

October 2005

# FAIR HOUSING

## HUD Needs Better Assurance That Intake and Investigation Processes Are Consistently Thorough



G A O

Accountability \* Integrity \* Reliability



Highlights of [GAO-06-79](#), a report to congressional requesters

# FAIR HOUSING

## HUD Needs Better Assurance That Intake and Investigation Processes Are Consistently Thorough

### Why GAO Did This Study

Each year, the Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO) and related state and local Fair Housing Assistance Program (FHAP) agencies receive and investigate several thousand complaints of housing discrimination. These activities, including required conciliation attempts, are directed by HUD's standards, which are based on law, regulation, and best practices. GAO's 2004 report examining trends in case outcomes raised questions about the quality and consistency of the intake (the receipt of initial inquiries) and investigation processes. This follow-up report assesses the thoroughness of fair housing intake and investigation (including conciliation) processes, and complainant satisfaction with the process.

### What GAO Recommends

GAO makes recommendations to the HUD Secretary for improving the thoroughness and timeliness of the fair housing complaint process, including establishing standards and benchmarks for initial intake activities, improving data needed to monitor timeliness of intake, and improving planning and documentation of investigations.

HUD generally agreed with the report's conclusions and stated that it would work to incorporate the recommendations into its policies and procedures.

[www.gao.gov/cgi-bin/getrpt?GAO-06-79](http://www.gao.gov/cgi-bin/getrpt?GAO-06-79).

To view the full product, including the scope and methodology, click on the link above. For more information, contact David G. Wood at (202) 512-6878 or [woodd@gao.gov](mailto:woodd@gao.gov).

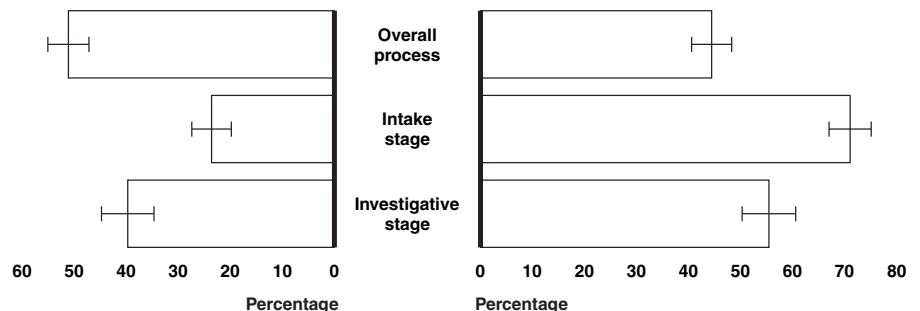
### What GAO Found

Evidence from several sources raises questions about the timeliness and thoroughness of the intake process. Thirty percent of complainants GAO surveyed noted that it was either somewhat or very difficult to reach a live person the first time they contacted a fair housing agency. GAO experienced similar difficulty in test calls it made to each of the 10 FHEO and 36 state FHAP agency intake centers. For example, 5 locations did not respond to the test calls. Further, FHEO and FHAP agencies do not consistently record in their automated information system contacts they receive that they consider potential fair housing inquiries and timeliness data are unreliable, limiting the system's effectiveness as a management control.

GAO's review of a national random sample of 197 investigative case files for investigations completed within the last 6 months of 2004 found varying levels of documentation that FHEO and FHAP investigators met investigative standards and followed recommended procedures. Further, though the Fair Housing Act requires that agencies always attempt conciliation to the extent feasible, only about a third of the files showed evidence of such attempts. FHEO officials stated that the required investigation and conciliation actions may have been taken but not documented as required in case files.

According to GAO's survey of a national random sample of 575 complainants whose complaint investigations were recently completed, about half were either somewhat or very dissatisfied with the outcome of the fair housing complaint process, and almost 40 percent would be unlikely to file a complaint in the future. Although GAO and survey respondents found that FHEO and FHAP agency staff were generally courteous and helpful, important lapses remain in the complaint process that may affect not only how complainants feel about the process but also how thoroughly and promptly their cases are handled.

**Survey Respondents' Overall Satisfaction with the Fair Housing Complaint Process**  
Very/somewhat dissatisfied | Very/somewhat satisfied



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include "don't know" or "neither" responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

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**Abbreviations**

Act	Fair Housing Act
ALJ	Administrative Law Judge
DOJ	Department of Justice
FHAP	Fair Housing Assistance Program
FHEO	Office of Fair Housing and Equal Opportunity
FIR	Final Investigative Report
FTE	full-time equivalent
HUD	Department of Housing and Urban Development
OGC	Office of General Counsel
TEAPOTS	Title Eight Automated Paperless Tracking Office System

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United States Government Accountability Office  
Washington, D.C. 20548

October 31, 2005

The Honorable Paul S. Sarbanes  
Ranking Minority Member  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

The Honorable Jack Reed  
Ranking Minority Member  
Subcommittee on Housing and Transportation  
Committee on Banking, Housing, and Urban Affairs  
United States Senate

In 2004, the Department of Housing and Urban Development (HUD) and the 100 state and local agencies it has certified through its Fair Housing Assistance Program (FHAP agencies) handled over 9,000 complaints of housing discrimination under the Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended).<sup>1</sup> The act generally prohibits discrimination against minorities, persons with handicaps, and other protected groups in the sale and rental of residential dwellings. The act as amended provides HUD with enforcement powers and establishes a 100-day benchmark for completing investigations of complaints.<sup>2</sup> HUD's Office of Fair Housing and Equal Opportunity (FHEO) administers the program and handles complaints of housing discrimination. FHAP agencies also handle complaints that allege violations of substantially similar state and local laws.

To meet the Fair Housing Act's (Act) requirements, FHEO has developed a process for receiving, investigating, and resolving housing discrimination complaints. This process has three stages:

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<sup>1</sup>Pub. L. No. 90-284, 82 Stat. 81 (Apr. 11, 1968) (*codified as amended at 42 U.S.C. §§ 3601-3619*).

<sup>2</sup>Persons alleging housing discrimination also have up to 2 years after the discriminatory housing practice occurred or was terminated to file a civil action in United States district court or in state court. 42 U.S.C. § 3613(a)(1)(A).

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- *intake*, during which FHEO offices and FHAP agencies receive inquiries from individuals (complainants), determine whether the inquiries involve a potential violation of the Fair Housing Act (or equivalent state law), and file fair housing complaints for those that do;<sup>3</sup>
  - *investigation*, during which FHEO or FHAP agency investigators collect evidence to determine whether reasonable cause exists to believe that a discriminatory housing practice occurred or is about to occur and simultaneously work with parties to conciliate, or reach a mutually acceptable solution; and
  - *adjudication*, during which an administrative law judge, another administrative entity, or a federal or state court actually determines whether a violation of the Act has occurred.

The Act requires that efforts be made to conciliate complaints—that is, to reach a resolution acceptable to all parties—throughout the complaint process, beginning with the intake stage. FHEO and FHAP agencies use an automated case tracking system, the Title Eight Automated Paperless Office Tracking System (TEAPOTS) to record information about complaints and key steps in the investigative process.

HUD reported in 2002, that the incidence of consistent adverse treatment against minority home seekers had declined over the last decade. Nonetheless, a series of reports using paired testing to measure the level of discrimination in the U. S. housing market found that about 20 percent of the time a member of a protected group will experience discrimination when attempting to rent an apartment.

This report, which focuses on intake, investigation, and conciliation (the complaint process), is the second in a series on HUD's handling of housing discrimination complaints. GAO's earlier report on fair housing found, among other things, that as of September 2003 more than a third (39 percent) of open housing discrimination investigations had passed the 100-day benchmark.<sup>4</sup> GAO noted at the time that FHEO and the FHAP agencies were trying to speed their efforts to resolve these cases. Further,

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<sup>3</sup>An inquiry is an allegation of a discriminatory housing practice that has not yet been determined to meet the standards for an investigation.

<sup>4</sup>GAO, *Fair Housing: Opportunities to Improve HUD's Oversight and Enforcement Process*, [GAO-04-463](#) (Washington, D.C.: Apr. 24, 2000).

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GAO reported that FHEO hub directors cited tension between the need to meet the 100-day benchmark and the need to conduct a thorough investigation, stating that at times one goal cannot be achieved without some cost to the other. The report also found that increasingly the most common outcome of housing discrimination investigations was a finding of “no reasonable cause” to indicate discrimination occurred. In 2004, almost half of all investigations closed had a finding of no-cause and less than 7 percent had a finding of reasonable cause. About one third were conciliated.

This report addresses the thoroughness of the process for resolving housing discrimination complaints—that is, the extent to which FHEO and FHAP agencies meet HUD standards, policies, and best practices in a timely manner. GAO reviewed

- the thoroughness and timeliness of FHEO and FHAP agencies’ efforts during the intake process;
- the extent to which FHEO and FHAP agencies ensure the thoroughness of investigations, regardless of the outcome;
- the extent to which FHEO and FHAP agencies attempt to conciliate fair housing complaints; and
- complainants’ satisfaction with the thoroughness, fairness, and outcomes of the fair housing process.

To assess the thoroughness of the intake process, we asked FHEO offices and FHAP agencies around the country to keep logs of inquiries they received during a 4-week period and measured (1) the extent to which these inquiries were in FHEO’s information system and resulted in fair housing complaints and (2) the timeliness of the responses. The centers that participated in the log exercise represented 78 percent of investigations in 2004. We also made “test” telephone calls to 46 selected intake centers (one FHEO office in each of HUD’s 10 regions and all 36 statewide FHAP agencies) during which GAO analysts posing as complainants contacted intake staff to file a mock complaint. We used these calls to measure the time it took to ultimately reach a staff person or to receive a return call. We also determined the extent to which, during the initial contact, intake staff gathered necessary information for deciding whether to undertake a full investigation, including whether Title VIII appeared to cover the alleged incident. Because of the limitations of this



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sample, the results are not generalizable to all potential complainants of housing discrimination. To assess the thoroughness of investigations and efforts to conciliate complaints, we reviewed the documentation in 197 randomly selected case files of housing discrimination cases from around the country that were completed during the second half of calendar year 2004 with outcomes of no-cause or that were closed administratively or conciliated. We used a structured data collection instrument to record whether the files contained specific evidence of investigation steps and their timing. We sampled a sufficient number of case files to permit national estimates—that is, to permit statistical generalization to all cases closed with these outcomes during the second half of 2004. Using the same data collection instrument, we also reviewed 12 of the 15 FHEO cases with reasonable cause outcomes that completed the adjudication process during this period.<sup>5</sup> In addition, for each case we compared selected file contents with TEAPOTS records used to track the case. We did not assess whether investigations reached an appropriate decision regarding any specific fair housing inquiry or investigation. To measure complainants' satisfaction with the complaint process, we conducted a nationwide telephone survey of a random sample of 575 complainants in housing discrimination cases that were investigated and closed between July 2004 and December 2004. The survey had an overall 38 percent response rate.<sup>6</sup> Appendix I contains a detailed description of our methodology. In addition, our detailed [survey results](#) can be found on GAO's Web site at [www.gao.gov](http://www.gao.gov). We conducted our work from September 2004 to October 2005 in Atlanta; Chicago; San Francisco and Oakland; Kansas City, Kansas; Baltimore; Columbia, South Carolina; and Washington, D.C., in accordance with generally accepted government auditing standards.

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## Results in Brief

While often responding promptly and providing useful guidance and information, FHEO and FHAP agencies were not always thorough or timely

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<sup>5</sup>Three of the 15 cases with reasonable cause outcomes could not be located. According to FHEO officials, these files had been transferred to DOJ pursuant to an election by one of the parties to proceed in federal court. FHEO officials also stated that in recent years FHEO and DOJ have made efforts to better track the election case files.

<sup>6</sup>Despite the low response rate, we concluded that the survey allowed us to make estimates that are generalizable to the population of complainants—those whose cases were closed during the last 6 months of calendar year 2004. Unless otherwise noted, the confidence intervals due to sampling error for all survey estimates are plus or minus 6 percentage points or smaller.

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in carrying out intake activities; moreover, missing or inconsistent data suggests that TEAPOTS may be of limited usefulness as a management control over the intake process. First, we found that potential complainants may encounter difficulty in making initial contact with a FHEO or FHAP agency staff person. For example, although fair housing agencies receive allegations of discrimination principally via telephone, in five locations we called, the agency did not return our test calls, even after three attempts. Similarly, about 30 percent of complainants we surveyed—while generally expressing satisfaction with aspects of the intake phase—reported that it was somewhat or very difficult to reach someone the first time they contacted a fair housing agency. Second, the agencies did not consistently obtain information in a way that was expeditious for complainants or that met recommended guidelines, as can be seen in the following examples:

- The intake centers to which we placed test calls did not consistently collect information that would help them recontact the complainant or assess the urgency of the situation.
- Among our test calls, none of the intake centers collected all of the information during the initial contact considered by HUD policy to be critical to collect at intake, including the name and telephone number of the respondent (the person or persons who allegedly committed the prohibited discriminatory act). Rather, most of the agencies we contacted used as their primary means of collecting information a written intake form, which must be mailed to the complainant, filled out, and mailed back to the agency, adding to the time required to act on the inquiry.
- Of the 306 inquiries that the centers, during the period of our review, found met HUD's initial criteria for filing a complaint, only half of the time did FHEO and FHAP agencies complete this process within the 20-day benchmark period.

Our comparison of logged contacts with TEAPOTS data indicates that the system's usefulness as a management control may be limited. While the intake centers logged 2,000 unique new potential Title VIII violations, only 631 (32 percent) were entered into TEAPOTS during the period of our review.<sup>7</sup> Further, because the initial contact dates shown in the logs were sometimes earlier than the corresponding date of first contact shown in

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<sup>7</sup>We collected TEAPOTS data from February 21, 2005, through May 1, 2005.

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TEAPOTS, HUD's use of TEAPOTS data overstates its performance in meeting the 20-day intake timeliness benchmark. About 40 percent of inquiries that completed the intake process took more than 20 days to complete.

Evidence demonstrating the thoroughness of investigations—that is, the extent to which investigative standards were met, recommended procedures were followed or were timely, or internal control measures were used and documented—varied among the 197 case files and corresponding TEAPOTS records. First, some files lacked documentation showing that investigators had carried out certain required actions, such as sending complaint notices, or copies of amended complaints, to both complainants and respondents; sending copies of final closure notices; preparing final investigative reports; and obtaining supervisory approval of final investigative reports and letters describing the agency's final determination. Second, an estimated 62 percent of the complaint files did not contain detailed investigative plans that HUD guidance strongly encourages.<sup>8</sup> Further, while HUD has recommended procedures for interviewing complainants and respondents or making on-site visits, an estimated 28 percent of the files did not include evidence of interviews with respondents, while an estimated 73 percent showed no evidence of on-site visits. Third, we found that while HUD relies on TEAPOTS as a control to assure that investigations meet statutory and regulatory requirements, some FHEO and FHAP agencies did not include detailed information about cases that would permit effective monitoring in the system. Among complainants we surveyed, about one-third stated that they believed their investigations had not been very thorough or at all thorough. FHEO and FHAP agency officials and staff said that resource shortages often presented a challenge in meeting program guidelines and noted that investigative and management review steps that actually occurred may not have been documented.

Complainants whose cases were closed through conciliation were the most satisfied with their case outcomes; however, our review of case files and corresponding TEAPOTS records found inconsistent documentation of conciliation attempts. HUD requires FHEO and FHAP agencies to

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<sup>8</sup>Since each sample could have provided different estimates (sampling error) our results have confidence intervals of plus or minus 8 percentage points or smaller, unless otherwise noted, at a 95 percent level of confidence. In other words, this interval would contain the true value for the actual population for 95 percent of the samples we could have drawn.

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document conciliation attempts with each party and record in writing the terms and conditions of any agreement. The written agreements must be signed by all parties and approved by HUD or the FHAP agency. Our review of the case files and TEAPOTS records disclosed the following:

- In an estimated 36 percent of the cases, the files contained no evidence that complainants had been contacted to attempt conciliation, and an estimated 32 percent of the files contained no evidence that respondents had been contacted.
- Among those cases that HUD closed with an outcome of conciliation, an estimated 9 percent did not have written agreements in the case file.<sup>9</sup> Among those that did contain written agreements, about 5 percent did not contain signatures of all parties, and about 10 percent showed no evidence of approval by HUD or the FHAP agency.<sup>10</sup>
- Information in TEAPOTS regarding conciliation efforts varied widely, from a citation of “conciliation discussed” to the inclusion of significant details.

Some surveyed complainants reported experiencing at least some pressure to conciliate their complaints, most commonly because they feared losing their cases. Others reported that they were not offered help in resolving their complaints. HUD officials said that the statutory mandate inherently creates some pressure to conciliate complaints and that such pressure is not attributable to HUD’s administration of the statute.

While survey respondents reported a number of positive impressions, particularly with the intake phase of their complaints, they generally expressed more dissatisfaction than satisfaction with both the overall process and the case outcome. About 71 percent of complainants were somewhat or very satisfied with the intake process, citing clarity of information about steps in the process and generally professional and courteous treatment. Nevertheless, we estimate that about half of all complainants in cases closed during our survey period were either somewhat or very dissatisfied with the fair housing complaint process

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<sup>9</sup>The confidence interval for this estimate is 3 percent to 20 percent.

<sup>10</sup>The confidence intervals for these estimates are 1 percent to 16 percent and 3 percent to 22 percent, respectively.

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overall. Similarly, nearly 60 percent were dissatisfied with the outcome of the process, and almost 40 percent would be unlikely to file a complaint in the future. Complainants' satisfaction varied among stages of the complaint process and outcomes.

- Some complainants viewed the intake process favorably. Although complainants rated the investigation stage less favorable than intake, over half were satisfied with the investigation stage. However, a substantial number rated poorly certain aspects of intake and investigation.
- Complainants whose cases ended with a finding of no-cause were the most dissatisfied with the complaint process (72 percent dissatisfied, 23 percent satisfied) and with specific aspects of investigations. Complainants whose cases were conciliated were the most satisfied (75 percent versus 25 percent, respectively).

Complainants' satisfaction was not linked to the type of agency conducting the investigation (FHEO or FHAP).

We are recommending that HUD consider a number of strategies to help assure that the fair housing complaint process is thorough and timely, including steps to facilitate complainants' initial inquiries, improve data needed to monitor timeliness of intake activities, improve planning and documentation of investigations, and help ensure that conciliation is available to all complaints.

HUD's General Deputy Assistant Secretary for Fair Housing and Equal Opportunity provided written comments on a draft of this report indicating general agreement with our findings and recommendations. The comments also included technical clarifications, which we have incorporated into this report as appropriate. The General Deputy Assistant Secretary's letter is reprinted in appendix II.

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## Background

The Fair Housing Act is the most comprehensive of the federal statutes that prohibit discrimination in the rental and sale of housing.<sup>11</sup> Passed in 1968

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<sup>11</sup>Section 504 of the Rehabilitation Act of 1973, as amended, codified at 29 U.S.C. § 794; and Title VI of the Civil Rights Act of 1964, as amended, codified at 42 U.S.C. § 2000d et seq., prohibit discrimination in housing that receives federal funds.

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and amended in 1988, the Act prohibits discrimination on the basis of color, family status, handicap, national origin, race, religion, and sex.<sup>12</sup> It applies to a number of what are termed “issues,” including discrimination in the sale, rental, advertising, and financing of housing; in the provision of brokerage services; and in other activities related to residential real estate transactions.<sup>13</sup> Generally, the Act covers all dwellings—that is, buildings designed to be used wholly or in part as residences and land where a dwelling will be located.<sup>14</sup> When first enacted in 1968, the Fair Housing Act’s administrative enforcement process was limited principally to conciliation. In 1988, Congress strengthened HUD’s authority and established a comprehensive administrative process to enforce the law, but conciliation remained a primary feature.<sup>15</sup>

The Act gives HUD, private persons, and the U.S. Attorney General tools and remedies to enforce the antidiscrimination provisions. Using HUD’s administrative process, individuals who believe they have experienced discrimination in a housing-related situation can file a complaint that HUD may then investigate and resolve. Individuals may also elect to file suit in civil court rather than using the administrative procedure set out in the act. The Attorney General can bring a civil action in cases that show a pattern of discriminatory practices.

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## The Act Is Administered by FHEO and FHAP Agencies

FHEO has staff in each of HUD’s 10 regional offices, or hubs, who respond to complaints (see fig. 1). Agencies certified to participate in HUD’s Fair Housing Assistance Program (FHAP) and receive funding from HUD for handling fair housing complaints are obligated to comply with FHEO’s reporting and record maintenance requirements, must agree to on-site

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<sup>12</sup>For a detailed discussion of the provisions of the 1968 Act and the 1988 amendments, see [GAO-04-463](#), 6-7.

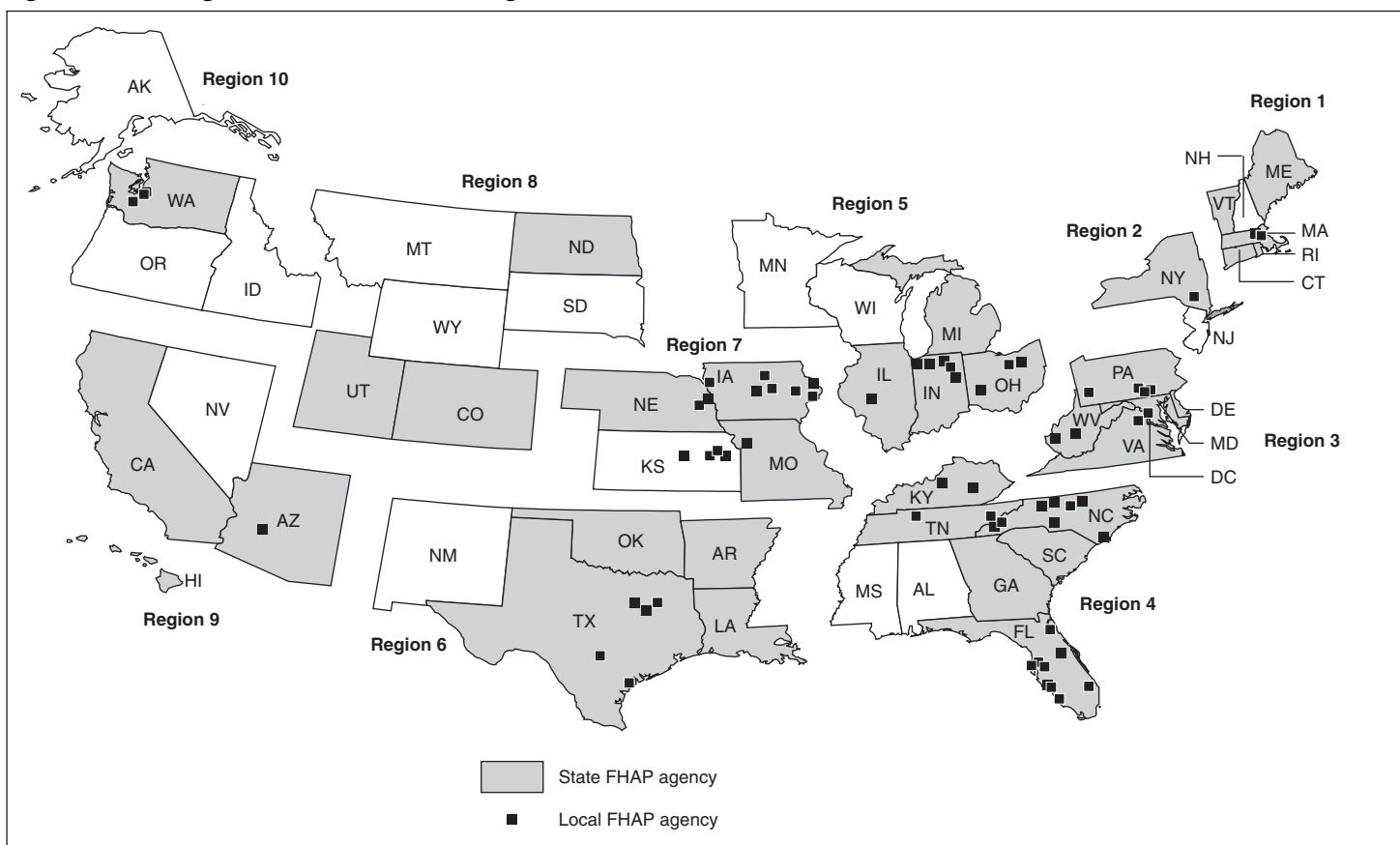
<sup>13</sup>FHEO uses the terms “issue,” “type,” and “subject matter” of discrimination interchangeably.

