

and Oklahoma, have held recalcitrant county employees accountable, and where necessary replaced employees who failed to serve all farmers well. As a result, service has improved dramatically.

On the other hand, in states such as Alabama, Washington, South Dakota, Kansas, etc., conditions have not changed or they have gotten worse. What has also not changed is the national leadership of Farm Services Agency, which keeps getting in the way of those who are making the right changes, while protecting those who are not. Top leaders must be held accountable for the actions of their subordinates if service is to be consistent and fair, and the employees who are making changes should be rewarded.

What also causes great concern to us is the propensity of USDA at the national level to make work unpleasant for those who try and make the changes the Secretary has mandated. High level managers whom we have recommended to the Department, and those who have demonstrated a real capacity to work with minority producers have frequently in the past and in the present been removed from their jobs, transferred elsewhere, or treated in such a way as to cause them to see the futility of trying to make change, and seek employment elsewhere. With their departures, USDA conveys a clear message that, despite what its leaders have often said, it can cause people to leave if it so desires.

As a result of these practices, the Department is losing precisely the people it needs to lead its efforts assure fair services to all farmers. Moreover, USDA employees at many level are very well aware that they system does not reward those who are serious about civil rights and equity.

#### **Holding top level managers accountable for the performance of their subordinates**

Top leaders including the Secretary of Agriculture have expressed frustration with their inability to hold people accountable for their failure to deliver services fairly. In July

1998, the leaders of the Rural Coalition met with Secretary Glickman. He told us that he lacked the authority to hold employees accountable for their performance, and to remove those who fail to perform equitably. Farm Services Agency Administrator Keith Kelly on the same day and on subsequent occasions also told us that he cannot fire people, and specifically asked that we provide him with the names of employees with whom our members have had problems.

Secretary Glickman has also called upon Congress for legislation to bring county committee employees under the Federal Civil Service Act, noting that this action is necessary to provide him with the authority to really manage the employees who deliver services at the county level. The CRAT report did in fact include a recommendation seeking precisely that change. However, it has subsequently come to our attention that a departmental regulation has long existed which supplies that authority directly to the national Farm Services Agency.

The existing regulation clearly covers action that may be taken against an employee for civil rights and other violations. We recommend that Congress not proceed with any pending legislation to provide federal civil service status to county employees, but instead take a more active oversight role in reviewing what the Department has accomplished. In recent months, the Department has begun to report that somewhere in the area of 50 employees have been reprimanded or faced negative personnel action as a result of discriminatory behaviors.

We recommend that Congress assist Mr. Glickman in making difficult changes by requesting a report every six months of personnel actions taken to solve discrimination. The report should include the number of employees at what grade levels and in each state or the national office who have faced what specific actions with what result.

It is also long past time that senior managers be held accountable for the performance

of their employees. Where changes are not happening at the field level, it is long past time that managers be held accountable, and that we begin to see personnel changes at the state and national levels. The failure of USDA to remove those who blatantly and openly question court decisions and deny discrimination which has already occurred constitutes in our view permission to employees at the field level that they are free to continue business as usual, and if they do not serve minority farmers fairly, nothing will happen. The seriousness of the situation is compounded by the fact that political appointees who continue to deny problems which exist have been rewarded with career positions.

It is our hope that the leaders of USDA will realize that unless they make top level changes especially in the Farm Services Agency, the value of all the other work they have done to advance civil rights is vastly reduced. While change still needs to be made in many other USDA agencies, it is patently unfair to the many employees who have been working to change the culture of the Department of Agriculture be discredited by the recalcitrance of key officials in a single agency with a long record of poor performance on equity issues.

**3) USDA has consistently shown it cannot fairly process complaints. Congress should implement what GAO has recommended and contract out all review of civil rights complaints to unbiased sources.**

In October 1997, David Harris, then Director of the Land Loss Prevention project, testified before the House Committee on Agriculture based on a decade of experience in attempting to make USDA respond to complaints. He noted that

*"Civil Rights investigations can only be fairly be conducted by professionally trained civil rights investigators within a civil rights structure insulated from the agencies being investigated. This is the basis of any credible system..."*

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<sup>1</sup> Statement of David Harris Jr, Executive Director, Land Loss Prevention Project to the Committee on Agriculture, US House of Representatives, October 23, 1997, Washington, DC.

