

U.S. COMMISSION ON CIVIL RIGHTS
COMMISSION MEETING

OCTOBER 18, 1989

SUPPLEMENT



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 18, 1989

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MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Solicitor's Review of the Recharter of State
Advisory Committees

The Acting Solicitor has reviewed the attached recharters and finds no conflict of interest or other legal problem.

A handwritten signature in black ink, appearing to read "Melvin L. Jenkins", is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke extending to the right.

MELVIN L. JENKINS
Acting Staff Director

Attachments

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UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Rechartering of the Arkansas Advisory Committee

This memorandum requests action required for rechartering the Arkansas Advisory Committee to the Commission. This request is based upon the following information which is a part of this memorandum.

- I. Demographic Statistics for Arkansas
- II. Recent Activities of the Arkansas Advisory Committee
- III. Program Projections for the Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Biographical Information (CCR Form 16)

I. DEMOGRAPHIC STATISTICS FOR ARKANSAS

Arkansas is one of the fastest growing States in the region. In 1970 the census reported a population of 1,923,295 in Arkansas. By 1980 the population had increased to 2,286,435 for an overall gain of 363,140. This gain represented almost a 19 percent increase over the 1970 total. According to the latest census figure, females in the State number 1,181,747, or 51.7 percent of the total population. Minorities total 414,017 or 18.1 percent of the State's population. Nearly 52 percent of the population in Arkansas resides in urban areas. Most of this urban population is concentrated in six Standard Metropolitan Statistical Areas (SMSA's): Fayetteville - Springdale (178,609), Fort Smith - Arkansas part (132,062), Little Rock - North Little Rock (393,774), Memphis - Arkansas part (49,499), Pine Bluff (90,718), and Texarkana - Arkansas part (51,718). Little Rock is the largest city in the State with a 1980 population of 158,461. The State's black population is mainly concentrated in the rural areas of eastern, southeastern and southern Arkansas.

1980 Racial and Ethnic Population on Statistics for Arkansas

	<u>Number</u>	<u>Percent of Total</u>
White	1,872,418	81.9%
Black	373,768	16.3
Hispanic	17,904	0.8
Native American	9,364	0.4
Asian American	6,740	0.3
Other	6,241	0.3
TOTAL	2,286,435	100.0%

SOURCE: U.S. Department of Commerce, Bureau of the Census, 1980 Census of Population, General Population Characteristics, Arkansas Part 5, PC 80-1-B5, August 1982.

II. RECENT ACTIVITIES OF THE ARKANSAS ADVISORY COMMITTEE

Since the last rechartering, the Arkansas Advisory Committee submitted three briefing reports to the Commissioners: Civil Rights Issues in Arkansas, Equal Opportunity in Arkansas Public Education, and the Civil Rights Concerns of Older Americans.

III. PROGRAM PROJECTION FOR CHARTER PERIOD

The Committee will continue to monitor school desegregation issues in the State. It will also conduct a community forum on the civil rights concerns of blacks in Arkansas' delta region. This will provide an update on information contained in a report on the same topic by the Advisory Committee published in 1974.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

Staff in the Central Regional Division secured recommendations for prospective Advisory Committee members from current members and the Chair, as well as from State legislators, the NAACP, the State Board of Education, a law firm specializing in civil rights cases, and the University of Arkansas.

V. PERSONNEL ACTIONS REQUESTED

The authorized size of the Arkansas Advisory Committee is 11 members. The personnel actions requested will place the Committee at full membership.

A. Chairperson

The Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve as asterisked below.

Mr. Patteson, a native of Jonesboro, Arkansas, is president of Patteson Brothers, a corporation with land holdings and farming interests in eastern and northeastern Arkansas. He is also involved in real estate development and owns and operates a radio station in Jonesboro.

Mr. Patteson is on the board of directors of several financial institutions in Arkansas, including the Mercantile Bank of Arkansas, the largest bank in northeast Arkansas. He is past president of the Jonesboro Chamber of Commerce and was the recipient of the Humanitarian Award from the Arkansas Chapter of the National Council of Christians and Jews. In addition, he holds executive positions in numerous civic, business and social organizations, and was the chairman of the Arkansas Commission on Human Relations. He serves as a board member for the Arkansas Justice Foundation and is a regional representative for the National Conference of Christians and Jews. As chair of the Advisory Committee Mr. Patteson provided able and dedicated leadership during the previous charter period.

B. Reappointments

Elijah Coleman*

Mr. Coleman has served as superintendent of schools in Plum Bayou and is currently an elected member of the Dollarway School Board. In the early 1970's, he was the director of the Arkansas Council on Human Relations. He also headed the Arkansas Voter Education Project from 1970 to 1979. He is currently a member of the Governor's Advisory Commission on Employment, and is vice-chair of the 4th Congressional District Republican Party and serves as president of the Jefferson County Republican Party. In addition, he has served as chair of the Black Republican Council of Arkansas. In this position, he was a close advisor of former Governor Frank White on issues involving minority groups and civil rights. From 1970 to 1974, he served as president of the Arkansas Education Association, and from 1969 to 1975 was a member of the Board of Trustees for the Arkansas State University System.

Morton Gitelman*

Morton Gitelman, a former chairperson of the Arkansas Advisory Committee, is a professor of law at the University of Arkansas (Fayetteville). He was a member of the board of directors and president of the American Civil Liberties Union of Arkansas. From 1966 to 1970 he served on the board of the Arkansas Council on Human Relations. In addition, he served on the board of the Arkansas chapter of the National Conference of Christians and Jews. He is also a member of the Arkansas Bar. Professor Gitelman has written extensively and has published numerous articles in scholarly and legal journals. He is a recognized authority on issues involving land use, the provision of municipal services, and civil rights.

Marie Bernarde Miller

Ms. Miller is an attorney by profession and is currently employed as the deputy prosecuting attorney for Pulaski County. She was also in private law practice as a Little Rock attorney for several years and has served as an attorney for Central Arkansas Legal Services. She is a member of the County, State, and American Bar Associations and is a gubernatorial appointee to the Arkansas Crime Victims Reparation Board.

Richard F. Milwee

Reverend Milwee has served as the Archdeacon of the Diocese of Arkansas since 1981. A resident of Little Rock, Reverend Milwee has served on the Advisory Council of the Arkansas Conference of Churches and Synagogues, the Little Rock Contact Teleministry, the Advisory Committee for Gifted and Talented Students Programs, and the board of directors of the Volunteers Episcopal Theological School, Cambridge, Massachusetts and Millsaps College, Jackson, Mississippi.

Toni Phillips

Mrs. Phillips, former president of the Washington County Republican Women's Club, has been actively involved in Arkansas political and civic affairs for several years. She served as State Parliamentarian to the Arkansas Federation of Republican Women, taught American government at the University of Arkansas in Fayetteville, and was recently appointed by Gov. Frank White to serve on the State Board of Examiners in Psychology. Mrs. Phillips, who recently ran for State Representative, makes her home in Springdale.

Dorothy K. Rappeport

Ms. Rappeport is employed as instructor of Psychology and Education at Westark College in Fort Smith. Her professional involvements have included services as commissioner for the Arkansas Department of Social Services and membership in the American Association of University Professors and the Heritage Foundation. She was appointed by the Governor to the Arkansas Commission on Human Resources and is chair of the Arkansas Advisory Committee to the Arkansas Genetics Program. She also has been actively involved in civic and community affairs, including serving as chair of the Area Community Services Task Force and president of the Area Comprehensive Juvenile Services.

Beverly J. Divers White

Dr. White is associate superintendent of the Little Rock School District. Her professional involvements have included the National and State Association for Supervision and Curriculum Development, the National Association of Black Social Workers, and the Little Rock Chamber of Commerce Leadership Institute. Dr. White has also been actively involved in numerous civic and community organizations including Arkansas Advocates for Children and Youth, and the Urban League.

Arnell Willis

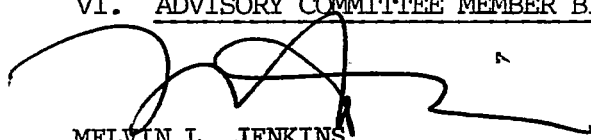
Mr. Willis is employed as a teacher of business at Phillips College and is an officer in the Naval Reserve. He is actively involved in civic affairs including membership on the West Helena City Council, the Arkansas Building Services Council, the West Helena Jaycees, the Phillips County Chapter of the American Heart Association and the Phillips County Chamber of Commerce.

C. New AppointmentsEugene H. Levy

Mr. Levy has served as Rabbi for Temple B'nai Israel in Little Rock for several years and is actively involved in religious and civic affairs at both the local and national levels. He is an active member of the Rotary Club and is chair of the Arkansas Advisory Conference of Churches and Synagogues. Rabbi Levy has special interest in interfaith education and is the author of the report of a national project on this issue sponsored by the Central Conference of American Rabbis, an organization which he serves as secretary. His appointment to the Advisory Committee will contribute to its religious and political diversity.

Linda Ann Pondexter

Ms. Pondexter is a professional educator employed as a teacher in the Pulaski County school system. She was the first black graduate of Hendrix College where she now serves on the Board of Directors and the Education Committee. She has provided a leadership role in civic affairs and in her professional activities. These include service on the Board of Directors for the Arkansas Education Association and the Executive Committee of the National Education Association. She is also past president and vice president of the Pulaski Association of Classroom Teachers. Ms. Pondexter's appointment to the Advisory Committee will contribute to its political, gender and racial balance.

VI. ADVISORY COMMITTEE MEMBER BIOGRAPHICAL INFORMATION FORMS (CCR Form 16)

MELVIN L. JENKINS
Acting Staff Director

Attachments

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: Arkansas

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership			5		6		3	2	5	1	5	6	3	5	3	1	8	2	11

Names of Members Separated:

Evangeline Brown
Joseph L. Rosenzweig

REGIONAL OFFICE: CRD

DATE: 10/17/89

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425



STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Connecticut Recharter

This memorandum requests action required for rechartering the Connecticut Advisory Committee to the U.S. Commission on Civil Rights. The request is based upon the following information which is part of this memorandum.

- I. Demographic Statistics for Connecticut.
- II. Recent Activities of the Connecticut Advisory Committee.
- III. Program Projections for the Charter Period.
- IV. Sources Contacted for Advisory Committee Membership.
- V. Personnel Actions Requested:
 - A. Chairperson Action
 - B. Reappointments
 - C. New Appointments.
- VI. Advisory Committee Biographical Information (CCR Form 16).

I. Demographic Statistics for Connecticut

Although Connecticut is one of the Nation's smallest states, it has a diverse population of more than 3 million. More than half the population is concentrated in three Standard Metropolitan Statistical Areas: Hartford, Bridgeport, and New Haven. These three areas contain 68 percent of the State's black population and 58 percent of the Hispanic population. Connecticut's over-60 population is 17 percent, while 7 percent of the working age population suffers from some form of disability. Fourteen percent of the State's households are headed by females, while 5.6 percent of the females 16 years and over are in the labor force. The following data are based on the 1980 Census.

1980 Racial and Ethnic Population Statistics

POPULATION GROUP	NUMBER	PERCENT
White	2,799,420	90.08
Black	217,433	6.99
American Indian	4,533	0.14
Asian/Pacific Islander	18,970	0.61
Other	67,220	2.16
TOTAL	3,107,576	99.98*
Hispanic**	124,499	4.00

*Does not equal 100 percent due to rounding.

**May be of any race.

II. Recent Activities of the Connecticut Advisory Committee

During the recharter term now ending, the Advisory Committee published and released Collecting Data on Bias-Related Incidents in Connecticut. Earlier this year, it held a forum on "Health and Mental Health Services for Southeast Asian Refugees." The forum involved refugee and health and mental health officials from Federal and State agencies as well as representatives of non-profit agencies and several refugees themselves. As one result of the presentation by the Office of Civil Rights of the U.S. Department of Health and Human Services, two complaints were recently filed with OCR. A draft of the summary report of the forum is underway.

III. Program Projections for the New Charter Period

During the next two years, the Committee is expected to continue monitoring racially and religiously-motivated violence and more specifically the implementation of the new State law calling for the collection of data on bias-related incidents. Several of the participants in the forum on Southeast Asian refugees expressed their hope that a followup session would be held on what progress might have been achieved regarding issues they brought up during the forum on health and mental health services. Some Advisory Committee members previously showed interest in examining the question of universal bilingual education.

IV. Sources Contacted for Advisory Committee Membership

In addition to monitoring news media articles and civil rights reports for leads, staff secured recommendations for prospective

members from the current Advisory Committee chairman and members as well as from various other sources including the Association of Religious, the Connecticut Coalition on Aging, the Connecticut Developmental Disabilities Council, the Connecticut Union of Disability Action Groups, the Governor's liaison officers for Hispanics and Native Americans, and Connecticut Republicans.

V. Personnel Actions Requested

A. Chairperson Action

The Staff Director recommends that Dr. Ivor J. Echols, a recent retiree, be considered as chairperson. At the same time, another incumbent, Dr. Lou Bertha McKenzie-Wharton,* has also indicated her willingness to serve. (See Section IV. B, p. 4.)

Ivor J. Echols

Dr. Echols is professor emerita of the University of Connecticut, having just retired this June as a professor and assistant dean at the School of Social Work of the University's West Hartford Campus. An author and lecturer, she is a past chairperson of the National Association of Social Workers' Committee on Minority Affairs and has also served for five years as president of the Hartford Chapter of the National Council of Negro Women. Dr. Echols was a State committee member of the International Women's Year League and was also a founder of the Connecticut Caucus of Black Women for Political Action.