<sup>14</sup>The Act does not apply to transactions involving private homes sold without a broker and advertising unless the owner owns more than three single-family dwellings at any one time or to transactions involving units in some owner-occupied dwellings. Also not covered in some circumstances are religious organizations and private clubs, and the familial status provision does not apply to housing for older persons. Finally, the Act does not supersede local, state, and federal restrictions on how many people may occupy a dwelling.

<sup>15</sup>H.R. Rep. No. 100-711, at 34 (1988).

technical assistance provided by HUD, and are obligated to implement certain policies and procedures. FHAP agencies must be in states or localities whose laws provide rights and remedies that are substantially similar to those in the Act—for example, local laws must provide for the same 100-day benchmark for investigations that is stipulated in the Act. FHEO offices refer complaints alleging violations of state and local fair housing laws to FHAP agencies—for example, a certified state office of civil rights. Currently, there are 100 of these agencies around the country.

**Figure 1: FHAP Agencies within HUD's 10 Regions**



Sources: GAO analysis of HUD data; Art Explosion (map).

FHEO staff has responsibility for the intake, investigation, and resolution of some of these complaints. Aggrieved persons may also go directly to FHAP agencies, which then perform the intake process. If an aggrieved

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party contacts a FHEO office regarding discrimination that allegedly occurred in a state or locality that has a FHEO-certified “substantially equivalent” state or local agency (that is, a FHAP agency), FHEO will complete the intake process and refer the complaint to that agency for enforcement.

In 2004, FHEO and the FHAP agencies received approximately 9,500 filed complaints (see fig. 2). For this same period, only 5 percent of the closed case files resulted in reasonable cause outcomes.<sup>16</sup> HUD reimburses FHAP agencies for carrying out investigations once FHEO has reviewed the completed cases. Along with reviewing cases to determine whether HUD should pay for services rendered, FHEO monitors FHAP agencies and provides technical assistance.<sup>17</sup> FHEO monitors the fair housing enforcement efforts through TEAPOTS.

Our last report identified a number of human capital challenges facing FHEO, including the number and skill level of FHEO staff, the quality and effectiveness of training, and other issues. An FHEO official noted that the staff shortage affected not only enforcement of the Act, but also FHEO’s other responsibilities, forcing managers to assume heavier caseloads and professional staff to perform administrative duties rather than concentrating on the complaint process. The total number of full-time equivalents (FTE)<sup>18</sup> in FHEO has fluctuated over the last 10 years, falling from a high of 750 in fiscal year 1994 to a low of 579 in fiscal year 2000. In fiscal year 2004, FHEO had 650 FTEs.

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<sup>16</sup>Reasonable cause outcomes have remained around 5 percent since 1996.



<sup>17</sup>FHEO offices have other responsibilities, such as assessing compliance with fair housing regulations for entities receiving federal funds, providing community education and outreach on fair housing issues, and managing grants for HUD.

<sup>18</sup>A full-time equivalent (FTE) is the number of regular hours a full-time equivalent would work during a given year. For most years, an FTE equals 2,080 hours.



**Figure 2: Number of Complaints Filed in Each FHEO Region during Calendar Year 2004, FHAP vs. HUD**

Region	FHAP	HUD	Total
Atlanta	1,020	640	1,660
Chicago	1,174	368	1,542
Fort Worth	822	471	1,293
San Francisco	1,058	201	1,259
Kansas City, KS	478	508	986
NY/NJ	594	175	769
Philadelphia	741	31	772
Boston	430	43	473
Seattle	195	141	336
Denver	194	132	326
Headquarters	0	87	87
	<b>6,706</b>	<b>2,797</b>	<b>9,503</b>

 Complaints by recipient (FHAP or HUD)  
 Total complaints

Source: GAO analysis of TEAPOTS data.

## Complaint Process Includes Intake and Investigation Phases

The complaint process beginning at intake represents the initial contact a complainant has with an agency responsible for enforcing the Act or equivalent state law. Figure 3 describes the complaint process for HUD-investigated complaints. FHAP agencies would follow a similar process. In the intake stage, FHEO hubs and FHAP agencies receive inquiries by telephone, fax, mail, in person, or over the Internet. Intake staff record inquiries in TEAPOTS, interview complainants, and may do other research—for example, searches of public records—to see if enough information exists to support filing a formal complaint. This process is known as “perfecting” a complaint. In order to be perfected, a complaint must

- contain the required four elements of a Title VIII complaint: the names and addresses of the person alleging the discriminatory practice and the respondent, a description and the address of the dwelling involved, and a statement of the facts leading to the allegation; and

- 
- satisfy the Act’s jurisdictional requirements that the complainant has standing to file the complaint; that the respondent, dwelling, subject matter of discrimination (e.g., refusal to rent or sell) and the basis (e.g., race, color, or familial status) for the alleged discrimination are covered by the Act; and that the complaint has been filed within a year of the last occurrence of the alleged discriminatory practice.

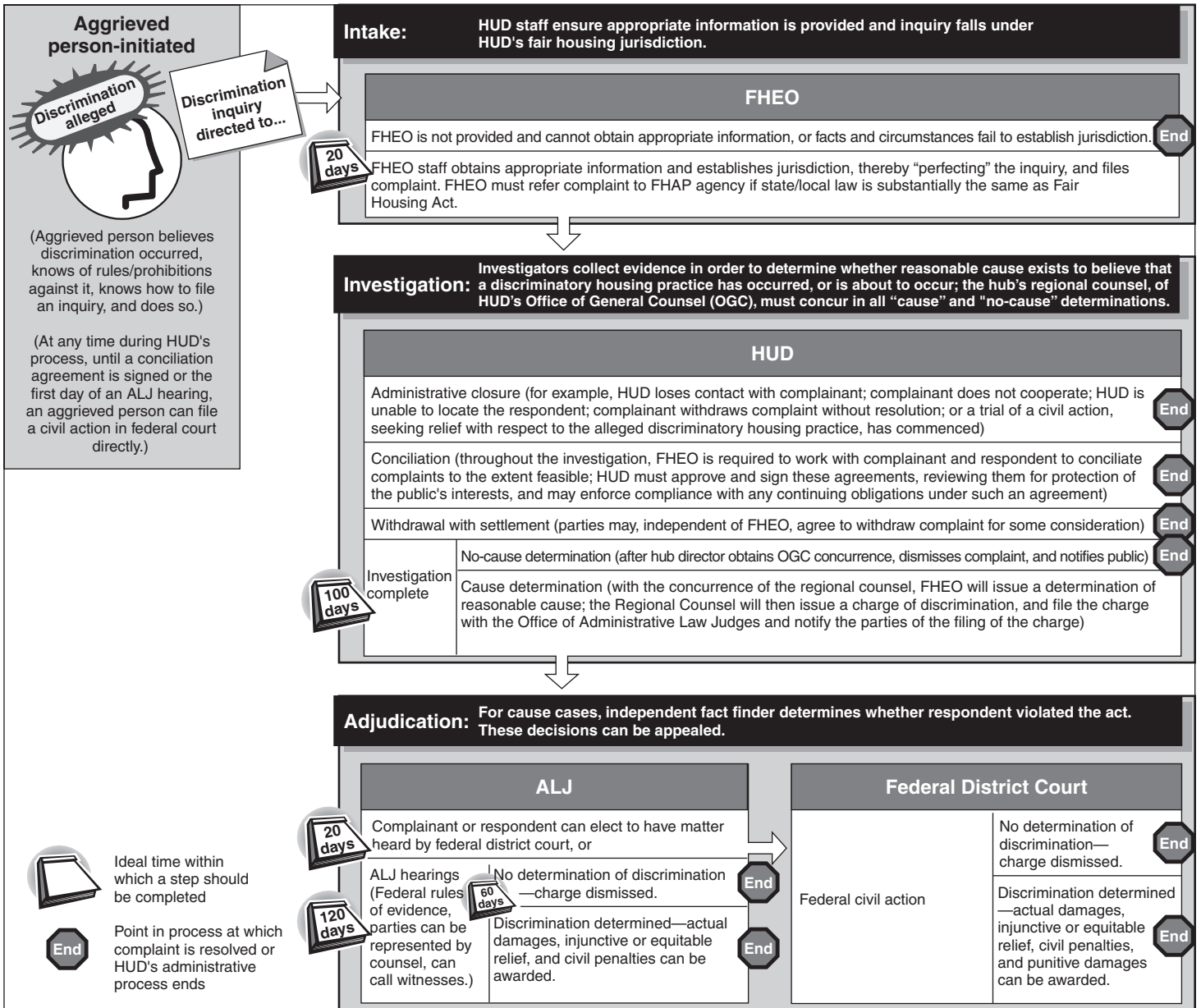
Hub directors decide which complaints meet these criteria and become perfected complaints. Complaints that do not meet the criteria are dismissed. Intake staff record information about perfected complaints in TEAPOTS, have complainants sign the complaints, send letters notifying complainants and respondents about the complaint and the process that will be used to address it, and send the complaint file to an investigator.<sup>19</sup> FHEO’s *Title VIII Intake, Investigation, and Conciliation Handbook (Handbook)* sets a 20-day benchmark for completing the intake stage for these cases, but a 5-day benchmark for cases that it first takes in and then refers to FHAP agencies.

Complaints that are perfected proceed to an investigation. During this stage, FHEO and FHAP agencies gather evidence to determine whether a violation of the Act or a state or local housing law has occurred or is about to occur. The *Handbook* provides guidance for investigators but notes that investigations may vary. Agency guidance directs that directors of FHEO’s hub offices review the results of completed investigations to determine whether reasonable cause exists to believe that a discriminatory housing practice has taken place or could take place. With the concurrence of the relevant HUD regional counsel, the hub director issues a determination and directs the regional counsel to issue a charge, or short written statement of facts, that led to the decision. In a March 6, 2003 memorandum, HUD’s Office of General Counsel (OGC) in headquarters requested that regional counsels send OGC’s Office of Fair Housing the final draft of any charge that they propose to file and that they not file charges until they have received a response from OGC’s Office of Fair Housing. Figure 3 provides an overview of HUD’s basic fair housing complaint process, including timeliness benchmarks established by the Act or agency guidance.

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<sup>19</sup>Procedures differ for certain cases, including those that require assistance from the Department of Justice (DOJ), those that may involve free speech protected by the First Amendment, and those that name HUD as a respondent.

**Figure 3: HUD's Fair Housing Complaint Process**



Sources: GAO analysis of the act, fair housing regulations, and GAO interviews with HUD, FHAP agencies, and private fair housing advocates; Art Explosion (images).

An investigation can be closed at any point for administrative reasons or through conciliation. Cases are closed administratively for several

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reasons—for instance, when a complainant withdraws from the case or cannot be located. The Act requires HUD to make conciliation efforts throughout the complaint process, beginning when the complaint is filed and continuing until the charge is filed or the case dismissed. The *Handbook* and federal regulations allow investigators to make conciliation efforts, but the regulations also state that generally officers, employees, and agents not associated with the case will attempt conciliation. Conciliation agreements are intended to protect the public interest through provisions such as requiring respondents to file periodic reports with HUD. When a conciliation agreement is reached, the Act authorizes the Department of Justice to enforce the agreement in the event of a breach. In 2004, FHEO hubs and FHAP agencies closed about one-third of their cases via conciliation.

The Act set a deadline of 100 days from the date the complaint is filed for completing an investigation or conciliating or otherwise closing a case, unless doing so is “impracticable.” If the investigation cannot be completed within this time frame, FHEO or the FHAP agency must notify the complainant and respondent in writing in what is called the “100-day letter.”<sup>20</sup> In our previous report, we found that the number of investigations completed within 100 days by the FHEO or FHAP agencies increased significantly after 2001, partly in response to FHEO’s initiative to reduce aged cases.

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## Test Calls and Analysis of Log Data Raise Questions about Thoroughness of Intake Process and Effectiveness of Controls

Although often responding promptly and providing useful guidance and information, our test calls and analysis of contact logs found that FHEO and FHAP agencies were not always thorough or timely in carrying out intake activities. Our test calls, while not generalizable, suggest that potential complainants may have difficulty in making initial contact with an intake staff person; moreover, 30 percent of the complainants we surveyed reported such difficulty. Our test calls also showed that FHEO and FHAP agency staff sometimes did not seek information needed to determine whether a potential violation of the Act had taken place and to file a formal complaint, or gather limited information that might help the agency recontact the complainant or assess the urgency of the situation. Among the logged contacts that the agencies determined were potential violations of the Act and were recorded in TEAPOTS, half resulted in formal

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<sup>20</sup>42 U.S.C. § 3610(a)(1)(B)(iv) and (C).

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complaints. However, only 57 percent of these completed the process within the 20-day benchmark. Additionally, missing or inconsistent data suggests that TEAPOTS may be of limited usefulness as a management control over the intake process.

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**Agency Staff Did Not Always Return Test Calls or Collect Initial Intake Information Promptly**

The intake process is the first contact prospective complainants have with the agencies responsible for enforcing the Act or an equivalent state law. Depending on the quality of intake, potential complainants may or may not feel comfortable continuing the process, and those who do not may give up on pursuing their complaints. Thus, the agency's initial response to complainants plays an important role in the fair housing complaint process. However, our test calls revealed some potentially serious lapses in agencies' responses to complainants' inquiries.

First, we found that agencies did not always respond promptly to initial attempts to contact them to file a complaint and that because of requirements that some agencies imposed, trying to file a complaint could be a challenging process. In 5 of the 46 calls, the agency did not return the test call, even after 3 attempts.<sup>21</sup> In another 2 cases, the intake organization required that the caller provide intake information via the Internet or in person. As shown in figure 4, in 20 of the remaining 39 test cases, the caller spoke with a live person on initial contact. Of the 9 calls requiring a callback, 6 were not returned within 1 business day, and 3 were not returned for 3 or more days. Our survey of complainants suggests that they experienced similar difficulties to ours in contacting intake staff. An estimated 30 percent noted that it was either somewhat or very difficult to reach a live person the first time they contacted a fair housing agency, and 34 percent said they had difficulty contacting staff after the initial contact. These percentages were relatively constant regardless of whether FHCO or a FHAP agency handled the case or its outcome, with one exception. Complainants whose cases were conciliated reported that they had less difficulty contacting staff than complainants whose cases were closed with other outcomes.

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<sup>21</sup>Our experiences with the intake test calls constituted a case study, and the results cannot be generalized to the entire population of potential complainants or other program locations.

**Figure 4: Selected Results of Test Calls**



Source: GAO analysis of test calls.

We also found that intake staff did not seem to display a sense of urgency in dealing with complaints. Over half of the agencies (23 of 39) relied primarily on a form that the complainant must fill out (HUD-903 or state equivalent) to collect the information needed to begin an investigation, and in the initial phone call requested little more than the complainant’s name and mailing address. Using such a form to gather information for a potential complaint could take a week or more—during which the caller could lose a housing opportunity. Two other agencies would not mail a complaint form, insisting that the caller come in to the office to file a complaint. However, information from contact logs that the FHAP agencies and FHEO offices maintained for 4 weeks, at our request, showed that the most prevalent mode of contact is telephone, and that walk-in and Internet contacts represented less than 5 percent. Given this situation, requiring potential complainants to appear in person added an additional challenge that could potentially make it difficult for a complainant to continue with the process. Further, a test caller to one of these agencies, stressing the urgency of her situation, was informed that filing a complaint was a “slow process” and that her complaint would not be acted on for some time, whether intake was done over the phone or via the organization’s form. FHEO’s annual performance goals do not include goals for the time it takes to return initial contacts from complainants. However, FHEO has established a 20-day benchmark for completing the intake process, starting with the date that the initial inquiry is recorded in TEAPOTS. In commenting on a draft of this report, HUD’s General Deputy Assistant Secretary for Fair Housing and Equal Opportunity stated that the agency tracks the time it takes to file a complaint from the point of initial contact, and that a new initiative, the FHEO-OGC Case Processing Research

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Project, is expected to assist with decision making during the intake process since it uses a triage system to determine case complexity.<sup>22</sup>

Despite any inconveniences, when our test callers did reach the agencies, the staff treated them well. In none of our test cases did hold time exceed 3 minutes, and staff at several agencies spoke extensively with test callers, answering questions and providing guidance and information on the process. Our survey of former complainants that completed the investigation process showed similar findings. While complainants had difficulty reaching an agency, once they did, more than half said that agency staff did either a good or an excellent job of explaining the process and timing of each step.

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### FHEO and FHAP Agencies Collected Limited Information during Initial Intake Contacts

When collecting intake information during our test calls, FHEO and FHAP agency staff focused primarily on collecting the complainant's name, address, and protected class, as well as a description of the discriminatory act. Staff sometimes did not ask for other information that would be helpful in recontacting the complainant or assessing the urgency of the situation. To systematically assess the thoroughness of the intake test calls, we identified criteria from the Act (the minimum elements of information needed to proceed with the complaint), HUD's Title VIII *Handbook*, and training materials from the National Fair Housing Training Academy. Additionally, we obtained information on best practices from a fair housing advocacy group as well as HUD's training materials and interviews with agency officials. We categorized these criteria at four levels:

- Level 1—information that, according to HUD policy, should always be collected during intake, though not necessarily during the first contact, regardless of the basis of the complaint or the protected class.
- Level 2—information that is potentially applicable to all complaints and that should be collected during the intake process.
- Level 3—information that is relevant to a particular basis or protected class—that is, information necessary to determine, for example,

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<sup>22</sup>HUD's Office of Policy, Development, and Research (PDR) assisted FHEO and OGC in developing the FHEO-OGC Case Processing Research Project, which is aimed at early and continuous interaction between FHEO and OGC, and the methodology will be tested in selected FHEO regional offices before implementation.

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whether the complainant met a certain protected class (e.g., handicap or familial status).

- Level 4—information that is considered to be a best practice—for example, information that may be used for testing.

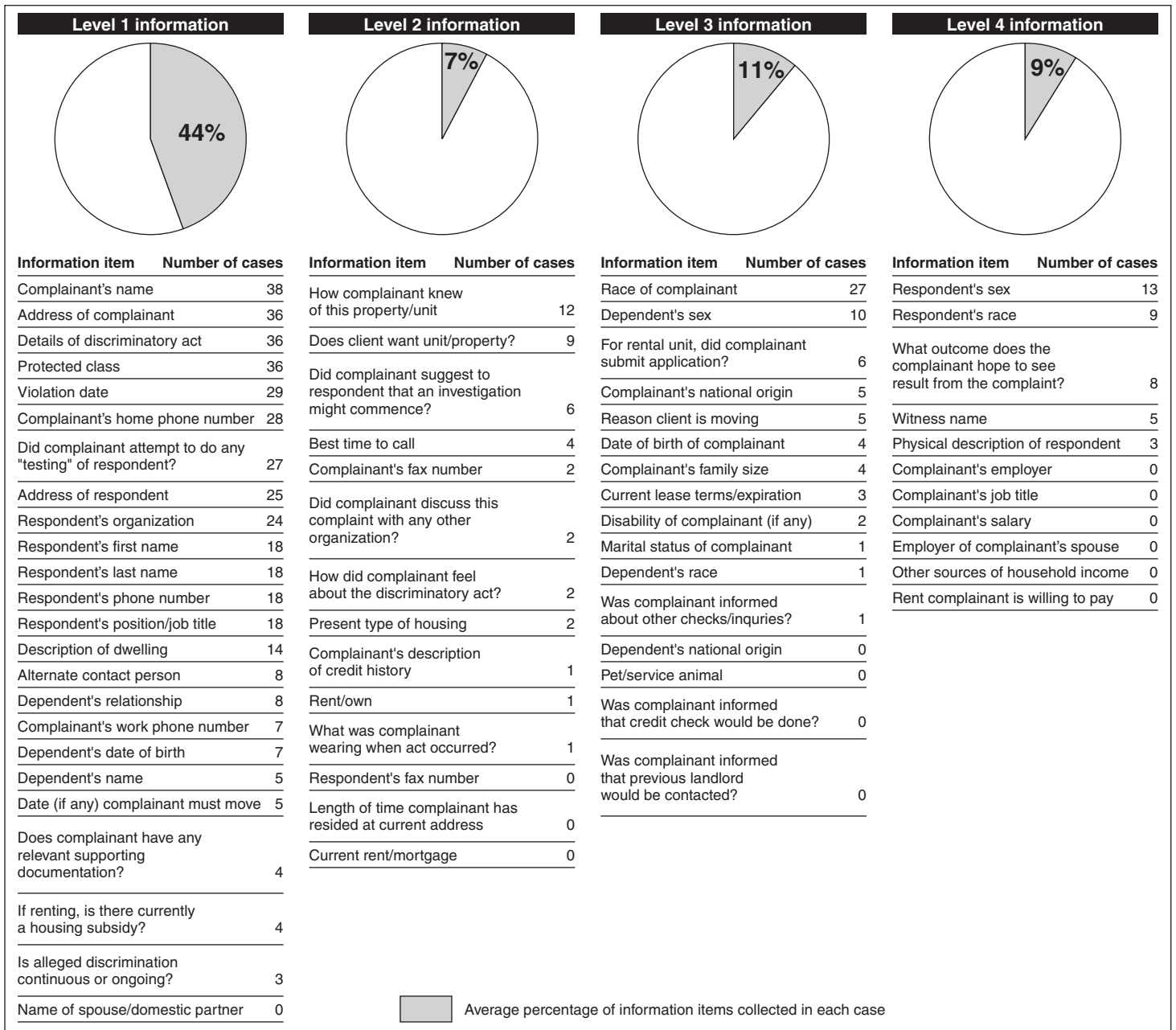
We also discussed these criteria and the designated levels with agency officials.

We measured the percentage of information elements collected at each of these levels during our test calls. The elements associated with each level, and the results we observed during our test calls, are shown in figure 5.

While level 1 information should always be collected in order to proceed with a complaint, some of this information may not always need to be collected during the initial contact. However, HUD policy recommends that staff obtain as much information as possible during the initial intake interview. We also believe that level 1 items should, with little exception, be collected as part of the initial contact in order to have information necessary to recontact the complainant and determine the urgency of the situation.



**Figure 5: Percentage of Questions Asked, by Level**



Source: GAO analysis of test calls.

Note: Cases in which the test caller volunteered the information item are included in the count of the number of cases in which intake staff asked for the information. The total number of cases is 39.

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On average, intake staff collected approximately 44 percent of level 1 information, which is identified by HUD policy as critical to collect during intake.<sup>23</sup> For example, 21 agencies did not ask for the respondent's first and last name, and 15 did not ask for the respondent's organization. As indicated in figure 5, in only 8 agency test cases did intake staff ask the complainant for the name of an alternate contact person and in only 7 agency test cases did the intake staff request a work number—an important piece of information because, according to FHEO officials, many complainants are in the process of moving and are difficult to recontact. Also, intake staff about half of the time asked for the respondent's telephone number. Further, the agencies collected little information beyond level 1. On average, they gathered 8 percent of level 2, 11 percent of level 3, and 9 percent of level 4 information. Some level 4 (best practice) information that was most often collected during our case study includes the respondent's gender (13 test calls), respondent's race (9 test calls), and what the complainant hoped to see as a result of filing a complaint (8 test calls). (See fig. 5.)