While the program complaints system at has failed on many levels, the most egregious is that it has not been insulated from the agencies being investigated. Farm Services and other agencies remain far too involved in the process of reviewing complaints. Quite apart from the skills of the individual involved, it does not increase confidence in the area of program complaints that a former Civil Rights official in Farm Services Agency has recently been assigned as the Deputy in the Office of Civil Rights, with responsibility over both employee and program complaints. USDA has simply not yet earned a reputation for fairness in this area necessary to avoid questions about that appointment.

The failure of USDA to get on with the business of processing complaints, rectifying injustice, and fixing problems with service delivery to prevent future problems is grossly unfair not only to farmers and employees who try to do their jobs well, it also risks new liability and taxpayer expense to solve problems that should no longer be occurring.

Discrimination and disparity in service has not stopped at USDA. However, farmers are so frustrated with the complaints process that they fail to file complaints until situations deteriorate beyond easy rectification.

USDA, to our knowledge, still lacks any comprehensive and consistent monitoring and compliance review system. Even data collected on a regular basis that would allow USDA officials to monitor performance of agencies and employees at the county level are not reviewed from the framework of preventing disparate treatment. It is not clear that these factors are considered specifically in monitoring the performance of employees.

As a result, complaints are the only evidence USDA has to take corrective action. Were program complaints contracted out to an agency which could review them in a consistent and unbiased manner, completely insulated from the agencies against whom the complaints are filed, USDA Office of Civil Rights could instead focus on the training and corrective action that is essential to instituting a fair system of service delivery.

The failure to adequately and fairly address complaints only delays the time it will take to end the history of past discrimination by USDA. We recommend that Congress require USDA to institute what GAO and others have recommended: that USDA contract out all civil rights casework. We further recommend that the complaint process be divorced from any USDA staff involvement. Any employee who meddles should be dismissed and liable as a criminal offense for their actions.

**4) The Minority Farm Registry is an essential tool to reach and serve minority farmers and to monitor the progress of USDA agencies in reaching these farmers. It should be implemented immediately with the support from multiple USDA agencies under the existing missions of their programs.**

The Registry promised by the Department and approved this summer by the Office of Management and Budget has not yet been officially instituted. Nor has its use as a vehicle to collect baseline data and monitor progress in serving minority farmers been articulated. The registry implements recommendation #28 of the CRAT report. We fear the approved program has fallen victim to bureaucratic bungling within the department. Apparently, agencies cannot agree on where funds should come for the implementation of the registry. Because the registry would help many agencies better deliver and accomplish the purposes of their program, we believe multi-agency support should be provided, and the funds for data collection should not be supplied from the scarce resources of the Section 2501 minority farm outreach program.

Earlier in the year we worked actively with staff members of several agencies to develop an outreach plan for the registry. It is critical that USDA work in partnership with organizations who have credibility with minority producers if the registry is to be used and USDA to develop new credibility. Several USDA agencies have rejected the need for funding such a program, which we believe is essential to the success and usefulness of the registry.

We recommend that Congress urge the Secretary to resolve the bureaucratic issues, establish the registry with appropriate support and collaboration from those agencies which deliver services to farmers, and work as proposed in partnership with community based groups to educate minority farmers about the registry, its purposes and use.

**5. The existing FSA county committee system should be substantively reformed to assure it provides fair delivery of services everywhere, or else it should be eliminated.**

It is the opinion of most minority and limited resource farmers that they will not be fairly served. The many deficits in the system for minority farmers are laid out in the appendices to this testimony. Our ability to complete an analysis of the elections in counties where members work have been severely impeded by USDA's failure to respond to our FOIA request in December 1998 for election data. FSA should not only immediately provide the requested data to us. It would be in the public interest that the data we have requested be routinely reported to the public on existing FSA websites for the county, state and national level, as a regular procedure, and we recommend that Congress instruct the Secretary to do so.

