

CHAPTER 8. FINAL INVESTIGATION REPORT (FIR)
OF A COMPLIANCE REVIEW OR COMPLAINT INVESTIGATION

34. GENERAL. The final investigation report (FIR) of a compliance review or complaint investigation is a narrative written report setting forth information requisite to making a determination regarding an applicant or recipient's compliance or noncompliance with the provisions of Title VI and implementing regulation. The facts referred to in the report should be documented by verified statistical data, actual copies of all ancillary written matter, and data sources.
35. IN PREPARATION. The investigator (or team leader) should acquire enough information to write a concise, accurate, impartial report which presents a factual account of the compliance review or investigation.
- a. Working Papers. All notes or papers prepared in preparation for the field visit and those acquired during the course of the field visit may be classified as "working papers". Working papers are a record of the information obtained in the course of a compliance review or investigation. They serve as a repository for information until more time is available to analyze the facts and observations recorded. 2/
- b. Record of Correspondence. Each case investigated or reviewed under Title VI authority must have a composite (bound) chronological record of all correspondence related to the case. Information found in the record of correspondence items 1-4 below may be subject to release under the Freedom of Information Act. The record of correspondence should not be made a part of the FIR and should contain the items described below:
- (1) copies of all correspondence received by the Office of ARA/FHEO on the subject of the review or investigation should be attached to the right side of a book type binder in chronological order, with the most recent correspondence on top;

2/ Compliance Officer's MANUAL, A Handbook of Compliance Procedures under Title VI of the Civil Rights Act of 1964, prepared by the U. S. Civil Rights Commission, October, 1966, Section 7.36, p. 20.

- (2) copies of all outgoing correspondence from the Regional Office on the subject of the review or investigation should be attached to the left side of the above referenced binder in the same corresponding chronological manner;

- (3) copies of telephonic summaries or reports in which an interview or conference was conducted by HUD staff among themselves should be specially tabbed in one section and appended to the left side of the binder; and
- (4) copies of telephonic summaries or reports in which an interview, conference, or conversation was engaged in by a HUD employee with a non-HUD employee, should be attached in a special tabbed section on the right side of the binder.

c. Analyzing Working Papers and Raw Data. All material which relates to an agency (applicant/recipient) which is the subject of a Title VI field visit should be thoroughly analyzed and synthesized. For example:

- (1) Statistical Data. "Statistical data relating to the area of the service supplied by the recipient may be an important index for evaluating disparities between white and nonwhite minority beneficiaries. One form of discrimination may lie in providing benefits or services to minority groups but in a more restricted fashion by treating them differently in determining whether they satisfy admission, enrollment, eligibility, membership, or other requirements of participation. Statistical information on the potential availability of white and nonwhite beneficiaries may provide a lead to the existence of discrimination which is more subtle in form. Compliance officers should secure and carefully analyze statistical data in the light of the recipient's program results. Care should be taken to secure statistical information which is objective and reliable.
 - (a) Special prepared reports can be requested from recipients and estimates of white and nonwhite participation can be requested.

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- (b) "All reports or data which indicate race should be examined, including reports on program participation made to State Officers." 3/
- (2) Personal Observation. "The personal observation of the compliance officer can produce valuable evidence particularly in areas of the physical facilities or recipients such as:

Rest rooms	Entrances
Elevators	Play areas

Day Care facilities Laundry facilities
Corridors

- (a) "This source of information should be utilized to the fullest extent feasible in each review-investigation. Whenever possible the evidence of discrimination disclosed by the compliance officer's observation should be corroborated by other evidence or witnesses.
- (b) "Among other things personal observation should not on determine whether facilities are marked by race but used by one race and whether those used were formerly designated for use by race. Also, particular notice should be given to the location of minority group employees as well as the extent to which employees are limited to the provision of service to beneficiaries of a like racial group.
- (c) "Compliance officers should exercise care to note and report their factual observation rather than the conclusions drawn from such observation. Listed below are examples of the right and wrong ways of reporting observations.
 - 1 Wrong: 'Director stated that although racial designations had been removed from all public facilities, they were still used on a racially separate basis. Physical inspection confirmed this.
 - 2. Right: 'The director said although he had taken the signs down from the waiting rooms, rest rooms, and drinking fountains which previously designated them for white and colored use, Negro clients still come in and take seats in the formerly Negro

3/ *ibid.*, Compliance Officer's MANUAL, page 18.

section and use the drinking fountains and rest rooms formerly assigned to them. Personal inspection of the premises disclosed that there were two waiting rooms, on opposite sides of the hall, with separate drinking fountains inside the rooms. One of these rooms was occupied exclusively by white men and

women and the other exclusively by Negro men and women. Rest rooms with neither race nor sex markings were observed in both of these rooms. Rest rooms at the other end of the hall were marked 'staff only'".