Although HUD policy recommends that intake staff obtain as much information as possible regarding the aggrieved person's allegations during the initial intake interview, the amount of information collected on initial contact varied significantly by agency. One location collected nothing beyond the complainant's name and mailing address, while another collected up to 80 percent of the level 1 data. However, in none of the test calls did intake staff collect 100 percent of the level 1 information. While most agencies appeared to collect the remainder of the critical information through their intake forms (either the HUD-903 form or state equivalent), this practice prevents the agency from taking any further action on the complaint until a signed form is received.<sup>24</sup> According to HUD officials, the revised Title VIII *Handbook* contains standards for information that HUD will collect during initial contact with a complainant. However, these and other standards may not apply to FHAP agencies since their certification by HUD does not ensure that they follow identical procedures.

The time it takes to receive the form can delay the enforcement process, potentially resulting not only in the loss of a housing opportunity but also in

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<sup>23</sup>This figure represents the average percent of level 1 data elements that were collected on each call.

<sup>24</sup>According to HUD, some states' laws prevent FHAP agencies from pursuing a complaint until a signed complaint form is received.

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complainants becoming frustrated with the process and deciding not to pursue their complaint. In particular, some complainants may need urgent attention, such as when they are about to become homeless because they are being evicted from their rental home or apartment, or are losing the home they own in a foreclosure. HUD has authority under the Act in such urgent circumstances to take prompt judicial action by authorizing the Attorney General to initiate a civil action seeking appropriate temporary or preliminary relief pending final disposition of the complaint. HUD's Title VIII *Handbook* establishes that intake staff has a critical role in identifying when a complaint may involve a situation warranting prompt judicial action. Time is critical, and the efforts of the intake staff are helpful in gathering sufficient information for determining when prompt judicial action may be necessary. This is also important for intake by the FHAP agencies, since they must have substantially equivalent authority to seek prompt judicial action.

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### Intake Log Data Indicate That TEAPOTS Is of Limited Effectiveness as Management Control of Intake Process

Our prior report noted that while FHEO offices kept records of potentially Title VIII-related contacts, it had not required FHAP agencies to do so. (For that reason, when preparing our prior report, we were unable to determine the extent to which FHAP agencies met the goal of perfecting complaints within 20 days of initial contacts.) FHAP agencies typically entered information only for perfected complaints. Accordingly, we recommended that HUD ensure that the automated case-tracking system (TEAPOTS) include complete, reliable data on key dates in the intake stage for FHAP agencies. The latest version of HUD's Title VIII *Handbook* (issued in May 2005) requires FHEO intake staff to record in TEAPOTS each inquiry that is potentially Title VIII-related, regardless of whether it results in a perfected complaint.

Our comparison of information from the logs—that intake centers kept, at our request, during February and March 2005—with TEAPOTS data highlights the need for reliable information regarding potentially Title VIII-related contacts and the dates of their occurrence. First, the analysis showed that a substantial number of potentially Title VIII-related contacts (68 percent) were not entered in TEAPOTS, and of those that were, about half resulted in perfected complaints. While there are valid reasons for this “attrition,” our results suggest that staff are not recording in TEAPOTS a substantial number of potentially Title VIII-related contacts (inquiries in which the caller alleges housing discrimination and intake staff believe the call represents a potential Title VIII violation). Further, we found that, for those contacts that were entered into TEAPOTS, the initial contact dates

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shown in the logs were sometimes earlier than the corresponding date of first contact shown in TEAPOTS. Thus, HUD's use of TEAPOTS data is likely overstating its performance in meeting its 20-day intake timeliness benchmark. Without assurance that TEAPOTS is being used consistently, HUD is unable to account for potentially Title VIII-related contacts that do not appear in the system or accurately measure timeliness of those that are recorded in the TEAPOTS system, thus limiting TEAPOTS' utility as a management control.

### Many Logged Contacts Did Not Appear in TEAPOTS

To determine the volume of intake-related contacts received by fair housing agencies and the proportion of these contacts that resulted in perfected complaints, we had 47 sites record all incoming contacts—telephone calls, walk-ins, and Internet queries—that were related to fair housing over a 4-week period (February 22 through March 21, 2005).<sup>25</sup> The 32 state FHAP agencies, 5 local FHAP agencies, and 10 FHEO offices that participated in the log exercise represented 78 percent of the volume of investigations in 2004. Specifically, we asked the sites to record the date, method, and purpose of each contact; the name of the person making the contact; whether the contact alleged having experienced housing discrimination; and whether the intake staff agreed that the matter pertained to a potentially Title VIII-related complaint.

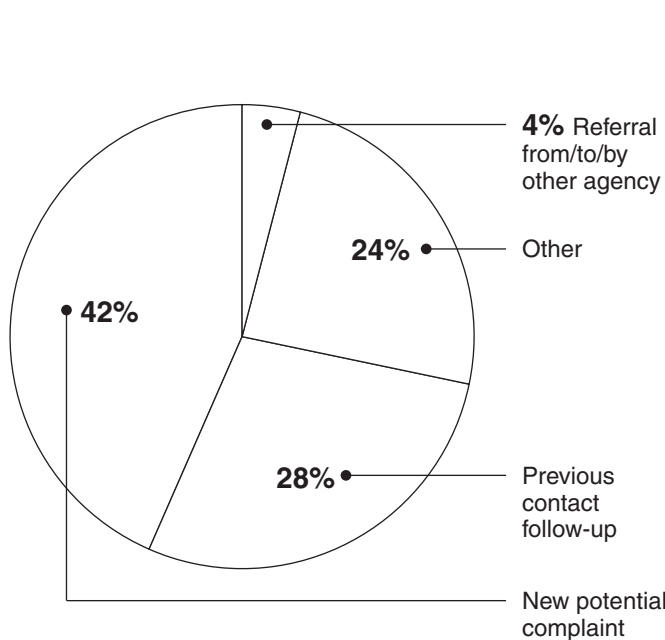
During our tracking period, the sites recorded a total of 9,655 contacts. As shown in figure 6, the majority (80 percent) of contacts for which we had complete data was by telephone, and 42 percent were new potential complaints. Furthermore, a sizable number of initial contacts (approximately 24 percent) did not pertain to fair housing (confirming, as our prior report noted, that intake analysts receive numerous contacts that are not related to fair housing.) The time necessary for handling the calls can place an additional burden on FHEO's limited resources.

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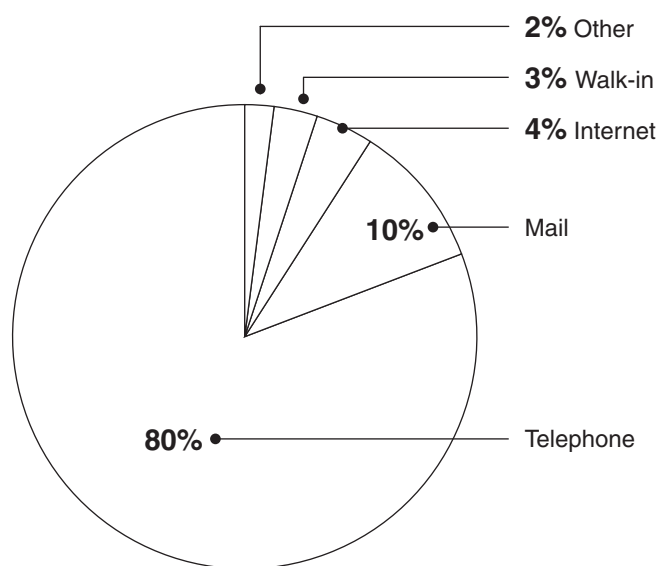
<sup>25</sup>The Chicago FHEO office maintained their contact log from March 1 through March 28, 2005.

**Figure 6: Nature and Method of Contacts Received by Fair Housing Agencies**

**Nature of contact (as coded by intake staff)**



**Method of contact (as coded by intake staff)**



Source: GAO analysis of intake logs.

Note: The “nature of contact” pie chart does not include data for the 1,274 contacts from one agency, where staff did not record the nature of contact. In addition, totals do not equal 100 percent due to rounding and missing data.

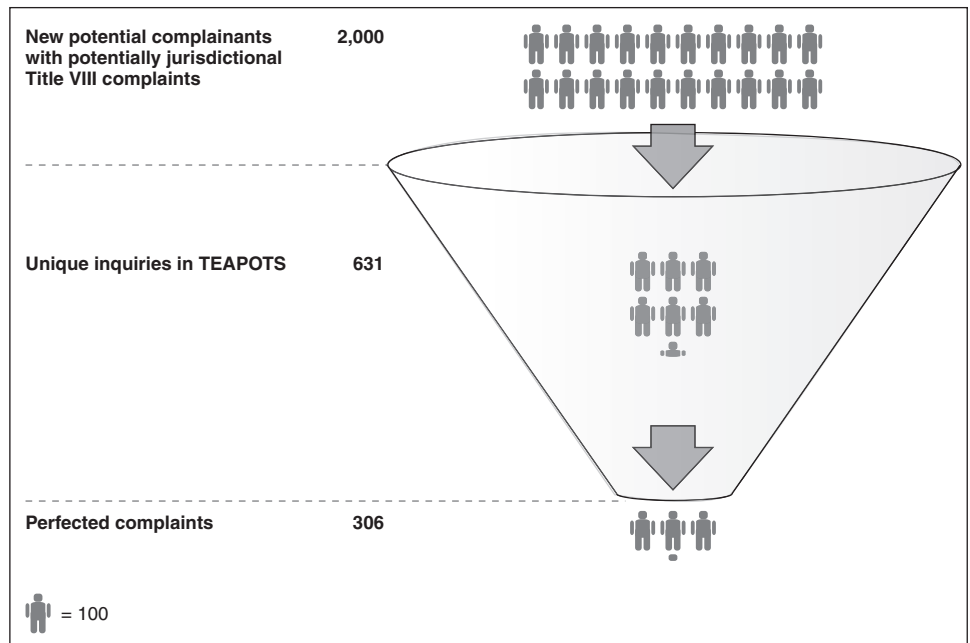
Our review of the log also showed that a sizable number of new potential complaints that intake staff believed could involve a Title VIII violation did not result in perfected complaints in TEAPOTS (see fig. 7):

- Agency staff coded 2,000 contacts as coming from a named individual whose allegations they believed both involved a new potential complaint and pertained to a potentially Title VIII-related violation.<sup>26</sup>

<sup>26</sup>Where individuals made more than one contact, we included them only once in our count of individuals. We also excluded contacts where a name was not provided or where a complainant was identified, but the intake staff believed the allegation was not a new potential complaint or was not a potentially Title VIII-related violation.

- Of these 2,000 individuals, we were able to match 631 to a new inquiry shown in TEAPOTS.
- Of the 631 inquiries, 306 are shown in TEAPOTS as perfected complaints.

**Figure 7: Intake Process Attrition**



Source: GAO analysis of intake logs.

We sorted these data into two groups: contacts recorded by FHEO offices and contacts recorded by FHAP agencies. We found that the attrition rates differed somewhat between these groups. At FHEO sites, intake staff identified 1,347 unique individuals as having potentially valid new Title VIII complaints. Of these, 506, or 38 percent, were shown as unique inquiries in TEAPOTS, and 216 of those—16 percent of the original 1,347—resulted in perfected complaints shown in the automated system at the time of our analysis. At the same time, FHAP sites identified 620 unique individuals<sup>27</sup>

<sup>27</sup>The numbers of contacts at FHEO and FHAP sites do not add to 2,000 because 33 individuals filed at both HUD and FHAP locations (24 of which resulted in perfected complaints). These 33 cases are not included in our analysis of attrition by type of agency.

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with potential new Title VIII violations, of which 92, or 15 percent, were shown as unique inquiries in TEAPOTS and 66, or 11 percent, became perfected complaints.<sup>28</sup>

Attrition can occur for a number of reasons. For example, because some state laws contain additional protected classes, some calls that FHEO offices receive may be for matters that are covered under a FHAP agency's jurisdiction. Also, intake staff may believe that a contact pertains to a valid Title VIII violation at the outset but may later find out that the respondent is exempt from Title VIII or that the 1-year statute of limitations has expired. Furthermore, the intake process is sometimes terminated because a complainant either does not cooperate with agency staff or resolves the issue with the respondent and voluntarily discontinues the complaint process. Finally, it is possible that, during our process of matching names in the log to TEAPOTS records, a small number of matches were not made, either due to misspellings of names or timings of entry into the system. Information in TEAPOTS provides some insight as to the reasons why inquiries were not perfected during this time period. In 20 percent of all inquiries for which TEAPOTS had data, the complainant failed to respond; in 13 percent of the cases, the intake staff found no valid basis for complaint; and in 8 percent of the cases, the intake staff found no valid issue. However, TEAPOTS shows that 43 percent of the inquiries that were not perfected were coded as "Other Disposition," which means that no further information is available to indicate why the contact did not result in a perfected complaint.

In commenting on a draft of this report, HUD's General Deputy Assistant Secretary for Fair Housing and Equal Opportunity stated that while HUD considered requiring FHAP agencies to record initial inquiry dates for all potential complaints, it has not done so because of the way HUD funds FHAP agencies. Specifically, HUD reimburses the FHAP agencies for each (actual) complaint that they investigate, and does not reimburse them for their consideration of inquiries that do not result in complaints. However, this continues to leave HUD without data or knowledge of a significant number of potential Title VIII-related inquiries or a means of assessing the FHAP agencies' response to such inquiries.

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<sup>28</sup>The number of FHAP contacts alleging discrimination that result in a TEAPOTS inquiry is less reliable, as we have found that FHAP agencies vary in their use of TEAPOTS.

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**Some Logged Contact Dates Differed from TEAPOTS' 'Date of First Inquiry'**

Our prior report questioned the reliability of initial inquiry dates shown in TEAPOTS. Our analysis for this report raises further questions, because we found differences in the dates recorded in the contact logs and those in TEAPOTS for the same contacts. HUD policy requires that FHEO offices perfect or close all inquiries within 20 days of initial contact. Statistics generated by HUD show an approximate 95 percent compliance with this policy. However, for internal measurement and benchmarking purposes, HUD begins counting the 20 days on the day the inquiry is entered into TEAPOTS. Because HUD does not track the actual initial contact dates, it can not use them to begin measuring the 20-day period. Our analysis of the contacts recorded in the logs leading to the 306 perfected complaints noted above indicates that 57 percent of the complaints were perfected within 20 days of initial contact, based on the earliest contact date in the log. However, using the inquiry date in TEAPOTS as the starting point for the 20-day benchmark, as HUD does, indicates that 79 percent of the complaints were perfected within 20 days. In fact, the median number of days to perfect complaints was 11 using TEAPOTS inquiries, but 18 using the data recorded in our log. These results indicate that HUD lacks an accurate picture of how much time individuals face from the day they make an inquiry to the day they learn the outcome of their cases, and that HUD's reliance on TEAPOTS data leads to an inaccurate assessment of performance in meeting its timeliness benchmark.

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**Case Files and TEAPOTS Lacked Evidence That Investigations Met Required Standards or Followed Recommended Procedures**

In reviewing investigative case files and associated TEAPOTS records, we found that some lacked evidence that required investigative standards were met, investigators followed recommended planning and procedure guidelines, or that internal control measures were used and documented. Throughout this section, we present estimates of agency compliance with certain requirements and recommended practices based on our review of a random sample of 197 FHAP agency and FHEO investigations that were closed during the last half of 2004 either administratively, through conciliation, or with a finding of no reasonable cause. Unless otherwise noted, these estimates are surrounded by a confidence interval, due to sampling error, of plus or minus 8 percentage points or smaller. We also present results from our review of 12 of the 15 FHEO cases that completed the adjudication process and subsequent monitoring during the same



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period.<sup>29</sup> Our review of each case was limited to reviewing the contents of case files and the associated TEAPOTS records (that is, we did not interview case investigators, other officials involved in the case, complainants, or respondents), and it is important to note that the lack of evidence we found does not necessarily indicate that required or recommended steps were not taken. However, the lack of evidence does raise questions about HUD's ability to assure that investigations are as thorough as they need to be.

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### Some Files Lacked Evidence of Adherence to Investigative Standards

The Act sets several standards for investigators to follow during the complaint process. First, investigators must establish and document four jurisdictional elements to ensure that the complaint is covered under the Act.<sup>30</sup> Second, certain notifications to the complainants and respondents must be sent and received.<sup>31</sup> Third, a Final Investigative Report (FIR) must be prepared at the end of each investigation.<sup>32</sup> As a practical matter, this means a FIR is required for investigations that conclude with a determination of reasonable cause to believe a violation has occurred, and for investigations closed with a determination of no reasonable cause (i.e., there is no reasonable cause to believe a violation has occurred). Investigators must also meet a 100-day deadline for completing an investigation unless it is impracticable to do so.<sup>33</sup> If the investigation is not

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<sup>29</sup>The remaining three files we did not review could not be located. We did not review files where a FHAP agency had found reasonable cause because we could not identify FHAP agency cases that had completed the adjudication process in the last 6 months of 2004.

<sup>30</sup>The four elements of jurisdiction require that: (1) the complaint is timely (filed within one year of the most recent act of alleged discrimination); (2) the complainant has standing—that is, the complainants claim that they have been injured or will be injured by a discriminatory housing practice; (3) neither the dwelling nor the respondents are exempt; and (4) the complaint alleges a violation of the Act, and there is a prohibited basis for the alleged discriminatory conduct.

<sup>31</sup>42 U.S.C. § 3610(a)(1)(B)(i) requires notice to be served on complainants acknowledging such filing and advising the person of the time limits and choice of forums. Section 3610(a)(1)(B)(ii) of title 42 of the United States Code requires notice to be served on respondents not later than 10 days after the filing of the complaint or the identification of the respondent. (This notice advises respondents of their procedural rights and obligations.) HUD regulations (24 C.F.R. §§ 103.201 and 103.202) require these notifications to be done by certified mail or personal service.

<sup>32</sup>42 U.S.C. § 3610(b)(5)(A).

<sup>33</sup>42 U.S.C. § 3610(a)(1)(B)(iv).

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completed in 100 days, complainants and respondents should be notified in writing of the reasons.<sup>34</sup>

## Elements of Jurisdiction

Our review of investigative case files completed during the last half of 2004 showed that the elements of jurisdiction we measured were addressed in nearly all of the no-cause cases (see fig. 8).<sup>35</sup> Similarly, we observed that with one exception, all of the cause case files we reviewed addressed the elements of jurisdiction we reviewed. The high incidence of documentation addressing jurisdiction may be explained by the fact that jurisdiction should be verified throughout the complaint process. Consequently, there is more than one opportunity to identify deficiencies. FHEO officials at one location said that in addition to an intake analyst, the intake and enforcement or compliance branch chiefs also reviewed complaints before investigations began. However, they also said that in some instances, complaints for which jurisdiction had not been established had been inadvertently accepted and later found to lack a required jurisdictional element. For example, one case we reviewed showed that as the investigation proceeded, investigators determined that the respondent was exempt as a result of not owning more than one rental property. The Act provides that certain properties and property owners are exempt, and owners who do not have an interest in more than three single-family homes or condominium units meet the guidelines for exemption.<sup>36</sup>

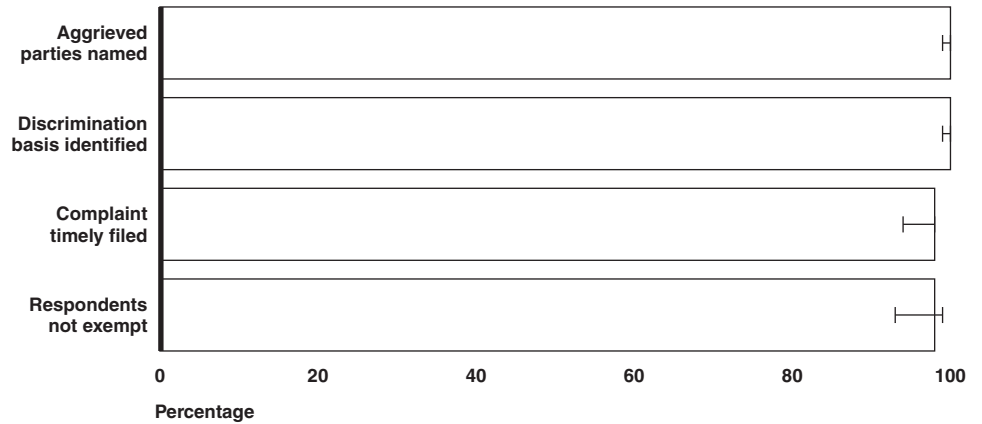
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<sup>34</sup>42 U.S.C. § 3610(a)(1)(C).

<sup>35</sup>We considered an element of jurisdiction as “addressed” if the HUD 903 or equivalent form included information on that element. We did not verify that the information on HUD 903 was accurate.

<sup>36</sup>42 U.S.C. § 3603(b)(2).

**Figure 8: Percentage of Cases with Elements of Jurisdiction Addressed**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

## Notification

Although most files contained evidence that jurisdictional elements had been addressed, we did not always find evidence that complainants and respondents received required notifications. As noted above, the Act requires the fair housing agency handling the complaint to send complainants an initial notice acknowledging the filing of the complaint. Further, HUD’s complaint notification letter advises complainants of certain guidelines of the complaint process.<sup>37</sup> Respondents must be served by certified mail or personal service with an initial notice of the original complaint no later than 10 days after the complaint is filed or when the respondent is identified. Respondents must also be notified whenever a complaint is amended (complaints may be amended at any time during an investigation to add or remove parties, and complainants must sign the new complaints).<sup>38</sup> Complainants and respondents should also be notified when an investigation is closed. We therefore looked for evidence indicating that these requirements were followed in all cases.

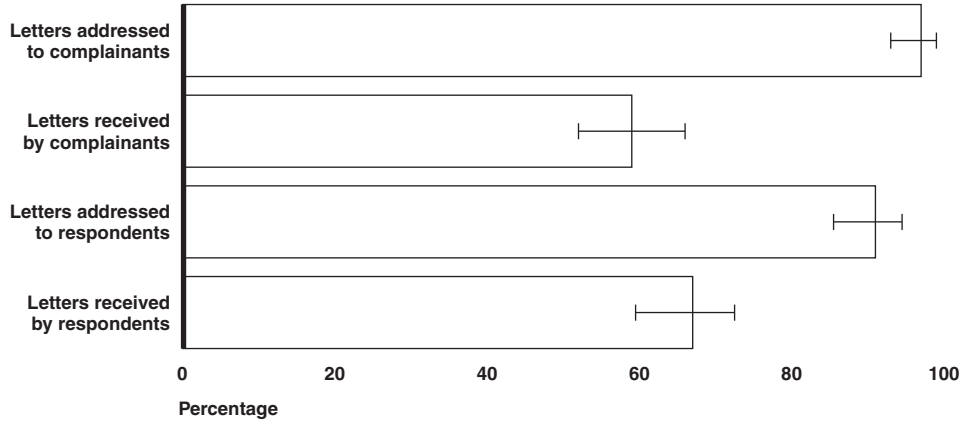
<sup>37</sup>These guidelines include: (1) the complainant’s rights during the processing of the complaint; (2) the rights of each respondent in responding to the complaint; and (3) the steps that HUD (or the investigating agency) will take to determine whether the complaint has merit.

<sup>38</sup>42 U.S.C. § 3610(a).

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HUD regulations require that complainants be notified by certified mail or personal service, but FHEO officials said that some FHAP agency procedures do not require this. While we found initial notification letters addressed to complainants in 97 percent of the files and letters to respondents in 91 percent for closure types other than reasonable cause, we frequently did not find evidence that the letters had been received (see fig. 9). The lack of evidence in case files that complainants and respondents had received initial notifications does not necessarily mean that they did not in fact receive the notices. Some FHEO officials told us that certified mail receipts were sometimes maintained in separate files. We looked not only for evidence such as return receipts from certified mail or certificates of personal service, but also for correspondence indicating receipt or knowledge of the complaint notification. Fifty-nine percent of these cases contained evidence that complainants had received initial notifications, and 67 percent contained evidence that respondents had received initial notifications. Our survey of complainants that completed the investigation process also indicates that some may not have received initial notifications. Specifically, 86 percent said they received a letter informing them whether an investigation would be conducted. We did not observe a significant difference in documentation between organizations. For the cases where HUD had determined reasonable cause, we found initial notification letters addressed to complainants in 9 of the 12 files, and letters to respondents were found in 10. Evidence of receipt was greater for reasonable cause cases than for other closure types—8 and 9 of the 12 files, respectively, had evidence that complainants and respondents received initial notification letters.