Her B.S. degree is from the University of Kansas, her M.S.W. from Columbia University, and her D.S.W. from the University of Southern California. Dr. Echols has faithfully served the Advisory Committee for several charter terms and now has increased time available for Committee work. For this reason, we are recommending her for consideration as Chairperson.

B. Reappointments

Sidney Laibson

Mr. Laibson is president of the Laibson Construction Company, a general contracting firm. Chairman of the Community Relations Committee of the Hartford Jewish Federation, Mr. Laibson is a director of the Anti-Defamation League of B'nai B'rith and of the State Community Relations Council. A former director of the Associated General Contractors' Association of Connecticut, he also belongs to the National Panel of the American Arbitration Association.

William Elsworth McClane

Mr. McClane of Weston is the director of human resources for the Torrington Company, a subsidiary of Ingersoll-Rand. He holds two bachelor's degrees in psychology and mathematics and an M.B.A. specializing in law and finance. For over 10 years, he was responsible for the affirmative action plan at the division and corporate levels at Avco, a heavy engines manufacturer. He has also been active in joint labor/management organizations such as the Industrial Relations Research Association and the American Arbitration Association.

Lou Bertha McKenzie-Wharton*

Dr. McKenzie-Wharton is an educator and the executive director of Wharton & McKenzie-Wharton, Ltd., a consultant firm. She has been on staff of the West Hartford Board of Education and has administered, directed, and evaluated compensatory education and desegregation efforts in both public and private school systems. She has also participated on local, regional, and national boards and committees dealing with racial desegregation, socio-economic deprivation, and discrimination in the areas of race, sex, age, handicap, and voter rights.

Appearing in various biographical references such as Who's Who in American Women and Who's Who in the East, Dr. Wharton holds three degrees from Roosevelt University and two degrees including a doctorate in educational administration from Columbia University. Her former memberships in other organizations are as diverse as the Mid-West Chapter of the American Red Cross and the Metropolitan Opera Century Club Of New York.

Le Lien Smith

Ms. Smith is project coordinator for the Vietnamese Association of Connecticut, Inc., where for the past seven years she has been designing and supervising services for refugees in general and women and their children and the elderly in particular. On the State's Permanent Commission on the Status of Women and the board of the city's Hartford Food System, she also has entrepreneurial experience, having successfully opened and sold a restaurant, plus teaching experience in public school settings as well in the Foreign Language Institute of the U.S. State Department and the Defense Department's Language Institute in Monterey.

She earned her B.A. at George Washington University, a master's in counseling at the University of Iowa, and a master's in French literature at Eastern Illinois University. At each university, she was active with international student organizations helping to counsel students, find financial aid and tutors, and develop

she was active with international student organizations helping to counsel students, find financial aid and tutors, and develop host family relationships. She encouraged the Advisory Committee to hold its forum on refugee issues this past April.

James H. Stewart

Mr. Stewart is the director of the Institute of Public Service International at the University of Connecticut, West Hartford campus. A former professor of labor relations at the University of Connecticut, Storrs campus, and a practicing labor arbitrator, he has held various manufacturing, production, and trucking jobs from 1959 to 1971, when he was appointed credit manager of the Southern Connecticut Gas Company, and after which he became a teacher since 1972. Associated with several local and national mediation services, Mr. Stewart belongs to the Hartford Chapter of the Industrial Relations Research Association. He has just completed two terms as chairman of the Advisory Committee.

C. New Appointments

Mikki Aganstata

Ms. Aganstata of Hartford is a Cherokee Indian who has served on the Governor's Task Force on Indian Affairs since its inception in 1988. Having earned a bachelor's in anthropology from the University of Massachusetts at Amherst, she is a trustee of the American Indian Archeological Institute and Museum and an advisor to, and member of, the Connecticut River Powwow Society, a non-profit agency which organizes cultural and educational events.

A decisions coordinator in the Connecticut Department of Public Utility Control, Ms. Aganstata has also served on Connecticut's Permanent Commission on the Status of Women, working particularly with that Commission's Task Force on Women of Color, and on the Governor's Heritage Task Force which deals with the cultures of ethnic groups as well as with landmark preservation.

Walter Laurence Benjamin

Mr. Benjamin of Windsor is president and owner of W.L. Benjamin Associates, a firm engaged in accountancy and tax consultation. With a master's in business administration from the University of Hartford, he also owns W.L. Benjamin Travel & Group Tours. His numerous volunteer responsibilities include serving on the boards of the Brotherhood Committee of St. Monica's Episcopal Church and as a member of the Mayor's All-American Council, a multi-ethnic group appointed by the mayor of Hartford.

He also utilizes his professional skills as the treasurer and board member of the Community Renewal Team of Greater Hartford, the oldest Federally funded community action agency in the U.S.; as charter treasurer of the Hartford Downtown Lions Club, where he is the immediate past president; and as board auditor of the Connecticut District Grand Lodge No. 1 of the Independent United Order of Mechanics.

Rosalind Berman

Ms. Berman is the president of the Connecticut Association of Non-Profit Facilities for the Aged and on the boards of both the Connecticut Coalition on Aging and the State's South Central Area Agency on Aging. Presently an advisory board member of South Central Connecticut Community College, she is a former board member of the Greater New Haven YWCA. Long active in government, Ms. Berman serves on the Republican Town Committee of New Haven and was elected to serve from 1976-85 as a State House Representative for a New Haven district, having previously been elected to the New Haven Board of Alderman from 1970-1977.

While in the State Legislature, Ms. Berman authored legislation protecting local equal opportunity commissions, retroactively recognizing all existing commissions, and validating their past decisions. Her State House Committee assignments included the Education Committee, the General Law Committee, and the Judiciary Committee--the last-named unit having civil rights oversight.

Michael Juan Martinez

Mr. Martinez of Meriden is the president of AMI Industries, Inc., a bridge and highway construction company. Awarded a bachelor's from Southern Connecticut State University and an M.B.A. from the University of New Haven, he holds memberships in the U.S. Hispanic Chamber of Commerce and the Meriden Chamber of Commerce.

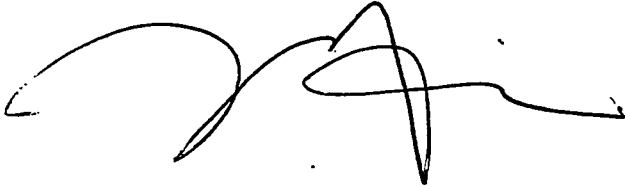
Formerly affiliated with various other organizations as well, Mr. Martinez was elected to the 1980 and the 1986 White House Conferences on Small Business.

Sheely Marie Teed-Wargo

Ms. Teed-Wargo of Chesire is executive director of the Connecticut Union of Disability Action Groups and also co-chairperson of the Connecticut Developmental Disabilities Council. She had previously served as coordinator of governmental activity and consumer affairs for Community Associates of Connecticut and has also been a music teacher in the Windsor Public Schools.

Ms. Teed-Wargo's voluntary memberships include the Citizens for Accessible Transportation, Independence Northwest, and the Waterbury Mayor's Committee on Persons with Disabilities--each of which she chaired or continues to chair. A trained social worker holding a master's from the University of Connecticut, Ms. Teed-Wargo is often a featured speaker on disabilities in general, accessibility to transportation for the disabled, and women who have disabilities.

VI. Advisory Committee Member Biographical Information Forms
(CCR Forms 16)

A handwritten signature in black ink, appearing to read 'MELVIN L. JENKINS', with a large, sweeping flourish extending to the left.

MELVIN L. JENKINS
Acting Staff Director

Attachments

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: CONNECTICUT

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	1	1	4	1	4		1	2	5	3	6	5	4	5	2	2	7	2	11

Names of Members Separated:

- Arthur C. Banks, Jr.
- Luis R. Diaz
- W. Wendell Gunn
- Donald Kagan
- Nicholas Wolfson

REGIONAL OFFICE: Eastern Regional Division

DATE: 10/17/89



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 17, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Rechartering of the Michigan Advisory Committee

This memorandum requests action required for rechartering the Michigan Advisory Committee to the U.S. Commission on Civil Rights. This request is based upon the following information, which is part of this memorandum.

- I. Demographic Statistics for Michigan
- II. Recent Activities of the Michigan Advisory Committee
- III. Program Projections for Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Member Biographical Information

I. DEMOGRAPHIC STATISTICS FOR MICHIGAN

According to the 1980 census, Michigan has a population of 2,913,387.

1980 Profile of Population of the State of Michigan

White	7,868,956	(85.0)
Black	1,198,710	(12.95)
Hispanic	162,388	(1.75)
American Indian, Eskimo and Aleut	40,038	(.43)
Asian and Pacific Islanders	56,731	(.61)
Other	93,909	(1.01)

SOURCE: U.S. Department of Commerce, Bureau of the Census, General Population Characteristics: Michigan, 1980 Census of Population, PC80-1-B40, 1982.

II. RECENT ACTIVITIES OF THE MICHIGAN ADVISORY COMMITTEE

Since the last rechartering, the Michigan Advisory Committee has submitted three summary reports to the Commissioners, Civil Rights Issues in Detroit: Housing and Employment, Civil Rights Concerns in Michigan: An Official View, and Civil Rights Issues in Grand Rapids. In October 1988 the Committee held a planning meeting in Detroit. As a result of planning, on May 5, 1989, the Committee conducted a community forum on the Civil Rights Implications of Minority Student Dropouts. The draft summary report is now under review by the Committee.

III. PROGRAM PROJECTIONS FOR THE CHARTER PERIOD

The Advisory Committee may take part in a joint effort with other Committees in the region regarding bigotry and violence on college campuses. A planning meeting will be scheduled to focus and refine projects for FY 1990.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

Staff in the Central Regional Division made contact with numerous organizations and selected individuals to secure names for prospective Advisory Committee membership. Among those contacted were the Saginaw-Chippewa Tribal Operations, the Inter-Tribal Council of Michigan, Michigan Department of Education, Michigan Republican Committee, Michigan Democratic Party, Headquarter's staff and SAC members. Also, a referral was received from U.S. Senator Donald W. Riegle, Jr.

V. PERSONNEL ACTIONS REQUESTED

A. Chairperson Action

The Acting Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve are asterisked below.

Dennis L. Gibson, Jr.*

Mr. Gibson is the executive director of Metropolitan Detroit Youth Foundation, Inc. He formerly served as an appointee of Governor William Milliken in the Department of Licensing and Regulations. He was chairman of the Eastern District Appeal Board for the Federal Judicial District of Michigan. Mr. Gibson is chairman of the board of trustees, Henry Ford Hospital and is on the following boards of directors: Boy's Club of America, Detroit Metro Orchestra, Children's Aid Center of Wayne County, Henry Ford Hospital, Michigan Metro Girl Scouts Council and New Detroit, Inc.-Detroit Compact Committee and Task Force member.

B. Reappointments

Dr. Janice G. Frazier*

Dr. Frazier is the president of Jay, Gregory and Associates, a management consulting firm in Detroit. She has served on numerous boards and commissions relative to the work of the Commission. Recently she served on the Commission on the Decentralization of Detroit Public Schools.

Barbara D. Gattorn*

Ms. Gattorn is an accounts executive and media coordinator for the Greater Detroit Chamber of Commerce. She is also serving on the Wayne County Civil Service Commission. She is a member of the Wayne County Executive's Task Force on Infant Mortality, the Comprehensive Health Planning Council of Southeast Michigan and the Michigan Commission on Intergovernmental Relations.

Robert J. Gordon*

Mr. Gordon is an attorney with the firm of Jaffe, Snider, Raitt and Heuer in Detroit. He was formerly associated with the Detroit College of Law. While in law school Mr. Gordon was editor of the Boston University Law Review. He is president of the Michigan Regional Advisory Board of the Anti-Defamation League (ADL) and was associate national commissioner of ADL.

Roland Hwang

Mr. Hwang is an attorney with the Michigan Attorney General's office, National Resources Division. He is a member of the Michigan Governor's Advisory Commission on Asian American Affairs and is a board member of the Association of Chinese Americans and the American Citizens for Justice. He is serving as a hearing referee for the Michigan Department of Civil Rights.

Peter Kobrak

Dr. Kobrak is professor of Political Science in the School of Public Affairs and Administration at Western Michigan University in Kalamazoo. He has written extensively about manpower and youth employment concerns. He has recently published a book on the hardcore unemployed entitled, Role of American Business in Urban Manpower Programs. He is a member of numerous professional organizations including, the American Political Science Association and the American Society for Public Administration.

Jack Martin*

Mr. Martin is president of Jack Martin and Company, Certified Public Accountants. He is president of the Oakland County Economic Development Task Force and a board member of the Oakland County Economic Development Corporation. Mr. Martin is a board member of the Don Bosco Home for

Boys. He is a member of numerous professional organizations including, Michigan Association of Certified Public Accountants and the American Institute of Certified Public Accountants.

Marylou Olivarez-Martin*

Ms. Olivarez-Mason is the executive director of the Michigan State Commission on Spanish Speaking Affairs. She is on the board of directors of the National Association for Human Rights Workers and the Mayor's Hispanic Advisory Committee (Lansing). Her other organizational memberships include: Greater Lansing Urban League, Women in Government and the Lansing Human Relations Commission.

