

THE EMPLOYMENT OF MINORITIES AND WOMEN BY ALABAMA STATE GOVERNMENT

ALABAMA ADVISORY COMMITTEE
TO THE UNITED STATES
COMMISSION ON CIVIL RIGHTS

This summary report of the Alabama Advisory Committee to the United States Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the report should not be attributed to the Commission or to the Advisory Committee, but only to individual participants in the community forum where the information was gathered.

A S U M M A R Y R E P O R T

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The United States Commission on Civil Rights, created by the Civil Rights Act of 1957 and reestablished by the United States Commission on Civil Rights Act of 1983, is an independent, bipartisan agency of the Federal Government. By the terms of the Act, the Commission is charged with the following duties pertaining to discrimination or denials of equal protection based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual with respect to discrimination or denials of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection; and the investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

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An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 and section 6(c) of the United States Commission on Civil Rights Act of 1983. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

LETTER OF TRANSMITTAL

Alabama Advisory Committee to the
U.S. Commission on Civil Rights

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Attached is a summary report of information received at a community forum conducted by the Alabama Advisory Committee in Montgomery on the employment of minorities and women in State government. By a vote of 9 to 0 and one member not reporting, the Committee approved submission of this report to you with the request that you authorize publication. It is hoped that the information provided will be of assistance to the Commission in its program planning.

Participants provided information from a wide variety of viewpoints regarding achievements and barriers in the provision of equal employment opportunity. Though information received at the forum was not sufficient to enable a comprehensive analysis of the States affirmative action efforts it did highlight issues which the Committee will continue to monitor.

/s/

Rodney A. Max, Chairperson
Alabama Advisory Committee

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INTRODUCTION

In keeping with its responsibility to monitor developments in the State, the Alabama Advisory Committee conducted a community forum in Montgomery on June 23, 1988, to gather information on policies and practices of the Alabama State government in the recruitment, hiring, and promotion of minorities and women. Government agency representatives, legislators, attorneys, and leaders from community organizations made presentations to the Advisory Committee, and an open session provided opportunity for the general public to participate. Issues addressed included the policies and procedures used in making appointments to State boards and commissions and their effectiveness with regard to nondiscrimination and equal opportunity principles. Information was also received about discrimination complaints and their disposition. A summary of the information received at the forum is presented in this report.

Participants in the forum were Dr. Halycon Ballard, director of the Alabama Personnel Department; Joe Dickson, administrative assistant to the Governor; the Honorable Alvin Holmes, State representative and vice chairman of the Alabama Legislative Black Caucus; Susan Reeves, an attorney; John Buskey, a representative of the Metro-Montgomery NAACP; Deborah Biggers, an attorney and member of the Alabama chapter of the Coalition of 100 Black Women; Frances Strong, chair of the Women's Political Caucus of Alabama; Leon Kennedy, a senior investigator for the U.S. Equal Employment Opportunity Commission; Sylvester Smith, EEO director for the Department of Human Resources; Jane Weeks, director of the Alabama Indian Affairs Commission; and Colonel Tom Wells, director of the Alabama Department of Public Safety.

Statistics for the 1980 Alabama population and labor, force by race and sex, are shown as tables I and II, and a comparison of the employment

of persons in these categories during 1977 and 1987 by the Alabama State government is shown in table III. These tables indicate that blacks comprise by far the large majority of minority persons in the State and in the labor force. In 1980 blacks were 25.3 percent of the total State population whereas all minorities comprised 26.7 percent. Table III also shows that though there was a dramatic increase in the proportion of blacks among State government employees, and some improvement in the percentage hired in the higher job levels, most are still employed in the lower grades.

ADMINISTRATION OF THE STATE MERIT SYSTEM LAW

Dr. Halycon V. Ballard, director of the Alabama State Personnel Department, explained that her department has the responsibility of administering the State merit system law. These responsibilities include receiving and processing applications for all State merit system jobs in all departments; establishing registers for the jobs for which applicants and employees apply; and, as job openings occur, certifying the names of persons on a register. She reported that in all phases of the day-to-day operations of the State department of personnel, it is committed to the goal of equal employment opportunity in State government. Dr. Ballard focused on three areas where she felt significant accomplishments had been made in achieving this goal: increased representation of black persons and women in State government, steps taken to make minorities aware of employment opportunities in State government, and measures to ensure that procedures used in the advertising of job opportunities are free from any racial or sexual inhibitors.

By way of comparison, Dr. Ballard said that in 1979 blacks represented only 15 percent of State employees, though they comprised 22 percent of the

work force. Whereas in 1986 the representation of blacks in State government was 27.1 percent though blacks represented 19.9 percent of the work force in 1986.

Dr. Ballard also produced statistics (table IV) showing that, in 1986, blacks were employed in 5 of the 6 EEO job categories in higher proportion to the totals than they were in employment throughout the State as a whole. Thus, for example, with reference to the category including officials and administrators, the proportion of blacks employed in State government was 106.9 percent of the proportion of those employed throughout the State as a whole. The only category where this proportion was not higher was that of technicians who were employed in State government at only 87.7 percent of their employment rate in the State as a whole.

Dr. Ballard also provided statistics (table V) comparing the State government employment profile for 1978 with that for 1987. During this period the total number of State employees increased from 26,126 to 28,105, a 7.6 percent increase. By comparison the total number of blacks employed increased from 4,814 to 7,806, a 62.2 percent increase. The table showed that the rate of increase of blacks in every job category exceeded the rate of increase for State employees as a whole.

With regard to the employment of women, Dr. Ballard reported that State office/clerical employees are predominately women but that, likewise, the overwhelming majority of applicants for these positions are women. She provided statistics to compare gains made by the State in the employment of women with those made in the employment of blacks. Table VI shows that in 1986 2 out of 7 of the occupational categories listed, State government lagged behind the State as a whole in the percentage of women employed. In the remaining 5 categories State government employed a higher proportion of women than were employed by the State as a whole. Table VII shows that

between 1978-1987 there was an overall 12.3 percent increase in the number of women employed by State government, compared with a 7.6 percent increase in the total number of State employees. Much of this increase occurred in the higher level occupational categories.

Dr. Ballard felt that gains made by State government in the employment of minorities and women were largely due to recruitment programs which widely advertise job openings throughout the State. She said that on-campus recruiting was another key element in the program for recruiting both minorities and females. She also said that concomitant with the statewide recruitment effort, the State goes to substantial lengths to disseminate information to State agencies regarding job opportunities and to provide such information to individual employees who have expressed an interest.

Dr. Ballard described steps taken by the State to assure that the evaluation and ranking of applicants was done fairly. Procedures include the use of "subject matter experts" to ensure job-relatedness in the construction of test questions, analysis of the racial impact of testing and of individual test questions, and test validation by professional industrial psychologists to ensure conformance with guidelines promulgated by the Equal Employment Opportunity Commission, the U.S. Department of Justice, and the U.S. Department of Labor. However, she said that the impact analysis is not done with respect to possible adverse impact on women, though modifications have been made with regard to agility tests to assure they do not discriminate against women.