**Figure 9: Percentage of Case Files with Initial Complaint Notification Letters Addressed to Complainants and Respondents and Evidence of Receipt**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Some cases did not contain evidence that final closure notices had been addressed to complainants and respondents (see fig. 10). For closure types other than reasonable cause, 10 percent and 21 percent of the files, respectively, did not include copies of closure letters addressed to complainants and all named respondents. Investigations conducted by FHAP agencies were more likely not to have closure notices addressed to respondents (26 percent) compared with FHEO-investigated cases (8 percent).<sup>39</sup> Similarly, FHAP agency-investigated cases did not have evidence of closure notices addressed to complainants 14 percent of the time, compared with 2 percent for FHEO-investigated cases.<sup>40</sup> Our survey of complainants revealed that about 9 percent said they did not receive notification of the case being closed. We found that for the cases where HUD had determined reasonable cause, there were more notices of reasonable cause determination addressed to respondents than complainants. Specifically, 5 of the 12 files did not include notices addressed to complainants informing them that the FHEO investigation

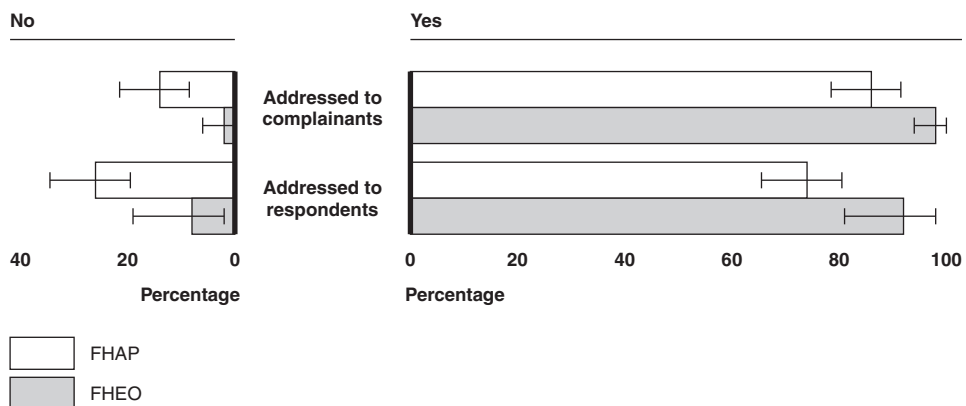
<sup>39</sup>The confidence intervals for these estimates are 19 percent to 34 percent and 2 percent to 19 percent, respectively.

<sup>40</sup>The confidence intervals for these estimates are 8 percent to 21 percent and 0 percent to 6 percent, respectively.

was completed, and of the reasonable cause finding. Two of the files did not include such notices addressed to respondents.

For reasonable cause determinations, HUD’s regulations require that all parties to a complaint be notified of the reasonable cause determination by certified mail or personal service.<sup>41</sup> For no reasonable cause determinations, the parties must be notified by mail and the notification must include a written statement of the facts upon which the determination was based.<sup>42</sup> HUD guidance also states that for administrative closures, all parties and their designated representatives must be notified by regular or certified mail.

**Figure 10: Percentage of Case Files with and without Closure Notices Addressed to Complainants and Respondents (No Reasonable Cause)**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Fifteen percent of the case files for closure types other than reasonable cause had evidence that the complaint had been amended. We also could not find evidence in all cases that copies of the amended complaints had been received by all respondents even though the statute requires that all

<sup>41</sup>24 C.F.R. § 103.400(a)(2)(i).

<sup>42</sup>24 C.F.R. § 103.400(a)(1) and (2)(ii).

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respondents receive them.<sup>43</sup> Finally, not all of the cases, where applicable, contained evidence that new respondents received a copy of the complaint.<sup>44</sup>

As stated, FHEO officials noted that not all FHAP agency procedures require certified mail notices, while HUD notifications are sent by certified mail. As with initial notifications, we looked not only for evidence of certified mail or personal service, but also other forms of evidence that a notification was made, including response letters or subsequent correspondence that indicated the parties' knowledge. FHEO officials noted that the absence of notices in FHEO case files is more likely a clerical omission than a failure to follow procedure.

## Final Investigative Reports

Our file review showed that the Final Investigative Report (FIR) required for reasonable cause and no reasonable cause outcomes and the Determination showing the outcome of cases were not always present. The documents are intended to demonstrate that investigations were thorough and that the investigator's conclusions were founded in fact and evidence. FIRs, which HUD guidance states fulfill the statutory requirement to document investigations, are used as a basis for preparing the charge for reasonable cause cases. FIRs should summarize the allegation and evidence, including such things as dates and summaries of contacts with parties, witness statements, descriptions of pertinent records, and answers to interrogatories.<sup>45</sup> The Act requires FHEO, following the completion of the investigation, to make information derived from the investigation—including the FIR—available upon request to the parties to the complaint.<sup>46</sup> The Determination includes the elements of jurisdiction as well as a summary of the complainant's allegations, the respondents' defenses, and the investigator's findings and conclusions.

For cases where HUD had determined reasonable cause, we found the FIR and Determination in all 12 of the files. However, for cases closed with a

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<sup>43</sup>42 U.S.C. § 3610(a)(1)(B) and (D). HUD regulations require FHAP agencies to serve notice on both complainants and respondents upon the filing of a complaint. 24 C.F.R. § 115.202(a)(1)(ii) and (iii).

<sup>44</sup>Estimates were unreliable for the percentage of cases that did not contain evidence that new respondents received a copy of the complaint.

<sup>45</sup>42 U.S.C. § 3610(b)(5)(A).

<sup>46</sup>42 U.S.C. § 3610(d)(2).

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Determination of no reasonable cause, we found the FIR missing in 5 percent of the files, and a Determination missing from 8 percent.<sup>47</sup> The percentage of FIRs for no reasonable cause cases was similar for FHAP agency and FHEO files.

HUD requires that FIRs and Determinations of reasonable cause and no reasonable cause be approved by the FHEO regional director. FHAP agency managers approve and sign these documents for FHAP agency investigated cases. For cases where HUD had determined reasonable cause, we found that 11 FIRs and 10 Determinations had been signed. For cases with no reasonable cause outcomes, 71 percent of Determinations were signed, compared with only 45 percent of FIRs.<sup>48</sup> For no reasonable cause outcomes, FHEO files showed more evidence of Determination approval—100 percent compared with 60 percent of FHAP agency Determinations.<sup>49</sup> FHEO noted that missing signatures for FIRs and Determinations are more likely an oversight rather than a question of thoroughness or lack of review. They also noted that case files will not document informal means of review.

## Adherence to 100-Day Notice Requirement

As noted above, the Act requires that fair housing investigations be completed within 100 days from the date the complaint was filed, unless it is impracticable to do so. An investigation is completed when a Determination or charge is issued, a conciliation agreement is executed, or the complaint is otherwise closed.<sup>50</sup> We estimate that 98 percent of all cases with closure types other than reasonable cause—including relatively more no reasonable cause cases—took more than 100 days to complete. If investigators do not meet the 100-day deadline, the investigating agency is required to notify both complainants and respondents in writing,

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<sup>47</sup>The confidence interval for the second estimate is 4 percent to 17 percent.

<sup>48</sup>The confidence intervals for these estimates are 60 percent to 80 percent and 34 percent to 55 percent, respectively.

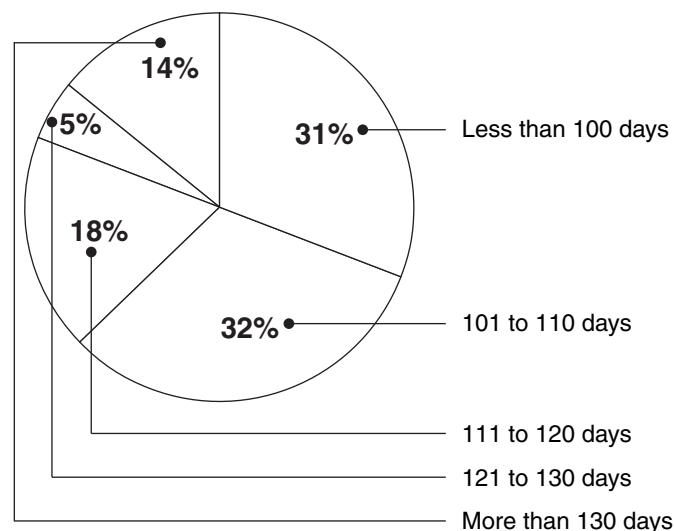
<sup>49</sup>The confidence intervals for these estimates are 86 percent to 100 percent and 47 percent to 73 percent, respectively.

<sup>50</sup>The Secretary of HUD will issue a charge on behalf of the aggrieved person to a complaint if there is a determination of reasonable cause. The charge consists of a short statement of the facts upon which the Secretary has found reasonable cause of a discriminatory housing practice, and is based on the FIR. 42 U.S.C. § 3610(g)(2).



explaining why the investigation is not complete.<sup>51</sup> We found 100-day letters in each file for these closure types with investigations that took more than 100 days to complete. We found that in about two-thirds of these cases, the 100-day letter was sent after 100 days had passed.<sup>52</sup> Moreover, about 14 percent of the notices we found were dated more than 130 days after the HUD filing date (see fig. 11).<sup>53</sup> For cases where HUD had determined reasonable cause, all 12 investigations lasted longer than 100 days, but 2 of the files did not have copies of 100-day letters.

**Figure 11: Timing of 100-Day Notices Sent to Complainants for Investigations Lasting over 100 Days**



Source: GAO review of complaint files.

Note: Due to rounding, total may not equal 100 percent.

<sup>51</sup>We were told that 100-day notices, when appropriate, are automatically generated by TEAPOTS, and the investigator inserts the data indicating the reasons or circumstances causing delay. TEAPOTS identifies 13 reasons investigations may not be completed on time including a need to “complete interviews with parties and/or witnesses.”

<sup>52</sup>The combined estimates are 60 percent and 10 percent with confidence intervals of 48 percent to 72 percent and 4 percent to 20 percent, respectively.

<sup>53</sup>The confidence interval for this estimate is 7 percent to 26 percent.

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According to FHEO officials in one location, for cases with complex issues, it was often difficult to meet the 100-day investigative requirement and conduct a thorough investigation. Officials in another FHEO location said that the 100-day time frame is a critical factor at day one, and a new initiative had been implemented to track and focus on cases at the 50-day mark. The FHAP agencies' record of meeting the 100-day requirement is directly tied to their performance ratings and to the reimbursement they receive for completed cases. Officials at one FHAP agency stated that the 100-day requirement was a priority for each new investigation and their agency had established shorter investigative deadlines internally, using their own streamlined process to assist them in meeting the 100-day requirement. In our last report, we observed that the percentage of investigations completed within 100 days increased between 2001 and 2003, particularly for FHEO cases. Specifically, the percentage of FHEO investigations completed within 100 days increased from 17 percent in fiscal year 2001 to 50 percent in fiscal year 2003. We also noted that FHEO hub directors reported that the 100-day benchmark and the simultaneous need to conduct a thorough investigation were sometimes competing goals.

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### Some Files Lacked Evidence That Investigators Followed Recommended Procedures

In addition to the statutory requirements, HUD guidance recommends a number of activities that contribute to a more complete investigation. Among these are preparing investigative plans, conducting on-site visits and interviews, and requesting policy and procedure information from respondents.<sup>54</sup> The guidance also recommends that investigators follow certain procedures before closing a case administratively. HUD officials said that an investigation may be thorough without following each recommended practice; moreover, as noted above, a lack of evidence does not necessarily indicate that a procedure was not followed. However, the relative infrequency with which some practices were used, according to documentation in the case files, raises questions about investigation thoroughness.

### Investigative Plans

HUD guidance states that investigative plans are critical to efficient and effective investigation. The guidance also provides extensive instruction on preparing plans, and adds that, in developing investigative plans, investigators and their supervisors should consult with Regional Counsel.

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<sup>54</sup>Policy and procedure requests seek information on the respondent's practices in dealing with the alleged discriminatory matter.

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According to HUD's revised Title VIII *Handbook*, investigative planning allows supervisors and investigators to ensure that the scope of the investigation is carefully tailored for adequate investigation of all claims made in the complaint, and careful planning should also prevent "over-investigation" of claims. However, FHEO officials stated that most experienced investigators do not prepare investigative plans for any except technical and very complex cases since investigators are familiar with the procedures for more common discrimination cases.

Our file reviews showed that 62 percent of the cases with closure types other than reasonable cause did not include investigative plans. Further, the plans we found were not as detailed as the guidance suggests. For example, while the type of discrimination was identified in 93 percent of plans, the theory of discrimination was identified in 65 percent.<sup>55, 56</sup> Also, planned interviews with complainants and respondents were specified in 59 percent and 62 percent of plans, respectively, and a list and sequence of interview questions was present in 27 percent of plans (see fig. 12).<sup>57</sup> For cases where HUD had determined reasonable cause, we found an investigative plan in 10 of the 12 files, but these also contained little detail. For example, the type of discrimination was identified in all 10 of the plans, but the theory of discrimination was identified in only 3. Additionally, only 2 and 3 of the plans, respectively, specified interviews with complainants and respondents, and a list and sequence of interview questions was present in only 2 of the plans. With regard to supervisory review, officials at the agencies we visited stated that there was no established procedure for documenting review of investigative plans.

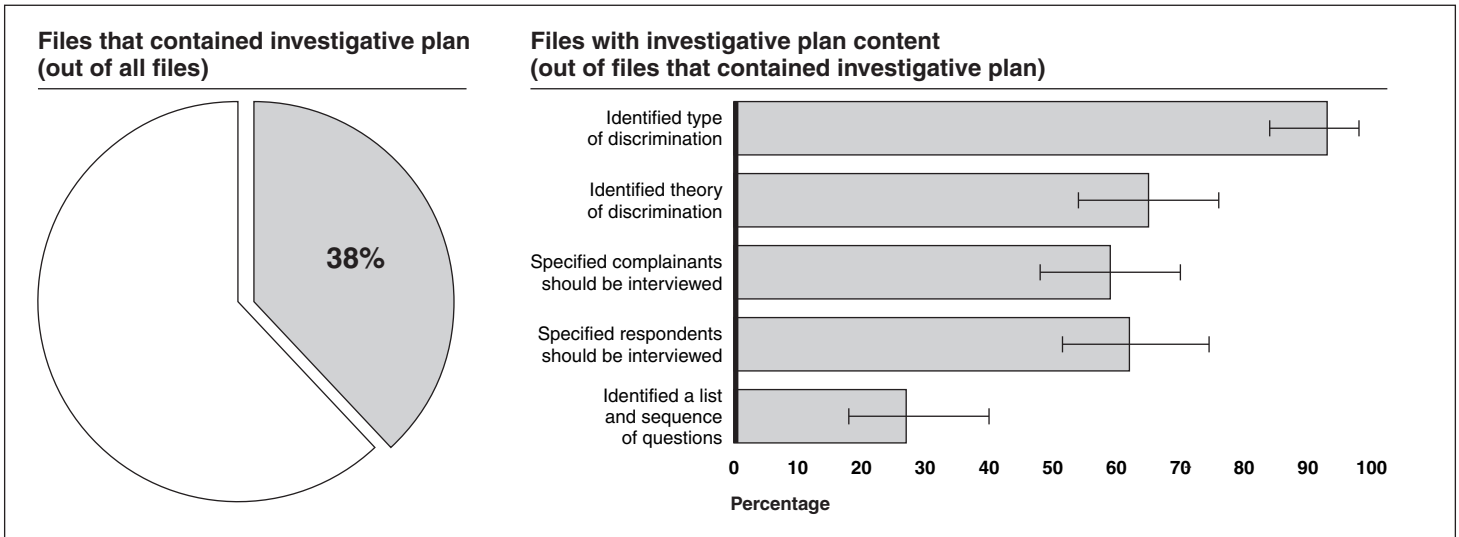
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<sup>55</sup>According to HUD's Title VIII *Handbook*, violations of illegal discrimination of the Fair Housing Act may be established under either (1) a disparate treatment theory, which is also known as "discriminatory intent" or (2) a discriminatory impact theory, which is also known as "discriminatory effect." The disparate treatment theory includes overt discrimination cases where there is direct evidence of intentional discrimination and other cases where there is only circumstantial evidence supporting an inference of a discriminatory motive. Further, there are single motive cases and mixed motive cases. The particular theory of the case determines the evidence needed to prove or rebut the allegations. These theories developed in federal employment discrimination cases, but they are generally applied by the courts to cases brought under the Fair Housing Act.

<sup>56</sup>The confidence intervals for these estimates are 84 percent to 98 percent and 54 percent to 76 percent, respectively.

<sup>57</sup>The confidence intervals for these estimates are 48 percent to 70 percent, 51 percent to 74 percent, and 17 percent to 39 percent, respectively.

**Figure 12: Percentage of Cases with Investigative Plans and Cases with Specific Content in Investigative Plans**

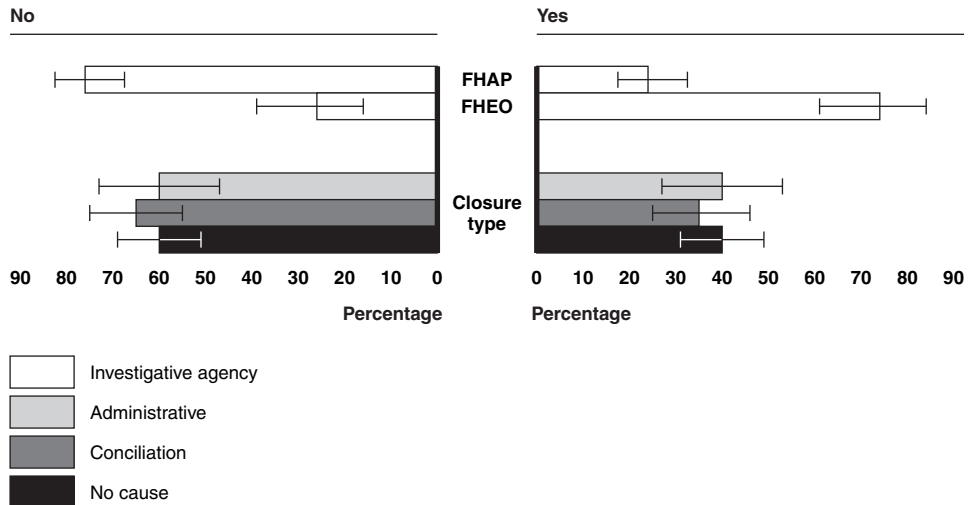


Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

We found substantially more investigative plans in FHEO case files (74 percent) than in FHAP files (24 percent). There was little variation in the percentage of cases with investigative plans across closure types (see fig. 13).

**Figure 13: Percentage of Cases with and without Investigative Plans, by Investigating Agency and Closure Type**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

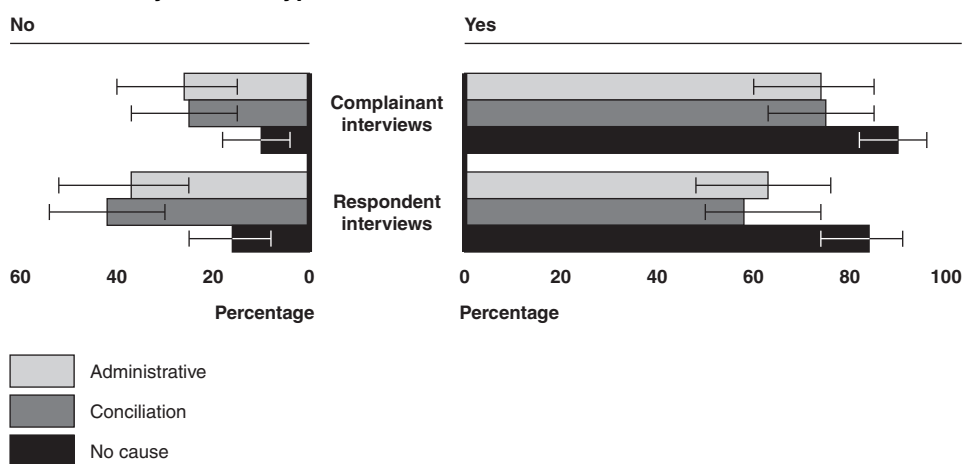
## Interviews with Complainants and Respondents

HUD’s training manual for fair housing investigators states that interviews are a vital part of collecting evidence, and that they allow an investigator to probe for additional information that otherwise might not be provided. The manual recommends that investigators interview not only complainants and respondents, but also other individuals, such as witnesses for the parties and independent witnesses. FHEO officials noted that there are circumstances where complainant or respondent interviews are not necessary, such as when a case is conciliated before the investigation has begun or when an investigator determines that a respondent is exempt under the Act.

The majority of cases with closure types other than reasonable cause included interviews with the parties to the complaint, but 28 percent did not include interviews with respondents. Cases with no reasonable cause outcomes were more likely to include interviews with complainants and respondents (see fig. 14). FHEO cases for these closure types were more likely than FHAP cases to include interviews with complainants. Specifically, we estimate that FHEO cases did not include interviews with complainants 8 percent of the time, compared with 21 percent of the time

for FHAP cases.<sup>58</sup> We found at least one respondent interview for all cases where HUD had determined reasonable cause. By contrast, only seven of these cases included interviews with complainants.

**Figure 14: Percentage of Cases with and without Complainant and Respondent Interviews, by Closure Type**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

In a number of cases, investigators interviewed complainants and respondents once or twice. Forty-seven percent of cases with closure types other than reasonable cause showed one or two complainant interviews, and 40 percent showed one or two interviews with a respondent or representative. We found that the content of interviews recorded in the TEAPOTS database varied widely.

We looked specifically for evidence explaining why interviews were not conducted or whether it was apparent why interviews were not conducted. While we often could not find documentation as to why complainants and respondents were not interviewed, the reason was apparent in a number of cases.

<sup>58</sup>The confidence interval for the first estimate is 3 percent to 17 percent.

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We also looked at the time frame within which the parties were interviewed for the first time following the official HUD filing date. The 100 days that HUD allocates for conducting fair housing investigations begins on the date a complaint is officially filed with HUD. HUD's training manual for fair housing investigators suggests that investigators interview complainants first to clarify the details of the allegation and to evaluate the viability of the complaint. We found that complainants were typically interviewed first, but that in a number of cases, initial investigative interviews were conducted weeks and even months after the complaint had been filed.<sup>59</sup> For closure types other than reasonable cause, 65 percent of cases with complainant interviews showed the first investigative interview occurring more than 2 weeks after the complaint was filed; this was also the case for 67 percent of respondent interviews.<sup>60</sup> Further, 52 percent of cases with complainant interviews showed the first investigative interview occurring more than 1 month after the complaint was filed; this was also the case for 46 percent of respondent interviews.<sup>61</sup>

FHEO officials noted that it may be appropriate to conduct a respondent's initial interview after first receiving documentation. Respondents have 10 days to provide a response to the complaint. FHEO officials noted that in addition to caseload, the time involved in mail delivery and the difficulty of locating people who have moved are factors that can impact the initial interview with the parties. Officials at some of the FHAP agencies we visited indicated that time may be of the essence in housing discrimination cases since housing opportunities may be lost during the initial filing period. For pending evictions, one agency's practice was to request an eviction abeyance through the court or to petition the landlord to postpone eviction pending a speedy investigation. To expedite the filing process, the intake coordinator at another agency may go on site to have the complaint form completed and signed in order to begin the investigation.

## On-Site Visits

HUD's guidance does not require that an investigator visit the site of the alleged discriminatory act, such as the subject dwelling and respondent's place of business, and FHEO officials stated that many cases do not require

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<sup>59</sup>The estimate is 60 percent with a confidence interval of 51 percent to 69 percent.

<sup>60</sup>The confidence intervals for these estimates are 55 percent to 74 percent and 59 percent to 75 percent, respectively.