C. New Appointments

Prince E. Holliday

Mr. Holliday, former vice-president of Community Affairs, Blue Cross and Blue Shield of Michigan, is owner of Prince Holliday Enterprise, Inc., a temporary employment service company. He attended Clark College in Atlanta, Georgia and received his Bachelor of Arts degree in political science and history from the University of Detroit. During Mr. Holliday's 22 years at Blue Cross and Blue Shield, he held many management positions, including executive assistant, External Affairs and director of Civic Affairs. He was named vice president of Community Affairs in 1985. His responsibilities included a broad range of marketing support activities, most notable among them was statewide responsibility for corporate and community affairs.

Mr. Holliday is immediate past president and board member of the Metropolitan Detroit Youth Foundation; Lieutenant Governor Division One, Michigan District of Kiwanis International; Chairman of the Board of Northside Family Branch Y.M.C.A.; member of the Board of Trustees of the Central Business District Association and Founding Committee Member-Clark College C. Eric Lincoln Lectureship.

Other civic and community affiliations include the Children's Aid Society; United Foundation; United Community Services; the International Institute of Detroit; Greater Detroit Alliance of Business; Business Education Alliance; Greater Detroit Chamber of Commerce; Detroit Urban League; National Association for the Advancement of Colored People; Children's Center Foster Care Program; and Michigan Osteopathic Society. He has been honored by Detroit City Council - Testimonial Resolution and Spirit of Detroit Award; Y.M.C.A. Minority Achievers in Industry; President Ronald Reagan - Presidential Commendation, Kiwanis Operation Care and Share, 1987; Junior Achievement, 1987 - Community Service Bronze Award and listed in Who's Who Among Black Americans - 1988.

Mr. Holliday received strong recommendations from U.S. Senator Donald Riegle, Jr. and members of the Advisory Committee.

Larrain Thomas

Ms. Thomas is a marketing account executive for Blue Cross and Blue Shield of Michigan. She is very active in the State Republican Party and other

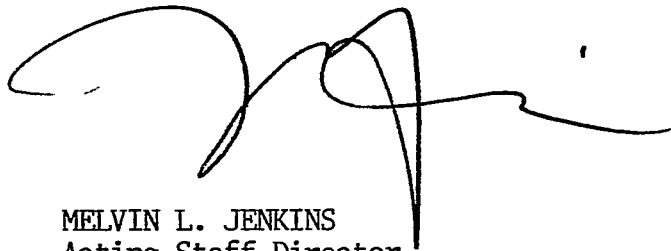
community affairs. She is a member of the Women's Economic Club, the University of Detroit Alumni Association and the Michigan Public Health Association. She also serves as a volunteer with the Detroit Chamber of Commerce, Health Committee of New Detroit, Inc., the Detroit Institute of Arts and the Women's Committee of the United Negro College Fund. Ms. Thomas was highly recommended by the executive director of the State Republican Party. She will contribute balance to the Committee in the areas of gender and political affiliation.

Joan Webkamigad

Mrs. Webkamigad, a resident of Lansing, is a bilingual education consultant for the Michigan Department of Education. She has Bachelor degree in education and Native American studies. Currently she is enrolled in the Graduate Program at Michigan State University. She is chairperson of the Three Fires Professional Women's Council of Lansing, a mentor and support group organized to address American Indian women's issues. She serves on the Educational Opportunity Minority Women's Advisory Council, University of Michigan and the Advisory Committee on Native American Curriculum, Michigan Department of Civil Rights. She is also a member of the American Indian Movement and is a former board member of the State YMCA. Mrs. Webkamigad was recommended by Urban Indian Affairs, an American Indian organization in Detroit. Mrs. Webkamigad would contribute balance to the Committee in the areas of ethnicity, religion and gender.

VI. ADVISORY COMMITTEE BIOGRAPHICAL INFORMATION

See attached CCR-16 forms.



MELVIN L. JENKINS
Acting Staff Director

Attachments

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: Michigan

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	1	1	5	1	3		5	2	3	1	5	6	2	4	5	2	8	1	11

Names of Members Separated:

Carl Cohen
Dovie Pickett

REGIONAL OFFICE: CRD

DATE: October 1989



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 17, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Rechartering of the Minnesota Advisory Committee

This memorandum requests action required for rechartering the Minnesota Advisory Committee to the U.S. Commission on Civil Rights. This request is based upon the following information, which is part of this memorandum.

- I. Demographic Statistics for Minnesota
- II. Recent Activities of the Minnesota Advisory Committee
- III. Program Projections for Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson
 - B. Reappointments
 - C. New Appointment
- VI. Advisory Committee Member Biographical Information

I. DEMOGRAPHIC STATISTICS FOR MINNESOTA

Data from the Department of Commerce, Bureau of the Census (PH 80-3-25), indicate the following racial composition of the State of Minnesota, for 1980:

	<u>Population</u>	<u>Percentage</u>
White	3,935,770	96.5
Black	53,344	1.30
American Indian, Eskimo and Aleut	35,016	.85
Asian and Pacific Islander	26,536	.05
Other	25,304	.62
TOTAL	4,050,666	100.
Spanish Origin, Hispanic	32,123	.78

In 1980, Hispanics were counted separately from the race classifications. The Bureau of the Census believes that many Hispanics marked down their race as "other."

According to the 1980 census data, minorities in Minnesota are concentrated in the major cities, particularly in the Minneapolis-St. Paul SMSA, and the city of Duluth.

II. RECENT ACTIVITIES OF THE MINNESOTA ADVISORY COMMITTEE

Since the last rechartering, the State Advisory Committee has met three times. There were two planning meetings and a community forum on bigotry and violence. A summary report on the forum was approved by the Committee for submission to the Commissioners.

III. PROGRAM PROJECTIONS FOR THE CHARTER PERIOD

The Advisory Committee met to prioritize issues and plan a forum on equal education opportunities in Minnesota. The Committee is also concerned about civil rights enforcement efforts in the State.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

Central Regional Division staff made contact with eight agencies or organizations to obtain names for prospective Advisory Committee membership. Among those contacted were the Minnesota Department of Civil Rights, Minnesota League of Human Rights Commission, Minnesota Migrant Council and the Council of Asian Pacific Minnesotans.

V. PERSONNEL ACTIONS REQUESTED

The authorized size of the Minnesota Advisory Committee is 11 members. The personnel actions requested will ensure the efficient operation of the Advisory Committee.

A. Chairperson Action

The Acting Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve are asterisked below.

Mary E. Ryland

Ms. Ryland is the secretary-treasurer of Ryland Ford Corporation, a family-owned business in Duluth. Ms. Ryland has an impressive record as a civic leader: chairperson for the Duluth School Board from 1973 to 1983; since 1979, a member of the State Advisory Council for Vocational Education; member,

Duluth Chamber of Commerce, and others. Her special concern in the area of civil rights is the nondiscriminatory access of women and minorities to economic development.

B. Reappointments

Larry P. Aitken*

An educational leader widely known and respected by Minnesota American Indians, Mr. Aitken is the director of the Department of American Studies Programs, at the College of Letters and Social Sciences of the University of Minnesota, Duluth Campus. Previously, he was an educational officer with the Tribal Government of the Chippewa in Bemidji, in the northern part of the State, and he maintains close contact with that area where the majority of Minnesota Indians live. Mr. Aitken serves on the board of directors, Leech Lake Federal Credit Union, and has been a long-time member of the University of Minnesota-Duluth Indian Advisory Board.

Talmadge L. Bartelle*

Mr. Bartelle is senior associate counsel to General Mills, Inc., in Minneapolis. A leader in Minneapolis' legal, civic and black communities, Mr. Bartelle holds memberships in the Minnesota Corporate Fund Raising Campaign, the Minnesota Department of Human Rights, the United Way of Minneapolis Area and the board of directors of the Equal Employment Advisory Council. He is also vice chairman of the United Negro College Fund of Minnesota. Prior to joining General Mills, Mr. Bartelle had a long and distinguished legal career with the Judge Advocate General's Corp, where he rose to head the Torts Branch of the Litigation Division.

Gloria A. Gallegos

A senior work release officer with the Hennepin County Department of Corrections in Plymouth, Ms. Gallegos is also a member of the executive board of the AFSCME Union Council. She is involved with numerous civic and civil rights groups, including the United Mexicans of Minnesota and the Hispanic Task Force at the University of Minnesota. Ms. Gallegos is also a leader in her church. As an active member of the Committee, she has provided valuable insights into criminal investigation processes, correction departments' policies, and community-police relations.

Lupe Lopez

Ms. Lopez is active within the Hispanic community as a member of the Mujeres of Minnesota, the Twin Cities Human Rights Coalition and the Chicano-Latino Federation. Her experience and understanding of the Committee's role and the communities in the Twin Cities' area continue to be an asset to the Committee. Recently she assumed leadership responsibilities in the Women of Color organization in the Twin Cities.

Earl W. Miller

Mr. Miller is a very active and respected union member who retired from the U.S. Postal Service. Mr. Miller's union involvement in leadership positions began as a member of the rank and file negotiation committee for the American Postal Workers in Minneapolis. He was president of the Minneapolis Local APWU (1972-78), is a member of the Minnesota AFL-CIO Executive Council and a delegate to Minneapolis Central Labor Union. he is also involved in civic affairs, and serves as a member of the executive committee on the board of directors of Phyllis Wheatley Community Center.

Karon J. Rogers

Ms. Rogers is currently a public relations consultant. She is also a talk show host for KSTP-TV specializing in local community issues. Ms. Rogers serves on the executive board of the Minneapolis branch of the NAACP and is a member of the International Association of Business Communicators and Women in Communications.

Alan W. Weinblatt

Mr. Weinblatt is an attorney in St. Paul, Minnesota. Prominent in legal and civic affairs in Minnesota, Mr. Weinblatt is the immediate past president of the Jewish Community Relations Council, Anti-Defamation League of Minnesota and the Dakotas. He is a member of the executive committee of the Ramsey County Bar Association. Involved in civil rights litigation, Mr. Weinblatt has also aided the poor through his work as president of Legal Assistance of Ramsey County.

Thaddeus W. Wilderson*

Mr. Wilderson is the associate dean of students at Macalester College in St. Paul. In addition to being a doctoral candidate in counseling and student personnel psychology at the University of Minnesota, he is a licensed psychologist. Mr. Wilderson is a task force member of Minnesota Minorities Education Partnership and vice chair of the Minneapolis Urban League. He has published several research articles including, Housing Discrimination in New Orleans, and Impact of Model City Educational Programs Under the Model City Area.

Stephen B. Young*

Mr. Young is a partner with Winthrop and Weinstine. He is on leave from Hamline University School of Law in St. Paul. Keenly interested in East Asian affairs, Mr. Young served at the United States Embassy in Saigon, Vietnam, and with the Agency for International Development in Washington. A graduate of Harvard College and Harvard Law School, he also worked as the research advocate of the Center for International Affairs at Harvard and as the assistant dean of Harvard Law School. Mr. Young has written

numerous books and monographs on East Asian issues including, Virtue and Law: Human Rights in Traditional China and Vietnam. At present, he is a member of the Citizens Commission on Indochinese Refugees and the Board of Directors of the Hmong Farming Co-op.


C. New Appointment

Carol Nielson

Ms. Nielson is a homemaker and resident of rural Milaca. She is active as a secretary for the Retired Officers Auxiliary, a local military affiliate, and a secretary or the Republican Party, 8th District in Minnesota. She is also active on the State Executive Committee for Al Anon. In past years she served on the board of directors for the MORA CAP agency and on the Advisory Board of the Braham Mental Health program.

VI. ADVISORY COMMITTEE BIOGRAPHICAL INFORMATION

See attached CCR-16 forms.



MELVIN L. JENKINS
Acting Staff Director

Attachment

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: Minnesota

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	0	1	4	2	4	0	3	1	5	2	5	6	5	3	3	2	4	5	11

Names of Members Separated:

REGIONAL OFFICE: CRD

DATE: 10/17/89



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Rechartering of the Missouri Advisory Committee

This memorandum requests action required for rechartering the Missouri Advisory Committee to the U.S. Commission on Civil Rights. This request is based upon the following information, which is part of this memorandum.

- I. Demographic Statistics for Missouri
- II. Recent Activities of the Missouri Advisory Committee
- III. Program Projections for Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Member Biographical Information

I. DEMOGRAPHIC STATISTICS FOR MISSOURI

According to the 1980 census, Missouri has a population of 4,917,444.

1980 Profile of Population of the State of Missouri

White	4,346,267	(88.4)
Black	514,274	(10.5)
Hispanic	51,664	(1.1)
American Indian, Eskimo and Aleut	12,319	(0.3)
Asian and Pacific Islanders	23,108	(0.5)
Other	21,476	(0.4)

SOURCE: Bureau of the Census, 1980 Census of Population and Housing, Advance Reports, PHC-80-V-27.

II. RECENT ACTIVITIES OF THE MISSOURI ADVISORY COMMITTEE

On November 21, 1988, the Committee held a planning meeting in St. Louis. On March 22, 1989, the Committee conducted a community forum on "Bigotry and Violence on Missouri's College Campuses." Fifteen persons provided information to the Committee on the forum's topic.

III. PROGRAM PROJECTIONS FOR THE CHARTER PERIOD

The Advisory Committee in addition to their interest in bigotry and violence has been concerned about housing discrimination in Missouri and on discrimination issues of the elderly. A planning meeting will be scheduled to more clearly define project activities for the future.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

Central Regional Division staff made contact with eleven organizations and agencies to secure names for prospective Advisory Committee membership. Among those contacted were IMAGE de Kansas City, MANA, Kansas City Hispanic Chamber of Commerce, Urban League of Kansas City and Native American Vision Quest.