In response to a question, Dr. Ballard reported that the appointing authority has freedom to select from the top 10 persons with the highest

scores on the register, within the limitations of a Federal court order which specifies that a lower ranking white cannot be employed over a higher ranking black. Dr. Ballard stated that her department is responsible for looking at the State personnel system as a whole in terms of components such as job categories, setting up registers, and systemwide review. She said that it was unrealistic for the personnel department to bear total responsibility for affirmative action and equal employment opportunity in each department. This, she said, requires a cooperative effort by individual departments, and departments are required to have individual affirmative action plans, the results of which are monitored by a personnel board.

Concern was expressed by Odessa Woolfolk, an Advisory Committee member, that though overall the State appears to have an efficient, well-run system, there are large differences among departments in terms of hiring, promotions, wages, and so on for minorities and women. Dr. Ballard felt that the State's testing and recruitment programs addressed this problem but that it was not known why the applicant flow figures are low for certain job classes. Other than hiring goals for minorities and women set by the court for the highway department, she was not aware of such goals set voluntarily by other departments.

Ms. Woolfolk also asked what, if any, special efforts are being made to place women in nontraditional positions, such as in the highway department and in skilled craft positions. Dr. Ballard replied that in recruitment efforts an attempt is made to advise women of career choices they have and to steer them into higher paying nontraditional categories. She also said that agility tests have recently been modified to make sure they are not discriminatory against women.

Rodney Max, chair of the Advisory Committee, questioned disparities in various departments between salaries for blacks and salaries for whites as reported by the Horn Project.¹ Dr. Ballard said she had not seen the report but would determine whether the data was accurate and prepare a response.

GUBERNATORIAL APPOINTMENTS

Joe Dickson, administrative assistant to the Governor, reported that the Governor continues to support the initiative put in place several years ago for equal treatment in the appointment of women, blacks, and other minorities to State boards as well as in hiring. A special effort, he said, had been made to appoint blacks to boards and positions in white schools and whites to those positions in black schools.

In response to a question by Mr. Max as to the availability of appointment procedures that would assure that blacks and women receive positions on boards, Mr. Dickson said that nominations to fill vacancies usually come from the boards themselves but occasionally from concerned groups in the community. Mr. Max also expressed concern for the lack of available statistics on the percentages of blacks and women appointed to boards and commissions, and Mr. Dickson stated that such statistics are not kept by the Governor's office. He reported that the Governor's policy, as reflected in his inaugural address, was to appoint the best qualified people rather than to set quotas for minorities and women.

In response to a question raised by Committee members Wendall Paris and Odessa Woolfolk as to whether the absence of blacks on a board meant that there were none qualified, Mr. Dickson replied that this was not indicated but that it might be due to the toll taken by the political process so that none were recommended for appointments.

LEGISLATIVE REPRESENTATIVE

State Representative Alvin Holmes, vice chairman of the Legislative Black Caucus, believed that the State of Alabama grossly discriminates against the employment of blacks in terms of hiring, type of position, and salary. He declared that the Alabama Highway Department has approximately 750 black employees out of approximately 4,000 total, and that half of these are employed as laborers, whereas only 3 or 4 work in the department's administrative complex or make over \$20,000 per year. He said that the State court system in Alabama has almost all white employees except for the janitors and maids. The Alabama Development Office, he said, has only 3 blacks out of 34 employees.

He charged that the rule preventing the selection of a white applicant over a black applicant who is higher on the register is circumvented in one department by writing a job description exactly matching the resume of the person they want to employ. The Commission on Higher Education, he said, employs 15 blacks out of approximately 78 employees, but all except one are in salary categories of \$12,000 a year or less. He reported that the administrative office of the courts has 10 black employees out of 84, the department of conservation and natural resources has 50 blacks out of 1,100 employees, the State department of insurance has 2 blacks out of approximately 65 employees, and the department of agriculture has 28 blacks out of approximately 455 employees, mostly employed in low level jobs.

Representative Holmes reported that the department of public safety has the best hiring record for blacks. This was due, he said, to a court order requiring the use of a quota system calling for a 25 percent black work force to be achieved by hiring a black employee for every white employed. He believed that such a system should be employed by State government as a whole.

Representative Holmes said that the State has no agency with authority to address complaints of employment discrimination. A bill introduced several years ago by the chair of the Legislative Black Caucus to establish a State equal employment opportunity commission with enforcement authority was defeated, he said, and Federal court currently provides the only protection in such matters. He also alleged that racism pervades many State departments as evidenced by the lack of black employees.

ISSUES IN THE EMPLOYMENT OF WOMEN

Susan Reeves, a Birmingham attorney, stated that her experience showed that women in the State are virtually shut out of the process by which vacancies on boards and commissions are known and appointments made. She said the resumes of qualified women have been submitted to the Governor through the Alabama Women's Appointment Coalition and the League of Women Voters, but with no response. She quoted a newspaper editor who believed that appointments to boards and commissions are part of the political process whereby the Governor is expected to select people around him who agree with his views and principles. Ms. Reeves pointed out, however, that there were qualified women available from both political parties.

Ms. Reeves had talked with men serving on boards and commissions who had observed that most appointments result from personal recommendations to the appointing authority. These recommendations seldom include women, she said, because so few serve at the staff level, and therefore they have little access to the decisionmaking process. She observed that there were certain elected positions traditionally held by women, and certain boards and commissions, such as the cosmetology commission and the nursing commission, on which they serve and for which she could offer no explanation.

She indicated that other barriers exist for the employment of women. For example, in Selma physical agility requirements for police officers had been changed so that it was very difficult for women, especially women of short stature, to meet the requirements.

Ms. Reeves pointed out that Alabama has never had a State law that prohibits discrimination of any type, with the exception of that against handicapped persons. This means that, in Alabama, discrimination is not a violation of the law unless it is a violation of Federal law. This she saw to be an embarrassment to the State, and she suggested that with the right leadership such a statute could be passed. She said that the opinion that the State lacks leadership in civil rights matters was shared by the Court of Appeals for the U.S. Circuit Eleventh which stated that the State's failure to settle cases involving school desegregation showed such a lack of leadership.

When asked what, specifically, she would like to have in the way of a State civil rights enforcement mechanism, Ms. Reeves said that she would like to have a State law that allowed individuals the option of going directly to State court. She felt that the fear blacks once had of not receiving justice in State courts was no longer operative because of the political power they have acquired. Mr. Max observed that individual members of the Advisory Committee strongly supported a State civil rights enforcement authority and urged Ms. Reeves to follow through on her recommendation.

VIEWPOINTS OF COMMUNITY ORGANIZATIONS

John Buskey, a member of the Metro-Montgomery NAACP and State representative from district 27, stated that the NAACP had been involved in several lawsuits against the State regarding discrimination in employment.

He observed that there are no women and only one black on the personnel board and he emphasized the need for affirmative steps to place blacks and women in higher paying positions. He said that the NAACP planned to stay involved in the effort to rectify these perceived problems and that additional lawsuits might be the only way to correct some of them.

