

**Department of Housing and Urban Development**  
**Kim Kendrick, Assistant Secretary for the**  
**Office of Fair Housing and Equal Opportunity**  
**Written Statement for Committee on the Judiciary and the**  
**Committee on Financial Services**  
**June, 2008**

Chairman Conyers, Ranking Member Bachus, Ranking Member Smith, Members of the Committees. Good afternoon. I am pleased to have the opportunity to testify before you today about fair housing in the United States.

Forty years ago in the wake of the assassination of Martin Luther King, this country passed the Fair Housing Act and took a major step toward fulfilling Dr. King's dream of a united society. The passage of that Act guaranteed all people that they would be able to buy or rent any property they could afford, that they would be able to get a mortgage, and that they would be able to live in their home without discrimination based on their race, color religion or national origin. Seven years later, this country expanded those protections to prohibit sex discrimination in housing, and renewed that promise again thirteen years later in amending the law to prohibit discrimination against families with children and persons with disabilities.

Since that time, this country has made great progress in fulfilling the promise of equal opportunity in housing. Cities and neighborhoods are less segregated; lending guidelines no longer take a borrower's race into account, and many building codes across the country now require new multifamily housing to be accessible to persons with disabilities.

But discrimination persists. HUD studies show that African-Americans, Hispanics, Asian Americans, and Native Americans receive consistently unfavorable treatment at least 20 percent of the time when they seek to purchase or rent a home. In some communities, persons with certain disabilities encounter unfavorable treatment in one out of two transactions. And more than half of the population is unaware that it is illegal to discriminate against families with children in housing.

As the Assistant Secretary for the Office of Fair Housing and Equal Opportunity, I am committed to ensuring that this country keeps that promise and addressing the discrimination that remains in the housing and lending markets.

The Fair Housing Act's principal means of enforcing fair housing rights is its investigation of individual complaints of discrimination. Individuals who believe that they have faced discrimination can file a complaint with HUD. HUD will investigate the complaint and, where the evidence supports a charge, argue the case before an Administrative Law Judge, at no cost to the person filing the complaint.

HUD shares its authority to investigate complaints from individuals with 108 state and local agencies that state and local laws that provide rights, remedies, and procedures substantially equivalent to those provided under the Fair Housing Act. HUD reimburses these agencies for their investigation of complaints under the Congressionally-funded Fair Housing Assistance Program (FHAP). Today, agencies participating in the FHAP program investigate approximately 75% of the complaints filed nationwide.

Last year, the Department and its state and local partners received 10,154 complaints of discrimination---the third highest level of filings since the Act was amended in 1988. This is a 25% increase from the level just five years ago and a 75% increase from just ten years ago, when HUD and FHAP agencies received just 5,819 housing discrimination complaints.

It is important to note that every complaint filed with HUD and FHAP agencies must be jurisdictional under the Fair Housing Act. This means the complaint must be filed within one year of the alleged discrimination and the property or entity against whom the complaint is filed must be covered by the Act. The complaint must allege discrimination based on race, color, religion, national origin, sex, disability or familial status. Complaints alleging discrimination because of someone's age, marital status, source of income, or sexual orientation are not covered by the Act. While the Department receives many calls and complaints from persons alleging discrimination on these bases, the Department does not include those inquires in its count of jurisdictional complaints filed each year. Furthermore, complaints must be made under oath or affirmation and be signed by the complainant.

HUD and the state and local agencies that investigate majority of the complaints filed nationally have obtain significant relief for people who have reported discrimination. The Department and its state and local partners reached resolutions in more than 3,800 cases in FY2007, obtaining significant relief for borrowers. The Department and state and local agencies have obtained over \$4.76 million in monetary relief for victims of discrimination through informal resolution and conciliation. This amount is in addition to other relief for the complainant, such as providing the victim with the desired unit or the accommodation sought, a reduction in the amount of rent or in the interest rate on loans, or retrofits that make a property accessible to persons with disabilities. Conciliation agreements also include public interest relief, such as fair housing training, or a change in the housing provider's policies or practices.