V. PERSONNEL ACTIONS REQUESTED

The authorized size of the Missouri Advisory Committee is 11 members. The personnel actions requested will ensure the efficient operation of the Advisory Committee.

A. Chairperson

The Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve are asterisked below.

Joanne M. Collins

Ms. Collins is a member of the City Council of Kansas City, Missouri. She was the past chair of its finance and audit committee. She has been a strong leader in all Committee activities. Active in the Republican Party at local, State and national levels, Ms. Collins has worked well with leaders of all parties and the business elite in calling attention to Advisory Committee and Commission priorities. Among many civic affiliations, she is on the boards of the National League of Cities, the Greater Kansas City Chamber of Commerce, and the Mid-America Regional Council. Ms. Collins has provided effective leadership since her appointment as chair in September 1987.

B. Reappointments

Gerald T. Dunne*

Mr. Dunne is a Professor of Law at the St. Louis University School of Law. He is a former vice-president of the Federal Reserve Bank of St. Louis. He is the author of four books relating to judicial decisions, and belongs to the Missouri Bar Association, the United States Supreme Court Bar, and the American Law Institute.

Jules B. Gerard

Mr. Gerard is a Professor of Law at the Washington University School of Law in St. Louis. He has a lengthy and distinguished legal career, including service at several universities and honor programs. He has published numerous books and articles dealing with legislative decisions affecting civil and constitutional rights.

David Humes

Mayor Humes has been the chief elected official of Hayti Heights, Missouri, an all black town in the "Bootheel" since 1972. He is a board member of the Bootheel Regional Planning Commission, the Health Systems agency serving 28 counties of southeast Missouri, the Pemiscot Memorial Hospital and secretary of the Federation of Southern Coops. Mayor Humes has provided valuable insight and direction to the Committee regarding civil rights issues affecting the rural areas of the State.

Charles A. Lawrence

Mr. Lawrence is associate general counsel of McDonnell Douglas Corporation. Interested and involved in the problem of assuring equal employment opportunities to all individuals, Mr. Lawrence worked for the U.S. Equal Employment Opportunity Commission after law school graduation. He has been involved in equal employment opportunities work for twenty years.

Steven Pearl*

Mr. Pearl is a registered representative with the Equitable Financial Companies in St. Louis. He formerly served on the staff of Senator Thomas Eagleton and in the Office of the President of the United States. He is a board member of the Construction Industry Credit Bureau and past president of the National Decorating Products Association.

Stanley D. Rostov*

Mr. Rostov is an attorney in private practice. He formerly served as the principal director of the Kansas City Board of Elections Commission. He is chairman of the Jewish Labor Committee of Greater Kansas City. Mr. Rostov has given consistent direction and insight to the development of the Committee's report on metropolitan desegregation, represented the Committee's report on metropolitan desegregation options and has participated in all Committee activities.

Cora Douglass Thompson*

Ms. Thompson, a former administrative assistant in charge of human resources for Governor Robert Ray of Iowa, is a psychotherapist for Consortium Services of Kansas City. She was selected as one of the "Ten Outstanding Women of American for 1982." She is involved with the Missouri Council on Vocational Education and is on the State Advisory Committee for the Small Business Administration. Ms. Thompson is also affiliated with Women Helping Offenders, American Judicature Society.

Daniel Williams*

Mr. Williams directs the corporate Affirmative Action Program for Anheuser-Busch's 40,000 employees. He handles the adjudication of all discrimination charges and lawsuits; internal and external complaints; review of all salaried terminations; and the review of corporate personnel policies. He is involved with numerous local and national organizations dealing with the employment of minorities, females, handicapped, and the elderly.

C. New Appointments

Daniel J. Monti

Dr. Monti is an associate professor of sociology at the University of Missouri-St. Louis. He has done an analysis of school desegregation in the St. Louis area that has been highly acclaimed. Dr. Monti has also evaluated Tenant-Managed Public Housing projects and currently is doing research on the impact that youth gangs have on the city. His background should provide excellent direction to the SAC.

Rita A. Botello

Ms. Botello is an affirmative action officer for the Human Relations Department, city of Kansas City, Missouri. She recently received her Master's degree in public administration from the University of Missouri at Kansas City. Her current community involvement includes membership on the Mayor's Commission on Hate Group Activities, the Mexican American Women's Association, the Guadalupe Center, Inc. board of directors and the Board of Governors for Truman Medical Center. Her various community activities will bring an additional dimension to the SAC.

VI. ADVISORY COMMITTEE BIOGRAPHICAL INFORMATION

See attached CCR-16 forms



MELVIN L. JENKINS
Acting Staff Director

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: Missouri

	Race					Religion				Sex		Political Affiliation			Total				
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.		Ind /NA	Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership			4	1	6		2	2	5	2	3	8	4	5	2	2	6	3	11

Names of Members Separated:

Henry Givens, Jr.
Michele C. Hexter

REGIONAL OFFICE: CRD

DATE: 10/17/89

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425



STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Rechartering of the New Jersey Advisory Committee

This memorandum requests action required for rechartering the New Jersey Advisory Committee to the U.S. Commission on Civil Rights. This request is based upon the following information, which is part of this memorandum.

- I. Demographic Statistics for New Jersey
- II. Recent Activities of the New Jersey Advisory Committee
- III. Program Projections for the Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson Action
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Member Biographical Information

I. DEMOGRAPHIC STATISTICS FOR NEW JERSEY

In the past Census, the population of New Jersey increased slightly from 7,168,164 to 7,634,823. The white population declined slightly---by 3 percent---while the black population increased approximately 20 percent, from 10.6 to 12.6 of the State's population. Hispanic population increased 59 percent, from 4.3 percent to 6.7 percent of the State population. Women make up 52 percent of the population.

The State has 21 counties. The minority population is concentrated in large, northern areas in Essex, Hudson, Bergen, Passaic, and Union counties. Newark, Plainfield, Paterson and Elizabeth are northern cities that have significant minority populations. Camden and Atlantic City in the southern half of the State also have significant minority populations.

1980 Sex, Racial, and Ethnic Population Statistics for New Jersey

White	6,154,833	(3,191,669 females)	83.6
Hispanic	494,096	(253,843 females)	6.7
Nat. American	10,200	(5,114 females)	.1
Asian American	105,012	(56,614 females)	1.4
Black	924,909	(494,679 females)	12.6

Source: U.S. Department of Commerce, Bureau of Census, Table p-5, General, Social, and Economic Characteristics by Race and Spanish Origin, 1980.

Totals are not additive because Hispanics are also included in other racial categories.

II. RECENT ACTIVITIES OF THE NEW JERSEY ADVISORY COMMITTEE

The Commission adopted the Committee's recent summary report, Incidents of Bigotry and Violence in Essex County, in December 1988. The report attracted media attention in New Jersey and has been widely disseminated in response to requests for copies.

The Committee held a community forum in July 1989. The forum focused on discrimination by race and socioeconomic status in pupil assignment within schools in the Morris Public School District. The committee collected information on NAACP allegations of student segregation, State and school district responses, and progress toward eliminating apparent racial isolation within schools and classrooms.

III. PROGRAM PROJECTIONS FOR THE CHARTER PERIOD

The Committee will submit a summary report of the recent forum for Commission review in September 1989. The Committee will also conduct followup activities on the subject matter of this report and its earlier report on bigotry and violence in Essex County.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

In addition to monitoring news media articles and civil rights reports for leads, staff sought recommendations for prospective members from incumbent Committee members as well as from the Governor's office and other State agencies related to civil rights. Staff also contacted the NAACP and local businesspersons in the South Jersey area.

V. PERSONNEL ACTIONS REQUESTED

A. Chairperson Action

Ms. Zulima V. Farber is recommended for Committee chairperson in light of her particularly active involvement in the SAC's program, her leadership skills, and her strong interest in the position. She has served as a member of the Advisory Committee since 1987 and has readily committed her personal and professional resources to the Committee's efforts. Two other incumbents, Dr. Adam Scrupski* and Dr. Irene Hill-Smith*, have indicated their willingness to chair the committee, if appointed. (See Section V B., p. 4).

Zulima V. Farber

Ms. Farber is a partner in the law firm of Lowenstein, Sandler, Kohl, Fisher, and Bouland in Roseland, New Jersey, and former assistant counsel to the Governor of New Jersey. She is a member of the Black Women Lawyer's Association and the Hispanic Bar Association of New Jersey. She works pro bono on a variety of cases involving civil rights issues. She has served as a member of the Advisory Committee since 1987 and has readily committed her personal and professional resources to the Committee's efforts.

B. Reappointments

Roland A. Alum, Jr.

Mr. Alum is administrator of the New Jersey Bureau of Hispanic Enterprise of the New Jersey Department of Commerce and Economic Development. He is former New Jersey State Director of the League of United Latin American Citizens. He has participated in various other community activities, including the New Jersey Ethnic Advisory Council and the Governor's Advisory Committee on Minority Business.

Stephen H. Balch

Dr. Balch served as chairperson of the Advisory Committee since 1985 and wishes to remain a member. He is an associate professor of government at John Jay College of Criminal Justice of the City University of New York. He is currently serving as director of the National Association of Scholars while on sabbatical leave. He taught previously at Rutgers University and the Graduate Center of the City University of New York, and was president of the Campus Coalition for Democracy. He was an associate of the Danforth Foundation from 1980-4.

Adam Scrupski*

Dr. Scrupski is director of teacher education programs of the Rutgers University Graduate School of Education. He has been involved in education and community activities, including the Committee on Education and the Holocaust and the New Jersey Division of the Polish-American Congress.

Irene Hill-Smith*

Dr. Hill-Smith is president of the New Jersey State Chapter of the NAACP, member of the NAACP national board, and former national vice president. She is a member of the Governor's Discretionary Fund Committee, and commissioner of the Martin Luther King, Jr., Commemorative Commission. She is a member of the Citizen's Advisory Committee to the New Jersey State Board of Public Utilities, and the League of Women Voters of Gloucester County.

Ruth W. Waddington

Ms. Waddington is a former chairperson of the Advisory Committee. She is a Realtor and former advisor and public speaker for the Peace Corps. She serves on the Morristown Memorial Hospital Auxiliary. She is a member of the Morris Township Planning Board.

C. New AppointmentsMarie T. Campbell

Mrs. Campbell recently retired after a 25-year career in New Jersey public schools. She is national secretary of the NAACP Life Membership Committee, and vice president of the NAACP New Jersey State Conference of Branches, and was treasurer of the NAACP Northeast Region from 1976-88. She is a member of Top Ladies of Distinction, Inc. SAC member Irene Hill-Smith recommended Mrs. Campbell.

Steven C. Kushner

Rabbi Kushner of Temple Ner Tamid in Bloomfield is a member of the faculty at Bloomfield College, a small college with predominately black and Hispanic enrollment. He is currently president of the New Jersey Association of Reform Rabbis and president of the Metro West Board of Rabbis. SAC Chairperson Stephen Balch recommended Rabbi Kushner.

Jesus A. Rodriguez

Mr. Rodriguez is deputy director of the New Jersey Department of Law and Public Safety Division of Civil Rights. He assumed his position in the Division in 1982, having served previously as branch manager from 1980 to 1982, and as supervisor from 1970 to 1980. He is a member of the (Bush) Presidential Task Force, a funding group, and the (NJ) Governor's Club. He is a former member of the Education Opportunity Fund of New Jersey and Student Assistance Board of New Jersey, appointed by the Governor. He is a former member of the Puerto Rican Congress Board of Directors and was chairman from 1977 to 1978. White House staff recommended Mr. Rodriguez.

Sabarah Sabin

Mrs. Sabin is executive director of the New Jersey Martin Luther King, Jr., Commemorative Commission, appointed by the Governor. She is also president of the South Orange and Maplewood Board of Education, and a member of the South Orange-Maplewood Awareness Council, an association of blacks who live in mostly white communities. SAC Chairperson Stephen Balch recommended Mrs. Sabin.

Seymour Samet

Mr. Samet is president of H.R. Factor Associates, a firm of human relations consultants he founded in 1984. He is a distinguished former national director of the American Jewish Committee's Domestic Affairs Department, having served in the position from 1968 to 1984. He served previously as chief intergroup officer on the U.S. Department of Justice Community Relations Service from 1964 to 1968. He has been executive director of the Dade County (Florida) Community Relations Board, serving from 1963 to 1964. Vice Chairman Friedman recommended Mr. Samet.

VI. ADVISORY COMMITTEE MEMBER BIOGRAPHICAL INFORMATION FORMS

CCR-113 Forms attached.



MELVIN L. JENKINS
Acting Staff Director

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: New Jersey

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	0	0	4	2	5	0	3	3	4	1	5	6	6	4	1	1	7	3	11

Names of Members Separated:

- Clyde C. Allen
- Jose M. Alvarez
- Salvatore A. Farino, Jr.
- Alvin J. Rockoff
- Angel L. Roman

REGIONAL OFFICE: ERD

DATE: 10/17/89

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425



STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Rechartering of the Nevada Advisory Committee

This memorandum requests action required for rechartering the Nevada Advisory Committee. This request is based upon the following information contained in this memorandum.

