, we serve millions of customers. So I talk with counterparts and other agencies. USDA has a 100,000 employees. We're one of the larger agencies. I have counterparts I talk with regularly with other agencies, and they talk about



having 11,000 discrimination complaints at one time. So for the most part, for an agency our size, our numbers really are on the lower side for an agency our size. I think that takes us back to the question of why aren't we seeing people file more complaints? Did you have a.

Speaker 12: Yes ma'am. This is Arnette Cotton. You have race, and then you have color. Is that ethnicity and some discrimination based on, I look Black, but I'm actually an Indian kind of thing? So you have color at 8%, and then race at 27%. Is race considered ethnicity? Is color saying, "I walked in, and I was on the darker side of the Black queue? [inaudible 02:30:18].

Speaker 11: So you do have... So each of those are separate questions, and they're all classified in that definition, I read to you at the start. Race, ethnicity, national origin, color, they're all considered their own separate category. So if a complaint alleges either of those, it is covered.

Speaker 12: Gotcha.

Speaker X: How many open cases does USDA have right now over discrimination [inaudible 02:30:49]? How many-

Speaker 11: Program complaints? So we maintain an inventory of about 253.

Speaker X: 253?

Speaker 11: Yes. Other questions on this one? Next slide please. But then I want to break down the issues. And this is the reason behind filing the complaint. It's not the legal basis, but it is the reason why most people feel compelled to file a complaint. Our top three issues are denial of WIC or SNAP benefits. Denial of food stamps at 30%. And that of course involves our Food and Nutrition Service cases. And then the others, I think as it relates to more of the FPAC agencies, the legal issues that we see most is a delay in processing, a denial of loan servicing, failure to provide technical assistance, failure to provide reasonable accommodation, denial of rental property. Because as you know, on the hood side, we cover multi-family housing. Rude treatment. So these are some of the other type issues that we look at, and we track the issues in particular because this helps us to understand where there may be opportunities for us to provide civil rights training, or compliance reviews, or technical assistance within the agencies. Next slide please.

Now, I wanted to just address, based on one of your questions you asked, could you share your process for how program complaints of civil rights are tracked? Does the tracking also capture data on timelines for

responses? Complaints are tracked within our complaint civil rights management system. This is a system that we started to update. As of FY 21, we upgraded our technology so that we had better program data and more integrity in that data. So we implemented this new system, and the system does not capture pending timelines, but the system has greatly improved our process for tracking program complaints through the system. So that at any one time, we are aware of where that complaint is within our process. As I mentioned earlier, there are basically six steps that we take. One intake where it's filed in an OASCR, Center for Civil Rights Enforcement.

Number two, refer that complaint out to the USDA mission area for counseling and the ADR that we talk about. Three, if not resolved, the complaint returns to Oscar for acceptance dismissal. And that's how we get to that phase. If accepted, is forwarded to our investigation unit. And that unit will move forward with contacting the complainant and any other witness that's involved. Now, if the complaint moves forward into our adjudication phase, because there's ample evidence, we then track that complaint in our civil rights management system, also known as our CRMS system. Next slide please.

Speaker 12: Ms. Frank?

Speaker 11: Yes.

Speaker 12: I just want to stop right here before I forget.

Speaker 11: Sure.

Speaker 12: Thank you. Because you said that this program was... The update and the tracking happened in 2021, and you just happened to come on board in February 2021. So thank you for helping to improve it.

Speaker 11: Yes.

Speaker 12: Thank you.

Speaker 11: Well, that has been a real challenge tracking data. And I think the best way for us to maintain data integrity is to be sure that we have a cutting edge system. I actually can't take full credit for that because it was something started before I got there. But when I got there, I realized it was on the wrong track. So we had to start over and make sure that we're moving in the right direction on that. I think we're at a place now where we have more customer confidence in the way that we're tracking

our data. As a result of that, is going to help us to be more effective and efficient. So next slide please.

Oh, I'm sorry. Back up to that slide. I wanted to just touch on the work of the equity commission because there's been a lot of conversation here in this meeting about the equity commission. As all of you know, it was launched in February of 2022 by former Deputy Secretary Joe Leonard. That commission has provided some key recommendations about how to improve and transform the Office of Civil Rights. One of the things that the commission recommended was that there'd be the allocation of the necessary funding to ensure Oscar capacity to deal with all civil rights violations in a timely manner. So we have been charged by the Equity Commission to... And they've looked at a lot of our processes as well. So some of you made these familiar with the fact that they had made a particular recommendation about dealing with program complaints. So that issue was one that we have addressed. And we are still working with the Equity Commission to really think through what might be a reasonable way to continue to improve our efficiencies on program complaints.