The Fair Housing Act requires that HUD attempt to resolve every case through conciliation, regardless of the evidence against the respondent. Even if a housing provider has an explicitly discriminatory policy on its books, which would result in a almost-certain charge against the housing provider, the Department must bring the parties together for conciliation before issuing a charge. In these cases, the housing provider, given the weight of the evidence, more often than not chooses to conciliate the case. In executing any conciliation agreement, the Department ensures the agreement ameliorates the wrong done to the victim, and that it provides relief for public interest, which includes the elimination of any discriminatory policies and practices and monitoring. Many cases

that would lead to charges conciliate instead because the parties decide that conciliation best meets their needs in the given case.

Let me provide one example of a case which may have resulted in a charge where the parties decided to conciliate, obtaining significant relief for a family that alleged discrimination. On April 15, 2008, the Department successfully conciliated a complaint filed by the Sancehzes, a family with an autistic child, who lived in an apartment complex outside Portland, Oregon. Mr. and Mrs. Sanchez had a baby boy two years after moving into the Masters Apartments in Aloha, Oregon. At three years old, the boy was diagnosed with autism and, because of his condition, he caused some noise disturbance to the downstairs tenants. The Sanchez family asked the apartment management company to move them to a first-floor unit as an accommodation for their son's disability so they would not disturb any neighbors. The management refused to move them and also refused to extend their lease when it came up for renewal. The Department conciliated this case, obtaining \$40,000 in relief for the Sanchez family plus an additional \$5,000 donation to organizations for autism.

As just another example of the notable relief HUD obtains through its conciliation agreements, I will describe a group of cases the Department conciliated in December 2007, on behalf of seven families living at Ridge Crest Apartments in St. Louis, MO, who alleged that the property management's rules, discriminated against families with children. The investigation found that many of the families and children lived in fear of the management, because of the extreme monitoring of their children's behavior. The HUD conciliation agreement provided \$83,000 in relief for the complainants; \$15,000 for a victims' fund; \$72,000 in funding for an after school program for two years; and removal of rules pertaining specifically to children.

These conciliation agreements meet the needs of the complainants and the public interest. When a complainant is dissatisfied with the relief offered by a housing provider, the complainant may reject it. If the complainant is satisfied with the conciliation proposal, but the Department believes the relief proffered matches what the complainant or the Department can obtain in an adjudicative forum, the Department educates the complainant regarding the existing case law and the relief obtained in comparable cases. The complainant may, under those circumstances, decide not to settle but pursue the case before an Administrative Law Judge. If, however, a complainant insists on accepting a settlement proposal that Department does not believe satisfies the public interest, the Department may allow the parties to settle privately and open a Secretary-initiated complaint.

For example, in November 2006, the Department received a complaint filed by a Sheila Brown, a single mother, living in Summer Place Apartments in Las Vegas, NV, who had just obtained custody of her daughter. Less than a month after her daughter came to live with her, the apartment manager told her to find a new place to live, because management did not allow children to live at the property. HUD's investigation found that the management did, in fact, refuse to rent to families with children, and encouraged other tenants to leave when they were pregnant or obtained custody of their children. The

complainant wished to settle the case. The Department, however, had to address the broader public interest and filed a Secretary-initiated complaint against the housing provider to obtain relief for others who were discriminated against. The Department identified additional victims of the “no children” policy. The parties pressed for a conciliation agreement rather than a determination on the merits. The Department successfully negotiated a settlement that provided \$35,000 in relief to Ms. Brown. The Department obtained \$10,500 in relief for the other victims identified during the investigation, and \$29,500 for an escrow fund to compensate other victims of the policy who may be identified after the Respondents placed notices in local newspapers.

The Department and FHAP agencies thoroughly investigate every complaint of discrimination, reaching a determination on the merits in 40% of the cases. If the investigative agency finds no reasonable cause to believe that a housing provider or lender has violated the Fair Housing Act, it will issue a finding of “no-cause” and close the investigation. The complainant retains the right to pursue the matter through private litigation. If the Department determines that there is reasonable cause to believe that discrimination has occurred, it issues a charge of discrimination before a HUD Administrative Law Judge. The parties may elect instead to go to DOJ for litigation in a federal court.