- I. Demographic Statistics for Nevada
- II. Recent Activities of the Nevada Advisory Committee
- III. Program Projections for the Recharter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson Action
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Biographical Information (CCR Form 16)

I. Demographic Statistics for Nevada

Nevada, the "Silver State" has 109,889 square miles of land and ranks seventh among all states in land area. The majority of Nevada is quite rural; approximately 86 percent of the State's land resources is Federal land; another 2 percent is Indian reservation. Land in farms totals approximately 9.9 million acres.

The population is approximately 950,000 and is largely white with increasing Asian and Hispanic populations.

Billed as the entertainment capitol of the world, Nevada's most populous city, Las Vegas, plays host to tourists from all corners of the globe and throughout the United States. Despite the bright lights and crowds of Las Vegas and Reno, the State has begun to diversify from its base of largely tourist-oriented service industries to include light electronics and technology industries.

1984 Racial and Ethnic Population
Statistics for Nevada¹

	<u>Number</u>	<u>Percent or Total</u>
White	828,970	87.5%
Black	59,685	6.3%
Hispanic	63,475	6.7%
Native American	16,105	1.7%
Asian	17,053	1.8%
Other	<u>23,969</u>	2.53%
Total	947,392*	

II. Recent Activities of the Nevada Advisory Committee

During its last recharter period, the Advisory Committee conducted a factfinding forum on the impact of two consent decrees on employment at major hotel/casinos in Las Vegas. The Advisory Committee submitted its report, The Impact of Two Consent Decrees on Employment at Major Hotel/Casinos in Nevada (June 1989), to the Commission, and it has been published for public dissemination.

The Advisory Committee conducted a number of planning meetings during the recharter period and invited various individuals and organizations to discuss civil rights issues of concern. Among those who accepted invitations from the Advisory Committee were: Gary Gowen, attorney at law; Randy McConnell, Independent Living Coordinator, Nevada Association for the Handicapped; and Judy Parker, staff, Nevada Association for the Handicapped.

A member of the Advisory Committee attended the Commission forum on changing demographics conducted September 8-9, 1988 in Los Angeles.

¹University of Nevada, Reno, Economic Research Department, Population Estimates for Nevada by Counties, Table 8-3, July 1, 1984.

*The total is an estimate based on projections utilizing the 1980 Federal census.

The Advisory Committee periodically receives requests for the report, Unmet Goals: Affirmative Action in Employment at the University of Nevada, Las Vegas (September 1981).

III. Program Projections for the Recharter Period

The major focus of the last recharter period was to assess the impact of two consent decrees on the employment opportunities and upward mobility for minorities and women at major hotel/casinos in Las Vegas. As a follow-up to the report, the Advisory Committee plans to monitor efforts of the Equal Employment Opportunity Commission (EEOC) to conclude the 1971 consent decrees.

In addition to this follow-up activity, the Advisory Committee plans to review police-community relations in the largely black north Las Vegas area and to ascertain the prevailing civil rights concerns throughout the State.

IV. Sources Contacted for Advisory Committee Membership

In addition to monitoring news media articles and civil rights reports for leads, staff secured recommendations for prospective members from the current Advisory Committee Chairperson and members and Office of the Staff Director. Other sources included the Hispanic Chamber of Commerce, the Jewish Federation of Las Vegas, and the Southern Nevada Association of Women Attorneys.

V. Personnel Actions Requested

The authorized size of the Nevada Advisory Committee is 11 members. The personnel actions requested will maintain the Advisory Committee at full strength.

A. Chairperson Action

The Acting Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve are asterisked below.

Shelley Berkley

Ms. Shelley Berkley is an attorney in private practice in Las Vegas. She holds degrees from the University of Nevada, Las Vegas and the University of San Diego. She has served in the Nevada State Assembly and as Deputy Director of the State Department of Commerce. She is the founder and first president of the Southern Nevada Association for Women

Attorneys. Her long term involvement in civic and community activities has provided an overview of the state's concerns and major civil rights issues.

The Staff Director recommends that incumbent member Shelley Berkley be considered for the post of chairperson. She provided assistance to the Office of the Staff Director during the last recharter of the Advisory Committee and as a former State legislator is well-known throughout the State.

B. Reappointments

Morse Arberry

Mr. Morse Arberry of Las Vegas has served in the Nevada State Assembly and is employed as an engineer. He has served as the chairman of the NAACP's Education Committee in Las Vegas and as a board member for the Nevada NAACP. He has been trustee of the city of Las Vegas Employees Association and is chairman of KCEP radio, a non-profit radio station based in Las Vegas.

Elizabeth Nozero*

Ms. Elizabeth Nozero is Associate General Counsel with Harrah's of Nevada, Inc., a major hotel/casino operation with statewide facilities. She formerly served as assistant General Counsel for the University of Nevada System and oversaw the University's compliance with Federal and State affirmative action programs and fair hiring practices. Ms. Nozero is a member of several bar associations and the Southern Nevada Association of Women Attorneys. She serves on the executive board of the Clark County Pro Bono project.

Margo Piscevich

Ms. Piscevich has been an attorney in private practice in Reno since 1974. She served three years as a deputy assistant attorney general for the State of Nevada and one year as a clerk with the Utah Supreme Court.

Ms. Piscevich is a member of the Nevada, Washoe County and American Bar Associations; Nevada Trial Lawyers Association; the Association of Trial Lawyers of America; and the Association of Defense Counsel. She has taught jurisprudence at the University of Nevada, Reno and has served as a Judge Pro Tempore of the Reno Municipal Court since 1974.

Ms. Piscevich has been active in civic and community organizations involved with the rights of the handicapped.

Candice K. Sader*

Mrs. Sader, a resident of Reno, is an office manager for a law firm in Reno. She is active in civic, religious and community affairs in the northern Nevada area. She has served as the office manager for a major dental clinic in Reno, and has had various business experience in the Sparks-Reno area.

Ms. Sader's membership on the statewide Office Management Association brings her into contact with business leadership throughout the State.

Ms. Sader's diversity of interests in the business and community arenas add greatly to the Advisory Committee.

Marvin Sedway

Dr. Marvin Sedway, a Las Vegas Optometrist, is serving his 5th term in the Nevada State Assembly. Trained at Pacific University, Dr. Sedway has been a leader in promoting public health for Nevada's poor. For many years he was chairman of the State Health Coordinating Council. He has been a vigorous defender of public health appropriation in the assembly. In addition, Dr. Sedway is a former President of the Lions Club in Las Vegas.

Merle L. Snider

Mr. Snider, a native Nevadan and resident of Reno, is retired. He has served as a labor commissioner for the State of Nevada and is the former secretary-treasurer of the Reno Musicians' Union, a affiliate of the American Federation of Musicians. Active in the arts, he is a charter member of the Western States Arts Foundation and served for ten years as chairman of the Nevada State Council on the Arts.

In addition to his union and arts activities, Mr. Snider has had extensive media experience including 12 years with station KOH in Reno. Throughout his various endeavors Mr. Snider has had contact with a significant cross-section of Nevada's residents. This exposure has allowed him to be aware of the diversity of issues affecting Nevadans. He has been an active member of the Advisory Committee.

Richard J. Tetrault

Richard Tetrault is Assistant General Counsel with Southwest Gas in Las Vegas. His duties include management of Southwest Gas' employee discrimination cases, labor law disputes and risk management. Mr. Tetrault holds memberships in the American Bar Association as well as state and county bar associations in Nevada. He is also a member of the Southern Nevada Personnel Association.

Steven T. Walther*

Mr. Walther, a third generation Nevada native, is the senior partner in the northern Nevada law firm of Walther, Key, Maupin, Oats, Cox, Lee and Klaich. He served for three years as member of the Nevada Indian Affairs Commission; six years as a member, Board of Trustees, Washoe County Legal Services, Inc.; and, is chairman of the Continuing Legal Education Committee of the State Bar of Nevada. He is a member of the State Bars of California and Nevada.

C. New AppointmentsJohn Marini

Dr. John Marini is associate professor of public administration at the University of Nevada, Reno. He is also the director of the Nevada legislative Intern program. He has served as a special assistant to the chairman, U.S. Equal Employment Opportunity Commission. He has been a visiting professor and lecturer at universities in Texas and California. His major fields of interest include congressional accountability and campaign finance reform.

David Sanchez

Mr. Sanchez is director of personnel and employee relations with the city of Las Vegas and has held that post since 1986. He is a member of the Governor's Committee on Employment of People with Disabilities and the Board of Directors of the United Cerebral Palsy of Southern Nevada. He is a member of the Board of Directors of the Latin Chamber of Commerce. The civic involvement of Mr. Sanchez and his long standing professional activity in the field of personnel will add to the work of the Advisory Committee.

VI. Advisory Committee Biographical Information
(CCR Form 16)

See attached CCR Form 16.

A handwritten signature in black ink, appearing to read 'MELVIN L. JENKINS', written over the typed name and title.

MELVIN L. JENKINS
Acting Staff Director

attachments

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: NEVADA

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	0	0	1	1	9	0	2	2	6	1	4	7	8	2	1	4	5	2	11

Names of Members Separated:

Susan L. DeLuca
Edita Silvero

REGIONAL OFFICE: Western

DATE: 10/17/89



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 17, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Rechartering of the Ohio Advisory Committee

This memorandum requests action required for rechartering the Ohio Advisory Committee to the U.S. Commission on Civil Rights. This request is based upon the following information, which is part of this memorandum.

- I. Demographic Statistics for Ohio
- II. Recent Activities of the Ohio Advisory Committee
- III. Program Projections for Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson
 - B. Reappointments
- VI. Advisory Committee Member Biographical Information

I. DEMOGRAPHIC STATISTICS FOR OHIO

According to the 1980 census, Ohio has a population of 10,797,630.

1980 Profile of Population of the State of Ohio

White	9,597,458	(89.0)
Black	1,076,748	(10.0)
Hispanic	119,883	(1.1)
American Indian, Eskimo and Aleut	12,239	(0.1)
Asian and Pacific Islanders	47,820	(0.4)
Other	63,365	(0.5)

SOURCE: U.S. Department of Commerce, Bureau of the Census, General Population Characteristics: Ohio, 1980 Census of Population, PC80-1-B40, 1982.

II. RECENT ACTIVITIES OF THE OHIO ADVISORY COMMITTEE

The Ohio Advisory Committee held planning meetings on September 30, 1988, in Columbus and June 13, 1989, in Cincinnati. On December 12-13, 1988, the Committee conducted a two-day forum on "Race Relations in Toledo." Information was collected on the nature and extent of race relation problems. A meeting with city officials, community leaders, and a press conference to officially release the summary report was held on August 21, 1989.

III. PROGRAM PROJECTIONS FOR THE CHARTER PERIOD

The Advisory Committee has considered reviewing the problem of bigotry and violence on college campuses in Ohio or in a joint effort with other State Advisory Committees in the region.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

Staff in the Central Regional Division made contact with various organizations and agencies to secure names for prospective Advisory Committee membership. Among those contacted were the Ohio Democratic Party, Ohio Republican Party, National Organization for Women-Ohio, and SAC members.

V. PERSONNEL ACTIONS REQUESTED

A. Chairperson Action

The Acting Staff Director recommends the following person be considered as Chair. However, those who have indicated their willingness to serve are asterisked below.

Lynwood Lawrence Battle, Jr.*

Mr. Battle is the coordinator of Equal Employment Opportunity for the Proctor and Gamble Company. Chairman of the Equal Employment Advisory Council, Washington, D.C., he also belongs to the National Association of Manufacturers and serves on the President's Committee on Employment of People with Disabilities. Mr. Battle is active in the Urban League, chairing the long-range planning committee of its Cincinnati chapter, and serving as an alternate member of the national organization's Commerce and Industry Council. He also serves the Community Chest as a member of its Neighborhood Services Allocation Committee.

B. Reappointments

The current Committee is recommended for reconstitution with no new appointments because of the Committee's excellent attendance record, their ability to effectively work together and the diversity reflected in its membership on the bases of race, sex, age, religion and political affiliation.

Fred Baumann

Dr. Baumann is an assistant professor of Political Science and the director of the Public Affairs Conference at Kenyon College. He has authored contributions for The New Leaders, St. John's Review, Renaissance Quarterly, and other journals. Dr. Baumann served previously as a program officer with the Institute for Educational Affairs. His honors have included fellowships from the National Endowment for the Humanities and Harvard University. From 1974 to 1977, he served as assistant to the executive secretary of the Committee for Academic Nondiscrimination and Integrity.

James L. Francis

Mr. Francis is an assistant city manager of the city of Dayton. He had formerly served as director of public works for the city and as executive director of the Dayton Human Relations Council. He has been active in cultural and civic organizations including, chairman of the Classic Museum, the United Way Horizons Programs and the Dayton Downtown Taskforce on the Redevelopment of Main Street. He is also a member of the International City Management Association where he has provided managerial expertise to the government of Monrovia, Liberia.

Raymond Levanthal

Mr. Levanthal, vice president of Singer Steel Company, has been very active in community affairs. Formerly a regional and local chairman of the Anti-Defamation League of B'nai B'rith, he serves currently on the boards of the Cleveland Society for the Blind, the Cleveland Heights Interfaith Council, and the Cleveland College of Jewish Studies. Mr. Levanthal teaches public speaking for the Speaker's Bureau at the Cleveland Sight Center. He has lectured extensively on prejudice, the Middle East, and current events.