Deborah Biggers, an attorney and member of the Coalition of 100 Black Women, explained that she had represented both women and blacks in employment discrimination lawsuits involving the State of Alabama and that such racial and sexual discrimination does exist. This opinion, she said was based in part on employment statistics which had been gathered by State Representative Thomas Reed regarding State agencies. She reported that, in 1987, 51.9 percent of the employees in the department of mental health and mental retardation were black, but that 89.2 percent of them were employed in the custodial division. Likewise, she said, 88.5 percent of black women employed by the department were in that division.

Ms. Biggers also reported that 1987 statistics furnished by an attorney involved in a suit against the highway department showed that department to have had a total of 3,500 employees, of which 12.8 percent were black, and that 37.5 percent of the black employees were laborers. She said that as a result of a recent class action suit against the highway department, a negotiated settlement had been reached whereby the department would hire blacks in direct proportion to their number in the applicant pool and must be maintained at a minimum of 20 percent by active recruiting.

Blacks, she said, made up 26 percent of the work force of the department of public health in 1987, an improvement over 1981 when they constituted only 19 percent of the work force. However, she reported

that blacks employed are still concentrated in low, entry level positions. She indicated that in the professional job categories only 11.1 percent of the employees were black whereas 63 percent of the paraprofessionals were black. Ms. Biggers felt that these statistics, which show blacks to be employed predominately in low-level positions, are representative of other State government agencies.

Ms. Biggers suggested that two things should be done to overcome problems related to the employment of blacks and women by State government agencies: (1) put pressure on the Governor to appoint minorities and women to head State agencies, and (2) put pressure on legislators to enact legislation creating a fair employment commission. She said that at the present time no State official, legislator, or agency is monitoring the situation or providing statistical data. She charged that State agencies have taken no initiative in setting up affirmative action plans and that they only react to litigation that requires them to do so.

Frances Strong, chair of the Alabama Women's Political Caucus, stated that her organization believed that the involvement of women in government, regardless of their skin color, is essential to a healthy, strong America. A survey done by the National Women's Political Caucus showed that a trend towards more women in the highest levels of government parallels the growing number of elected women officials across the country and is testimony to the increasing size and growing clout of the women's vote. The survey showed, however, that Alabama has only one woman out of 21 at the State cabinet level ranking next to the bottom for all States.

She made specific reference to underrepresentation of black women on

the Alabama Women's Commission. She said that appointments are made as follows: the Governor appoints one commissioner from each congressional district and three at-large. The Speaker of the House appoints three and the president pro tem of the Senate appoints two. She stated that the present commission has only one black woman member, appointed during Governor Wallace's administration.

Ms. Strong reported that in the field of education, a female-dominated profession, the majority of the teachers in Alabama are women but not one of the States' 24 four-year colleges has a woman president. And she said that of the 43 two-year schools - junior colleges and technical schools - there are only five women presidents, one of whom is black. Mr. Jerome Gray, a member of the Advisory Committee, reported that four presidents of the 2-year technical colleges are black, and the chancellor of the post-secondary 2-year school system is a black male.

With reference to Alabama public school systems, Ms. Strong supplied statistics (table VIII) which show that out of 127 systems, 6, or 4.72 percent, have superintendents who are women, and that women fill less than half of all other administrative posts. She said the point she was trying to make was that, though the teaching profession is predominately a women's profession, with 88.74 percent of the teachers in Alabama being women, females do not hold many administrative positions. This, she felt, was evidence of sex discrimination. Advisory Committee members Abigail Turner, Rodney Max, and Odessa Woolfolk questioned the apparent absence of remedies for correcting the lack of women represented at those levels by asking what might be done. Ms. Strong replied that the only advances women have made have been through the Federal courts or ballot boxes. She suggested that a

legislative employment oversight committee would be helpful.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Leon Kennedy, a senior investigator for the U.S. Equal Employment Opportunity Commission (EEOC), explained that his office enforces Title VII of the Civil Rights Act of 1964 (42 U.S.C. Sections 2000e-2000e 17), the Age Discrimination in Employment Act of 1967 (29 U.S.C. Sections 621-634) and the Equal Pay Act of 1963 (29 U.S.C. Section 206 (d)). He reported that in the first 6 months of 1988 there were 699 charges filed with his office by non-Federal public employees alleging race discrimination in employment, 276 which alleged sex discrimination, and 118 which alleged age discrimination. At the time of the forum, 233 charges were pending against State and local governments. In a letter to the Central Regional Division Office of the U.S. Commission on Civil Rights, Rev. Thomas Gibbons, Deputy Director of the Birmingham District Office of the EEOC, said that during this 6 month period, 99 charges of employment discrimination had been brought against the State of Alabama.

Mr. Kennedy said that the EEOC can only deal with alleged employment discrimination in State government that concerns civil service merit-type positions because Congress specifically excluded political appointments from its jurisdiction. Charges received are primarily reviewed on a case-by-case basis, though he indicated that EEOC does have a unit which deals with systemic discrimination. He believed the solution to employment discrimination lies somewhere in the political process so that as minorities and women become more involved in political activities they will become more visible in the higher ranking positions in State government.

In response to a question by Commission staff, Mr. Kennedy expressed

his belief that the existence of a State human rights agency would be beneficial by reducing the work load now carried by EEOC and speeding up the time required to process a discrimination complaint. He said that the EEOC staff currently has 45 investigators, approximately 40 percent women. There are 5 supervisors, 1 of whom is a woman.

STATE AGENCY REPRESENTATIVES

Sylvester Smith, EEO director for the department of human resources, reported that his office was responsible for ensuring civil rights compliance in all programs of the department including employment. He said that in this regard his staff completes an annual audit of employment activities in the department with attention to progress made during the previous year. Audits are also made annually of individual county departments except for small departments which are audited every other year.

Mr. Smith reported that the percentage of minorities in the department of human resources work force had increased every year since 1980, with a total increase of 7.32 percent, from 22.85 percent in 1980 to 30.17 percent on June 14, 1988. Table IX shows the percentage of minorities, women, and black women employed in each job category by the department for 1983 and 1988. In the category of "professionals," minorities approximate their proportion in the total work force, otherwise they tend to be concentrated in the lower level job categories. Women make up over 87 percent of the total work force of the department and exceed 75 percent of the total employees in each job category except that of "laborers and helpers." Black women are heavily concentrated in the "service and maintenance" category where they comprise over 60 percent of the employees. They have the lowest representation among employees in the "administrators and

managers" category where their proportion is less than half of what it is in the total work force.

Mr. Smith emphasized that despite real gains in the employment and utilization of minorities and women, the department of human resources still has problems to correct. Among these are the stagnation of black employees at the entry level, the lack of black employees in many of the higher level salary categories, the small number of county directors and administrators who are black, and the disproportionately low number of women employed as top level managers.

Mr. Smith reported that the department has established a process to identify and correct these problems. Each county and State office division is required to provide employment and employee utilization information by race and sex and to submit a plan with goals for correcting underutilization and other problems. Progress in affirmative action is included in the evaluation of county directors. He said, also, that the personnel department had been asked to provide training programs to familiarize managers, supervisors, and board members with equal opportunity practices. Managers are required to consult with the personnel manager before making selection decisions in job classifications that show an underutilization of minorities or women and to seek assistance in recruiting from the EEO office.