<sup>61</sup>The confidence intervals for these estimates are 42 percent to 63 percent and 37 percent to 55 percent, respectively.

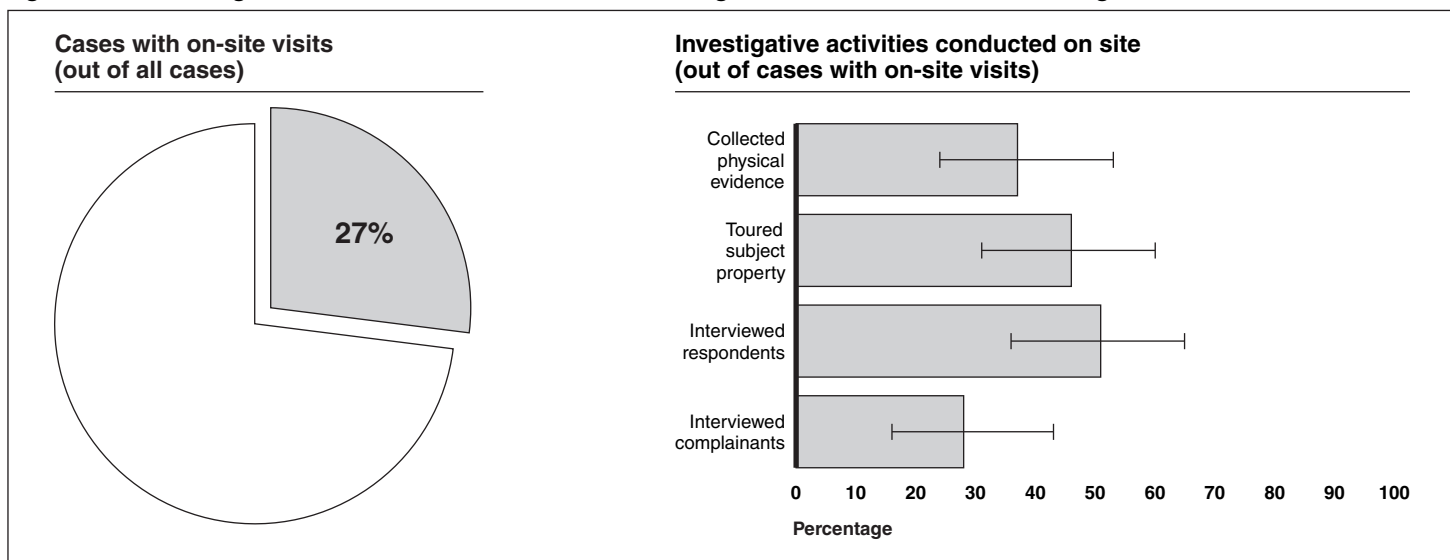
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an on-site visit. However, the guidance also states that an on-site visit is the most efficient way to conduct an investigation in most situations involving fair housing complaints. Additionally, it states that while such a visit may not appear necessary at the beginning of an investigation, issues may develop as a case progresses that support the necessity of an on-site investigation. One FHAP agency we visited had a policy of conducting on-site interviews or inspections for each investigation, and officials there reported that 95 percent of their cases included visits to the property in question to conduct interviews and to obtain supporting documentation. In contrast, officials at FHEO offices and other agencies said that limited financial resources and time constraints may prevent investigators from including on-site visits as a routine part of their investigations.

About three-quarters of the cases we reviewed with closure types other than reasonable cause showed no evidence that investigators made on-site visits. For non-cause cases that included an on-site visit, we found that investigators toured the property in question, collected physical evidence such as photographs, and interviewed complainants and respondents (see fig. 15). We saw no statistically significant difference in use of on-site visits among the non-cause closure types, but we found substantially more on-site visits documented for cases where HUD had determined reasonable cause. Ten of these cases included on-site visits, and investigators generally carried out more activities while on site. The investigator toured the property in 4 cases, physical evidence was collected in 9, and both complainants and respondents were interviewed in 7 of the 10 cases.



**Figure 15: Percentage of Cases with On-Site Visits and Investigative Activities Conducted during On-Site Visits**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

## Information Requests

HUD’s training manual for fair housing investigators recommends that investigators request information on respondents’ policies and procedures to compare the established policies and procedures with the alleged discriminatory practice. Policy and procedure documents may take a variety of forms, including lease agreements and housing covenants. We found that 74 percent of cases for closure types other than reasonable cause contained evidence that investigators requested policy and procedure information from respondents. Although policy and procedure documents are not always necessary to establish reasonable cause, we found that such documents were requested in all of the cases where HUD had determined reasonable cause.

The manual also suggests that investigators request comparative information, especially in cases alleging unequal treatment, about persons in the same protected class as the complainant and persons not in the

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complainant's protected class.<sup>62</sup> We found that the files for 58 percent of cases for closure types other than reasonable cause showed that comparative information was requested. FHEO officials noted that for cases involving refusal to rent, they generally would expect that investigators collect such information. However, in cases involving design and construction for access by persons with disabilities, such information typically is not necessary. For cases with closure types other than reasonable cause, we found that 30 percent of cases where refusal to rent was at least one issue did not show evidence that comparative information was requested. For cases where HUD had determined reasonable cause, we saw evidence in 10 of the 12 files that comparative information was requested.

Comparative information was requested most often for cases with a finding of no reasonable cause (see fig. 16).<sup>63</sup> Specifically, we estimate that 82 percent of no reasonable cause cases had comparative information requests.<sup>64</sup> FHEO officials believe that recommended practices for planning investigations, interviewing complainants and respondents, conducting on-site visits, and seeking policy information need not be carried out in every case. They believe that every case is unique and each investigation should be tailored to the case. Our prior report noted that at least one FHAP agency had developed software that automatically generated a list of critical documents that were usually needed for certain types of investigations. According to officials of this FHAP agency, this system improved the quality of investigations and decreased the length of cases.

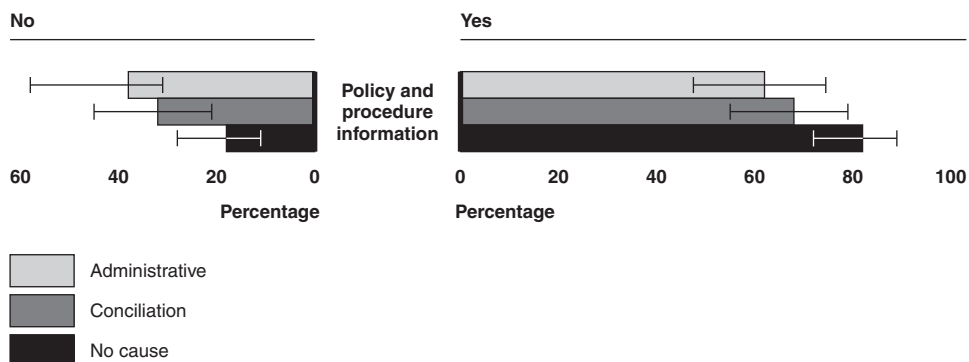
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<sup>62</sup>Comparative information may include documentation for persons being compared with the complainant in terms of general qualifications for the housing opportunity, location relative to the property in question, and timing relative to the allegation date.

<sup>63</sup>The confidence interval for this estimate is 18 percent to 44 percent.

<sup>64</sup>The confidence interval for this estimate is 63 percent to 94 percent.

**Figure 16: Percentage of Cases with Policy and Procedure Information Requests, by Closure Type**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

### Attempts to Reach Complainants Prior to Administrative Closure

Finally, we found that investigators documented multiple attempts to reach complainants before closing complaints administratively. Twenty-one percent of the cases we reviewed had been closed administratively, most of them because complainants withdrew their complaints. Relatively few of the cases closed administratively resulted because a complainant could not be located or was uncooperative with the investigator. Nonetheless, investigators documented as many as 11 attempts to contact uncooperative complainants by telephone, certified mail, and regular mail. The investigating agency is required to notify the parties of administrative closures as with other closure types, and 82 percent of administrative closures had evidence that such notices had been addressed to the parties.<sup>65</sup>

### TEAPOTS Was Used Inconsistently to Record Investigation Activity

Selected information entered in TEAPOTS was generally consistent with the information found in source documents in the case files, but use of the system varied considerably among agencies conducting fair housing investigations. Complete and reliable TEAPOTS information is important for each case since the database is used to record activities and information throughout the investigation and subsequently as a resource for preparing investigative reports. In addition, HUD officials point to

<sup>65</sup>The confidence interval for this estimate is 70 percent to 90 percent.

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TEAPOTS as a control to determine that investigations are conducted in accordance with statute and regulation. Without including evidence as an investigation is completed, TEAPOTS cannot provide an accurate representation of the evidence.

As part of our review of case files, we traced information in TEAPOTS relating to the basis and issue of discrimination, the date of the last alleged violation, and the HUD filing date and found that it generally matched source document information, with some exceptions. We found that for more common complaint issues—discriminatory terms and refusal to rent—the information matched 83 percent and 81 percent of the time, respectively.<sup>66</sup> Similarly with regard to the discrimination basis, the information matched 92 percent and 84 percent for race and national origin, respectively, but the evidence is less clear for color.<sup>67</sup> For familial status, the information matched 86 percent of the time.<sup>68</sup> When we compared the date of the last alleged violation and the HUD filing date in TEAPOTS with the same dates in the source documents, we found that these matched 91 percent and 84 percent of the time, respectively.<sup>69</sup> Also, an estimated 91 percent of the last alleged violation dates in TEAPOTS matched the source documents. Finally, filing dates in TEAPOTS matched those in the source documents in 84 percent of cases.

In reviewing TEAPOTS reports for investigation details, we saw that the amount of information varied a great deal depending on which agency had investigated the case and entered the information. In some instances, entire sections such as those for recording interviews, case chronology, and the investigator's findings and conclusion had not been completed. Without a complete record of an investigation, investigators may be unable to utilize TEAPOTS functions for preparing investigative reports. Further, because the statute requires that information derived from investigations, including the FIR, be made available to complainants and respondents upon request, it is pertinent that all appropriate details be included.

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<sup>66</sup>The confidence intervals for these estimates are 75 percent to 90 percent and 68 percent to 90 percent, respectively.

<sup>67</sup>The confidence intervals for these estimates are 84 percent to 97 percent and 66 percent to 95 percent, respectively.

<sup>68</sup>The confidence interval for this estimate is 68 percent to 96 percent.

<sup>69</sup>The confidence interval for the second estimate is 78 percent to 89 percent.

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## Evidence Indicates a Lack of Consistent Efforts to Conciliate Complaints

Although HUD requires fair housing agencies to attempt conciliation throughout the complaint process, our review of case files, survey of complainants, and test calls revealed that FHEO and FHAP agencies did not always attempt to conciliate complaints, made limited efforts to do so, or did not meet HUD's requirement that they document these efforts. While having the fair housing specialists act as both investigators and conciliators is permitted, investigators faced with pursuing conciliation as well may focus on investigative activities, particularly considering FHEO's emphasis on completing investigations within 100 days.

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## Conciliation Was Not Always Discussed during Intake

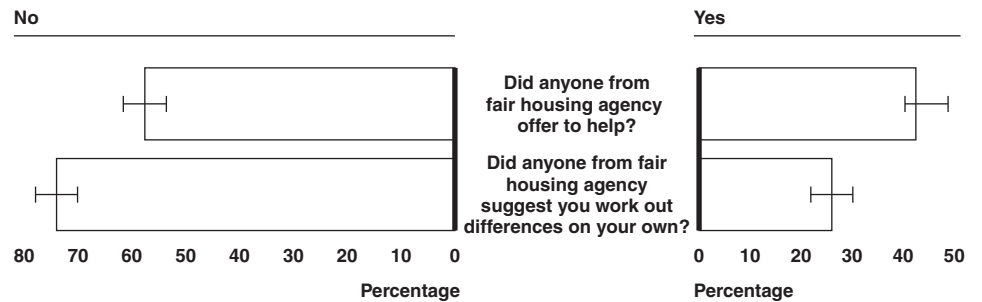
FHEO's Title VIII *Handbook* states that conciliation should be discussed during the initial intake interview and should be noted in the standard notification letters to the complainant and respondent. Further, the statute requires that conciliation must be attempted to the extent feasible commencing with the filing of the complaint and concluding with the issuance of a charge on behalf of the complainant, or upon dismissal of the complaint. For time-sensitive complaints, conciliation may be the most effective procedure and, given that the resources of FHEO and FHAP agencies are limited, an effective means of reducing staff workloads. FHEO's General Deputy Assistant Secretary for Fair Housing and Equal Opportunity noted that conciliation is an integral part of the complaint process. He noted that FHEO officials have "confidence that every party is informed during the initial interview or contact of HUD's statutory obligation to attempt conciliation and is asked about the possibility of conciliating the complaint and what it might take to effect conciliation."

According to our survey of complainants, fewer than half (42 percent) were offered assistance with conciliation (see fig. 17).<sup>70</sup> In 26 percent of the cases, complainants said staff suggested that the parties work out their differences on their own.

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<sup>70</sup>We asked, "Did anyone from a fair housing organization offer to work with you and the other party to find a way to resolve your differences?" However, in FHEO's view, intake staff should not tell complainants that they could help resolve differences with the other party. Rather, intake staff should explain that HUD will assist the complainants by trying to conciliate or settle their complaint.

**Figure 17: Complainant Views on Fair Housing Complaint Staff Conciliation Assistance**



Source: GAO survey of complainants.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Further, during the test calls we placed to FHEO and FHAP agencies, we found the possibility of conciliation was discussed in only 18 percent of the locations we called. FHAP agencies mentioned conciliation 23 percent of the time, and FHEO did not mention conciliation at all.

Based on our survey of complainants, we estimate that nearly 90 percent of complainants who were offered conciliation accepted it. About 12 percent of complainants said they sought help with conciliation through other organizations. The percentages did not vary among cases depending on whether they were investigated by FHEO or a FHAP agency, but did vary based on closure type, with approximately half of the complainants who were offered conciliation far more likely to have their case end with a conciliation outcome. We estimate that complainants with conciliation outcomes were offered conciliation 67 percent of the time, while those with no-cause outcomes were offered conciliation just 27 percent of the time.

Overall, we estimate that parties involved in fair housing complaints were more likely to reach conciliation agreements when FHEO or a FHAP agency was involved. For example, we estimate that complainants reached agreement 64 percent of the time when FHEO or a FHAP agency assisted with conciliation, but only about 35 percent of the time when another organization did the conciliation. Complainants who worked with FHEO or a FHAP agency were satisfied with the outcome about 81 percent of the time and with the other party's compliance with the agreement more than 90 percent of the time, compared with 47 percent and 90 percent, respectively, for complainants working with other organizations.

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Our previous report noted that one FHAP agency was experimenting with a separate “mediation track” when handling complaints. At this agency, mediation attempts occurred early in the process during intake and involved a professional private-sector mediator. The mediation had usually pleased the parties, resulting in timely resolutions of cases and beneficial results. Two FHAP agencies we visited for this study offered mediation. Further, other FHAP agencies had begun offering mediation during the intake stage, and the complainants’ decision to participate or not participate in mediation was almost always documented. One FHAP in its notification letter to the complainant offered the complainant the choice of two options—either conciliation or investigation. Staff from one FHEO regional office noted the use of mediation by a FHAP agency in their region reduced complaints by approximately one-third.

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### Case Files Often Contained No Documentation of Conciliation Attempts

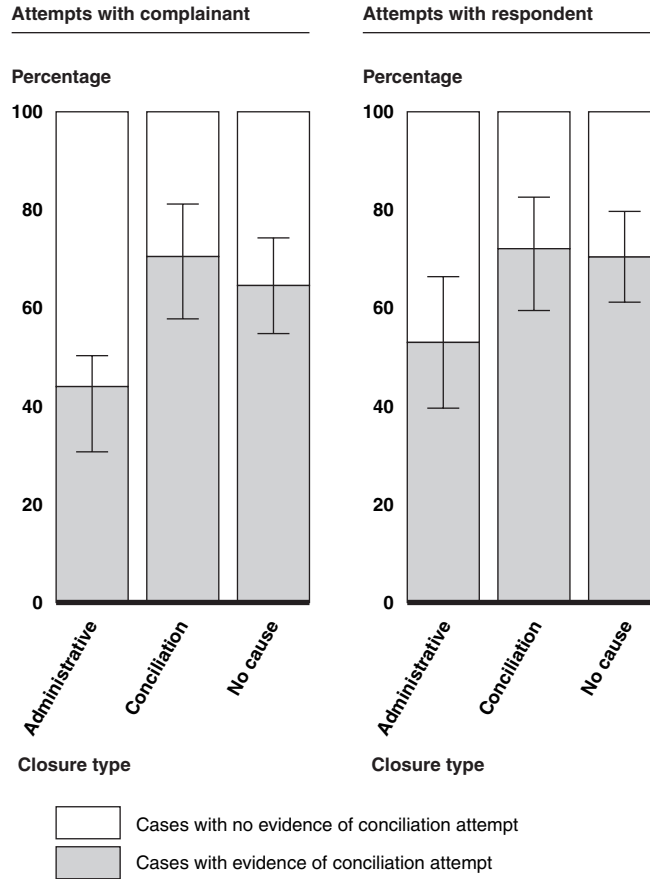
During our file review of no-cause cases, we found no documentation of conciliation attempts around a third of the time and often no documentation of contacts with either party to attempt conciliation. Specifically, an estimated 36 percent of the files contained no evidence that complainants had been contacted to attempt conciliation, while 30 percent of files lacked evidence that respondents had been contacted to attempt conciliation. For the 12 cases with outcomes of reasonable cause that we reviewed, we found documentation that conciliation was attempted in 11 of them.

When an agency contacted parties to a complaint, they often did so once or twice. For example, we estimate that 21 percent of complainants in cases with no-cause outcomes were contacted only once.<sup>71</sup> As indicated in figure 18, we also found that conciliation attempts varied somewhat by closure type. Conciliation was attempted with complainants less often for cases that were closed administratively. However, for all cases, we found that information on conciliation contained in the case file varied tremendously, with some cases noting “conciliation discussed,” while others included significant details.

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<sup>71</sup>The confidence interval for this estimate is 13 percent to 31 percent.

**Figure 18: Documented Conciliation Attempt, by Closure Type**



Source: GAO review of complaint files.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

As is the case with other aspects of our file review, the lack of evidence of conciliation attempts does not necessarily indicate that such attempts did not occur; attempts may not have been documented. However, according to FHEO's Title VIII *Handbook*, the lack of detailed documentation of conciliation attempts could be problematic. For example, the *Handbook* noted that FHEO Headquarters or the Office of General Counsel occasionally questioned the sufficiency of conciliation efforts for cases forwarded to FHEO Headquarters with recommendations of a Determination of reasonable cause. Further, it stated that when these questions were asked, the case was often remanded to the agency handling the case with instructions to undertake additional late-stage conciliation



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efforts. The Title VIII *Handbook* noted that a number of these remands result not from a lack of initial conciliation attempts, but rather from a lack of documentation of conciliation attempts in the case file.

Conciliation attempts should be documented in TEAPOTS before a case can be closed. TEAPOTS includes a separate section that allows the intake specialist and investigator to document conciliation efforts. While HUD relies on TEAPOTS as a control to assure that investigations, including conciliation attempts, are performed in accordance with statute and regulation, information that we obtained from TEAPOTS shows that its use varied from one location to another. For example, the descriptions of conciliation attempts varied in detail, and the case information recoded by some FHEO and FHAP offices did not include a chronological listing of conciliation attempts as suggested by the Title VIII *Handbook*.

Finally, we found that conciliation agreements were generally well-documented. Specifically, an estimated 91 percent of cases closed with conciliation included copies of conciliation agreements in the case file.<sup>72</sup> A HUD conciliation agreement is a written, binding agreement to resolve the disputed issues in a Title VIII housing discrimination complaint. The HUD conciliation agreement must contain provisions to protect the public interest in furthering fair housing.<sup>73</sup> According to the Act, a conciliation agreement requires HUD approval.<sup>74</sup> Approximately ninety-five percent of these agreements were signed by all parties and approximately 90 percent were approved by FHEO or the FHAP agency.<sup>75</sup>

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### Complainants Viewed Conciliation as a Case Outcome More Favorably Than Other Possible Outcomes

Based on our survey, complainants whose cases were conciliated were more positive with this outcome than those who experienced administrative closure or a finding of no-cause, but complainants felt at least some pressure to conciliate their complaints, most commonly because they felt their cases would not be handled otherwise. As shown in figure 19, 52 percent of the complainants surveyed indicated that they felt a

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<sup>72</sup>The confidence interval for this estimate is 80 percent to 97 percent.

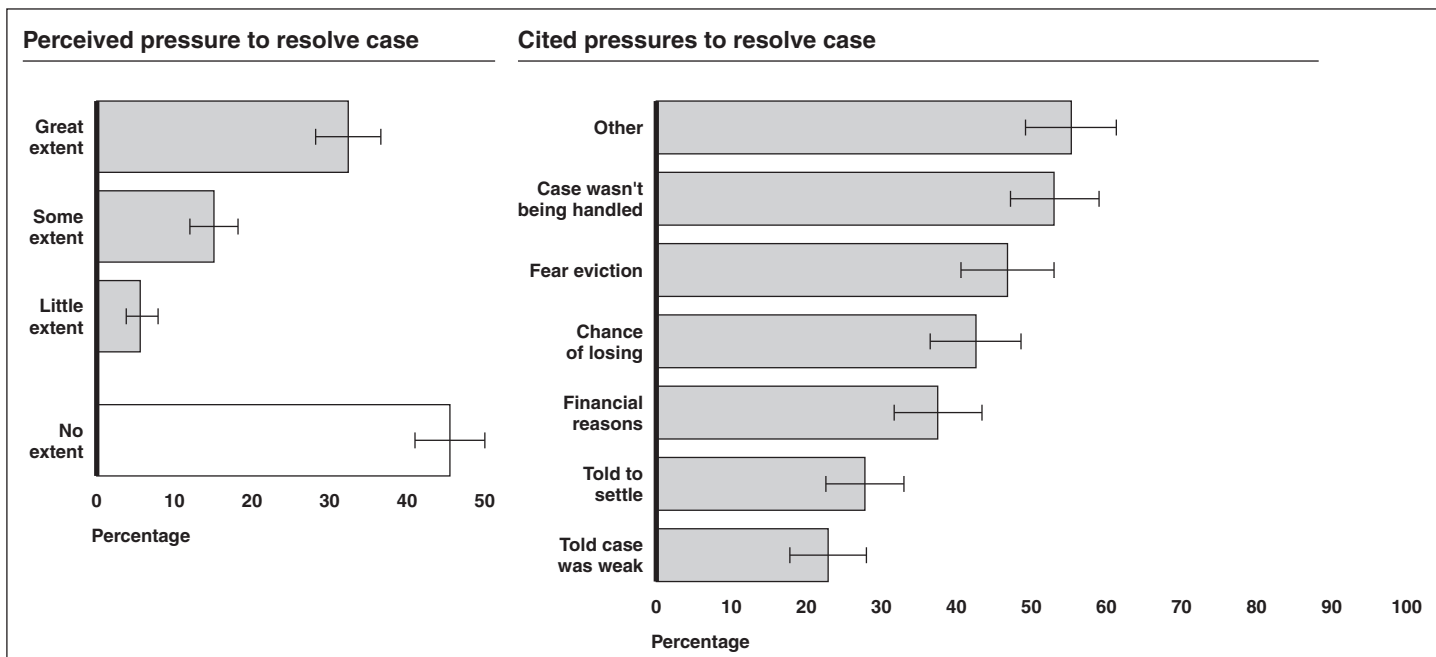
<sup>73</sup>24 C.F.R. § 103.310(a).

<sup>74</sup>42 U.S.C. § 3610((b)(2).

<sup>75</sup>The confidence intervals for these estimates are 84 percent to 99 percent and 78 percent to 97 percent, respectively.

little to great pressure to resolve their cases. In commenting on a draft of this report, the General Deputy Assistant Secretary for Fair Housing and Equal Opportunity noted that the Fair Housing Act mandates attempts at conciliation and that this statutory construct may result in what complainants perceive to be pressure to resolve their case.