We believe it is also of paramount importance that the election process be revised and fully monitored to reflect completely the spirit of the Voting Rights Act and other civil rights laws with respect to minority participation.

Discrimination and neglect still exist, and the community groups working in the field are among the best equipped to cooperate with the department in bringing about a new responsiveness and spirit of service in the delivery of USDA programs. For example, at our recent workshop on minority representation on County Committees, FSA reported that of 8378 elected FSA County committee members in 1996, only 20 were African American, 33 American Indian, and 50 Hispanic. The 40 representatives of community-based organizations

present articulated unanimously the lack of confidence minority producers have in the county committee system and in the willingness of FSA to serve them at all. Building a new climate of trust and confidence, redressing these concerns and assuring fair participation in USDA programs will take time. While these changes are made, outreach programs assure underserved producers know how to access urgently needed FSA services and provide the assistance necessary now to help minority farmers succeed where other avenues had thus far failed.

Similar revised procedures must be put in place with respect to all other Boards and Committees that currently administer USDA programs, including those in NRCS, Extension and elsewhere. In every case, the Department must have in place a responsible and accountable staff who are federal employees. New recruitment should emphasize diversity in the delivery workplace.

**6) Brief Recommendations:**

Below is a brief list summarizing and extended our recommendations for immediate action to the committee.

- 1) Remove USDA and FSA in particular from any work on the Pigford case.
- 2) Contract out all civil rights investigation to independent contractors,
- 3) Immediately solve bureaucratic barriers and set in place the Minority Farm Registry and conduct outreach in conjunction with the RC and other similar groups with the demonstrated capacity to deliver services to Minority Farmers.
- 4) Hold top managers accountable for the behavior of subordinates.
- 5) Fix the 2501 Program and the National Outreach operation, and require USDA

agencies to serve all farmers in their missions

6 Congress should assure that disaster assistance and crop insurance serve all farmers. Over 75% of bailout funds and AMTA payments are going to the top 10% of farmers. Support for 10 acre intensive vegetable farmers who were equally devastated would be equitable, and crop insurance has also failed to serve these producers. These programs do not help minority and small family size farmers that we represent, and need to be reexamined and changed to reach our constituents.

7. Congress should require reports from all farm programs, and from crop insurers, on the participation of minority farmers in programs. Over 99% of CRP payments in my home county in Alabama go to white farmers even though the vast majority of producers are African American. Forest Service and conservation programs similarly better serve largely non-minority producers. FAS programs not designated for small farmers. Credit programs need vast improvements. Rural cooperative programs should better serve minority producers throughout the nation. Congress should highlight equity issues as it reviews these programs for reauthorization.

8) Make the county committee system work fairly for all producers, or abolish it.

#### ADDITIONAL RECOMMENDATIONS AND A CALL FOR CONTINUED CONGRESSIONAL OVERSIGHT AND ACTION

This nation has a body of civil rights and other applicable laws that are very pertinent to this inquiry, and which should form the basis of a fair evaluation of the practices in the Department. Continuing Congressional action and oversight is essential to help Secretary Glickman and his staff fully implement the changes they have currently begun to set in place, and to identify additional actions which are necessary.

1. We call upon Congress, first and foremost, to supply the resources the CRAT report has identified as necessary for the full implementation of all 92 recommendations of the report. Funding must be supplied immediately for the expansion of the Civil Rights office, and the implementation of the Outreach Office. In addition, we support full funding for all the additional programs recommended in the report, including direct lending, the Section 2501 outreach and technical assistance program, the Indian Reservation Extension Agent Program, the extension and allocation of funds in the EQUIP program, the prioritization on the use of one third of the funds in the Fund For Rural America to meet the needs of underserved communities, and others. We fully support the CRAT recommendations and urge that the expanded funding be supplied for FY 1999, and in every way possible, for FY 1998.