36. VERIFICATION. "The compliance officer should continually review the information he (she) has collected with a view to determining whether or not it provides a reliable, objective answer to the question of recipient's compliance with the requirements of Title VI of the Civil Rights Act. He (she) should be particularly alert to question the reliability of witnesses to whom he (she) has been directed by a party who has an interest in the result of the investigation. The compliance officer should make every effort to examine sources of information which are most likely to reveal the existence of compliance or a pattern of noncompliance." 4/
37. THE REPORT. The report should be self-contained. It should provide enough background data to reflect the circumstances which necessitated a field visit, demographic data, or description of the location, size, number and type of HUD programs offered, level of HUD funding, issues raised (or allegations) a statement as to the apparent Title VI compliance status, documentation to support such a statement, a statement which reflects the ARA/FHEO or designated staff persons' efforts to secure voluntary compliance, an indication as to the success or failure of the FHEO efforts to secure voluntary compliance and recommended action to be taken by HUD with respect to the recipient agency.
38. BINDER. All Title VI FIR's are expected to be bound in a fashion which permits easy access and extensive use. All reports of Title VI cases referred to the Central Office of FHEO shall be forwarded with a firm or hard legal size cover. All pages shall be attached at the top with removable fasteners and shall be indexed with numbered pages.
39. CONTENTS OF THE REPORT.
 - a. Hard Back Cover. The outside front cover shall contain a large gummed label, which identifies the recipient, the Regional case number and date(s) of the review or investigation. To illustrate:

4/ *ibid.*, Compliance Officer's MANUAL, page 19.

Matter of the Bo Housing Authority, Bo, Kimwipe
Case No. 11-75-03-047-(000)
Date of Investigation: May 3-7, 1975

- (1) The case name and number should also appear on a narrow gummed label on the right identification tab of the back cover of the binder.

NOTE: The inside of the front cover should contain copies of the same outgoing correspondence referenced at paragraph 35(b)(2).

- b. Summary Page. The report should contain one (1) page immediately, following the cover page, which succinctly summarizes the case (Case Summary). The case summary should include:

- (1) the title of the case, e.g. Report of a Title VI Compliance Review, in the Matter of the Bo Housing Authority (see Subsection a. of paragraph 39,above) and the dates of the field visit;
- (2) a brief statement of the purpose for the field visit and;
- (3) a brief statement summarizing the issues (or allegations), matters reviewed or investigated, apparent Title VI status (substantial compliance or noncompliance), efforts to secure voluntary compliance, and the disposition of the case at the Regional level, (e.g. closed, referred to Central Office for enforcement, or case being monitored).

- c. Table of Contents. The table of contents should be easy to read and should accurately reflect the location of material in the report.

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- d. The Report. The report should contain but not be limited to:
 - (1) the legal status of the agency being reviewed (e.g. private corporation or agency, or agency of the local, city, or state government);
 - (2) demographic data of the locality, community, or SMSA, as appropriate;
 - (3) a description of the location, size, number and type of HUD program(s) operated by the recipient;
 - (4) level of HUD funding in each program or activity reviewed or investigated;
 - (5) historical background which may be relevant; and

- (6) a reference to the receipt of the signed Title VI assurance of compliance from recipient agency, or appropriate certification; the notice of apparent noncompliance to the recipient as well as any recipient responses in that regard; and the notice of failure to secure compliance voluntarily. Appropriate copies shall be appended in the exhibit section of the report.