**Figure 19: Most Commonly Cited Pressures to Resolve Case**



Source: GAO survey of complainants.

Note: Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Our survey of complainants indicated that conciliation seemed to work when an agency such as FHEO or FHAP agencies were involved (over 64 percent resulted in a conciliation). However, a significant number of survey complainants indicated that this opportunity was not presented to them. Moreover, those who sought conciliation assistance from any other organization were less likely to reach a satisfactory outcome; 47 percent did not realize a satisfactory agreement.

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## Emphasis Given to Conciliation May Be Affected in Cases of Dual Investigator/Conciliator Role

Our previous report noted that investigators at some FHEO locations and FHAP agencies customarily conciliated their own cases, while other locations usually used separate investigators and conciliators.<sup>76</sup> Also, our previous report noted that officials were divided on the impact of this practice. Some officials told us that having the same person performing both tasks had not caused problems. Other officials—including some at locations where investigators conciliated their own cases—indicated a preference to have different people perform these tasks. One official said that separating these tasks enabled simultaneous conciliation and investigation of a complaint, a practice that speeded up the process. Another official noted that parties might share information with a conciliator that they would not share with an investigator and that a conflict of interest might result if one person tried to do both. The same official said that although investigators were not allowed to use information they learned as conciliators during investigations, the information could still influence the questions conciliators posed—and thus the information they learned—as investigators. Similarly, at one FHEO location hub, an OGC official told us that information learned as a result of conciliation efforts should not be included in investigative findings. A few enforcement officials at locations that did not separate the functions said they did not have enough staff to have separate conciliators. We recommended in our previous report that FHEO establish a way to identify and share information on effective practices among its regional fair housing offices and FHAP agencies.

According to the Title VIII *Handbook*, conciliation may be a fertile source of information regarding a respondent's housing practices. However, the *Handbook* notes that nothing said or done during the course of conciliation can be used in the investigator's reasonable cause recommendation, in the final investigative report, or in any subsequent Title VIII enforcement proceeding. Information discovered during conciliation should not be made public without the written consent of the persons concerned. Although information discovered during the conciliation process cannot be factored into the investigator's recommendation, if this same information is discovered outside of the conciliation process, it is permissible for

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<sup>76</sup>Federal regulations implementing the Act state that generally investigators will not participate in or advise in the conciliation of their own cases. 24 C.F.R. § 103.300(c). Nevertheless, the regulations allow an individual to act as investigator and conciliator on the same case when the rights of the parties "can be protected and the prohibitions with respect to the disclosure of information can be observed." *Id.*

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investigators to use this information in their recommendations. For example, if respondents make an admission during conciliation negotiations, investigators cannot use this admission in their recommendations. However, if respondents make this same admission in a later deposition, the investigator can use this admission in their recommendations.

In our previous report, we also noted that some HUD locations we visited put investigations on hold when conciliation looked likely, while others did not.<sup>77</sup> Some fair housing officials at the locations that simultaneously investigated and conciliated cases told us that doing so not only expedited the enforcement process but could also facilitate conciliation. Because the parties were aware that the investigation was ongoing, two FHEO hub directors told us, they were sometimes more willing to conciliate. Additionally, some officials at the offices that delayed the investigation while attempting conciliation told us that this practice increased the number of calendar days necessary to investigate a case. However, one FHEO hub official told us that simultaneous investigation and conciliation could waste resources, as it might not be necessary to obtain further evidence in a case that would be conciliated. Overall, 6 of the 10 hub directors told us that simultaneous investigation and conciliation had a great or very great impact on the length of the complaint process, and all 6 said that the practice decreased the length.

During our current review, officials from one FHEO regional office noted that using separate conciliators would definitely assist in making their investigative process more effective. However due to staffing constraints, they believed it was impractical to do so without a significant increase in staff. These officials noted that they needed additional staff to speed up the investigative process, separate investigation from conciliation, conduct more thorough investigations, and more effectively monitor compliance with conciliation agreements.

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<sup>77</sup>24 C.F.R. § 103.300(c) states that an investigator “may suspend fact finding” and engage in conciliation efforts.

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## Complainants Were Dissatisfied with the Fair Housing Complaint Process, Its Outcome, and Certain Aspects of Intake and Investigation

While an estimated 44 percent of complainants were somewhat or very satisfied with the fair housing complaint process, based on our survey, we estimate that about half of all complainants were either somewhat or very dissatisfied.<sup>78</sup> Similarly, nearly 60 percent were dissatisfied with the outcome of the fair housing complaint process, and almost 40 percent would be unlikely to file a complaint in the future. Complainants' dissatisfaction varied for each stage of the complaint process, as well as by type of complaint closure (administrative, conciliation, and no-cause finding), with complainants in no-cause cases expressing the least satisfaction with various aspects of investigations. However, according to FHEO, the low satisfaction levels of complainants with a no-cause finding is not wholly unexpected given that they failed to receive the desired outcome and thus question the process that produced the outcome.

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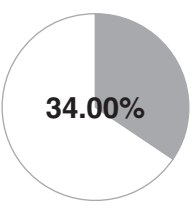
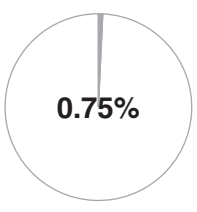
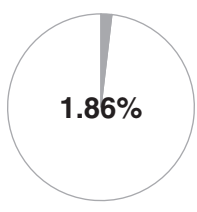
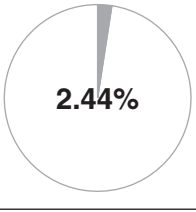
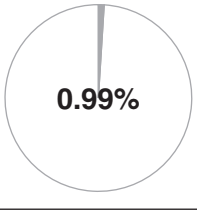
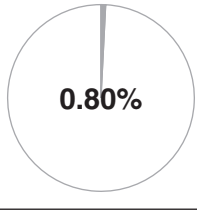
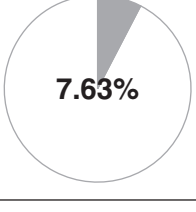
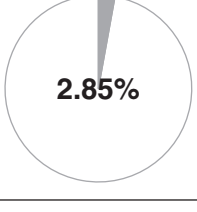
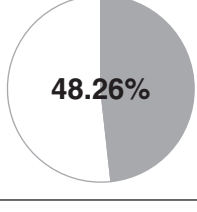
## Many Complainants Were Dissatisfied with the Complaint Process, but Satisfaction Varied According to the Stage of the Process and Case Outcome

Overall, about 34 percent of all complainants were satisfied with both the process and the outcome; conversely, 48 percent of all complainants were dissatisfied with both the process and the complaint outcome (see fig. 20). When looking at complainants' overall satisfaction level, we found no significant differences when we sorted by type of agency—that is, between cases investigated by FHEO and those investigated by FHAP agencies. However, variations by closure type existed. For example, over two-thirds of those with a no-cause finding were dissatisfied with both the process and the outcome of their complaint (about 68 percent). In contrast, over two-thirds of those closed through conciliation were satisfied with both the process for handling their complaint and its outcome (about 68 percent). Also, just under half of the complainants with administrative closures were dissatisfied with both the process and outcome (about 43 percent).

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<sup>78</sup>The estimates provided are based on our survey of a national random sample of 575 complainants whose complaints were closed by either FHEO or a FHAP agency during the last half of Calendar year 2004 either through conciliation, administrative closure, or a finding of no cause. As noted earlier, the confidence intervals due to sampling error for all survey estimates are plus or minus 6 percentage points or smaller.

**Figure 20: Proportion of Complainants Who Were or Were Not Satisfied with the Overall Complaint Process and the Outcome (Percentage of all Complainants)**

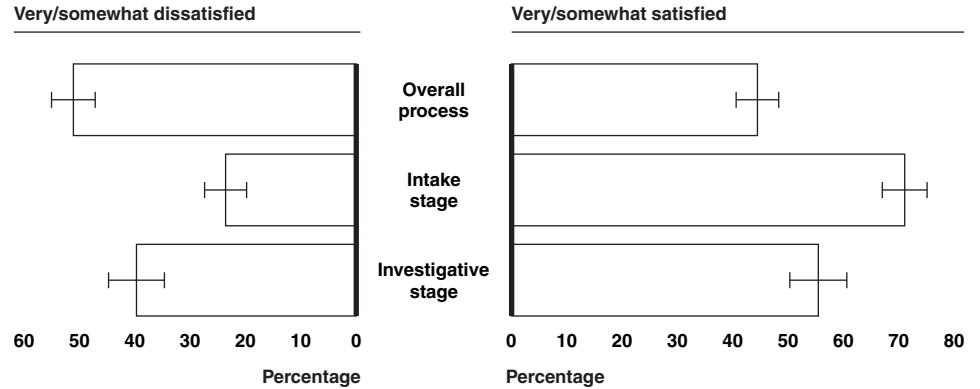
		Satisfaction with the process		
		Somewhat/very satisfied	Neither	Somewhat/very dissatisfied
Satisfaction with the outcome	Somewhat/very satisfied	 34.00%	 0.75%	 1.86%
	Neither	 2.44%	 0.99%	 0.80%
	Somewhat/very dissatisfied	 7.63%	 2.85%	 48.26%

Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” responses.

While an estimated one-half of all complainants—regardless of their case outcomes—were either somewhat or very dissatisfied with their experience with the overall complaint process, the percentages expressing dissatisfaction with the intake and investigative stages were smaller (see fig. 21). Specifically, about 71 percent of complainants were somewhat to very satisfied with the intake stage and nearly 55 percent with the investigative stage.

**Figure 21: Complainant Satisfaction with the Overall Process and the Intake and Investigative Stages**



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

In addition, we found that complainants who were dissatisfied with the outcome of the complaint process were also likely to express dissatisfaction with the process itself. These results were consistent across FHEO offices and FHAP agencies. Further, complainants with a no-cause finding were more likely to be dissatisfied with both the process and outcome than complainants whose complaints were conciliated or closed administratively. For example, complainants with a no-cause outcome were somewhat to very dissatisfied with the process 72 percent of the time (23 percent were satisfied) and with the outcome of their cases 84 percent of the time, while those with a conciliation outcome reported dissatisfaction levels of 21 percent with the process (75 percent were satisfied) and 25 percent with the outcome.

About 40 percent of complainants said they would be somewhat to very unlikely to file any future complaint with the same fair housing agency. These results did not differ significantly by type of agency but did differ by closure type. For example, complainants with a no-cause outcome said they would be somewhat to very unlikely to file another complaint about 56 percent of the time, compared with 14 percent of those whose cases were conciliated.

Generally, complainants’ level of satisfaction with the process and its outcome did not vary with the expectations they had before talking to anyone at a fair housing organization. There were a few important

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exceptions, however. About 20 percent of complainants reported that they expected that the fair housing organization would not help both sides equally. These complainants were significantly more dissatisfied with the overall process and its outcome. The same was true for the approximately 30 percent of complainants that expected the fair housing organization would get the complainant a financial award. Half of all complainants had expectations that were not listed in our survey.<sup>79</sup> Those complainants that had expectations other than those we listed were significantly more dissatisfied with each stage of the process, the overall process, and its outcome. These results may indicate that some complainants have different or greater expectations than others.

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### Complainants Viewed the Overall Intake Process Positively but Expressed Concern about Specific Intake Activities

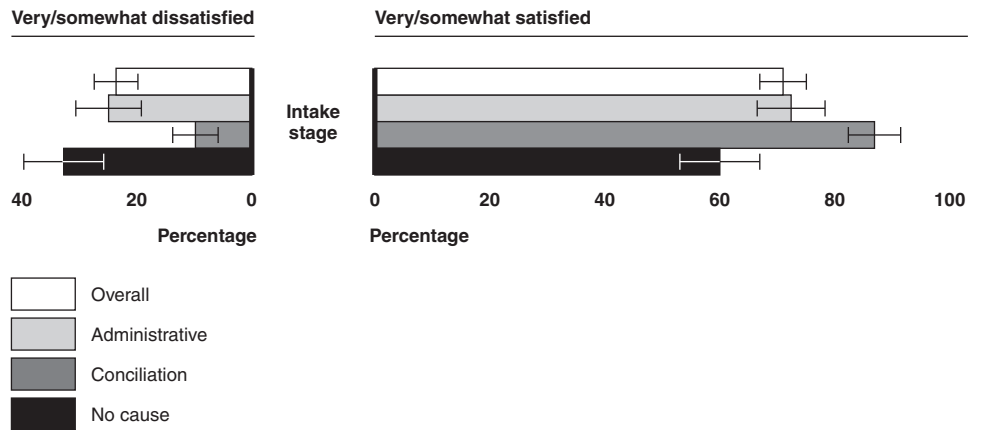
According to our survey, about 71 percent of complainants were somewhat or very satisfied with the intake process (see fig. 22). More than half of the complainants reported that they received clear information during the intake process and that intake staff were courteous and mostly acted promptly. Yet, a substantial number of complainants gave poor ratings to specific aspects of the process, citing difficulty contacting intake staff and the lack of timeliness of some intake activities. These opinions were generally true across agency type and closure types.

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<sup>79</sup>We specifically listed the following expectations in our survey—the organization would: (1) take your side in pursuing the complaint, (2) prevent the other party from taking immediate action against you while investigating the complaint, (3) conduct an investigation, (4) help you and the other party resolve your differences, (5) help both sides equally, (6) punish the violator, (7) get you a financial award, and (8) other.



**Figure 22: Complainant Satisfaction with Intake Stage, by Closure Type**

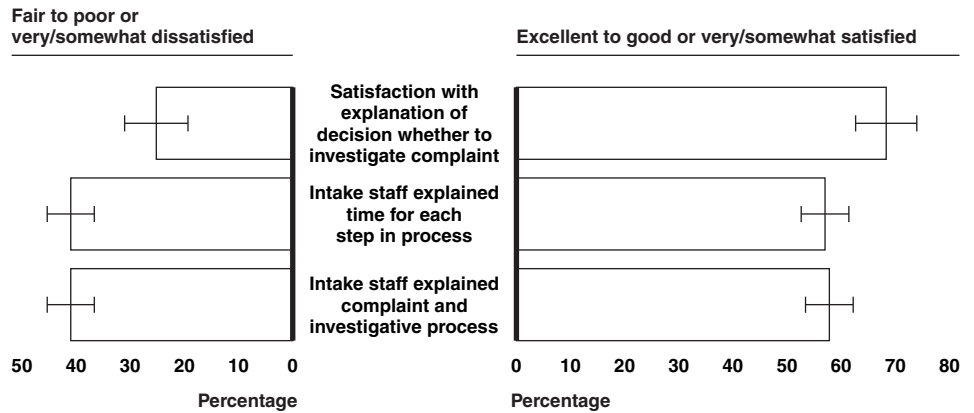


Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Complainants reported that intake staff at both FHEO and FHAP agencies provided understandable information more than half of the time, including satisfactory explanations about an agency’s decision on whether to pursue an investigation. In general, about 60 percent of the time complainants told us that they received clear information on the likely length of each step in the process and explanations of the complaint and investigative process. Moreover, an estimated 66 percent of complainants were very or somewhat satisfied with the way the organizations explained their decision to pursue or not pursue a case (see fig. 23). The results varied by closure type with the exception of the organization’s explanation of their decision whether to investigate. For example, fewer complainants with no-cause outcomes, relative to complainants with conciliation outcomes, felt that they had received understandable information on the time involved or felt that they had received explanations of the complaint and investigative processes.

**Figure 23: Complainant Views on Whether Intake Staff Provided Understandable Information and Satisfactory Explanation on Whether the Complaint Would Be Investigated**



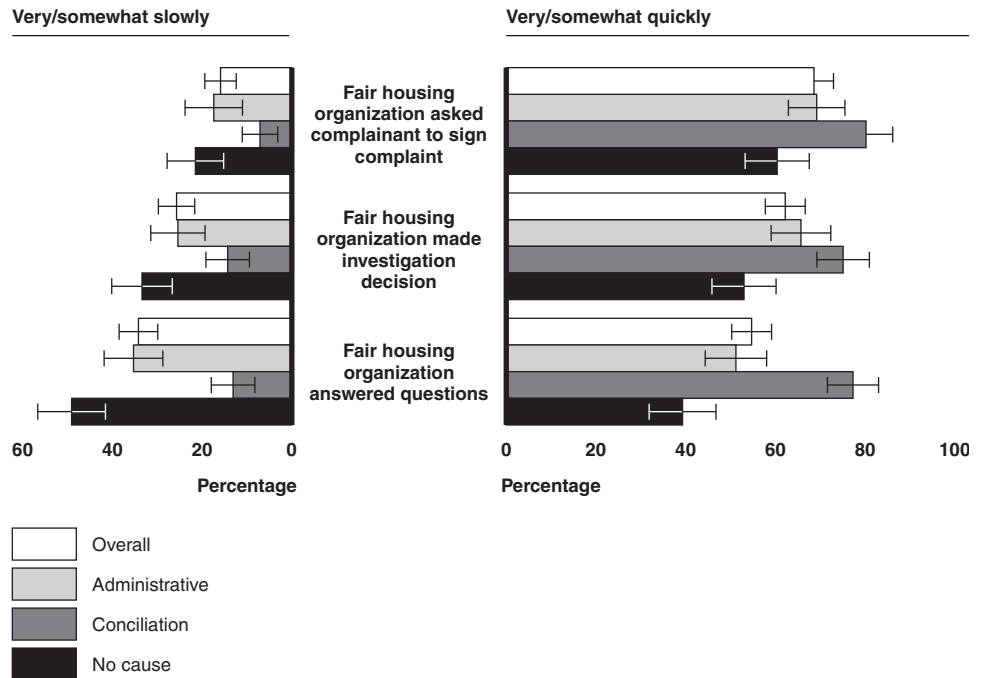
Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

**Complainants Reported That Intake Staff Took Prompt Action Most of the Time and Were Generally Professional and Courteous**

Based on survey results, complainants believe intake staff took action in a timely manner more than half the time on the intake activities we reviewed. Specifically, we estimate that about 70 percent of the time intake staff sought the complainant’s signature somewhat to very quickly after the initial contact and that 62 percent of the time intake staff acted somewhat to very quickly in deciding whether to pursue an investigation (see fig. 24). Staff performance in getting back to complainants was apparently less satisfying, with just 55 percent of complainants responding that intake staff acted somewhat to very quickly, a result that complements our findings on the difficulty of contacting intake staff. In general, these results were true regardless of whether FHEO or FHAP agencies had handled the complainants’ cases. Complainants with no-cause outcomes cited the slowest response time, saying that staff responded somewhat or very quickly only about 40 percent of the time. On the other hand, complainants whose cases were conciliated reported the fastest agency action for certain actions.

**Figure 24: Complainant Views on Timeliness for Certain Intake Activities, by Closure Type**

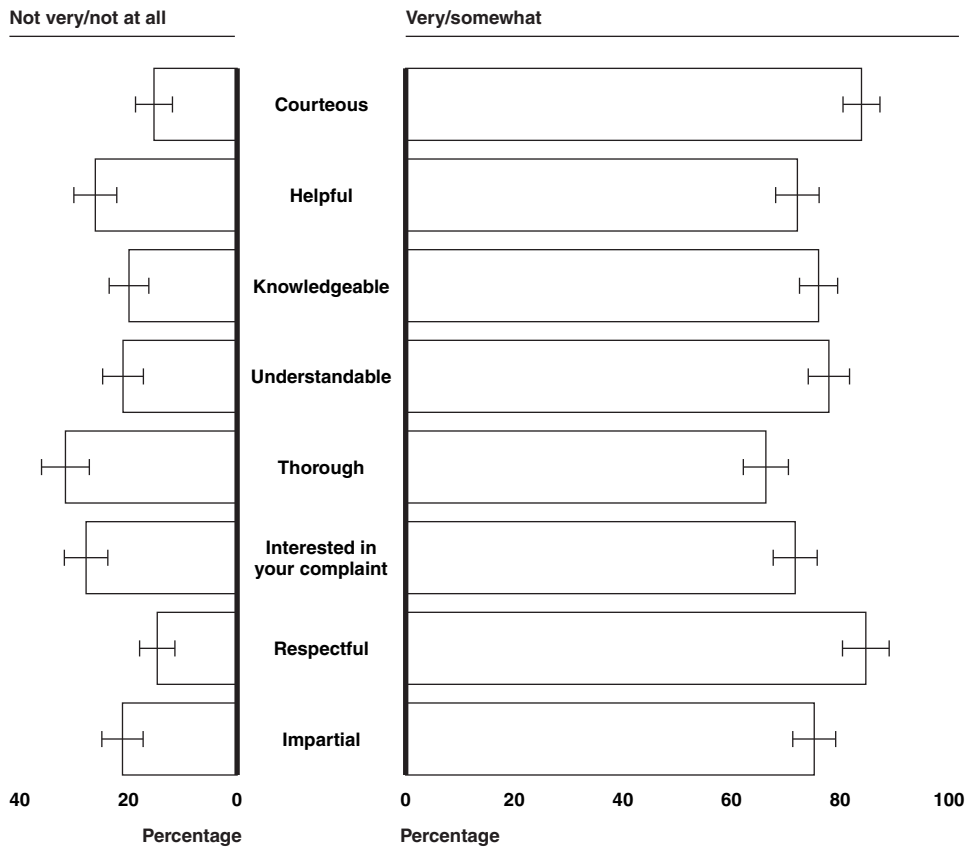


Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

In general, complainants felt that intake staff provided services in an acceptable and professional way (see fig. 25). We estimate that intake staff at both FHEO and FHAP offices treated complainants with courtesy and respect about 85 percent of the time and were helpful and impartial more than 70 percent of the time, according to complainants we surveyed. Complainants with no-cause outcomes reported positive treatment less often. For example, these complainants said that intake staff were helpful and interested in their complaint about 60 percent of the time and thorough about half of the time.

**Figure 25: Complainant Views on Treatment by Intake Staff**



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

**Complainants Reported That Intake Staff Performed Some Activities More Often and More Quickly Than Others**

We asked complainants whether intake staff carried out a variety of activities that were either required or that could be considered best practices—for example, did intake staff notify complainants whether the fair housing organization would pursue the case? According to survey results, FHEO and FHAP agency staff carried out some intake-related activities, such as seeking signatures for a complaint, more frequently and more quickly than others, such as taking action to prevent the loss of a housing opportunity. Among other things, our survey showed the following:

- Intake staff very often asked complainants to sign a complaint. This was true for about 90 percent of complainants who were working with a

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single fair housing agency. In contrast, only about 48 percent of those complainants who were working with two or more fair housing agencies were asked to sign a complaint.<sup>80</sup> We did not observe any significant differences by type of agency (FHEO or FHAP) or closure type. Because we surveyed only complainants that had filed complaints, we would expect that all would have been asked to sign the complaint. According to the Title VIII *Handbook*, a complaint should generally be signed before it can be considered as filed, so as to provide protection against frivolous or false claims or inadvertent erroneous statements on the intake form.