The Department files charges slightly over 1% of the cases filed. As a result of charges in the past year: female tenants of an apartment complex in Missouri received \$165,000 in a settlement agreement for the sexual harassment they experienced by the owner of the complex; an African-American woman who was denied rental and physically barred from entering an apartment she had contracted to rent, received a \$49,000 award from an ALJ, and the woman who tried to rent her the unit over the owner’s wishes received \$25,000(the judge also imposed \$22,000 civil penalty); a mentally-disabled man who was wrongly evicted from his home while he was in a coma received, along with his family, a \$45,000 Department of Justice Consent Decree; seven Hispanic families evicted from an apartment building in Orange Grove, CA, so the owners could move in Vietnamese persons, received \$174,000for their injuries; an African-American school principal denied the opportunity to even viewing a home for sale because of the color of her skin received \$30,000 in a Consent Order and her agent, \$5,000.

From charges, conciliations, and settlements combined, victims of discrimination receive positive outcomes in more than 37% of complaints filed with the Department in FY 2007. This rate is similar to the outcomes received at similar enforcement agencies. The 108 diverse State and local agencies that investigate fair housing complaints under FHAP received positive outcomes in 36% of housing discrimination cases in FY 2007. The Equal Employment Opportunity Commission, the federal agency responsible for the enforcement of Title VII, conciliates, settles, or issues a determination of reasonable cause in 22% of the Title VII complaints filed with the commission.

While investigation, settlement, and adjudication of individual complaints is the principals means by which the Department enforces the Fair Housing Act, the

Department does not wait to receive a formal complaint to address possible violations. The Department regularly exercises its authority to bring its own action against a person or entity that has violated the Fair Housing Act. Similarly, when the Department learns that someone has been a victim of discrimination, the Department will inform the person of their rights and take a complaint. The case of Lewarna Williams of Florida is one such case. Ms. Williams is an African American woman, who sought to rent a unit at Fountainview Apartments near Orlando, Florida. When she went to apply, she saw on the wall of an office a map of the property which indicated which units were available. The manager, however, told her that nothing was available and that nothing would be available anytime soon. Suspecting she had been discriminated against, Ms Williams, who had seen one of the Department's public service announcements, had another woman who did not have a racially-identifiable voice call the property. That individual learned that units were, in fact, available and she was invited to come see them. Ms. Williams reported this to a local news crew, who conducted their own testing, which showed clear evidence of discrimination. Upon learning about Ms. William's experience, the Department contacted her on February 8, 2008, to take her complaint. The Department charged this case on April 28, 2008.

When individuals file complaints that indicate that the property may be engaging in a systemic practice of discrimination, the Department works with other victims to assist them in filing complaints and securing recovery for the discrimination they experience. In September 2006, residents of an apartment building in Virginia Beach, VA filed complaints with the Department alleging that John Henry, the owner of their apartment building discriminated against them because they were African American. In the course of HUD's investigation, the Department discovered that Mr. Henry subjected African-American tenants to rules such as quiet hours and placed restrictions on their visitors—these were rules and restrictions that he did not place on white tenants. The Department sought and received complaints from four additional tenants who had faced discrimination and charged the case in April 2007. Just last month, the Department of Justice entered into a consent decree that requires Mr. Henry to pay \$84,000 to two of the tenants and establishes a victims fund for \$235,000 for other victims. In addition, Henry will pay a civil penalty of \$42,000. Five other complainants entered into private settlements with Mr. Henry.

When the Department learns of discrimination, but no one has come forward to file a complaint, the Department exercises its authority to initiate investigations into housing providers. In FY 2007, HUD initiated 16 Secretary-initiated investigations or complaints. These addressed a variety of issues, including: widespread race discrimination in the New York rental market; housing providers who excluded families with children; discrimination against African American and Hispanic mortgage applicants; and religious discrimination among real estate agents. This year, the Department has already filed a complaint against a housing provider for refusing to rent to families with children and four additional investigations into the practices of lenders for possible discrimination on the basis of race and national origin.

Furthermore, the Department initiates investigations when it suspects that discrimination is occurring, but where individuals may not even be aware that they were victims of discrimination and thereby unable to file complaints.