Melanie J. Mitchell

Ms. Mitchell is corporate employment manager and manager of Associate Relations for the Kobacker Company, a retail shoe company with over 500 stores. She formerly served as the first equal employment opportunity officer for the Ohio Industrial Commission. She is a member of the American Society of Personnel Administrators, Mid-West College Placement Association, Central Ohio Minority Affairs Council and previously served as president of the Columbus Branch of the NAACP. Currently, she is the 17th Ward Committee person and serves on the employment task force of the Council on Ethnics in Economics.

Virginia C. Ortega*

Ms. Ortega formerly served as the acting director of the Ohio State Commission on Spanish-Speaking Affairs for almost a year. It was during that time that she developed many contacts in the State Capitol on issues relating to Hispanics. In particular, she coordinated many of the legislative efforts to disseminate information about government actions relative to Hispanic networks throughout the State. For her inexhaustible energies,

Ms. Ortega received several awards of recognition, including, Outstanding Young Woman of Toledo, and the Regional Award for Service to the Hispanic community.

Martin Plax*

Dr. Plax is the Ohio-Kentucky Area Director of the American Jewish Committee. His articles on such subjects as pluralism and affirmative action have appeared in Midstream, Commentary, and The New Leader. He has served as a consultant to the Office of School Monitoring and Community Relations in Cleveland. In 1984, he was nominated for Leadership Cleveland, a program aimed at promoting greater interaction among community leaders. Trained as a political scientist, Dr. Plax was a university professor for ten years, and is currently an adjunct associate professor of Political Science at Cleveland State University.

Donald Prock*

Mr. Prock is active in numerous organizations concerned with retired workers. He is a board member of the Ohio Federation of Aging, and a trustee of the Old Timers Foundation of District 28, United Steelworkers of America. He is also an arbitrator for the Council of Better Business Bureaus, Inc. An experienced fundraiser for the United Way and the March of Dimes, he is the former legislative director of District 28, United Steelworkers.

Barbara J. Rodemeyer*

An active member of the League of Women Voters, Ms. Rodemeyer has contributed immeasurably to the work of the Ohio Advisory Committee. Her attendance record is excellent. She is active with the North Canton Republican Committee. She also served as a commission member of the Ohio Elections Commission and chairperson of the North Canton Civil Service Commission.

Marian A. Spencer*

Mrs. Spencer, a former chairperson of the Advisory Committee, has served as a member of the Cincinnati City Council. She also served as president of the NAACP, and during her tenure, she conducted a major voter registration drive for minorities in Cincinnati. As a former member of the Education and Legal Redress Committee of the NAACP, she worked effectively in the Cincinnati Board of Education v. Cincinnati NAACP school desegregation law suits. Currently she is serving as vice president of Housing Opportunities Made Equal, member of Common Cause, American Civil Liberties Union, the Desegregation Task Force, board member of Caracole (Home for AIDS Victims) and chairperson of city's Affirmative Action Committee (advisory to city of Cincinnati).

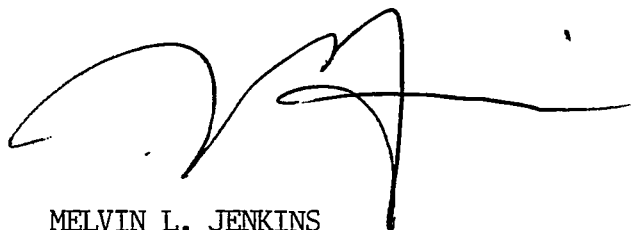
Bradford P. Wilson*

Dr. Wilson is a professor of Political Science and chairman of the Department of Social Sciences at Ashland University in Ashland, Ohio. He is the author of numerous publications on political theory, American constitutional and legal doctrine. He served for one year as a research associate to

U.S. Supreme Court Chief Justice William Rehnquist and for two years in the same capacity for former Chief Justice Warren E. Burger. He is a member of the National Board of Advisors for the Federalist Society for Law and Public Policy Studies.

VI. ADVISORY COMMITTEE BIOGRAPHICAL INFORMATION

See attached CCR-16 forms.

A handwritten signature in black ink, appearing to read 'MELVIN L. JENKINS', with a long horizontal stroke extending to the right.

MELVIN L. JENKINS
Acting Staff Director

Attachments

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: Ohio

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership			4	1	6		1	3	7		4	7	5	5	1	3	5	3	11

Names of Members Separated:

REGIONAL OFFICE: CRD

DATE: October 1989

CCR FORM 113(Revised)
January 1985

UNITED STATES COMMISSION ON CIVIL RIGHTS
WASHINGTON, D. C. 20425



STAFF DIRECTOR

October 17, 1989

MEMORANDUM TO THE COMMISSIONERS

SUBJECT: Pennsylvania Advisory Committee Recharter

This memorandum requests action required for rechartering the Pennsylvania Advisory Committee to the Commission. This request is based upon the following information which is part of this memorandum.

- I. Demographic Statistics for Pennsylvania
- II. Recent Activities of the Pennsylvania Advisory Committee
- III. Program Projections for the New Charter Period
- IV. Sources Contacted for Advisory Committee Membership
- V. Personnel Actions Requested
 - A. Chairperson Action
 - B. Reappointments
 - C. New Appointments
- VI. Advisory Committee Biographical Information (CCR Form 16).

I. DEMOGRAPHIC STATISTICS FOR PENNSYLVANIA

Including the District of Columbia, the Eastern Regional Division covers 18 state-level jurisdictions of which Pennsylvania is the second most populous. According to 1987 U.S. Bureau of the Census estimates, Pennsylvania contained about 11,888,000 residents.¹

¹U.S., Department of Commerce, Data User News, Bureau of the Census, Vol. 22, No. 2, Feb. 1987, pp. 1-2.

However, Pennsylvania had the third lowest growth rate of the 18 jurisdictions--0.2 percent between 1980 and 1986.² Of all 25 megalopolises in the U.S. (known as Consolidated Metropolitan Statistical Areas or areas with a population of a million or more that consist of two or more smaller metropolitan areas), that of Philadelphia-Wilmington-Trenton is ranked fourth, and Pittsburgh-Beaver Valley, 15th.³ By itself, Philadelphia had almost 1.7 million inhabitants in the 1980 Census and was the fourth largest U.S. city at that time. The actual figures from the 1980 Census are:

1980 Racial, Ethnic and Gender Statistics for Pennsylvania⁴

RACE	NUMBER	PERCENT
White	10,652,320	89.7
Black	1,046,810	8.8
Native American	9,465	0.1
Asian-Pacific Islander	64,379	0.5
Other	90,921	0.8
<u>T O T A L</u>	11,863,895	

ETHNICITY ⁵	NUMBER	PERCENT
Not-of-Hispanic Origin	11,709,934	98.7
Hispanic Origin	153,961	1.3

GENDER ⁶	NUMBER	PERCENT
Male	5,682,590	47.9
Female	6,181,305	52.1

²Ibid.

³U.S., Department of Commerce, Bureau of the Census, USA Statistics in Brief: 1986, side 9 of a Statistical Abstract Supplement brochure.

⁴U.S., Department of Commerce, Bureau of the Census, General Population Characteristics: Pennsylvania; 1980 Census of Population, PC80-1-B40

⁵Ibid., p. 40-98.

⁶Ibid., p. 40-83.

DISABILITY⁷

According to the 1980 Census, Pennsylvania residents between 16 and 64 years of age, who were not institutionalized but who reported a work disability, numbered 642,761 or 8.5 percent of the population.

II. RECENT ACTIVITIES OF THE PENNSYLVANIA ADVISORY COMMITTEE

Major activities of the Pennsylvania Advisory Committee during the most recent charter period included holding two forums, one following up on how bias-related incidents are reported in the State, and the second, on how the Fair Housing Amendments Act of 1988 will be carried out. Drafts of both summary reports have been completed. One member participated in the New York State Advisory Committee's forum on the 1990 Census. (Prior to the 1980 Census, the Pennsylvania Advisory Committee testified on decennial census issues at the invitation of the U.S. House Subcommittee on Census and Population.)

III. PROGRAM PROJECTIONS FOR THE NEW CHARTER PERIOD

In the coming charter period, the Advisory Committee can be expected to continue to monitor bias-related incidents and how the State is collecting and analyzing data on such incidents. After a year or so has elapsed since implementation of the Fair Housing Amendments Act of 1988 and since the Advisory Committee's forum on the topic, the Advisory Committee may also choose to inquire as to the progress in enforcing the new law and what problems will have been manifested during that first year.

IV. SOURCES CONTACTED FOR ADVISORY COMMITTEE MEMBERSHIP

In addition to monitoring news media articles and civil rights reports for leads, staff secured recommendations for prospective members from incumbent Advisory Committee members and former members as well as from the National Low-Income Housing Coalition and the National Conference of Christians and Jews. Advisory Committee incumbents and former members, however, were the most helpful. For the three vacancies involved, incumbent and former members provided five leads, two of which resulted in candidates available for nomination.

⁷U.S., Department of Commerce, Bureau of the Census, 1980 Census of Population and Housing, "Table 1.--Work Disability Status of Noninstitutional Persons 16 to 64 Years of Age: 1980," a table provided by Jack McNeil, Chief, Poverty and Wealth Branch.

V. SAC PERSONNEL ACTIONS REQUESTED

A. Chairperson Action

The Staff Director recommends that Dr. Susan M. Wachter, who is now completing her first term as chairperson, be considered for a second term as chairperson. At the same time, another incumbent, Min J. de Collingwood,* has also indicated her willingness to chair the Advisory Committee, if appointed. (See Section V. B.)

Susan M. Wachter

Dr. Wachter is an associate professor of finance at the Wharton School of the University of Pennsylvania and also serves as the University Ombudsman. An alumna of Radcliffe College with a doctorate in economics from the Boston College Graduate School, she has published numerous books and articles and served as a consultant to industry and government. She has written extensively about real estate and urban housing and lectured and written about racial discrimination and its relation to redlining by financial institutions. She also recently served as president of the American Real Estate and Urban Economics Association.

Dr. Wachter is on the board of directors of the American Jewish Committee's Philadelphia Chapter and on the Finance Committee of the American Friends Service Committee. During the charter period now ending, she chaired both forums described above and played a key role in stimulating interest in the second forum dealing with fair housing enforcement. For these reasons, we are recommending that she serve a second term as chairperson.

B. Reappointments

LeGree S. Daniels

Ms. Daniels of Harrisburg is the most recent past Assistant Secretary of Education for Civil Rights in the U.S. Department of Education. Recognized in *Who's Who in American Politics*, she is also a former chair of the National Black Republican Council, a founder of the Philadelphia Council of Republican Women, an assistant secretary of Pennsylvania's Republican State Committee and has served as vice chairperson of the Executive Committee of the Republican National Committee.

A board member of the Endowment for Democracy and the Harrisburg YWCA, Ms. Daniels serves as a Deaconess at the Tabernacle Baptist Church.

Min J. de Collingwood*

Ms. de Collingwood of Gulph Mills was the executive director of the Governor's Council on the Hispanic Community before becoming assistant director for Career Placement at the Law School of the University of Pennsylvania. She has served on the board of the National Association of Latino Elected and Appointed Officials, and been a member of the National Association of Social Workers, the National Association for Bilingual Education, the National Hispanic Republican Coalition, the National Organization for Women, and the Philadelphia Women's Political Caucus.

Ms. de Collingwood has also been a board trustee of Southeastern Pennsylvania's United Way and a member of the Minority Advisory Panel of the State Council on the Arts as well as the Community Services Planning Council of Southeastern Pennsylvania. Before being named by former Governor Dick Thornburgh to direct the Hispanic Council, Ms. de Collingwood served Hispanics through projects in Montgomery County and Philadelphia.

Joseph Fisher

Mr. Fisher is a former chairman of the Advisory Committee. He is based in Philadelphia as a vice president and regional director of the International Ladies' Garment Workers' Union and has worked in knitting mills and been active in unions for more than 25 years. A graduate of Temple University, he is studying towards a Master's degree and is treasurer of the Philadelphia Chapter of the A. Philip Randolph Institute, a board member of the Fellowship Commission, the nation's oldest citywide private human rights-intergroup relations agency, and on an advisory committee of the Greater Philadelphia Chamber of Commerce.

Mr. Fisher is also a board member of the Philadelphia Urban Coalition, the United Labor Center of Unemployment Information, and the United Way. Other activities include the vice presidency of the Jewish Labor Committee and board work for the Council for Labor and Industry. Due to his interest in census matters, Mr. Fisher was asked to represent the Pennsylvania Advisory Committee at a forum on the 1990 Census recently held by the New York State Advisory Committee.

Sam Y. Hwang

Mr. Hwang heads the firm of Hwang and Associates, a Philadelphia law firm. An alumnus of Dickinson College and its School of Law, he is a member of the Pennsylvania Bar Association as well as both the Philadelphia Bar Association and the Asian American Bar Association of Philadelphia. In his second term as Chairperson

of the Christian Business Men's Committee and active on the Operating Committee of the Philadelphia Leadership Foundation, Mr. Hwang serves on the board of directors of both the Korean Association of Philadelphia and the Korean YMCA. At a time when tensions between minority groups have flared in big cities, Mr. Hwang is often called upon to discuss public issues affecting Koreans in Philadelphia.