Jane Weeks, director of the Alabama Indian Affairs Commission, reported that though she is technically the head of a commission rather than a department, she is one of two female department heads in Governor Guy Hunt's administration. Her appointment, she said, does not come from the Governor but from the Indian Affairs Commission and was made in the middle of Governor Wallace's administration.

She related that the Alabama Indian Affairs Commission was established in 1984 to serve the needs of what she termed the State's "invisible minority", the American Indian community. Ms. Weeks indicated that when she was appointed to the Commission, the Bureau of the Census listed fewer than 8,000 Indians in Alabama, whereas tribal rolls showed over 14,000 Indian families. At that time the only records kept by the personnel department and the secretary of state regarding minority persons were for black citizens. The existence of Indians was simply ignored. Furthermore, Indians are the only minority group required by State and Federal Government to complete a genealogical chart and be certified by tribal government in order to claim minority status. Ms. Weeks stated that, with regard to employment, no minority preference can be extended to Indians without this certification, and that when small business entrepreneurs who are American Indians apply for certification for contracting privileges they often find it difficult to obtain.

According to Ms. Weeks there is only one federally recognized tribe in Alabama and seven tribal governments that the State recognizes. However, wider recognition is granted in the Federal arena for participation in special programs, and just over 8,000 Alabama children are educated in special Title IV Indian education programs in eleven educational systems in Alabama. Each piece of Federal legislation, she said, carries with it a definition of "what is an Indian?" for the purpose of that particular piece of legislation. All this affects Indian minority employment rights, she said, because some Federal programs target only federally recognized tribal people, without acceptance of State recognized tribal groups. Preference in hiring in State government is still given to blacks because they are being accommodated pursuant to a Federal court order. She reported that an

Indian entrepreneur had called her to say that a field representative of a Federal certification program had told him that only blacks would qualify for the program, and that the department of State government created to help minority business men and women did not invite Indians to minority conferences. She said that at the time of the forum, 185 Indian small business operators had been identified in Alabama.

Colonel Tom Wells, director of the Alabama Department of Public Safety, reported that his department is in the early stages of implementing a court decree of February 1988, resulting from a 16-year-old Federal lawsuit regarding the employment of minorities. The results, he said, have been overwhelmingly positive in terms of career development, department morale, and attitudinal factors. He saw the major objective of the department as that of providing minority employees with opportunities for training and career development that will enable them to reach their full potential, rather than simply reaching certain numerical goals. He believes the procedures will be permanent and ongoing after the terms of the court settlement are fulfilled.

Colonel Wells stated that prior to the settlement decree the department had few minority supervisory employees and no black lieutenants. Now, black officers fill supervisory positions as corporals, sergeants, and lieutenants. During the next 2 years black officers in the higher ranks are expected. At present 35 percent of nonsupervisory troopers are black, as are more than 29 percent of all Alabama State troopers.

He informed the Advisory Committee that the EEO program has been extended departmentwide to serve and provide training for all employees, both arresting and civilian. He reported that, within the department's

five divisions, 347 of the 548 total employees are women, and that 154, or 44 percent, of the women employees occupy critical professional positions of crucial significance. Eleven of those women employees are State troopers, and one, a black woman, is the department's recruiter for both arresting officers and civilian employees.

In comparing the Alabama Department of Public Safety with that of other States, Colonel Wells noted that 4 percent of the arresting officers in Kentucky are minority, 11 percent in Virginia, 6 percent in Tennessee, 10 percent in Louisiana, 17 percent in Florida, 15 percent in New York and 14 percent in California, whereas in Alabama 29 percent are black. He also noted that several officers are minorities of other groups which include American Indians but no Asians or Hispanics.

Within the Alabama Department of Public Safety Colonel Wells reported that 32.6 percent of those employed as corporals, 10.7 percent of the sergeants, and 9.68 percent of the lieutenants are black. No blacks are employed as captain or higher. Colonel Wells noted, however, that implementation of the consent decree would change this picture as the number of blacks employed as lieutenants and captains increases. He predicted that at the end of a 3-year period 10 percent of the captain rank would be black. Colonel Wells speculated that the selection of blacks into the rank of major and above might be slowed somewhat by the low turnover rates among the higher officers. Colonel Wells would not make a prediction as to the prospects for blacks at those levels. He observed, however, that, in time, as blacks move into the rank of captain, more would be eligible for appointment to the higher ranks.

The consent decree filed in Paradise v. Wells, No. 3561-N (M.D. Ala. Feb. 1, 1988) (see appendix A), requires the Alabama Department of Public Safety to implement new selection procedures for entry level troopers and

for trooper cadets within 2 years. While new selection procedures are being developed, the ratio of the percentage of qualified black troopers hired to the percentage of black applicants on the hiring register is required to be at least 80 percent of the same ratio for whites. Also, the percentage of black cadets hired must be approximately equal to the percentage of qualified black applicants for such positions. The decree also called for the promotion of 15 black troopers and 25 white troopers to the position of corporal, so that approximately 25 percent of the trooper corporals would be blacks. Goals and timetables were set for the employment of blacks in other supervisory positions as follows:

Sergeants: 10 percent within 1 year, 15 percent within 2 years and 20 percent within 3 years.

Lieutenants: 10 percent within 18 months and 15 percent within 3 years.

Captains: 10 percent within 7 years.

To meet these goals the following steps were specified: a reduction in time-in-grade requirements; the development of supervisory management training programs; provision for alternative career paths such as the promotion of qualified blacks regardless of time-in-grade requirements as well as an intensive nationwide recruiting effort. The employment of unqualified persons was not required, but when choosing among qualified candidates race could be taken into account and separate certifications used if necessary.

SUMMARY

Participants in the Alabama Advisory Committee's June 23, 1988, forum were invited to provide information on the employment of minorities and women in Alabama State government. Approval was expressed for the steady increase in the number of blacks and women employed by State government during the past 10 years. New hiring and promotion procedures along with

goals and timetables, being used by the department of public safety as a result of a 1988 consent decree, were said to be opening up opportunities for the employment and promotion of blacks at all levels.

However, members of the Advisory Committee expressed special concern regarding information on a variety of issues presented at the forum:

1. The disproportionately low number of blacks employed by several State agencies, and for the tendency in all agencies for blacks to be concentrated at the lower level salary positions.
2. The low proportion of women employed in some nontraditional positions, as in the highway department.
3. The unavailability of statistics on the gubernatorial appointments for blacks and women to boards and commissions, and the difficulty in obtaining employment statistics from individual departments.
4. The absence of a State human rights agency or a civil rights statute providing direct access to State court. Several of the participants strongly advocated the need for these to avoid complete reliance on Federal agencies for the enforcement of discrimination laws and on Federal courts for judicial remedies.
5. The extremely small number of blacks and women appointed to top level administrative positions in the public school system, despite the fact that teaching is a female-dominated profession.