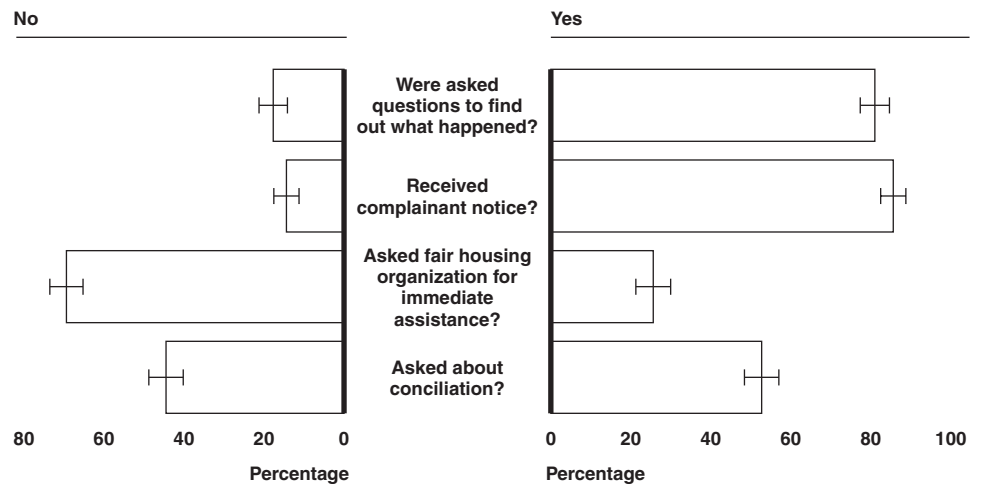
- Complainants stated by a large margin—about 81 percent—that intake staff asked questions that would help the agency understand what led to the complaint, and 86 percent stated that the agency notified them with a decision on whether an investigation would be undertaken. Again, all complainants should be asked questions about their allegation, including information needed to satisfy the required elements of jurisdiction. In general, these results were similar across FHEO, the FHAP agencies, and the closure outcomes.
- Complainants reported that intake staff were less likely to take some actions or to ask certain questions (see fig. 26). For example, according to complainants we surveyed, about 69 percent of the time both FHEO and FHAP intake staff did not attempt to prevent the loss of a housing opportunity when asked to do so, although the percentage varied across outcome types. Complainants with administrative closures or conciliated cases were slightly more likely to report that staff took action for them than those with a no-cause outcome.
- Complainants also said that intake staff did not offer to resolve differences between parties about 45 percent of the time. Again, the results differed according to case outcome, with complainants who conciliated reporting the most offers (76 percent) and those with a no-cause outcome the least (37 percent). As previously discussed, the

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<sup>80</sup>This difference may be due to the fact that these agencies did not investigate the complaint and deferred to the agency that conducted the investigation. However we have no definitive evidence on this issue. In addition, if complainants dealt with more than one agency, they may have been confused as to which organization took which actions; this confusion could extend to being asked to sign a complaint. Further, it should be noted the information provided is the complainants' best recollection and does not mean that a complaint signing did not occur.

Act requires the fair housing organization to offer conciliation to the extent feasible in all cases.

**Figure 26: Complainant Views on Whether Intake Staff Carried Out Certain Activities**



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

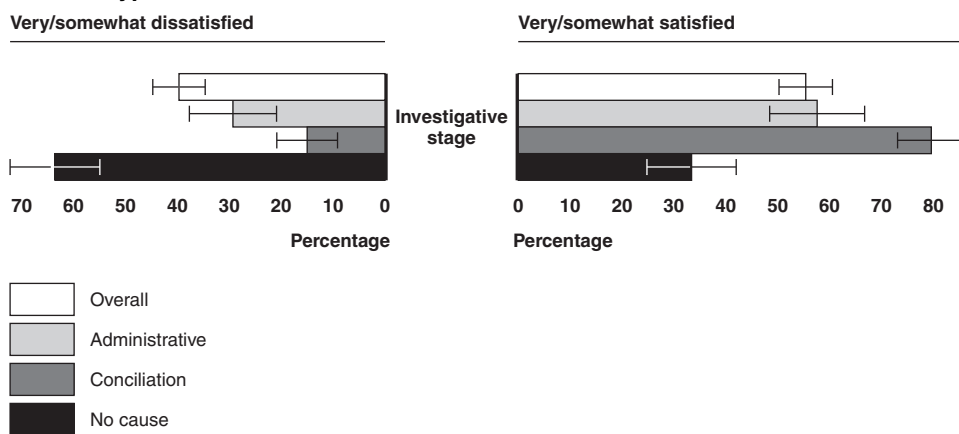
**Most Complainants Reported Being Satisfied with the Investigative Stage, but Substantial Numbers Rated Poorly Certain Aspects of the Investigation Process**

Although most complainants were satisfied with the investigative stage of the complaint process, they were generally less positive than they were about the intake stage. Further, a substantial number of complainants expressed dissatisfaction and concern about certain aspects of investigations.

We estimate that about 40 percent of complainants were dissatisfied with the conduct of investigations, whether it was conducted by FHEO or a FHAP agency (see fig. 27). As they were with other activities, complainants whose cases were closed with a no-cause outcome were the most dissatisfied with the conduct of investigations, with nearly two-thirds reporting dissatisfaction. The concerns that led to this dissatisfaction included problems contacting staff, concern that staff did not perform actions such as informing complainants about options after their case was closed, and difficulty obtaining clear information. However, those whose cases were conciliated very often reported being satisfied with the

investigation. Despite the concerns cited, complainants in general believed that staff treated them professionally and with respect and courtesy.

**Figure 27: Complainant Satisfaction with Investigative Stage, Overall and by Closure Type**

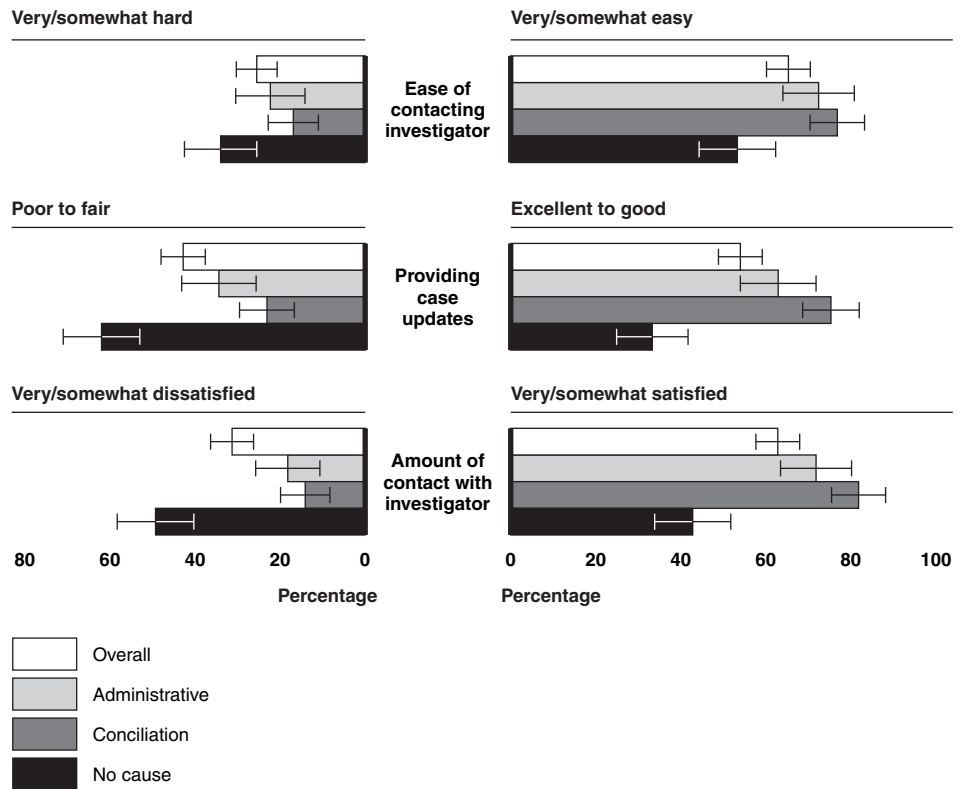


Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

We estimate that a quarter to a third of complainants had problems reaching investigators, believed that investigators performed poorly in providing case updates, and were dissatisfied with the amount of contact they had with investigators. An estimated one-quarter of the complainants found it hard or somewhat hard to reach investigators, and more than 30 percent of the complainants noted dissatisfaction with the amount of contact they had with investigators (see fig. 28). These results did not vary significantly depending on whether cases had been investigated by FHEO or FHAP agencies, but did differ according to the closure type. For example, more than one-third of complainants whose cases were closed with a finding of no-cause reported difficulties in contacting the investigators, compared with 22 percent and 17 percent, respectively, of complainants whose cases were closed administratively or conciliated. Complainants with a no-cause finding were most dissatisfied with the amount of contact they had with the investigator; 49 percent reported dissatisfaction, compared with 18 percent and 14 percent, respectively, for those having administrative or conciliation outcomes.

**Figure 28: Complainant Views on Investigative Contact**



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Significant numbers of complainants reported that investigative staff performed administrative functions acceptably and in a timely manner but did only a fair or poor job on others. For example, complainants reported that they were told their investigator’s name about 83 percent of the time, and 92 percent said they received their closure notifications. But about 59 percent of complainants whose cases were administratively closed reported that they were not told about any options they might have had for pursuing a complaint. Further, overall many complainants believed that staff did a fair to poor job of listening to them (nearly 40 percent), explaining the investigative process (about 36 percent), investigating the evidence (about 44 percent), interviewing their witnesses (nearly 40 percent), and asking for documents related to their cases (about 32 percent). These percentages were generally similar whether complainants’



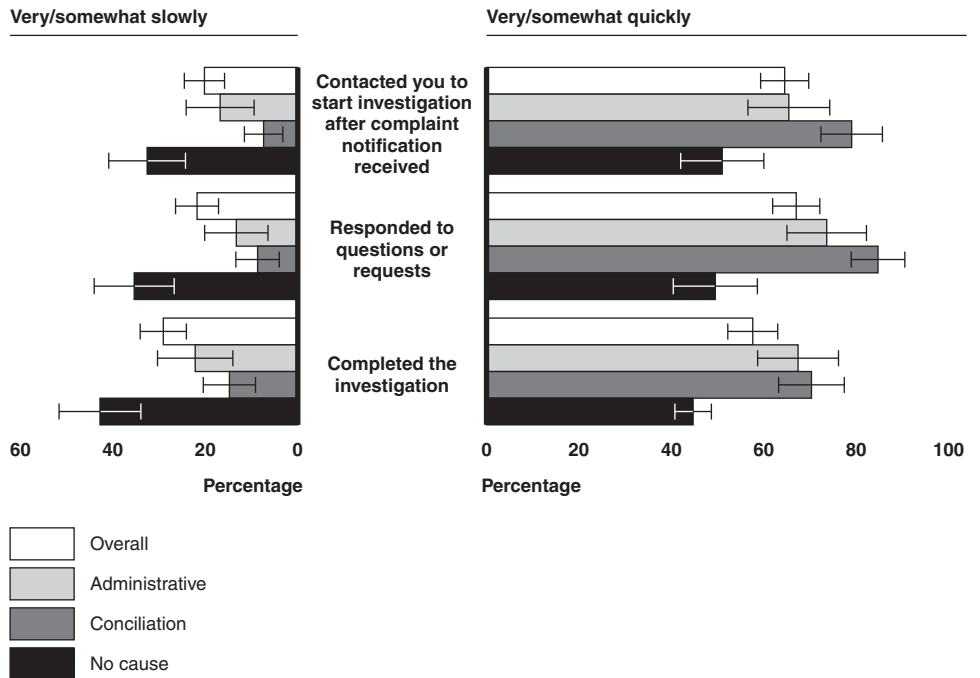
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cases had been handled by FHEO or a FHAP agency, with one exception: Complainants indicated that FHAP agencies were slightly better at interviewing witnesses (33 percent excellent or good) than FHEO (23 percent). We found more differences among complainants' experiences based on their closure outcomes. Complainants with no-cause outcomes were more likely to perceive difficulties in a variety of areas than complainants with administrative closures or conciliated cases. Specifically, complainants with no-cause outcomes

- more frequently reported problems receiving case updates (62 percent of the time, compared with 34 percent for administrative closures and 23 percent for conciliations);
- were more likely to believe that investigators did a poor job of investigating the evidence (68 percent of the time, compared with 37 percent for administrative closures and 20 percent for conciliations); and
- were more likely to believe that investigators did a poor job of interviewing witnesses (58 percent of the time, compared with 35 percent for administrative closures and 14 percent for conciliations).

Despite these views, most complainants reported that staff moved quickly in conducting the investigation. About three-fifths of complainants said that both FHEO and FHAP investigators were prompt in contacting them to start an investigation, responding to questions, and completing an investigation. However, complainants with no-cause outcomes typically reported problems with timeliness at twice the rate of complainants with different outcomes (see fig. 29).

**Figure 29: Complainant Views on Timeliness for Certain Investigative Activities, by Closure Type**

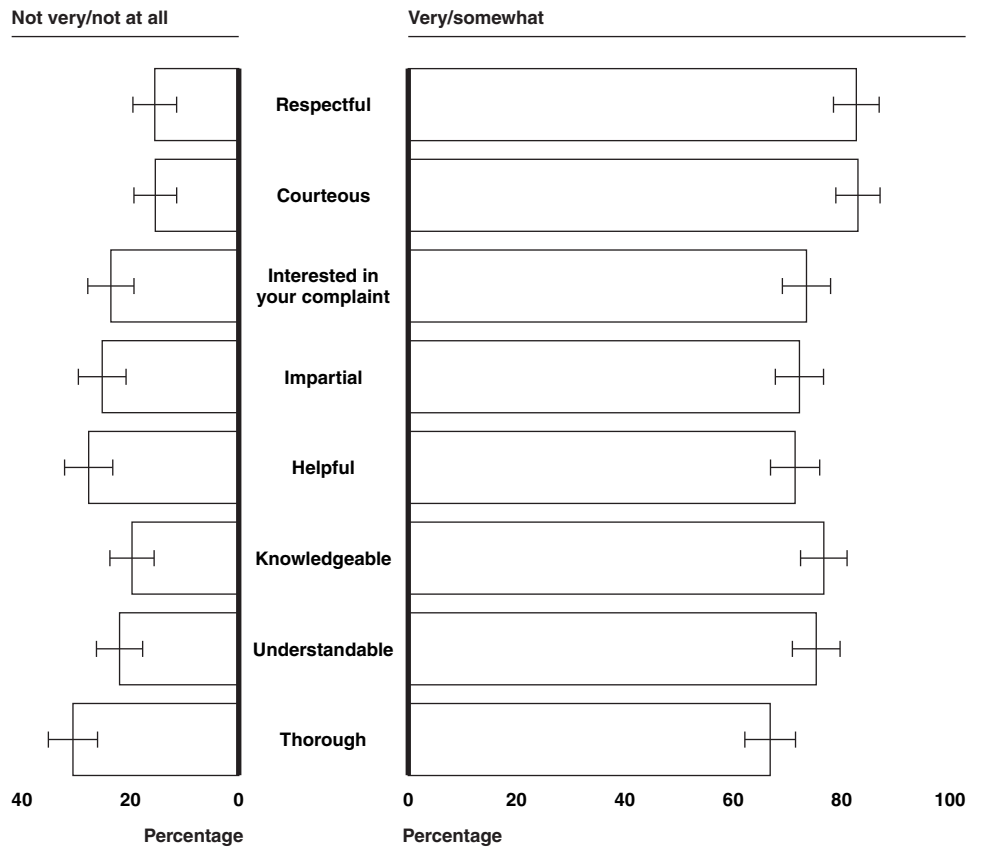


Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” or “neither” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

Finally, we found that complainants generally felt they were treated well by investigators (see fig. 30), regardless of the type of agency that investigated the complaint or the closure type, with one exception: Complainants whose cases ended in a no-cause outcome usually felt less well treated by staff. For example, an estimated 83 percent said that investigators treated them with respect and courtesy, 74 percent said that staff were interested in their complaint, about 72 percent believed that staff were impartial, and around 71 percent found staff helpful. In general, complainants had similar responses for FHEO and FHAP investigations. As noted, those with a no-cause outcome were less complimentary, and only 53 percent of them believed that the investigator had been helpful, versus 78 percent and 90 percent, respectively, for those with administrative or conciliation closures.

**Figure 30: Complainant Views on Treatment by Investigative Staff**



Source: GAO survey of complainants.

Note: Totals do not equal 100 percent because figure does not include “don’t know” responses. Brackets on each bar represent the sampling error (confidence interval) for that estimate.

## Conclusions

In our April 2004 report, we found that persons who have experienced alleged discrimination in housing can sometimes face a lengthy wait before their complaint is resolved. In preparing this current report, the results of the test calls even though they are not generalizable to all potential complainants and our survey of complainants that is generalizable—suggest that some complainants may also face difficulties from the outset—that is, during the intake phase—in contacting staff and presenting their initial allegations. We also previously reported that without comprehensive, reliable data on the dates when individuals make inquiries, FHEO cannot judge how long complainants must wait before a FHAP

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agency undertakes an investigation. For this report, our analysis of logged contacts indicates that FHAP agencies and FHEO hubs did not enter into TEAPOTS all contacts alleging Title VIII violations. Moreover, the discrepancies we observed between the dates of logged initial contacts and the corresponding dates entered into TEAPOTS as the beginning of the inquiries indicate that FHEO does not have reliable data for measuring the extent to which its offices and FHAP agencies meet the benchmark of 20 days for completing the intake process.

Our review of case files and TEAPOTS data showed a lack of evidence that investigations are consistently as thorough or expeditious as FHEO guidance requires or recommends. HUD officials have noted their reliance on TEAPOTS for assurance that cases are investigated in accordance with applicable requirements and guidance. While the lack of evidence we observed may be the result of not documenting certain actions, rather than not carrying them out, the very lack of documentation or detailed TEAPOTS records raises questions about HUD's ability to assure that investigations are as thorough as they need to be.

The Fair Housing Act has from the outset mandated that persons alleging housing discrimination be offered the opportunity to conciliate their complaint with the other party. However, our review of case files and TEAPOTS data showed a lack of evidence that conciliation attempts were consistently made throughout the process, despite HUD's requirements that these attempts be documented. The lack of documentation that conciliation is offered raises questions about HUD's ability to assure that such attempts are made as appropriate throughout the fair housing process. Further, this lack of documentation, along with complainants' first-hand experience and our observation during mock complaint calls that conciliation was not discussed, suggest that FHEO and FHAP agencies are not consistently offering conciliation, as required by the Act. We recommended in our previous study that FHEO establish a way to identify and share information on effective practices among its regional fair housing offices and FHAP agencies. We observed during our previous study and this study that some FHAP agencies have used independent mediators and had staff not involved in a particular case attempt conciliation. Officials who use these techniques point to their benefits in speeding up the resolution of complaints, while offering the parties a satisfactory outcome. In our last report, we concluded that FHEO's human capital challenges serve to exacerbate the challenge of improving enforcement practices. However, the identification and use of best practices may help FHEO, as well as FHAP agencies, more effectively utilize their limited resources.

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Our work does not demonstrate that HUD failed to reach appropriate decisions regarding any specific fair housing inquiry or investigation. Further, our review of case files shows that many investigative requirements were met, and former complainants we surveyed expressed satisfaction with some aspects of their experience. Nevertheless, we believe that our findings are cause for concern. Individuals who believe they have experienced discrimination and make the effort to contact a fair housing agency, but are unable to easily reach an intake staff person or to expeditiously convey needed information, may simply give up and cease cooperating. Further, our survey of former complainants shows that some who successfully filed complaints have a sufficiently negative view of the process that they would be unlikely to file a complaint again—even if they were satisfied with the outcome of their case. Events of either type diminish the Act’s effectiveness in deterring acts of housing discrimination or otherwise promoting fair housing practices.

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## Recommendations for Executive Action

To ensure that complainants are able to readily contact a fair housing agency and file a complaint, we recommend that the HUD Secretary direct the Assistant Secretary of FHEO to ensure that intake activities are conducted consistently. Specific actions may include

- establishing clear standards for information that should be collected with the initial contact;
- creating benchmarks and performance goals for the treatment of complainants during the initial contact, including measures of responsiveness, such as hold times and call-back timeliness, as well as measures of completeness of initial information collection;
- developing special procedures for identifying and responding to time-sensitive inquiries; and
- establishing means (including automation, where appropriate) of assuring that standards, benchmarks, and special procedures are followed.

To improve the usefulness of TEAPOTS as a management control in assuring that potential Title VIII-related contacts are identified and assessing performance in meeting timeliness guidelines, we recommend that the HUD Secretary direct the Assistant Secretary of FHEO to take the following two actions:

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- Specify that FHAP agencies use TEAPOTS for recording initial inquiry dates for all inquiries, as defined in the Title VIII *Handbook*, that allege housing discrimination.
  - Require that the initial inquiry date reflect the first contact made by the complainant, regardless of whether that contact was with FHEO or a FHAP agency.

To enhance FHEO and FHAP agency ability to assess the thoroughness of investigations, we recommend that the HUD Secretary direct the Assistant Secretary of FHEO to take the following two actions:

- Establish documentation standards and appropriate controls to ensure that required notifications of complaint, amendment, and closure are made and received, and that 100-day letters are sent before an investigation has reached 100 days.
- Clarify requirements for planning investigations, including specifying when plans must be prepared, their content, and review and approval.

To ensure that some form of conciliation is made available for all complainants, we recommend that the HUD Secretary direct the Assistant Secretary of FHEO to take the following two actions:

- Work with FHAP agencies and others to develop best practices for offering conciliation throughout the complaint process, including at its outset.
- Ensure that investigators comply with requirements to document conciliation attempts, and complainants' or respondents' declination of conciliation assistance.

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## Agency Comments and Our Evaluation

We provided a draft of this report to HUD for its review and comment. We received written comments from the department's General Deputy Assistant Secretary for Fair Housing and Equal Opportunity. The letter, which is included in appendix II, indicated a general agreement with our conclusions and recommendations. The General Deputy Assistant Secretary noted that FHEO conducts analyses of its programs and strives to continually improve its operations and those of FHAP agencies in order to ensure that complaints of housing discrimination are handled in an effective and efficient manner. The letter also expressed confidence based

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on the extensive internal reviews, final determinations, and requests for reconsideration, in the integrity of the fair housing process, the soundness of decisions and the competent professional service accorded every party to the process. The letter noted a variety of initiatives that have been implemented to improve the quality of investigations, including

- establishing the National Fair Housing Training Academy, which trains fair housing professionals on fair housing law, critical thinking, and interview techniques;
- completing revisions of its Intake, Investigation and Conciliation sections of the Title VIII *Handbook*, which provides guidance to investigators on case processing standards and sets nationwide policy;
- developing the FHEO-OGC Case processing Research Project, which focuses on early interaction and continuous consultation between FHEO and OGC; and
- undergoing a business process re-engineering (BPR) to identify best practices in the field among the FHAP agencies, as well as codifying operations and procedures in headquarters.

The General Deputy Assistant Secretary commented that FHEO would, as feasible, work to incorporate the recommendations into its policies and procedures.

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As agreed with your offices, unless you publicly release its contents earlier, we plan no further distribution of this report until 30 days from the report date. At that time, we will send copies to the Chair of the Senate Committee on Banking, Housing and Urban Affairs; the Chair, Subcommittee on Housing and Transportation, Committee on Banking, Housing and Urban Affairs; the HUD Secretary; and other interested congressional members and committees. We will also make copies available to others upon request. In addition, this report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

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If you or your staff have questions about this report, please contact me at (202) 512-6878 or [woodd@gao.gov](mailto:woodd@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IV.

David G. Wood

David G. Wood  
Director, Financial Markets and  
Community Investment



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# Scope and Methodology

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Our engagement scope was limited to fair housing investigations conducted under Title VIII of the Civil Rights Act of 1968, as amended. We did not address fair housing activities under Section 504 of the Rehabilitation Act of 1973 or Title VI of the Civil Rights Act of 1964. For certain analyses of the fair housing complaint process, we relied on national samples of complaints closed during the last half of 2004—enabling us to provide national estimates.

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## Intake

To determine the thoroughness of efforts by the Office of Fair Housing and Equal Opportunity (FHEO) and Fair Housing Assistance Program (FHAP) agencies during the intake process, we conducted two activities. First, we asked intake staff to keep a log of the contacts they had with potential complainants over a 4-week period and to note the proportion of contacts alleging housing discrimination.