But certainly, we appreciate the thought partnership from the Equity Commission in terms of ensuring that the civil rights office was included in the recommendations that they sent to the secretary. Next slide, please. Oscar is building back, and one of the ways that we're doing that is we have developed a strategic plan that's in draft format right now. The number one goal, the first mission goal is to build trust in the public by providing timely, consistent, and efficient production delivery of services. I think that is what drives us each day to keep working hard, to build back the capacity, is building public trust. We have to have the trust of those stakeholders who walk into our offices, and not just read the poster, but the audio and the video has to match. Next slide, please.

I want to thank you again for this opportunity to come before the Advisory Committee on Minority Farmers. I'm sure there may be other questions that we have not addressed today. We probably have time to take a few more questions, but I certainly don't want to stand in front of lunch. But I do want to acknowledge that I am happy to take your questions, and I've provided my email address on the slides, as well as our office phone number. But I also want to acknowledge my co-lead in the Office of Civil Rights, Dr. Penny Brown Reynolds. Her email is also provided on this slide. We want to continue to work with this committee. We're going to get better. We're going to get better. And it is not just our desire to get better. It's a mandate to get better. So Secretary Vilsack is

counting on us. He's counting on you to hold us accountable for building a trusted Office of Civil Rights.

I consider this one of the greatest honors in my life. I started out, after I finished law school, doing public interest law fellowship with the Federation of Southern Cooperatives. 20 years ago I found myself organizing Black farmers and putting them on a bus to drive all the way to Washington DC to protest at the USDA. So I consider this really the honor of a lifetime that my life has come full circle, that I'm now being a part of leading the change at USDA that I've always wanted to see, and that I've dedicated my professional life too. So I am just thankful to be in this fight with you, and we appreciate all that you're doing to help us to reach the goals that we have. So that we can ensure that all stakeholders have a fair and equitable opportunity for success at USDA. I see one more hand. Ms. Cotton?

Speaker 12: Yes, ma'am. I have three questions.

Speaker 11: Yes, ma'am.

Speaker 12: Because I saw that the Equity Group Commission recommended that you get more money to handle these things. So given your budget, do you have a threshold of dollars that you should be awarding in the calendar year?

Speaker 11: Well, we have a salary. Our salary portion of the budget is about \$20 million a year. I think we got an uptick this year of 12.5 million. That has allowed us to hire an additional 20 [inaudible 02:40:31]. So we're at about 31 million on our budget. And if we're at full capacity, that's 172 employees. So we are working towards getting to full capacity. Now, for the next year, I don't have an indication of what our budget request will be for FY 24. I didn't bring that information, but at this time, we do have the runway. We need to at least get another 40 people hired.

Speaker 12: Okay. So follow-up. That's regarding meeting the capacity to be able to service everything. I'm talking specifically about dollars awarded for complaints filed. Do you have a threshold for dollars awarded for complaints filed in a calendar year?

Speaker 11: I do not maintain that information because actually, there are settlements done in a typical year. I don't have settlement information. Any funds awarded through litigation may be confidential. I don't have those in that information.

Speaker 12: Okay. So this is a yes or no question. Do you have a threshold of dollars to award in a calendar year?

Speaker 11: No.

Speaker 12: Okay.

Speaker 11: No.

Speaker 12: Next question. Well, now let me go to an easy one. What happens-

Speaker 11: No, I [Inaudible 02:42:03].

Speaker 12: What areas of the country do you find most litigious? And given that calendar, the breakdown that you gave us, the percentage are that are just non-meritorious. What area of the country do you find most of litigious?

Speaker 11: If it is a litigation matter. It's not handled by our office. It's handled by the Office of the General Counsel. So I don't have any indication of what regions we find more litigious than others. Our authority is limited at adjudication, so we can make a determination on the merits. But if it goes to litigation, it's out of our hand. Then it's to the hands of the Office of the General Counsel.

Speaker 12: Okay. Thank you. My last question, what do you recommend as best steps for the regular Farmer Joe Blow to determine to take in order to determine best... So that you organization can best determine that discrimination has been indeed been suffered?

Speaker 11: Yes, great question. Great question in which... Document. Document. Document.

Speaker 12: Okay.

Speaker 11: We can't stress enough the importance of documenting your visits, documenting conversations, keeping emails. That is very helpful for us to be able to build a case of record. And without that, we don't have a lot that we can build the case on.

Speaker 10: Well, let me ask you.

Speaker 11: Yes, ma'am.

Speaker 10: Here another question. Okay. So based on the number of complaints that you're seeing per year, and the number that you are accepting. And then the number that you're issuing and planning on, do you really need a larger budget?