2. We call for continued oversight and review by the US Congress on civil rights implementation. We believe the many of the abuses that have been identified in the department continue because those who commit do so with the well-founded belief that there will be no negative consequences for what they do, and because the managers at the highest level of the Department have continually dismissed and failed to act on documented evidence that demands action. Despite the current emphasis within the department on upgrading its civil rights practices, the agencies and entities of the Department still engage in retaliatory action against those at every level who try to make the proactive and affirmative changes needed. At the same time, we are unaware of any case in which sanctions have been applied against supervisors at the district, state or national level for violating the civil rights standards, or the current directives and decisions of the Secretary with respect to civil rights, or for allowing those whom they supervise to do so.

This committee and its House counterpart are the appropriate places for farmers and those who represent them to present testimony and share their experiences of how services are now being provided, and what the most urgent needs are. We share the goal of the Administration and the Congress that programs of the department be well managed and fairly and equitably accessible to all who qualify, and that any deficiencies in program or service

will be identified so corrective action can be taken.

Congressional oversight is essential to assist the Secretary in fully implementing and documenting the need for the very difficult structural changes which yet need to be made system wide at USDA.

3. We Call for Upgraded Outreach and a Proactive Approach to Reaching Farmers and other Rural Populations not Yet Fairly Served by the Department - Over the years, we have heard many promises from the department to do better in fixing problems and assuring action. The structures and delivery system of USDA are not easy to change. The most key ingredient for success is the leadership of the Secretary's office in a long-term program to assure all necessary changes and renewed systems are implemented. However, every statement must be followed with concrete initiatives, goals, accountability measures at every level, combined with monitoring and reporting of results. The National Outreach Office is still not fully functional and working with our member groups. Although earlier this year the Rural Coalition signed a Memorandum of Understanding with the National Outreach Office, it is not clear that this agreement has any real weight to the ever changing leadership of that Office. It is time to move into the future by assuring minority farmers do get the services they deserve.

We believe the Department must implement clear goals and overall monitoring measures aimed at reducing the vast disparity in the rate of loss among minority and other farmers by reducing the rate of minority farm loss. Another measure may be setting and reaching targets for participation in all programs of the department by minority producers and other minority clients. We have discovered very few minority producers who have been successfully graduated from direct to guaranteed loans. We are also concerned about the disparities in loan rates between minority and limited resource, and other producers.

We also believe a comprehensive outreach initiative should be instituted within every

mission area of the department, with a single office in each area given responsibility for reviewing adequacy of goals and evaluation of results. The plan should include a phase for building new relationships with previously underserved populations. We will supply further recommendations on this system, which at least for an interim period, should be conducted in close collaboration and partnership with community based groups who have the trust and confidence of these farmers.

Rural Development programs and minority farmers still operate in separate universes, and the majority of applications Rural Coalition member groups have submitted to Rural Development grant rounds have been rejected, despite our record of service to minority and low income members in forming cooperatives. Most Extension and other programs administered through universities are not accessible to minority producers or to low income populations within communities.

The Rural Coalition is also currently developing a stronger relationship with the Foreign Agriculture Service, with whom we also have an MOU, although our progress is hindered by stringent program requirements that all but exclude small and limited resource producers. Programs such as Agriculture Marketing, require recipients to go through states and Land Grant Universities. Most programs supplied at the state level are not accessible to minority producers; a whole new level of discrimination frequently exists with little federal oversight. The main point is that we need all of these services to be successful in the agricultural climate of today. But if you provide the community based organizations who have long served minority farmers with real and fair access, we will show we can be as hard-working and creative as any of the other clients to which USDA devotes vastly more resources.

## **V. CONCLUSION**

We deeply appreciate your willingness to review these matters. We also know making

change is very difficult and our challenges are great. We will continue to cooperate in any way we can to support these efforts. We further urge you the US Congress to provide adequate resources to implement the level of real changes necessary to assure all rural people have real access to services and are treated always with dignity and respect.