Morris Milgram

Mr. Milgram of Philadelphia is president and co-founder of Fund for an OPEN Society, a non-profit lending organization which provides low-rate incentive mortgages to strengthen housing in localities around the U.S. He has devoted over 40 years to combating residential segregation. A Rutgers University alumnus, Mr. Milgram was the first recipient of the National Human Rights Award from HUD in 1968, and he was featured as a civil rights pioneer in a 1964 TV program entitled "Seven Who Dare." In 1987, then U.S. House Budget Committee Chairperson, William H. Grey, III, organized a 70th anniversary tribute, writing that Mr. Milgram "is beyond challenge the American leader on our last civil rights frontier--housing."

Sieglinde A. Shapiro

Ms. Shapiro of Philadelphia is coordinator of the Disabilities Studies Program at Temple University's Developmental Disabilities Center. She is a former executive director of the Pennsylvania Coalition of Citizens with Disabilities, a past president of the (Philadelphia) Mayor's Advisory Council on the Physically Handicapped, the co-founder and past president of the Pennsylvania Alliance of the Physically Handicapped and of Disabled in Action of Pennsylvania, and a former board member and regional director of the Governor's Conference on Handicapped individuals. She continues as a member of the American Coalition of Citizens With Disabilities, the Governor's Committee on Employment of the Handicapped, the League of Disabled Voters, and the disabilities advisory committee of SEPTA (Southeastern Pennsylvania Transit Authority). Recipient of numerous awards, she hosted the "Sigi Shapiro Show" on disability on WWDB-FM for three years.

M. Mark Stolarik

A specialist in the history of immigration and ethnicity, Dr. Stolarik is president of Philadelphia's Balch Institute for Ethnic Studies, an organization dedicated to improving intergroup relations. He has published three books and more than 20 articles on America's ethnic groups throughout the northeast, and

particularly in Pennsylvania, and has produced an award-winning film entitled Vianoce: A Canadian Slovak Christmas. Born in Slovakia during World War II, Dr. Stolarik earned his Ph.D. from the University of Minnesota, and now resides with his wife in Havertown.

C. New Appointments

Stanley A. Lowe

Mr. Lowe of Pittsburgh directs the Landmarks Preservation Fund of his area and is also chief executive officer of the Manchester Citizens Corporation. The Fund offers the use of a \$4 million revolving loan fund to local organizations and individuals who are interested in restoring homes or commercial properties. The Manchester corporation manages a \$12 million community revitalization effort on Pittsburgh's North Side.

Mr. Lowe also serves on boards such as the City of Pittsburgh's Board of Code Review, Pittsburgh Community Services, Inc., the South Side Local Development Corporation, the Hill District Community Development Corporation, and the Oakland Planning and Development Corporation Development Fund. Honors bestowed upon him include the Northside Person of the Year Award and the Preservationist of the Year Award; the latter was given by the National Foundation for Historic Preservation and the Minority Community. [Recruited by Tino Calabria who consulted Mr. Lowe while organizing the recent forum on fair housing.]

Inez Katherine Miles

Ms. Miles is an assistant vice president in the Credit and Policy Administration Department of Pittsburgh's Mellon Bank. Holding a graduate degree in banking from the University of Wisconsin, she is a member of Robert Moore Associates, a Philadelphia-based organization offering training to lending institutions and their personnel. Ms. Miles also earned a Duquesne University master's degree in political science and has served on the Alumni Board of Governors of Duquesne.

A member of the Pittsburgh Urban League, she works with the Alpha Kappa Alpha sorority on projects to aid, for example, the United Negro College Fund and the homeless. She is also active with the Eastern Star-Rosewood No. 44 women's auxiliary to the Masons and is on the Personnel Committee and Usher Board of Pittsburgh's Bethany Baptist Church. [Referred by Doris Carson-Williams, a former Advisory Committee member and continuing colleague of SAC member LeGree Daniels.]

John William Taylor

Mr. Taylor of Erie is the owner-director of the Taylor Funeral Home and past president of the Erie County Funeral Directors Association. He is also a member of the Elks Club and the Masons-Prince Hall Affiliation. He has served as chairman of the Black Republican Party of Erie, chairman of the board of trustees of the Shiloh Baptist Church, and on the local board of the Boy Scouts of America. [Referred by SAC member LeGree Daniels.]

V. ADVISORY COMMITTEE BIOGRAPHICAL INFORMATION
(CCR Form 16)



MELVIN L. JENKINS
Acting Staff Director

CHARACTERISTICS OF RECOMMENDED RECHARTERED COMMITTEE

STATE: P E N N S Y L V A N I A

	Race						Religion				Sex		Political Affiliation			Total			
	Asian Amer.	Amer. Ind.	Black	His.	White	Other	Cath.	Jew	Prot.	Other	Fem.	Male	Dem.	Rep.	Ind /NA		Under 40yrs	Over 40yrs	Over 60yrs
Proposed Membership	1	0	5	1	4	0	2	2	6	1	5	6	6	4	1	3	6	2	11

Names of Members Separated:

Eugene W. Hickok, Jr.
 Stephen W. Mahon
 Carl E. Singley

REGIONAL OFFICE: Eastern Regional Division

DATE: 10/17/89

X. Commission Subcommittee Reports

(No written material)



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 4, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Staff Director's Report

Attached is the Staff Director's report for the month of September.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

MELVIN L. JENKINS
Acting Staff Director

Attachment

PERSONNEL REPORT
September 1 through September 30, 1989

PERMANENT APPOINTMENTS	60
TEMPORARY APPOINTMENTS	03
INTERMITTENT APPOINTMENTS	20

ACCESSIONS - PERMANENT APPOINTMENTS

PROGRAM STAFF

None

SUPPORT STAFF

None

ACCESSIONS - NONPERMANENT APPOINTMENTS

PROGRAM STAFF

None

SUPPORT STAFF

John C. Eastman, Commissioners and Assistants, GS-0301-11,
\$37,510.

SEPARATIONS FROM PERMANENT POSITIONS

PROGRAM STAFF

John C. Eastman, Public Affairs Officer, Congressional and Public Affairs Unit, GM-1035-15, \$57,158.

SUPPORT STAFF

Joan C. Connell, Secretary (Stenography), Office of the General Counsel, GS-0318-09, \$30,206.

SEPARATIONS FROM NONPERMANENT POSITIONS

PROGRAM STAFF

None

SUPPORT STAFF

Juanique S. Caldwell, Clerk-Typist, Office of the Deputy Staff Director for Management, GS-0322-02, \$14,085.

PRESS AND CONGRESSIONAL RELATIONS

A news release on Medical Discrimination Against Children With Disabilities was distributed to over 600 media representatives, as was a news advisory on the press conference. Staff mailed 30 embargoed copies of the report and made over 75 followup calls to selected media representatives in preparation for the news conference, which 13 media representatives attended. Coverage to date includes AP and UPI newswires and the New York Times and the Los Angeles Times. Staff have responded to 42 media inquiries and done 3 press interviews.

Two news releases and an advisory on the administration of justice briefing were sent to more than 500 media representatives. Staff made over 80 followup calls to selected media representatives. Twenty-five news representatives attended the briefing, including crews from Cable News Network (CNN) and the Christian Broadcasting Network (CBN). An estimated 60 individuals from special interest groups and the general public also attended the briefing. Staff responded to 59 media inquiries and did 5 press interviews. The briefing topic was the subject of a CNN "Crossfire" show featuring one of the participants. CBN also aired a segment on the briefing.

A Sunshine Notice was prepared and distributed to the media for the September 15 Commission meeting and briefing. Staff handled inquiries.

There were 16 other inquiries during this reporting period: 4 concerned the Commissioners and the Commission's reauthorization; 3, Arthur Fletcher; 3, the AIDS project; 2, the Asian report; and 1 each concerned the immigration report, black men report, black women report, and hate crime statistics.

CIVIL RIGHTS EVALUATION UNIT

Staff focused on complaints during September, with some time spent on collecting information on key civil rights appointments at Federal agencies and other materials relating to monitoring.

Among appointments and nominations of interest: Erline M. Patrick (a black female) has been appointed Director of the Minority Small Business and Capital Ownership Development Branch at the Small Business Administration. Edward Perkins (a black male) has been nominated as Director General of the Foreign Service. Louis W. Jones (a black male) has been appointed Director of the Office of Equal Employment Opportunity at EEOC. Also at EEOC, Commissioner Evan J. Kemp

has been nominated as Chairman. William C. Brooks (a black male) has been appointed Assistant Secretary of Labor for the Employment Standards Administration (which includes the Office of Federal Contract Compliance Programs). Gordon H. Mansfield (a disabled male) has been nominated as Director of HUD's Office of Fair Housing and Equal Opportunity. Finally, Edward Mercado (a Hispanic male) is Director of HHS's Office for Civil Rights.

Numerous complaints followed immediately after announcement of the Commission's "800" number on a television program. So that an evaluation can be made of this service (which costs about \$1,000 annually), complaints that come in on the 800 number are now being identified as such.

OFFICE OF THE DEPUTY STAFF DIRECTOR FOR MANAGEMENT

Staff coordinated with the Office of Management and Budget on FY 1990 funding for the Commission. An analysis was started on the budgetary effects of the continuing resolution.

A letter received from the Assistant Director for Agency Compliance and Evaluation at the Office of Personnel Management noted that "the Commission has come a long way in dealing with problems..." that OPM had identified in its May 1988 report. OPM also stated that the Commission had improved "the overall quality of personnel services."

Internal time and attendance procedures were documented to ensure that problems previously identified will not occur in the future, and vulnerability assessment were done throughout the agency pursuant to the requirements of OMB Circular A-123. Additional research was done on the Inspector General Act and other small agencies were surveyed on their policies. The act was also discussed with IGs for the Merit Systems Protections Board and the Equal Employment Opportunity Commission.

The library made 172 loans to the public during the month and 81 to Commission staff. Telephone calls averaged 20-25 per day, and the number of library visitors remained the same, with an estimated 30 per day.

The Government Printing Office mailed 110 items in response to requests.

Work began on establishing a paper recycling program to comply with new District of Columbia law.

The Deputy Staff Director for Management attended an OPM conference for chairmen of executive resources boards in Charlottesville, Virginia.

MONITORING

The following is a breakdown of monitoring and regional activities in the Office of General Counsel. Time spent by OSD staff and Commissioners and their special assistants is noted also.

ENFORCEMENT OF THE INDIAN CIVIL RIGHTS ACT OF 1968: 17.5 GM 14 hours, 3 SES-4 hours, 17 GM 15-1 hours, 8 GS 12-2 hours, 146 GS 11-1 hours, 148.5 GS 12-2 hours, and 7 GS 7-7 hours.
Commissioners and assistants: 17 hours.

FEDERAL PROTECTIONS FOR HANDICAPPED INFANTS: 10 SES-4 hours and 4.5 GM 15 hours. OSD staff: 9 hours. Commissioners and assistants: 30.5 hours.

COMPLAINTS PROCESSING (includes administration of justice briefing): 17.5 GS 9-9 hours, 58 SES-4 hours, 152 GS 6-1 hours, 10 GM 15 hours, 136 GS 12-2 hours, 72 GM 14 hours, and 35.5 GS 7-7 hours. OSD staff: 155 hours.

CIVIL RIGHTS IMPLICATIONS OF AIDS: 0.5 GM 15 hour and 3.5 GS 7-7 hours. Commissioners and assistants: 6 hours.

REGIONAL MATTERS: 68 GM 14-1 hours. OSD staff: 544.5 hours. Commissioners and assistants: 5 hours.

MONITORING OF IMPLEMENTATION AND ENFORCEMENT OF THE IMMIGRATION REFORM AND CONTROL ACT: 1 SES-4 hour, and 41 GM 14 hours. OSD staff: 44 hours. Commissioners and assistants: 4 hours.

CIVIL RIGHTS COURT CASES: 21 GM 15 hours and 3 GS 7-7 hours.

CIVIL RIGHTS ISSUES--BLACKS: OSD staff: 4 hours.

HATE GROUPS: OSD staff: 11 hours. Commissioners and assistants: 12 hours.

SOLICITOR'S UNIT

The Acting Solicitor assumed his position on September 15, 1989.

Advice and guidance were given to Commissioners and staff on ethics matters.

Memoranda were prepared for the Acting Staff Director on executive sessions and for the Commissioners outlining Sunshine Act procedures. A memorandum was also done for the Executive Staff, Regional Directors, and the Commissioners and their assistants regarding gifts to foreign individuals during FY 1989.

Substantial research was done and discussions held with the U.S. attorney's office on Eastman v. Jenkins.

FOIA requests came from two individuals in Kansas, each asking for copies of the three most recent FOIA requests received by the Commission.

OFFICE OF THE GENERAL COUNSEL

OGC staff organized a briefing for the Commissioners on police conduct in the context of nonviolent public demonstrations. Staff also verified the transcript and compiled complaints and videotapes received with allegations of police misconduct. Staff arranged for the videotapes to be duplicated by the Federal Bureau of Investigation and transmitted copies of the complaints and affidavits to Attorney General Thornburgh to supplement complaints and affidavits previously provided to the Department of Justice.

Medical Discrimination Against Children with Disabilities

Staff assisted the Commission subcommittee in holding a press conference to release the report on September 22.

Enforcement of the Indian Civil Rights Act of 1968

Limited work was performed, due to the prolonged absence of the project's director, who is on sick leave. Staff worked on part III and on a table that will accompany the report.

Civil Rights Implications of AIDS

Work on this project is temporarily halted because of staff assignment to other projects. A new timetable for the report targets review by the Commissioners in mid-1990.