The director of the Indian Affairs Commission reported that American Indians in Alabama have been drastically undercounted by the Bureau of the Census and are almost completely neglected in State affirmative action plans and efforts. She pointed out the difficulties Indians encounter in obtaining certification, along with the variations in the definition of "Indian" used for Federal programs, which often make participation in minority business enterprise programs difficult.

This summary report does not purport to be an exhaustive review of issues related to the employment of minorities and women by State government. It does identify and provide information on concerns which the Advisory Committee may decide merit further investigation.

NOTES

1. Fred Horn, State representative and member of the Alabama Legislative Black Caucus, A Questionnaire Report: The Horn Project, October 1983.

TABLE I
ALABAMA 1980 LABOR FORCE AND POPULATION BY RACE/ETHNIC GROUP

	Civilian Labor Force		Population	
	No.	Percent	No.	Percent
White	1,268,935	77.6	2,854,919	73.3
Black	346,000	21.2	984,064	25.3
Native American	3,897	0.2	9,087	0.2
Asian	3,845	0.2	10,229	0.3
Other	523	--	1,666	--
Hispanic	11,543	0.7	33,923	0.9
Total Minority	365,808	22.4	1,038,969	26.7
GRAND TOTAL	1,634,743	100.0	3,893,888	100.0

SOURCE: State of Alabama Manpower Information for Affirmative Action Programs, 1987.
State of Alabama Department of Industrial Relations

TABLE II
ALABAMA 1980 LABOR FORCE AND POPULATION BY SEX

	Civilian Labor Force		Population	
	No.	Percent	No.	Percent
Male	945,674	57.8	1,870,727	48.0
Female	689,069	42.2	2,023,161	52.0
Total	1,634,743	100.0	3,893,888	100.0

SOURCE: State of Alabama Manpower Information for Affirmative Action Programs, 1987.
State of Alabama Department of Industrial Relations

TABLE III
MINORITY, BLACK AND FEMALE EMPLOYMENT IN ALABAMA STATE GOVERNMENT

	1977						1987					
	Total		Minority		Women		Total		Minority & (Black)		Women	
	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Officials & Administrators	930	100	28	3.0	201	21.6	1,379	100	121 (111)	8.8 (7.9)	355	25.7
Professionals	7,577	100	708	9.3	3,487	46.0	8,494	100	1,591 (1,525)	18.7 (18.0)	4,373	51.5
Technicians	1,643	100	67	4.1	256	1.6	1,851	100	253 (248)	13.7 (13.4)	445	24.0
Protective Services	1,548	100	108	7.0	33	2.1	3,304	100	1,135 (1,129)	34.4 (34.2)	293	8.9
Office/Clerical	6,392	100	708	11.1	5,198	81.3	6,309	100	1,325 (1,299)	21.0 (20.6)	5,518	87.5
Para-Professionals	3,425	100	1,098	32.1	2,242	65.5	3,923	100	2,334 (2,319)	59.5 (59.1)	2,475	63.1
Skilled Craft	1,477	100	154	10.4	176	11.9	1,004	100	181 (178)	18.0 (17.7)	75	7.5
Service Maintenance	2,111	100	947	44.9	638	30.2	1,841	100	1,002 (997)	54.4 (54.2)	537	29.2
TOTALS	25,103	100	3,818	15.2	12,231	48.7	28,105	100	7,942 (7,806)	28.3 (27.8)	14,071	50.1

SOURCES: 1977 data from Where Are Women and Blacks?, Alabama Advisory Committee to the U.S. Commission on Civil Rights, March 1979, Exhibit 6. 1987 data supplied by the Alabama Personnel Department, May 20, 1988.

TABLE IV

The Representation Of Blacks Among Employed Persons In 1986: A Comparison Between The Government Of The State Of Alabama And The State Of Alabama Labor Market.

Job Category Of Employment	% Blacks Employed By The State Gov. (a)	% Blacks Employed In The State (b)	Ratio (State Gov. as a % of the State of Alabama) (c)=(a)/(b)
Officials/Adm.	8.0	7.5	106.9
Professionals	18.0	15.5	116.3
Technicians	12.5	14.3	87.7
Office/Clerical	34.3	13.1	262.5
Craft	16.5	13.3	124.5
Oper./Lab./Serv.	41.0	32.9	124.9
Total	27.1	19.9	136.0

The data for the State government are based on snap-shot figures for 6/30/86; those for the State of Alabama are based on figures for 12/31/86. The State figures are for civilian labor, excluding agricultural workers.

SOURCE: Alabama Department of Personnel, June 23, 1988

TABLE V

The Rate Of Increase Of Black Employment By The Government
Of The State Of Alabama During The 1978-1987 Period.-

Job Category Of Employment	1978 Employment		1987 Employment		78-87 % Rate Of Increase	
	Total	Black	Total	Black	Total	Black
Officials/Adm.	936	34	1379	111	+47.3	+226.5
Professionals	7665	781	8494	1525	+10.8	+95.3
Technicians	1879	192	1851	248	-1.5	+29.2
Office/Clerical	10180	2478	10232	3618	+0.5	+46.0
Craft	1374	156	1004	178	-26.9	+14.1
Oper./Lab./Serv.	4092	1173	5145	2126	+25.7	+81.2
Total	26126	4814	28105	7806	+7.6	+62.2

SOURCE: Alabama Department of Personnel, June 23, 1988.

TABLE VI

The Representation Of Females Among Employed Persons In 1986: A Comparison Between The Government Of The State Of Alabama and The State Of Alabama Labor Market.

Job Category Of Employment	% Females Employed By The State Gov. (a)	% Females Employed In The State (b)	Ratio (State Gov. as a % of the State of Alabama) (c)=(a)/(b)
Officials/Adm. (1)	27.5	29.9 ✓	92.0
Professionals (2)	50.9	38.9	130.8
Technicians (3)	22.7	17.5	129.7
Office/Cler. (4)	78.1	77.1	101.3
Craft (5)	7.6	7.5	101.3
Prot. Service (6)	8.1	8.4 ✓	96.4
Oper./Labor (7)	16.6	12.4	133.9

(1) Includes Executive, Administrative, and Managerial Occupations.

(2) Professional and Related Occupations, excluding Teachers.

(3) Includes Engineering, Related, and Science Technicians.

(4) Includes Administrative Support Occupations.

(5) Includes Precision Production, Craft and Repair Occupations.

(6) Protective Service Occupations.

(7) Transportation and Material Moving Occupations, Handlers, Equipment Cleaners, Helpers, and Laborers.

The data for the State government are based on snap-shot figures for 6/30/86; those for the State of Alabama are based on figures for 12/31/86. The State figures are for civilian labor, excluding agricultural workers.

SOURCE: Alabama Department of Personnel, June 23, 1988.

TABLE VII

The Rate Of Increase Of Female Employment By The
Government Of The State Of Alabama During The 1978-1987
Period.