We designed an Intake Contact Log for staff to use that enabled us to obtain never-before-collected data consistently across agencies for a set time period. We asked the 10 FHEO offices, 36 state FHAP agencies, and 5 local FHAP agencies with the highest volume (based on number of complaints filed during fiscal year 2004) to maintain the log over the 4-week period from February 21 through March 21, 2005.<sup>1</sup> All of the FHEO offices, local FHAP agencies, and all but 4 of the state FHAP agencies agreed to maintain our contact log. These offices represented 78 percent of the volume of investigations in 2004. The log required intake staff to document

- the date each contact was received;
- the method of each contact (such as telephone, mail, e-mail);
- whether the contact involved a new potential complaint or a previously existing complaint, or was a referral from another agency;
- whether the callers claimed that they had experienced housing discrimination;
- whether the intake staff or supervisor believed the contact potentially involved a jurisdictional Title VIII violation; and

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<sup>1</sup>The Chicago FHEO hub maintained the log from March 1 through March 28.

- the name of the individual making the contact.<sup>2</sup>

Once we received the data, we reviewed them for consistency and logic. Where we identified coding that was apparently not consistent with our instruction, we called the staff that prepared the log for clarification. In some cases, we needed to recode the log based on these conversations.

We focused our analysis on entries that the intake staff indicated pertained to a potentially valid Title VIII issue, that included names, and that they coded as new potential complaints. Using entries with names allowed us to eliminate multiple contacts from the same person and report statistics on people rather than on contacts. Once we identified the unique names that met these criteria, we matched the names to records in a TEAPOTS extract to determine how many of the new potential complaints during the 4-week recording period were perfected. Specifically, we requested an extract of the Department of Housing and Urban Development's TEAPOTS database for the time period coinciding with the contact log reporting period, plus 5 additional weeks to allow sufficient time for perfecting complaints. We did not evaluate the judgments of the intake staff in determining whether a contact should have been pursued. Since FHAP agencies tended not to enter inquiries into TEAPOTS until the complaint was ready to be perfected, the results of our name matching are reported both in aggregate and separately for FHEO office and FHAP agencies. We also reported on the total number of intake-related contacts received during the reporting period, the proportion of contacts alleging housing discrimination that the intake staff determined did not constitute a valid Title VIII complaint, and percentages for each contact method (telephone, e-mail, and walk-in).

In order to assess the degree to which intake staff obtained sufficient and appropriate information to determine whether a contact should become a Title VIII complaint, we designed a telephone "test call" program of intake staff at the 10 HUD hubs and 36 state FHAP agencies. GAO analysts posing as complainants contacted intake staff to file a mock complaint. We excluded local FHAP agencies from telephone testing because these agencies tend to have a low volume of investigations, compared with state FHAP agencies. We placed one test call to each site using the same case

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<sup>2</sup>Due to confidentiality concerns and the inability of some agencies to dedicate the resources involved with tracking all of the requested contact information, not all locations agreed to provide us with caller names. Approximately 20 percent of the entries were provided without names.

scenario with different identifying information, such as names and addresses. Testers were trained to consistently volunteer only certain information such as the “name” and description of what happened, and to respond in standardized ways to questions asked by intake staff. The calls were recorded and later coded against a list of information that might be sought as part of the intake process. We developed this list of information based on requirements and recommended practices derived from multiple sources. Among these were requirements of the Fair Housing Act, guidance provided by HUD in the form of policy and training manuals, and training materials from the National Fair Housing Alliance, as well as discussions with HUD and FHAP agency officials. We categorized the information into four levels: information that (1) should always be gathered at intake, (2) is potentially applicable to all complaints and should be collected, (3) is relevant to a particular basis or protected class, and (4) is considered by officials we spoke with and training materials as a best practice.

We placed one pretest call to each of the 46 sites we planned to contact to get a sense of how each location conducts intake. We adjusted the design to account for differences in the intake process to the fullest extent possible. For example, we allowed for scheduled intake interviews for locations that only conducted intake calls on a scheduled basis. We found that approximately 25 percent of the time we could expect to speak with a person on initial contact who could complete the intake process. In many cases, an agency staff member would perform an initial screening before forwarding the call to the intake staff, and in other cases, the call was forwarded to a voice mailbox. Based on our findings during the pretest, we decided to evaluate not only the information collected by intake staff, but also the number of attempts required to speak with a live person, hold times, and the length of time that elapsed before staff responded to voice-mail messages by returning calls. We included information that callers volunteered and obvious items such as gender. Because of the limitations of our sample—only one call to each site—the results of our analysis are not generalizable to the entire population of potential complainants in housing discrimination cases.

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## Investigation and Conciliation

To address the thoroughness of investigation procedures, including conciliation attempts, we reviewed the documentation in 197 randomly selected case files of housing discrimination cases completed during the last 6 months of 2004 around the country (see table 1). We originally sampled 205 cases, but we were unable to locate files or matching TEAPOTS data records for 8 cases. The sample files included 58 cases

closed administratively, 63 cases that were conciliated without a finding of reasonable cause, and 90 that were closed with a finding of no reasonable cause. We oversampled administrative closures to ensure that we had a sufficient number of files to permit estimates for this subpopulation. The population of complaints and the sample we used are enumerated in tables 1 and 2. Because we followed a probability procedure based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates (sampling error), our results have confidence intervals of plus or minus 8 percentage points or smaller, unless otherwise noted, at a 95 percent level of confidence. In other words, this interval would contain the true value for the actual population for 95 percent of the samples we could have drawn.

We also reviewed files for 12 of the 15 complaint investigations FHEO concluded with a finding of “cause,” and for which the adjudication process, including any agency monitoring, had been completed during the last 6 months of 2004. We could not locate files for the remaining cases. All 12 files were identified by the Department of Justice as having met these criteria. We did not review files for which a FHAP agency found “cause” and that completed the adjudication because these could not be identified.

**Table 1: Location of FHEO and FHAP Agency Case Files Sampled**

<b>FHEO region</b>	<b>FHEO file</b>	<b>FHAP agency file</b>	<b>Total</b>
Boston	16	0	<b>16</b>
New York	17	3	<b>20</b>
Philadelphia	17	0	<b>17</b>
Atlanta	24	10	<b>34</b>
Chicago	23	11	<b>34</b>
Fort Worth	9	8	<b>17</b>
Kansas City, Kansas	12	14	<b>26</b>
Denver	1	4	<b>5</b>
San Francisco	23	5	<b>28</b>
Seattle	2	6	<b>8</b>
<b>Total</b>	<b>144</b>	<b>61</b>	<b>205</b>

Source: GAO analysis of FHEO data.

**Table 2: Population and Sample Size of Complaints Closed from July 1, 2004, through December 31, 2004, by Organization and Closure Type**

Closure type	FHEO		FHAP agency		Total	
	Population	Sample	Population	Sample	Population	Sample
Administrative	208	19	335	33	543	52
Conciliation	480	19	1,090	44	1,570	63
No cause	563	23	1,657	67	2,220	90
<b>Total</b>	<b>1,251</b>	<b>61</b>	<b>3,082</b>	<b>144</b>	<b>4,333</b>	<b>205</b>

Source: GAO analysis of HUD data.

We examined the documentation in the files, as well as the full TEAPOTS case summary for each case, to determine whether it demonstrated that the investigator had met certain requirements and best practices for conducting fair housing investigations. We identified these requirements and best practices through reviewing the Fair Housing Act, implementing regulations, FHEO's Title VIII *Handbook* and training material, and other guidance. In addition, we interviewed FHEO officials at both HUD headquarters and field offices in Atlanta, Chicago, and San Francisco. We also interviewed FHAP agency officials in California, Georgia, Maryland, South Carolina, and Virginia. We met with the National Fair Housing Alliance and attended training at the John Marshall Law School on Fair Housing enforcement and at HUD's National Fair Housing Training Academy. We provided a draft summary of our criteria to FHEO officials and made technical corrections based on their comments. To ensure the consistency of our file review, we developed a structured data collection instrument. We anchored each item on the instrument to the criteria identified above. We pretested the instrument with several team members, and based upon this test, modified the instrument to ensure clarity. For 10 percent of all files reviewed, another team member reviewed the coding, to ensure its accuracy.

## Complainant Satisfaction

We surveyed a sample of complainants whose cases had been investigated and closed by FHEO and FHAP agencies from July 1 to December 31, 2004, to determine levels of satisfaction with the thoroughness, fairness, timeliness, and outcomes of the intake and investigation process. We did not include cases that proceeded to the adjudication process owing to a finding of reasonable cause to avoid surveying complainants that may still be involved in the adjudication process. The survey also provided

supplemental evidence for our analysis of the thoroughness of the intake and investigation stages of the complaint process and the frequency of conciliation.

We determined that there was a population of 4,327 fair housing complaints (contact information was not provided for 6 of the original 4,333 cases) that had ended in administrative closure, conciliation without determination of cause, or a determination of no-cause for the 6-month period between July 1, 2004, and December 31, 2004. The complainants of record were mostly private individuals, but some were fair housing organizations acting on their own behalf or on that of one or more individuals. From a list obtained from HUD's TEAPOTS database, the PA Consulting Group, a survey firm under contract to GAO, called the complainants of record selected in the sample. The total sample of 1,675 was parceled out in seven individual waves over the field period, in an attempt to use the smallest possible sample to achieve the quota of 575 completed interviews. The sample was allocated across six categories—two agency types by three closure types—to ensure that enough interviews were conducted in each category to allow statistically valid comparisons between them. (See table 4 for the distribution of the population, sample, responses, and response rates across these categories.) With this probability sample, each member of the population had a nonzero probability of being included, and that probability could be computed for any member. Each sampled complaint for which an interview was obtained was subsequently weighted in the analysis to account statistically for all the members of the population, including those who were not selected and those who were selected but did not respond to the survey.

Beginning in early May 2005, GAO mailed letters notifying those sampled complainants with valid mailing addresses of the upcoming survey and encouraging them to participate. Calling to those complainants typically began several days after the letters were mailed. The advance letters also included an address correction form. Recipients were asked to revise any incorrect information and return the form. A toll-free number also was provided for recipients to ask any questions or to correct information such as names and phone numbers. Calling began in early May and continued for 7 weeks, ending on June 20, 2005.

For institutional complaints drawn into our sample, the interviewer helped the organization's representative identify the specific complaint by describing the issue, basis, and respondent name. Multiple interviews could be conducted with the same institutional informant if more than one

complaint from that organization was randomly drawn. Thirty-three interviews were completed on institutional complaints. Proxies (typically family members, guardians, or other representatives) for the named complainant were interviewed for 19 of the sampled complaints. Not all sampled complaints met GAO's eligibility requirements for the survey: Some complainants indicated that their cases were still open and experiencing legal activity. GAO could not have any involvement with such complaints. For the same reason, other complainants who said they had an ongoing agreement with the other party resolving the complaint were also not interviewed. Some complaint cases also became ineligible for the survey due to the death of the complainant, a complainant's insistence that a case was not a fair housing discrimination case, and complaints sampled multiple times (more than four for institutional complainants and one for individuals—see table 3).

Complainants with an issue or basis alleging racial discrimination because the complainant was Hispanic received letters printed in both English and Spanish. The survey was also administered by Spanish-speaking interviewers when the complainant indicated a preference for speaking Spanish.

When named complainants could not be found using records provided by HUD, interviewers used a variety of search techniques to try to locate complainants, including calling alternate contacts named in the complaint record and using directory assistance and online tracking services. For example, if an address was available but no working phone number could be found, interviewers used reverse directories and contacted neighbors by phone to ask about the whereabouts of the named complainant. Once during the fieldwork period, 547 noncontactable records were submitted to Lorton Data's National Change of Address and Telephone Append services, resulting in some updated phone numbers and mailing addresses. To maximize the possibility of reaching complainants, multiple attempts were made over a period of time on different days of the week and at different hours. The number of attempts required to reach subjects ranged from 1 to 34, with an average of 12.

Results from sample questionnaire surveys are subject to several types of errors: failure of the sample frame to cover the study population, measurement errors in administering the questionnaire, sampling errors, nonresponse errors from failing to collect information from part of the sample, and data processing error. To limit coverage errors, we used the most recent available data from TEAPOTS to identify eligible

complainants. At the beginning of the interview, we also confirmed that the complainant of record had lodged an actual fair housing discrimination complaint and that the complaint had been closed as TEAPOTS indicated.

To limit measurement errors, we first took steps in the development of the questionnaire to ensure that our questions gathered the information intended. GAO asked knowledgeable representatives of fair housing organizations and other government agencies to review early versions of the instrument. We also conducted a pilot test of an early version of the questionnaire with 26 complainants in December 2004 and seven pretests with complainants in the study population during March 2005. Finally, the telephone survey contractor completed nine pretests of the final instrument in late April 2005. Interviewers were trained using materials developed by GAO before the survey began and were routinely monitored during interviews.

The survey is also subject to sampling error—our results have confidence intervals of plus or minus 6 percentage points or smaller at a 95 percent level of confidence.

Our survey received a low response rate, with only 38 percent of those known or assumed to be eligible in our survey participating. If those who did not respond might have answered our survey questions differently from those who did, our estimates would be biased because we would have missed the answers from a set of people with fundamentally different views. In fact, response rates varied widely across the three different closure types, which were associated with key variables in the survey such as satisfaction with the complaint process and outcome. We tended to get relatively more responses from complainants in conciliation cases than from complainants in no-cause cases, and those whose cases were conciliated tended to be more satisfied. However, we could address this potential bias because we controlled the allocation of our sample across the closure types. We could statistically adjust, or weight, responses by closure type to bring them into proportion with the population and thus account for the different nonresponse rate across those types, which should compensate for the nonresponse bias. Nevertheless, the possibility of bias in the results still remains. Our weighting adjustment only compensates for differences in opinion between those with different closure types and agency responsibility, not other characteristics that may have been over- or under-represented in our responses and that may be related to our survey questions.



**Appendix I**  
**Scope and Methodology**

To limit the possibility of data processing errors, the survey firm used a computer-assisted telephone interviewing system that recorded electronic data directly from the telephone interviewers' answers, and also checked for missing data, inconsistencies, and unlikely answer patterns. Data analysis programming was also independently verified.

**Table 3: Distribution of the Population, Sample, Responses, and Response Rates**

	Organization and closure type						Total
	HUD			FHAP			
	Conciliation	No cause	Admin closure	Conciliation	No cause	Admin closure	
Population	480	562	208	1,086	1,656	335	<b>4,327</b>
Original sample	198	308	208	288	338	335	<b>1,675</b>
Ineligible	20	36	26	26	25	25	<b>158</b>
Adjusted sample	178	272	182	262	313	310	<b>1,517</b>
Refused	4	13	9	13	10	8	<b>57</b>
Incapable	1	3	2	1	2	3	<b>12</b>
Not contacted	75	157	109	139	187	206	<b>873</b>
Complete interviews	98	99	62	109	114	93	<b>575</b>
Response rate	55%	36%	34%	42%	36%	30%	<b>38%</b>

Source: GAO.

# Comments from the Department of Housing and Urban Development



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-2000



OFFICE OF FAIR HOUSING  
AND EQUAL OPPORTUNITY

October 13, 2005

Mr. David G. Wood  
Director, Financial Markets and  
Community Investments  
U.S. General Accounting Office  
Washington, DC 20548

Dear Mr. Wood,

The Department appreciates the opportunity to comment on GAO's draft report, on HUD's fair housing programs (GAO-06-79).

The report analyzes consistency in intake and complaint processing by HUD and our state and local partners in the Fair Housing Assistance Program (FHAP). We, too, conduct such analyses of our programs and strive to continually improve our operations and those of FHAP agencies in order to ensure that complaints of housing discrimination are handled in an effective and efficient manner.

The report findings must be considered in light of the statement that the review does not demonstrate that HUD failed to reach appropriate decisions regarding any specific fair housing inquiry or investigation. Based on the extensive internal reviews, final determinations, and requests for reconsideration, we are confident in the integrity of our process, the soundness of decisions, and the competent professional service accorded every party to that process.

For the past five years, HUD has worked to reduce the amount of time it takes to process our cases. As a result, in FY 2005 we completed 77.2 percent of our cases within 100 days or less. We established a similar goal for FHAP agencies and are proud to report that in FY 2005, FHAP agencies completed 61.4 percent of their investigations in 100 days or less.

As a result of our internal reviews of the enforcement process, we have undertaken a variety of initiatives to improve the quality of our investigations. To this end, HUD established the National Fair Housing Training Academy, which trains fair housing professionals on fair housing law, critical thinking, and interview techniques. Successful completion of the training curriculum will improve investigation procedures and raise the skill level of fair housing investigators. Further, HUD is completing revisions of its Intake, Investigation and Conciliation Handbook (Title VIII Handbook), which provides guidance to investigators on case-processing standards and sets forth nationwide policy with respect to the investigation of complaints filed pursuant to the Fair Housing Act and other statutes enforced by HUD. This year, the Office of Fair Housing and Equal Opportunity (FHEO) and Office of General Counsel (OGC) conducted joint training to fair housing field staff and fair housing enforcement attorneys on Intake, Conciliation, Planning and Conducting the Investigation, and Preparation of the Case File.

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[espanol.hud.gov](http://espanol.hud.gov)

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**Appendix II**  
**Comments from the Department of Housing**  
**and Urban Development**

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In order to ensure seamless case processing, FHEO and OGC, with the assistance of the Office of Policy, Development and Research (PDR), developed the FHEO-OGC Case Processing Research Project, which focuses on early interaction and continuous consultation between FHEO and OGC. The project uses a triage methodology to determine the complexity of cases to more effectively utilize human and fiscal resources. Over the next nine months FHEO's Fort Worth, Atlanta and Seattle Regional Offices will participate in testing the methodology. If the project is deemed successful, FHEO will implement it nationwide.

FHEO is undergoing a business process re-engineering (BPR) to identify best practices in the field and among the FHAP agencies, as well as codifying operations and procedures in headquarters. The work in headquarters is nearing completion and FHEO expects the field effort to begin by the end of October. The identification of best practices will allow FHAP agencies to emulate other organizations that have better defined processes in particular areas. In addition, for the Regional Offices this process will memorialize the practices that work best in different size regions.

Quality Management Reviews (QMRs) are an important part of ensuring consistency and quality in case processing. During these QMRs, HUD reviews procedures and policies to ensure accountability and recommends best practices for program activities and customer service. Additionally, HUD Government Technical Representatives monitors FHAP agency performance on a continuous basis. Further, the staff conducts yearly performance assessments of FHAP agencies in order to ensure that all complaints brought to a FHAP agency receives a quality investigation and that funds are being used in accordance with statutory and regulatory standards.

In order to encourage better and more efficient case processing among FHAP agencies, HUD recently introduced performance-based funding. Previously, FHAP agencies received a flat rate for each investigation if that investigation satisfied HUD's criteria for processing. Under performance-based funding, payment is on a graduated scale that takes into account not only the criteria for processing, but also the length, type, and outcome of the investigation. In addition, to further ensure thorough complaint processing by FHAP agencies, FHEO has recently developed three additional FHAP performance standards. (See performance standards in the proposed FHAP regulation, which was published in the Federal Register on May 18, 2005). One new performance standard requires a FHAP agency to demonstrate that it receives a reasonable number of complaints cognizable under both the Fair Housing Act and the agency's fair housing law. Another new performance standard places an affirmative duty on FHAP agencies to report to HUD on the final status of complaints following reasonable cause findings. The final new performance standard requires FHAP agencies to conform their performance to the provisions of any written agreements executed by the agencies and HUD, related to participation in the FHAP.

Prior to the realignment, the Office of Field Oversight (OFO) was restructured to ensure greater oversight with regard to the field. In addition to reviewing and analyzing monthly performance reports, the office is also responsible for quality control. In response to the results of the GAO survey, OFO has begun to survey our field offices on a regular basis to determine whether intake procedures are followed in each region. FHEO is also considering employing a new methodology whereby the OFO staff would randomly look at files and processes to assess any problems or inconsistencies and make recommendations for improving enforcement.

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**Appendix II**  
**Comments from the Department of Housing**  
**and Urban Development**

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The report contains several recommendations to improve fair housing enforcement by FHEO and FHAP agencies. As feasible, HUD will work to incorporate the recommendations into its policies and procedures. It is important to bear in mind that there are 103 different agencies within the Fair Housing Assistance Program. These agencies are state and local government entities, governed by their own state statutes or municipal ordinances and operating under their own procedures. HUD's certification of a FHAP agency as a "substantially equivalent" agency does not mean that its procedures are, or need to be, identical to those of HUD or any other FHAP agency. Still, certification by our National Fair Housing Training Academy encourages these practices and promotes consistency.

HUD agrees with GAO that intake should be thorough and that complainants should always be able to reach a live person who can immediately respond to their complaint. With respect to GAO's specific recommendations on how HUD might improve the intake process, HUD has already taken some of these reforms and plans to take others. The FHEO-OGC Case Processing Research Project should assist the decision-making in this area. HUD has established clear standards for what information HUD will collect during initial contact in our revised chapter on Intake in the Title VIII Handbook. HUD also currently tracks the time it takes to file a complaint from the point of initial contact with the complainant. Further, we have put procedures in place for processing time-sensitive inquiries. In addition, we will establish standards of customer service to ensure that staff is available and responsive to persons filing complaints.

In keeping with your recommendation, FHEO will ensure that intake staff records the initial "inquiry" date in TEAPOTS as the date of the first contact with the complainant. GAO's report recommends that HUD also require that FHAP agencies record the initial "inquiry" dates for all potential complaints. While HUD has considered such a requirement for the FHAP agencies, HUD has never mandated that FHAP agencies record "inquiry" information for a number of reasons. First, FHAP is a reimbursement program that is tied to the number of complaints a FHAP agency files and resolves. HUD does not reimburse FHAP agencies for their consideration of inquiries from the public that do not result in formal complaints. Without such a financial arrangement with the FHAP agencies, it is difficult for HUD to mandate how FHAP agencies administratively handle all the calls they receive. Second, HUD would consider that FHAP agencies record "inquiry" information for the matters they ultimately process as complaints, but it would prove difficult for the FHAP to predict at the point of initial contact which "inquiries" will result in a complaint and which will be dismissed as non-jurisdictional. While HUD finds it useful to track and set standards for its administrative action on complaints in this early stage, our funding arrangement with the FHAP agencies makes it unfeasible and burdensome to extend these standards to the FHAP agencies. We will, however, work to incorporate the principles of this recommendation into our guidance and contractual agreements with FHAP agencies.

HUD agrees that it is important to document that parties receive the required notifications and that investigators send 100-day letters before a complaint reaches 100 days. We believe that any absence of documentation in some of the HUD Fair Housing investigation files that required notices have been issued reflect clerical omissions rather than a failure to follow procedure. Nonetheless, HUD will, through the National Fair Housing Training Academy and the Title VIII Handbook training, explore ways of developing an institutional approach to address this and other

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**Appendix II**  
**Comments from the Department of Housing**  
**and Urban Development**

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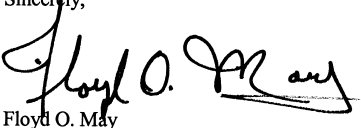
process-oriented matters identified in the report. In the short term, we will issue technical guidance memoranda to all FHEO field offices to reinforce the importance of the case file checklist to assure documentation of receipt of all notices and require strict adherence to its required notations.

As required by the Fair Housing Act and the substantially equivalent laws of FHAP agencies, HUD and FHAP agencies attempt conciliation during every fair housing investigation. HUD is developing new procedures to make sure that all case files reflect the offers of conciliation and conciliation attempts, including identifying in the Title VIII Handbook Chapter on Preparation of the Case File that a separate section on conciliation should be tabbed and appropriately marked within the Deliberative Section to include all conciliation documentation.

FHAP agencies and FHEO offices continue to use different styles of conciliation (i.e., suspending the investigation to conduct conciliation versus pursuing both on parallel tracks). In keeping with your recommendation, HUD will share the advantages and disadvantages of these and other approaches with FHAP agencies and others.

Should you or your staff have any questions or require additional information please contact Jon L. Gant, Deputy Assistant Secretary for Enforcement and Programs at (202) 619-8046.

Sincerely,



Floyd O. May  
General Deputy Assistant Secretary  
for Fair Housing and Equal Opportunity

Attachment

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# GAO Contact and Staff Acknowledgments

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## GAO Contact

David G. Wood, (202) 512-6878

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## Staff Acknowledgments

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