Speaker 11: Well, here's the thing. Over the last two years, I think there've been a little bit of an outlier because it's been the pandemic. People haven't been in offices, and yet, we've still gotten a number that's in the ballpark of where we statistically have been. So I believe, what we're going to see is as people move into offices... We are moving a ton of programs out of the door right now. As people move into offices, interact with our staff, we're probably going to see a sharp uptick in the number of complaints filed. We're positioning ourselves for what the future. So I think after the Inflation Reduction Act was passed, we started to see more Black farmers filing discrimination complaints because people were unsure, "Oh, wow. What's this about? I better go ahead and file my complaint now." So we started to see a little bit of an uptick in the number of Black farmers filing complaints with us, but we believe that as people move back into offices we're going to see our numbers continue to normalize a little bit more. So, because of that, we believe that the additional staff is going to position us to be ready for sort of that normalization process.

Speaker 17: Thank you. Thank you.

Speaker 16: Any other questions?

Speaker 18: Comment.

Speaker 16: Yes, [inaudible 02:45:30], go ahead.

Speaker 18: Comment. Well, it is a question. Then do you recommend for the CBOs that are out there that we teach or instruct or lead into the best, instead of the emotional side or the discrimination side let's get you serviced the way you need to be serviced. Let us help you get serviced before we go any other route?

Speaker 16: Absolutely. One of the things that we have done in this administration is we've made historic investments in cooperative and technical assistance providers. Those groups are really key partners with USDA because we believe that there are so many things that we can do before we get to a complaint. We'd like to think of a complaint as being in the emergency room. Some farmer is probably going to have some chronic illness, so to speak, once they get to the emergency room. But one of those things that we can do before we get to that, certainly our technical assistance

providers help us out with that. I'm from one of those cooperators with the USDA, and I know the value of cooperators holding hands with folks, going into offices with them, making sure that you look at, oh, wow, they said I need a business plan, can you help me come up with that business plan?

Your role is so critical to the success and the survival of many farmers who find themselves facing a lot of vulnerabilities. And so, the technical assistants and providers and cooperators have a key role in making sure that those individuals can navigate the process, can understand what their choices are in terms of programs and qualifications and services that we provide. The biggest thing that I think we don't do well is we don't always advertise well. We don't always kind of get out the word to the people who need to benefit from the services most of all. And our secretary has made a real commitment to that, he often says, and he just said it in a recent sub cabinet meeting, that for too long we served a few. We now have to figure out what it takes to serve the few, to serve the many, sorry. And I understood it, I got that messaging. We have to do more to ensure that everybody can be successful here. And that's what we want to do, and that's why we need cooperators and technical assistance providers to help us here.

Speaker 19: Sounds great, thanks [inaudible 02:48:17].

Speaker 24: [inaudible 02:48:17].

Speaker 19: Yes, [inaudible 02:48:17].

Speaker 16: Yes, [inaudible 02:48:18].

Speaker 24: This is Delmer. Good, how are you doing, Attorney [inaudible 02:48:23]?

Speaker 16: Good.

Speaker 24: I appreciate your presentation there. You mentioned about the Office of General Counsel, how are those cases goes to the Office of General Counsel captured in your numbers? That's the first question. The second question is that, I've been interviewed by the Office of General Counsel a couple of times. That wasn't a pleasant experience, but even still, a lot of revolution take place there. So, is that [inaudible 02:48:52] your officers work together? Do you have their numbers, or are you all separate?

Speaker 16: We are totally separate. We have to have a firewall because we function differently. We run an independent process. The Office of General

Counsel is not involved in the investigation of discrimination cases, but when a matter does turn to litigation the Office of General Counsel will lead those cases. And we don't track, once the case goes to their office, we take it essentially off our books. So, [inaudible 02:49:28].

Speaker 24: So, that number showing one then could be a lot more?

Speaker 16: Well, the case showing one was a finding of discrimination from our office. So, if it was through our adjudication process, we found that there was a discrimination and we issued a final agency decision there.

Speaker 21: Excuse me, chair, can we move into the public comment order [inaudible 02:50:02]? Because we do have some in the queue, three in the queue. Is there anyone in the audience here who would like to make a comment? Hearing none. Could we go to that and then we can, how would you like us to [inaudible 02:50:18]?

Speaker 19: Okay. Ms Ray, I want to thank you for everything. The dialogue was real good, I wish we could go all day with just, but you are here with us since we've been asking the question, we can still ask the question if that's [inaudible 02:50:30].

Speaker 16: Yeah, that'll be good.