Job Category Of Employment	1978 Employment		1987 Employment		78-87 % Rate Of Increase	
	Total	Females	Total	Females	Total	Females
Officials/Adm.	936	239	1379	355	+47.3	+48.5
Professionals	7665	3528	8494	4373	+10.8	+24.0
Technicians	1879	339	1851	445	-1.5	+31.3
Office/Clerical	10180	7520	10232	8003	+0.5	+6.4
Craft	1374	141	1004	75	-26.9	-46.8
Oper./Lab./Serv.	4092	763	5145	830	+25.7	+8.8
Total	26126	12530	28105	14071	+7.6	+12.3

SOURCE: Alabama Department of Personnel, June 23, 1988.

TABLE VIII
 WOMEN ADMINISTRATORS IN ALABAMA PUBLIC SCHOOL SYSTEMS
 JUNE 21, 1988

TYPE	MALE	FEMALE	TOTAL	% MALE	% FEMALE
SUPERVISOR OF INSTRUCTION	230	216	446	51.57%	48.43%
PRINCIPAL (K-12)	255	40	295	86.44%	13.56%
PRINCIPAL (K-6)	330	209	547	61.79%	38.21%
PRINCIPAL (4-8)	110	20	146	80.82%	19.18%
PRINCIPAL (7-12)	263	20	283	92.93%	7.07%
VOC. ED. ADMINISTRATOR	01	11	12	8.33%	91.67%
ASST. PRINCIPAL (K-12)	103	10	121	85.12%	14.88%
ASST. PRINCIPAL (K-6)	47	75	122	38.52%	61.48%
ASST. PRINCIPAL (4-8)	61	26	87	70.11%	29.89%
ASST. PRINCIPAL (7-12)	263	50	313	84.03%	15.97%
SUPERVISOR	75	81	156	48.08%	51.92%
ATTENDANCE SUPERVISOR	27	11	38	71.05%	28.95%
NUTRITION ADMINISTRATOR	11	29	40	27.50%	72.50%
TRANSPORTATION SUPERVISOR	25	0	25	100.00%	0.00%
SUPERINTENDENT	121	6	127	95.28%	4.72%
ASST. SUPERINTENDENT	71	15	86	82.56%	17.44%
ADMINISTRATIVE ASST	36	9	45	80.00%	20.00%
COORDINATOR	114	90	212	53.77%	46.23%
SPECIAL ED. COORD.	26	67	93	27.96%	72.04%
TOTAL	2,265	1,009	3,274	69.18%	30.82%
SUMMARY:					
SUPERINTENDENTS & ASST'S.	102	21	123	88.14%	11.86%
PRINCIPALS & ASST'S.	1,440	466	1,914	75.65%	24.35%
SUPERVISORS	357	300	657	55.60%	44.40%
ALL OTHER	260	214	474	55.60%	44.40%
TOTAL	2,265	1,009	3,274	69.18%	30.82%
NATIONAL DATA:					
PERCENT OF TEACHERS THAT ARE MEN	21.27				
RANK	44th				

SOURCE: Alabama Department of Education as supplied by Frances Strong, June 23, 1988.

TABLE IX
 PERCENTAGE OF MINORITIES AND WOMEN EMPLOYED BY THE
 ALABAMA DEPARTMENT OF HUMAN RESOURCES

	<u>1983</u>			<u>1988</u>		
	Minorities	Women	Black Women	Minorities	Women	Black Women
TOTAL WORK FORCE	25.96	87.36	23.11	30.17	87.11	26.81
Administrators & Managers	12.55	76.60	10.33	15.13	76.34	12.24
Professionals	28.63	83.95	24.71	33.10	84.06	28.30
Technicians	17.76	92.21	15.33	25.82	88.86	22.78
Administrative Support	16.22	89.19	15.32	14.29	90.82	16.33
Clerical	24.01	99.08	23.80	30.65	98.69	29.95
Service and Maintenance	67.81	91.10	60.96	70.53	91.30	63.28
Laborers and Helpers	41.18	11.76	0	40.68	72.88	30.51

SOURCE: Sylvester L. Smith, Supervisor, Office of EED and Compliance
 Alabama Department of Human Resources, June 23, 1988.

FILED

FEB 1 1988

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CLERK
U. S. DISTRICT COURT
MIDDLE DIST. OF ALA.

PHILLIP PARADISE, JR.,
et al.,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff and
Amicus Curiae,

v.

THOMAS H. WELLS, et al.,

Defendants,

V. E. McCLELLAN, et al.,

Defendant-
Intervenors.

CIVIL ACTION NO. 3561-N

CONSENT DECREE

1. This action was filed on January 3, 1972, alleging that the defendants, the Director of the Alabama Department of Public Safety (Public Safety) and the Director of the Alabama Personnel Department (Personnel), engaged in a continuous and pervasive pattern and practice of excluding blacks from employment in Public Safety in violation of the Fourteenth Amendment to the Constitution of the United States. The private plaintiffs and the defendants now desire to resolve this case without further acrimony and without the necessity of further trial.

2. The defendants' principal obligations in this case are embodied in three orders. The first order, entered by consent on February 16, 1979, requires the defendants, among other things,

to utilize promotion procedures that conform with the Uniform Guidelines on Employee Selection Procedures (Uniform Guidelines) and that have little or no adverse impact on blacks seeking promotion. The second order, entered on December 15, 1983, requires the defendants to promote one black trooper for each white trooper promoted under certain circumstances. The judgment of the court of appeals upholding the December 1983 Order was affirmed by the United States Supreme Court on February 25, 1987. The third order, entered on October 17, 1986, requires the defendants to demonstrate that any procedure used for selecting entry-level troopers after the one-for-one hiring requirement is lifted complies with the prior orders in this case and the applicable law. The order also provided that the one-for-one hiring requirement shall be lifted when Public Safety demonstrates that, for a period of three months, at least 24.5 percent of the permanently employed state trooper force is black.

3. There are two substantive motions currently pending before the Court. The first, filed by Public Safety on October 31, 1986, asks the Court for permission to promote twenty-nine entry-level troopers to the position of corporal. The second, filed by Public Safety on November 14, 1986, asks the Court for permission to use new procedures for selecting entry-level troopers. Private plaintiffs and the United States have opposed each motion. If the litigation continues without settlement, further time-consuming and expensive proceedings will be necessary even after the two pending motions are resolved.

4. This Decree is designed to make all further litigation unnecessary, to supplant the defendants' obligations to the private plaintiffs under all other existing orders in this case, to remedy past, pervasive discrimination and the effects thereof, to provide blacks with equal employment opportunities, and to prevent discrimination in the future.

5. Before agreeing to this Decree, the parties engaged in substantial discovery. Before entering this Decree as its own order, the Court, after notice, held a fairness hearing, heard evidence concerning the propriety of the terms of the Decree, and considered the views of counsel for all parties. Based upon the entire record in this case, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

JURISDICTION

6. This Court has jurisdiction over the subject matter of this action and the parties hereto. The Court shall retain jurisdiction during the period of this Decree and may enter such other and further relief as the Court may deem appropriate.