One place where people are particularly at risk for discrimination is in the loan market. Applicants for loans often do not understand the reason for their denial nor the complicated metrics that go into pricing their loan. Moreover, borrowers are entirely in the dark as to what others pay for the same mortgage product, so they do not know if they have received a fair price. What we do know is that for a variety of reasons racial minorities are more likely to receive a high cost loan. Each year since 2005, the Federal Reserve Board (FRB) has provided the Department with a list of independent mortgage companies that the FRB had identified as having disparities in the incidence, denial rate, or rate spread of high-cost loans. Each year the Department analyzes the loan data for each lender flagged on that list, reviews the complaint data on those lenders and selects targets for investigation. Since the lists were first published in 2005, the Department has conducted econometric analysis on more than 350 lenders to select targets for investigation. To date, the Department has initiated 6 investigations into independent mortgage companies because of disparities in their HMDA data. The Department has also initiated an investigation because of its stated lending policies.

In another case, when HUD's disability tests for its Housing Discrimination Study 2000, Barriers at Every Step showed high levels of discrimination against persons who are deaf or mobility impaired. The Department contracted for enforcement tests to uncover multifamily housing that is constructed inaccessibly or treats persons with disabilities different than other applicants. The Department recently filed a Secretary-initiated investigation against one of the housing providers and expects to file more in the near future.

The Department has taken a number of measures to ensure consistency in its Title VIII investigations. This includes revising the Department's Title VIII Handbook to ensure that it reflects the Department's current methods and procedures for investigating complaints. The Department routinely issues guidance to ensure that the law and novel issues are interpreted consistently throughout the nation. Recent guidance includes guidance on the intake and investigation of complaints filed by fair housing organizations, guidance on the intersection of reasonable accommodation requests and insurance coverage, and guidance on the ability of FHAP agencies to investigate fair lending complaints against national banks. In addition, the head of each FHEO Regional Office meets quarterly with FHEO senior staff and discusses cases processing and the handling of complaints.

As a further check on the determination in every case, FHEO provides the complainant in every case the right to request that a neutral person within FHEO review a Determination of No Cause to ensure that the investigation supports the Department's finding.

The Department has taken great strides to ensure consistency in the processing of housing discrimination cases handled by FHAP agencies. In FY 2004, the Department established the National Fair Housing Training Academy to provide training and certification to ensure that FHAP investigators have the necessary skills to conduct thorough and timely investigations. Since that time, the Academy has held five courses each month, with an average of twelve persons attending each course.

The Academy offers a five-week program, which covers fair housing laws, investigative skills, negotiation skills, litigating fair housing cases, and many other topics. After completing the five-week program, the investigators must pass a comprehensive examination in order to receive a certificate of completion from the Academy. In addition to the standard curriculum, the Department has added two specialized courses on Design and Construction complaints and lending investigations. The Department is now expanding the Academy to allow investigators from HUD and organizations in FHIP to attend.

To further ensure the best possible handling of all fair housing complaints by the Department, FHEO has made structural changes to the organization. In FY2005, the FHEO created the Office of Systemic Investigations, which oversees all of the Department's Secretary-initiated investigations and complaints that involve systemic discrimination. In FY2007, the Department further enhanced its enforcement by adding a Lending Division within the Office of Systemic Investigations. The Division initiates investigations when lending patterns or other information suggests discrimination by a lender, but no individual has come forward to file a complaint. In addition, the Department has reassigned to the Division HUD's fair lending oversight of Fannie Mae and Freddie Mac to ensure their underwriting policies and practices comply with fair lending laws. The Lending Division is currently pursuing six nationwide Secretary-investigations into independent mortgage companies for discrimination on based on race or national origin in the making of loans, the pricing of loans, and for policies that have a discriminatory effect.