IMPORTANT NOTE: If the matter is a complaint investigation this fact should be stated in the background data section. The actual complaint should NOT BE included in the FIR, but should become a part of the Regional Office FHEO Record of Correspondence File on the subject case. All reference to the person who filed a complaint shall be simply "complainant". These practices are designed to comply with Section 1.7(e) of the Title VI Regulation, which requires the identity of complainants to be kept confidential except to the extent necessary to carry out the purposes of Title VI; and to further guard against the inadvertent release of a complainant's identity when and if a Title VI FIR is required to be released under the Freedom of Information Act (FOIA). (See Chapter 10 for further explanation of FOIA requirements).

- e. Background Data, "The details of the report should reflect appropriate background data on the recipient. The extent of the background information would be determined by the exigencies of the particular case. Sufficient background should be given so that the findings can be fully understood." 5/

5/ *ibid.*, Compliance Officer's MANUAL, page 22.

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- f. Specific Title VI Violation, Issue or Allegation. Each Title VI violation, issue, or allegation should be stated, referenced to the appropriate section of the Statute or regulation and consecutively numbered on one page (or as many pages as appropriate). This requirement is to facilitate ready reference to the specific violation, issues, or allegations.
- g. Documentation. The report shall contain a section (tabbed) to reflect each issue separately. Under that section shall be found: a statement of the issue, statistical data as well as a narrative analysis of the statistical data which supports the issue, and/or a Narrative account of information which documents the existence or nonexistence of the alleged Title VI violation. Copies of actual documents should be

catalogued, placed in the appendix or exhibit section of the report, and appropriately referenced in the narrative section which discusses each allegation or issue.

h. Conclusion. Every FIR of a Title VI matter shall contain a statement as to whether data obtained as a result of field visits indicates substantial compliance or apparent noncompliance with Title VI.

i. Recommendation. Every FIR of a Title VI matter shall contain a recommendation(s) for Departmental action with respect to the matter in question. Said recommendation might be:

(1) Closed. Recipient is in substantial compliance with Title VI;

(2) Closed. The matter will be handled under other civil rights authorities available to the Department. The authority available to the Department and recommended to be used in lieu of continuing the Title VI process should be stated. Moreover, the AS/FHEO must concur in the recommendation prior to closure for the purpose stated here;

(3) Enforcement. Referred for administrative hearing under the Department's Title VI Regulation.

(4) Undetermined. Monitoring in process. The AO/FHEO shall monitor recipient actions which are considered questionable under Title VI by the ARA/FHEO--the action does not (either standing alone or in comparison with other data) con-

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stitute a clear Title VI violation. Recipient should be monitored by AO/FHEO (not to exceed (1) year until the questionable area clearly manifests either substantial compliance or apparent noncompliance as determined by Regional FHEO compliance staff. The case shall not be closed at the Regional Office level until the compliance status of recipient can be determined; and

(5) Referred to the Department of Justice. Cases referred to the Department of Justice shall not be closed in this Department until final resolution by the Justice Department. The AS/FHEO shall refer cases to the Justice Department, through the Office of General Counsel, as appropriate.

j. Exhibits. Exhibits may be documentation which supports

or refutes allegations of violation of Title VI or its implementing regulation; and data which demonstrates HUD effort-s to secure recipient compliance with Title VI and the Department's Regulation.

- k. Signature Page. Title VI FIRs shall contain the names of all persons on the investigation team; the signature of the principal investigator (or team leader); the signature of the Director of Compliance; and the signature of the ARA/FHEO. The date of each signature should also be recorded on the/ last page of the report.
- l. Expanded Report. Optional. Matters in a Title VI FIR which may arise and do not fit appropriately under any of the above stated categories may include: a detailed explanation of the process utilized in analyzing statistical data; list of persons (by title) contacted but not necessarily interviewed in depth; or impartial comments and observations of the investigator of a tangential nature.
- m. Writing the Final Report. Matters contained in the FIR become the record (at the investigatory level) upon which a Title VI case might be based. Such investigatory records may be subject to disclosure under the Freedom of Information Act. (See Chapter 10).
 - (1) The report should be written in the third person. Opinions, presumptions, and unfounded conclusions should not be expressed in the report. If the investigator includes personal observations they should be placed in parentheses and preceded by the word "Note".

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- (2) The report should be written succinctly. Use of cliches, irrelevant material or observations, slang or jargon are not appropriate and should, if found in the preliminary report, (referenced in Chapter 6, paragraph 26 c) be eliminated before the report is prepared in its final form.

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