PARTIES

7. The parties to this decree are the private plaintiffs and the defendants.

8. Private plaintiffs are a class of black persons in Alabama who have been, or may be, discriminatorily denied employment opportunities as Alabama State Troopers by the defendants' actions. The class includes black state troopers who have been, or may be, discriminatorily denied promotions within the ranks of the Alabama State Troopers. James E. Jackson, a

black trooper sergeant, and Osburn Rutledge, Jr., a black entry-level trooper, are hereby added as named plaintiffs. The Court finds that both are adequate class representatives and that the other prerequisites to maintaining this case as a class action pursuant to Rule 23 continue to be satisfied.

9. The defendants are the Director of the Alabama Department of Public Safety and the Director of the Alabama Personnel Department. Their agents, officers, successors in office, employees, and all persons acting in concert or participation with them shall be bound by the terms of this Decree.

EFFECT OF DECREE

10. This Decree resolves all issues presently in contention between private plaintiffs and defendants, except as specified in paragraph 45.

11. Public Safety's November 14, 1986 motion for permission to use new procedures for selecting entry-level troopers and October 31, 1986 motion for permission to promote twenty-nine corporals are hereby denied as moot.

12. All prior orders setting forth the obligations of the defendants with respect to the private plaintiffs are hereby vacated.

13. In the event that a higher court rules that any of the remedies in this Decree are not permissible, plaintiffs shall have the option of (a) seeking and obtaining an appropriate modification of the Decree, or (b) abrogating the settlement and resuming litigation.

14. Insofar as any of the provisions of this Decree, or any actions taken pursuant to such provisions to accomplish the objectives of this Decree, may be inconsistent with any state statute, law, or regulation, the provisions of this Decree shall prevail in accordance with the constitutional supremacy of federal law.

DURATION OF DECREE

15. This Decree shall become effective immediately upon the date of its entry and shall expire on December 1, 1990, unless extended as provided in paragraph 27.

16. If private plaintiffs hereto have commenced proceedings prior to December 1, 1990, alleging noncompliance with this Decree, this Court shall retain jurisdiction over this action until such proceedings are terminated.

ENTRY-LEVEL POSITIONS

17. In accordance with the provisions of this Decree concerning SELECTION PROCEDURES, defendants shall develop and implement new selection procedures for entry-level troopers and new selection procedures for trooper cadets within two years.

18. While new selection procedures for entry-level troopers are being developed, the ratio of the percentage of troopers hired and completing the trooper academy who are black to the percentage of applicants on the hiring register for such positions who are black, have a high school degree or GED, and meet the age requirement, shall be at least equal to approximately 80 percent of the same ratio for whites.

19. While new selection procedures for trooper cadets are being developed, the percentage of cadets hired and completing any required training who are black shall be approximately equal to the percentage of applicants for such positions who are black, have a high school degree or GED, and meet the age requirement.

20. For the duration of this Decree, the defendants shall continue their recruitment efforts designed to ensure that blacks are well-represented among applicants for entry-level trooper positions.

21. For the duration of this Decree, the defendants shall make special recruitment efforts to ensure that the percentage of applicants for trooper cadet positions who are black shall be approximately equal to the percentage of persons earning a high school diploma from a public school in Alabama in the previous year who are black.

22. Defendants may use separate certifications if necessary to accomplish the objectives in this section of the Decree and shall be allowed to delete names from the hiring register after such names have been on the register for two years.

SUPERVISORY POSITIONS

23. State Trooper Corporals

a. Upon entry of this Decree, defendants shall promote 15 black troopers and 25 white troopers to the position of corporal. After such promotions are made, approximately 25 percent of the trooper corporals will be blacks.

b. Prior to administering future corporal selection procedures, defendants shall develop, in cooperation with a qualified industrial psychologist, an examination announcement informing prospective applicants of the nature of such selection procedures, the characteristics such procedures are designed to assess, and the materials with which the applicants are expected to be familiar.

24. Goals and Timetables for Remaining Supervisory Positions -- The defendants shall strive to have a workforce in which blacks hold the following percentages of positions at the given ranks within the times specified.

a. State Trooper Sergeants -- within one year, 10 percent; within two years, 15 percent; within three years, 20 percent.

b. State Trooper Lieutenants -- within eighteen months, 10 percent; within three years, 15 percent; and

c. State Trooper Captains -- within three years, 10 percent.

25. In order to reach the goals set forth above, the defendants agree to take the following steps, in addition to those contained in other provisions of this Decree.

a. Reduce time-in-grade requirements for all positions above State Trooper Corporal -- Currently, defendants require that an applicant for promotion have two years permanent service in the preceding rank. In the future, defendants shall require that applicants have no more than (a) one year permanent service in the preceding rank or (b) six months permanent service in the

preceding rank and eighteen months permanent service in the next most preceding rank.

b. Develop supervisory management training programs --

Such programs shall be designed to benefit potential state trooper candidates for promotion to positions above corporal and to improve the performance of state trooper supervisors in their current positions. These programs shall be implemented within one year.

c. Alternate Career Paths -- If it appears at any time

to the Director of Public Safety that the goals set forth in this Decree cannot be met by taking the steps outlined above and elsewhere in this Decree, the defendants shall endeavor to reach the goals by promoting qualified blacks from within Public Safety regardless of rank or time-in-grade requirements or by intensively recruiting and considering qualified black candidates outside the ranks of Public Safety. Such intensive recruitment efforts shall include special nationwide advertising campaigns designed to reach qualified black candidates, provisions to pay the expenses associated with bringing top black candidates to Alabama in order to provide them with the opportunity to see the work environment and be interviewed, and provisions to pay the moving expenses of black candidates who are selected.

26. The goals set forth above are not rigid quotas. The defendants shall not be required to employ unqualified persons, to displace current employees from their jobs, or to maintain a particular percentage of black troopers within a given rank once the goals have been met. When choosing among qualified

candidates, the defendants may take race into account and use separate certifications if necessary to meet the goals.

27. In the event that the goals set forth above are not met by December 1, 1990, despite the good faith efforts of the defendants, sanctions shall not be imposed; however, the duration of this Decree shall automatically be extended until the goals are met.

28. In accordance with the provisions of this Decree concerning SELECTION PROCEDURES, defendants shall develop new selection procedures for each supervisory rank, beginning with the corporal rank, during the life of the Decree; however, the defendants' commitments under paragraphs 23-25 of this Decree shall be neither dependent on nor excused by the development of such selection procedures.

29. If promotions are needed after the goals are met but before the new selection procedures are developed in accordance with the provisions of this Decree concerning SELECTION PROCEDURES, the percentage of persons promoted who are black shall be approximately equal to the percentage of applicants for such positions meeting time-in-grade requirements who are black.

SELECTION PROCEDURES

30. Selection procedures developed pursuant to this Decree (the new selection procedures) shall conform to the Uniform Guidelines, shall minimize any adverse impact against blacks to

the extent practicable,¹ shall be implemented not later than December 1, 1990, and shall be deemed acceptable and binding on the parties for the duration of the Decree.