Because individual complaints are the primary enforcement mechanism under the Fair Housing Act, the Department has increased efforts in recent years to educate the public and housing providers on their rights and responsibilities under the Act. This has included National Public Service Campaigns in 2003, 2006, and 2008 funded through the Fair Housing Initiatives Program (FHIP). The radio, television and print materials created by these spots have been used by fair housing organizations across the country to promote fair housing and educate people about housing discrimination. Accents, a spot from the 2003 campaign was an award winning television commercial that the Ad Council estimates was viewed by more than one-quarter of the country. This includes Ms. Williams, the complainant who used her knowledge of this ad to test Fountainview Apartments for discrimination. In addition, the Department ran advertisements in movie theaters last year to inform the public about how to report housing discrimination. These spots were seen by more than 1.5 million people in two weeks.

In addition, the Department distributes the Education and Outreach funding under the Fair Housing Initiatives Program (FHIP). EOI provides funding for education and outreach programs to inform the public about their rights and responsibilities under the Fair Housing Act. This includes presentations before community groups, participation in homeownership fairs, assistance with housing counseling and development of education and outreach materials targeted to the local audience. In FY2007, the Department provided funding to 33 local fair housing groups in 32 states to conduct education and outreach in their area. Through fair housing presentations alone, these groups will educate more than 250,000 people about their fair housing right this year. Additionally, all organizations who receive enforcement grants provide education and outreach on the services they provide in the community.

To increase the share of housing discrimination that is reported, HUD has done research into what motivates some persons to file and discourages others from filing. A recent HUD study found that two-thirds of those who expect that filing a complaint would bring about a good outcome say they would be very likely to file one, compared to less than one-fourth of those who do not anticipate good results.

To encourage persons to file complaints, HUD has widely publicized outcomes in housing discrimination cases. This helps the public recognize that taking action is likely to yield positive results. In February 2007, the CNN program *Open House* aired a segment on housing discrimination. The segment featured an interview with Nannatte Bishop, an African American woman who filed a complaint with HUD alleging that Fifth Third Bank denied her application for mortgage loan because of her race. HUD negotiated a \$125,000 settlement in this case. The Department assisted with the April 15, 2007, issue of *Parade* magazine that advised readers that housing discrimination is illegal and provided several examples of unlawful discrimination, such as charging higher rent to tenants based on race or religion or refusing to accept families with children. *Parade* has a circulation of more than 35.5 million. In addition, on a monthly basis, from June 2006 through June 2007, *Essence* Magazine featured an article on 12 steps of the home buying process. Assistant Secretary Kim Kendrick served as one of 12 members of an advisory board throughout the 12 steps and provided fair housing information for three of the steps.

While more than 10,000 people each year avail themselves of the investigation and complaint process, HUD understands that some persons may not want to file a federal complaint. Among other reasons, persons may not want to invest the time and effort into filing a complaint and going through an investigation. In order to serve such persons, the Department funds dozens of private fair housing groups through Fair Housing Initiatives Program (FHIP). These groups provide immediate assistance to persons who have experienced discrimination or about to experience discrimination. Private enforcement groups are able to provide on-the-spot assistance without going through the administrative and legal requirements involved in a formal complaint and provide the public with a useful alternative to the formal complaint process available through HUD and state and local fair housing agencies.

When private enforcement groups receive claims of discrimination from the public, they work with the complainant to resolve the situation. This may include writing letters to advocate for a person with a disability when their apartment manager refuses to provide them with an accessible parking space. It may also include securing housing for people who come into their offices by contacting housing providers to inform them that it is illegal to keep out families with children, or that they are required by law to rent to the single mother who applied for housing the day before. When necessary, these groups file complaints with HUD and in federal court on behalf of victims of discrimination.

In addition, these organizations conduct most of the testing that helps buttress claims of housing discrimination. These organizations test real estate agents and rental managers; they inspect multifamily housing to check if it was constructed in compliance with the accessibility requirements of the Fair Housing Act; and they often review housing advertisements to ensure that they are not perpetuating discriminatory messages.

Fair housing groups have provided the first line of assistance in many of the complaints the Department charges. For example, HOPE Fair Housing Center, a FHIP grantee, discovered that a private property management company in DuPage, Illinois, used a rental application that required potential renters to disclose their race, ethnicity and any disability. In June 2007, as part of the conciliation agreement in the case the organization filed, the management company agreed to pay HOPE Fair Housing \$30,000, undergo fair housing training, and remove the offending questions from its application. In another case, an individual with HIV, who was denied housing, turned to Project Sentinel for assistance. Project Sentinel, a FHIP recipient in California, conducted testing that substantiated the allegation that the individual was denied housing because of his HIV status. The individual filed a complaint with HUD, and based on the Department's investigation and the testing by Project Sentinel, the Department charged that case in September 2007.

In order to encourage and compensate fair housing group for their work on large resource intensive complaints HUD added multi-year grants to FHIP in 1995. This funding now accounts for 73% of FHIP's \$13.9 million enforcement budget, providing the top-performing groups with three years of funding. Many fair housing organizations, including the National Fair Housing Alliance, advocated for this funding, arguing that it would promote more comprehensive testing and better strategic planning by the organizations. Any organization who receives a grant must have exceptional experience and excellent performance reviews. The multiple-year funding encourages them to take on larger cases of housing discrimination and allows for better strategic planning by the organizations. Both of the organizations discussed above were recipients of performance-based funding under the FY2007 grant cycle.

HUD's other civil right responsibilities include the oversight of HUD-funded recipients to ensure that they are providing housing and housing-related services in a nondiscriminatory basis and that they are affirmatively further fair housing. HUD reviews its programs by investigating complaints alleging discrimination by HUD-funded recipients and conducting compliance review of recipients. HUD uses several methods to

provide remedies for public interest: voluntary compliance agreement, corrective action order and debarment. For examples, after HUD found the Atlanta Housing Authority in noncompliance with Section 504 of the Rehabilitation Act of 1973, HUD entered into a voluntary compliance agreement with the housing authority in which it agreed to make changes to its housing and other programs to improve accessibility for persons with disabilities. Until the City of Gainesville, Florida Housing Authority agreed to enter into a voluntary compliance agreement, HUD issued a Corrective Action Order to the housing authority. The corrective action order restricted the housing authority's access to all Capital Fund Program funds not already obligated or under contract to expenditures necessary to cure the civil rights noncompliance and to remedy emergency situations. In one instance, HUD debarred an Omaha Section 8 landlord for sexual harassment of women tenants. This landlord is no longer a Section 8 participant.

When HUD has found discrimination in Fair Housing Act cases, HUD has not hesitated to eliminate Section 8 landlords from HUD programs. On June 11, 2007, HUD debarred John Koch, the manager of several Section 8 properties in Omaha, Nebraska, from participation in HUD programs after a jury trial in the U.S. District Court for the District of Nebraska found that Koch had engaged in unwanted verbal and physical sexual advances towards prospective and current female tenants. Further, on September 13, 2007, HUD debarred Bobby and Jewel Veal of Kansas City, Missouri, from participation in federal programs after the U.S. District Court for the Western District of Missouri found that Mr. Veal, a Section 8 landlord, engaged in a pattern of housing discrimination on the basis of sex through unsolicited sexual advances towards female tenants, including rape and fondling. The court found that Mr. Veal entered the homes of these women without notice, destroying their sense of security, and that Mrs. Veal had personal knowledge of his activities and failed to take steps to prevent it. The Department debarred the Veals' participation in HUD programs for five years

The work of each component of HUD's fair housing program is necessary to fair housing enforcement in the United States. The Department's enforcement system allows individuals to file of a formal fair housing complaint, which is investigated by a federal agency. Through the Fair Housing Assistance Program, an individual has the option of similar services but on a state or local level. Finally, the Fair Housing Initiatives Program provides the public with quicker resolution to housing discrimination, without the filing of a formal complaint.

But more important than any individual program is the rights of every person in the United States to rent an apartment, to buy a home, to obtain a mortgage, to live in their home without prejudice because of their race, color, religion, national origin, sex, familial status or disability. This was the goal Dr. Martin Luther King, Jr. spoke of in 1963. This is the goal this country reached for when this country passed the Fair Housing Act in 1968, and amended it to protect more people 20 years later. This is the goal that this Department rededicates itself to every fair housing month. We are committed to ensuring that each housing transaction in this country is fair and without discrimination. And when a housing transaction is discriminatory, when someone violates the Fair Housing

Act, there is no greater priority for this office than assisting the man or woman whose rights have been violated.