31. The parties to this Decree have agreed to have Dr. Benjamin Schneider and Dr. Irwin Goldstein develop the new selection procedures in close consultation with Dr. John Veres. Drs. Schneider and Goldstein, professors of psychology at the University of Maryland and principals in the firm Organizational and Personnel Research, Inc., are two of the leading industrial psychologists in the nation. Both are former presidents of the Society for Industrial and Organizational Psychology, Division 14 of the American Psychological Association. Dr. John Veres is a well-qualified industrial psychologist from Auburn University at Montgomery. Because Personnel intends to have a long-term relationship with Dr. Veres, the parties to this Decree consider his involvement in the development of the new selection procedures to be crucial.

32. In the event that the defendants, despite their good faith efforts, are unable to secure the services of Drs. Schneider and Goldstein, plaintiffs' counsel shall select, in consultation with the defendants and the United States, alternative qualified industrial psychologists to develop the new selection procedures in close consultation with Dr. Veres. The alternative psychologists shall also cooperate with any psychologists designated by the United States.

¹ Among the procedures to be used to minimize adverse impact shall be banded scoring in the event that a rank-order scoring system is employed.

33. The industrial psychologists referred to above who are responsible for developing new selection procedures shall:

a. develop content valid or, where appropriate, other valid selection devices for the positions of State Trooper Cadet, State Trooper, State Trooper Corporal, State Trooper Sergeant, State Trooper Lieutenant, State Trooper Captain, and State Trooper Major;

b. provide Personnel with sufficient information and documentation to show that the development and implementation of the selection devices conform to the Uniform Guidelines and minimize any adverse impact against blacks to the extent practicable; and

c. develop selection devices in such a way that the staff of Personnel, under the guidance of a qualified industrial psychologist, will be trained to continue to assist in developing and administering selection devices for the aforementioned classifications. Fundamental to the accomplishment of this objective is the development of detailed reports outlining the steps used to develop the selection devices. Five professional staff members of Personnel will be sufficiently involved in the project and will receive training from the industrial psychologists referred to above so that they are able to continue to assist in developing valid selection devices after completion of this project under the guidance of a qualified industrial psychologist.

34. The defendants agree to cooperate fully with the industrial psychologists referred to above.

35. The Court orders defendants to pay the reasonable fees and expenses of the industrial psychologists referred to above, other than any psychologists designated by the United States. Invoices, setting out the functions performed and the costs incurred (with appropriate documentation), shall be submitted periodically by the industrial psychologists and shall be paid by defendants consistent with the terms of the contract with the industrial psychologists.

GENERAL PROVISIONS

36. The defendants shall not discriminate against black applicants, candidates, or employees in any aspect of employment whatsoever at Public Safety.

37. The defendants shall time promotion selection procedures so as to maximize promotional opportunities for blacks within Public Safety.

38. Within six months, Public Safety shall complete a study of trooper assignment practices and training opportunities. Within nine months, Public Safety shall issue guidelines to ensure that trooper assignments are made and training opportunities accorded in a manner that is consistent with the goals and commitments in this Decree.

39. Within 90 days, Public Safety shall assign a corporal (or a supervisory officer of a higher rank), answerable directly to the Assistant Director of Public Safety and stationed in Montgomery, whose primary responsibility shall consist of:

a. monitoring the defendants' compliance with the terms of this Decree;

b. assisting the defendants in carrying out the terms of this Decree; and

c. administering the Equal Employment Opportunity Program within Public Safety.

40. The Equal Employment Opportunity Program within Public Safety shall be enhanced and administered in the manner described in Attachment 1. Public Safety shall enroll the person assigned to administer the program in the four-month EEO training program offered at Patrick Air Force Base in Florida or in an equivalent training program.

MONITORING AND RECORDKEEPING

41. Defendants shall make quarterly reports on their efforts to comply with this Decree in a format to be prescribed by plaintiffs' counsel within 90 days. Such reports shall be filed with the Court and submitted to plaintiffs' counsel. Plaintiffs' counsel may revise the format for such quarterly reports periodically.

42. Defendants shall retain for the duration of this Decree all records concerning the implementation of this Decree. These records shall be available to plaintiffs' counsel for inspection and copying.

43. For the duration of this Decree, plaintiffs' counsel shall be entitled to contact, and request information from, the industrial psychologists chosen to develop the new selection procedures, the Assistant Director of Public Safety, and the corporal appointed by Public Safety to monitor the defendants' compliance with the terms of this Decree. Such contacts and

requests need not be in writing and need not be cleared with counsel for defendants. Plaintiffs' counsel shall make available to counsel for defendants copies of any written information so provided.

44. Plaintiffs' counsel shall be entitled to reasonable costs and fees for monitoring the defendants' compliance with this Decree. Plaintiffs' counsel shall provide documentation of the number of hours spent, the functions performed, and the costs incurred on a quarterly basis. Counsel shall be entitled to compensation at a rate of \$100.00 per hour for attorneys' time and \$25.00 per hour for paralegals' time. Subject only to the accuracy of such documentation, defendants shall pay the requested amount within 60 days, without waiving objections as to the amount. Defendants may challenge the number of hours or costs incurred by establishing that the hours or costs were not incurred, were frivolously incurred, or were otherwise patently unreasonable. Such claims shall be resolved by the Court.

ATTORNEYS' FEES

45. Plaintiffs' counsel shall be entitled to reasonable attorneys' fees and costs incurred in opposing the two motions specified in paragraph 3 and in negotiating and drafting this Decree. If such fees and costs cannot be agreed to, the issue shall be submitted to the Court for resolution. The parties have submitted the issue of plaintiffs' entitlement to fees and expenses for plaintiffs' counsels' work in connection with Paradise v. United States, No. 85-999 (U.S. Feb. 25, 1987), to the Court for resolution. Should the Court rule that either

Public Safety or Personnel, or both, is liable for such fees and expenses, and should such fees and expenses not be agreed to, the issue shall be submitted to the Court for resolution.


DEFENSE OF DECREE

46. The parties to this Decree shall use their best efforts to obtain prompt judicial approval of the Decree. The parties agree to defend the lawfulness of the Decree in the event that it is challenged by any other party to this litigation or by any other person before the District Court, on appeal, or in any collateral proceeding.

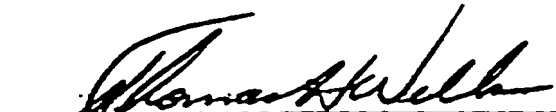
DONE, this 1st day of February, 1988.

~~Montgomery~~
 United States District Judge

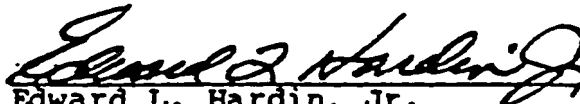
Consent to the entry of the foregoing Decree is hereby granted.


 J. Richard Cohen
 Morris S. Dees, Jr.
 400 Washington Avenue
 Post Office Box 2087
 Montgomery, AL 36102-2087


Counsel for Plaintiffs

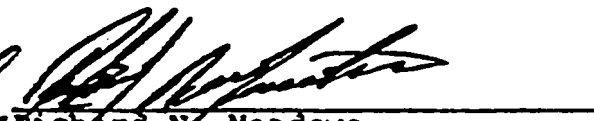

 Thomas H. Wells
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Director of the Alabama
 Department of Public Safety


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