OGC and OPFR

Immigration Control and Reform Act

Copies of the revised report were mailed to Congress, Advisory Committee members, and selected organizations and individuals. Staff met with congressional staff to discuss the recommendations.

OFFICE OF PROGRAMS, POLICY AND RESEARCH

The Economic Status of Hispanic Groups: An Exploratory Investigation

Staff made progress on the literature review and design of the over-time earnings analysis.

The Economic Status of Black Women: An Exploratory Investigation

The report was tabled by the Commissioners until October.

Validity of Testing in Education and Employment

Staff met with Department of State staff, including Deputy Assistant Secretary Lauralee Peters of the Bureau of Personnel, Foreign Service Institute. Discussion revolved around the Department's response to challenges that the Foreign Service Exam is biased against women.

Staff also met with representatives of Education's Office for Civil Rights to discuss policies on test use in education, especially for achievement grouping, vocational counseling, awarding of diplomas, and college admissions.

Responses were received to letters sent to the Department of Labor and EEOC about their legislated study of tests used to hire police officers and firefighters.

Work continued on summarizing the June consultation and drafting various analyses.

Changing Perspectives on Civil Rights: Los Angeles Summary Report

The revised draft was reviewed and prepared for submission to the Commissioners.

Changing Perspectives on Civil Rights: Nashville Summary Report

The draft summary was reviewed by office staff.

Asian Civil Rights Issues in the 1990s

Corrections were made to the New York and Houston transcripts, and followup calls were made to participants who had not returned their edited sections. The San Francisco transcript is being sent out to participants for corrections.

REGIONAL PROGRAMS COORDINATION UNIT

REGION I - EASTERN REGIONAL DIVISION

PROJECTS

Access to Health Services for Southeast Asian Refugees and Immigrants in Connecticut

A summary report on the March community forum in Hartford was submitted to OSD for editing.

Bigotry and Violence in Georgia

The Commissioners approved the summary report of the community forum, and it was forwarded for final processing.

Bigotry and Violence in Rhode Island

A community forum was held on May 8, 1989, in Providence. A summary report of the forum is underway.

Followup Forum on 1990 Census Issues - New York

A community forum was held in New York City on April 27, 1989. A summary report is in ERD for editorial and legal sufficiency revisions.

Impact of Ability Grouping on Educational Opportunity of Minority Students in North Carolina

The community forum was held on May 24, 1989, in Raleigh. A summary report of the forum is underway.

Implementing the 1988 Fair Housing Act Amendments in Pennsylvania

A summary report of the April 1989 forum in Philadelphia has been completed, but further work is being delayed to computer breakdown.

In-School Segregation in Morris County, New Jersey

A community forum was held in Morristown on June 27. A summary report is being prepared.

Minorities and Women in Higher Education in West Virginia

The summary report is being prepared for publication.

Nutrition Services and the Minority Elderly in Delaware

The summary report is at the printer.

Police-Community Relations in Miami and Dade County

Action on the summary report of the 1988 forum and the 1989 briefing was deferred by the Commissioners.

Reporting Bias-Related Incidents: A Followup - Pennsylvania

Agency review comments are being incorporated in the summary report.

Review of Civil Rights Legislation - West Virginia

A summary report of the forum held last March was readied for Commissioner review.

Voting Rights in South Carolina

The community forum was held in Columbia on May 22, 1989. A summary report of the forum is underway.

REGION II - CENTRAL REGIONAL DIVISION

PROJECTS

Bigotry and Violence in Minnesota

The draft report on the community forum held in St. Paul was approved by the Commissioners and submitted for final processing.

Bigotry and Violence on Missouri College Campuses

A summary report is being drafted for a community forum held on March 22, 1989, in Columbia.

Chippewa Indian Treaty Rights - Wisconsin

A community forum was conducted by the Advisory Committee on April 27, 1989. A summary report was readied for Commissioner review.

Civil Rights Implications of Student Dropouts - Michigan

The community forum was held on May 5, 1989. A summary report of the forum was submitted for legal sufficiency review.

The Employment of Minorities and Women in Kentucky State Government

A summary report of a community forum held by the Advisory Committee on March 14, 1989, was readied for Commissioner review.

Civil Rights Problems of Older Americans - Arkansas

The report is being prepared for publication.

Desegregation of Public Higher Education in Tennessee

The report is being prepared for publication.

Efforts to Promote Integration in Atrium Village and the South Suburb of Chicago

The first draft of a summary report is being written.

Equal Opportunity in Alabama State Employment

The report was readied for Commissioner review.

Homosexuals and the Administration of Justice in New Orleans

The report was received from the printer.

Kansas Human Rights Agencies

The report is undergoing legal sufficiency review.

Selected Civil Rights Issues in Iowa Public Education

A summary report is being drafted for a community forum held on January 25, 1989, in Des Moines.

Voter Registration in Louisiana Parishes

A community forum was conducted on this topic on May 12, 1989, and a draft summary report was returned to CRD for legal sufficiency corrections.

Bigotry and Violence on Nebraska's College Campuses

A summary report of a community forum conducted by the Advisory Committee on May 24, 1989, is being drafted.

MONITORING HIGHLIGHTS

ARKANSAS

The Arkansas legislature approved a settlement in a Pulaski County desegregation case under which the State will pay \$131 million to desegregate 3 Pulaski County school districts. A Federal judge had ruled the State liable because of past discrimination policies and practices.

ILLINOIS

Two white Chicago police officers have been removed from street duty as part of a continuing investigation of charges that they

mistreated two black youths. The youths alleged that two officers stopped and questioned them as they were headed home from a baseball game. They alleged that the officers picked them up, stopped them, and dropped them off in a white neighborhood where they were attacked by several whites. Five juveniles and two adults have been charged with aggravated battery and ethnic intimidation in connection with the incident. A report of the evidence was forwarded to the State's attorney office to determine whether criminal charges should be filed against the officers. The police department's Internal Affairs Department is also conducting an investigation.

INDIANA

About 120 citizens and parents of black students in Washington township schools attended a hearing to receive information from students on how they have been victims of racism at their schools. School administrators and members of the Coalition of Concerned Minority Families have met 12 times in two years to discuss complaints of racism. Students who provided information indicated that they feel they are misunderstood by counselors, teachers, and administrators. They said they are frustrated that they are rarely taught about the accomplishments of black people. They also said they are more likely to be singled out for disciplinary action than white students. The students' comments were taped so they could be presented to school officials.

Under the largest award ever ordered by the Indiana Civil Rights Commission, the management of an Indianapolis condominium must pay \$150,000 to a couple that endured two years of racial taunts and harassment because of their racially mixed marriage.

IOWA

Crispus Nix, warden of the Iowa State Penitentiary, said he will not condone racist attitudes or mistreatment towards inmates. He asked the U.S. Department of Justice for assistance in addressing alleged discrimination at the Fort Madison prison. Seven inmates at the prison wrote a letter of complaint with a list of proposed reforms. Warden Nix has requested human relations training from the Department of Justice and assistance from the Iowa Commission on Civil Rights.

The Council Bluffs Human Relations Commission on September 11, 1989, recommended to the city council the creation of an independent human relations department including the hiring of a full time director for the unit that would report directly to

the city council. An earlier recommendation that was tabled by the council called for the transferring of the human relations function/supervision from the mayor's office to the city attorney's office with the hiring of an additional assistant city attorney. Both recommendations did not pass. This action at Council Bluffs follows a similar action and controversy in Des Moines. Currently, human relations remains a part-time function handled by the mayor's aide.

KANSAS

Hutchinson recently was the scene of bias-related incidents. At the State fairgrounds, 11 buildings were spray-painted with racist slogans. Three weeks after the graffiti incident, fliers promoting the KKK were distributed near the Kansas State fairgrounds and on Main Street in town. Fliers were placed on car windshields. The flier action is a recurrence of a similar incident a year ago. The police do not believe there is an organized KKK group in town.

A dispute over the sale of a Russell house as care home for six mentally and physically disabled persons could become a test case for the new Federal Fair Housing Amendment. A group of 30 neighbors filed a lawsuit asking for an injunction blocking the sale of the house located in a single-family dwelling, middle-class development in northeast Russell. The sellers, Don and Pat Haberer, have filed a complaint with the HUD regional office in Kansas City. The lawsuit and complaint could wind up in the U.S. Supreme Court as a test case on housing discrimination against the handicapped.

KENTUCKY

As the result of a study of loans made in 150 low- to middle-income neighborhoods in Jefferson County, the Kentucky Human Rights Commission concluded that most Louisville banks and savings institutions fail to make enough mortgage loans in neighborhoods with a significant number of black homeowners. The commission found that homeowners in significantly black areas received 11.3 percent of all loans although they accounted for 20.8 percent of all homeowners. The report stopped short of stating that this discrepancy resulted from discrimination but recommended that institutions set goals for lending to black neighborhoods.

To comply with Federal regulations in connection with a community development block grant to fund a voter project, Logan County adopted an affirmative action plan and a fair housing ordinance.

The Ownesboro-Davies County Hospital has agreed to pay a total of \$105,116 in back wages to 14 current and former employees in a sex discrimination case. The Kentucky Commission on Human Rights had found that the hospital discriminated against several supply aides because they were paid 10 percent less than a male orderly who did essentially the same work.

LOUISIANA

A Federal court ruling calls for a sweeping reorganization of the State university system, including the merger of the LSU and Southern law schools in Baton Rouge within five years. Southern University leaders are expected to appeal the decision which would eliminate separate boards governing the State schools, and have said that merger of the law schools will be devastating to minorities.

MICHIGAN

A group of 10 minority and 11 female police officers who sued the city of Grand Rapids for discrimination accepted a settlement of \$325,000 instead of the \$6.2 million they had wanted. The city will also pay for court costs and attorney fees. The complainants alleged that they were denied promotions because of flawed testing procedures. Under the settlement, both parties agreed to settle the case without adopting a consent decree, asking for continuing Federal court oversight. The city also agreed to establish a new promotion and evaluation system.

The Detroit Chapter of the NAACP and the National Black Media Coalition filed a petition asking the Federal Communications Commission (FCC) to deny renewal licenses for 32 radio stations in Michigan and Ohio for failing to hire minorities. The FCC will investigate the stations identified to determine whether the deficiencies in minority employment were caused by inadequate affirmative action or by discrimination.

MINNESOTA

A jury has awarded \$523,00 to a former KSTP-TV employee who was fired after showing other employees a torn-up memo her boss had written about her. Wendy Bradley, who worked in the promotions department, was fired in 1986 after she showed other employees a memo written by her boss, Virginia Hubbard. The memo said Bradley had been involved in two legal disputes and that she could be replaced by a top-notch secretary. Bradley's attorney said Bradley had no problems on the job until she had cooperated with a sex harassment investigation by the Minnesota Human Rights Department.

MISSOURI

Kansas City's black activists vowed to stop a telecast of the Ku Klux Klan program, "Klansas City," over a public access channel even if it means direct confrontation with the Klan. A coalition of 30 local churches and civil rights groups are organizing a boycott of American Cablevision in reaction to the KKK's successful efforts to produce a local program with the company's help following Federal access regulations. The ACLU has supported the Klan because of the First Amendment rights significance.

Activist groups collected petitions in Kansas City, Missouri's black community, expressing dissatisfaction with Arthur A. Benson II, the attorney who represents the plaintiffs in a Kansas City desegregation case. The Coalition for Educational and Economic Justice and Freedom, Inc., met to discuss concerns about racial quotas that are keeping many black students out of magnet schools of their choice.

St. Louis Sheriff, James Murphy, suspended and temporarily reduced the rank of a command level deputy who reportedly used a racial slur in referring to a black deputy. The sheriff also ordered a "reorientation period" for Major Greg Thomas that would strip him of his rank and require him to work in rank and file jobs performed by deputies.

OHIO

A month after a Federal judge ruled that the Columbus Public Division had met court-ordered requirements for minority hiring, the division selected its first all-white training class of police recruits in 11 years. Three black applicants who scored high enough on the exam were eliminated during background checks. The police chief has requested increased funding to expand its minority recruitment efforts.

TENNESSEE

Twenty Memphis police officers filed discrimination complaints against the city with the Tennessee Human Rights Commission and the EEOC, charging they were denied promotions because they are white. An attorney for the complainants said that the city gave every third promotion to a minority officer regardless of rank.

Chattanooga's 78-year-old city commission form of government, with at-large election of officials, was found unconstitutional by the U.S. District Court. The constitutionality of at-large voting in the city government had been challenged by 10 black

plaintiffs as diluting the voting power of blacks. The mayor indicated that he did not favor appealing the decision and said that he will submit suggestions for developing the court-mandated plan for a new government.

WISCONSIN

A \$600,000 Indian education program approved by Assembly Democrats as a budget amendment would form the groundwork for a series of minority education requirements in Wisconsin schools. The amendment would require Indian studies for students and teachers and establish a new mini-bureaucracy within the State Department of Public Instruction. The Indian studies program is a direct outgrowth of protests in the spring over Chippewa spearfishing which underscored the need for better education about Indians and their contributions.

REGION III - WESTERN REGIONAL DIVISION

PROJECTS

Casino Employment in Nevada

The draft report is being prepared for publication.

Early Childhood Intervention Programs in Texas

Staff is preparing a report of the community forum held in Dallas on May 20, 1989.

English-only Ballot Measure in Colorado

The report is being prepared for publication.

Hawaiian Homelands: Update

The SAC continues its planning for the second forum on this issue.

Immigration Reform in Arizona: A Preliminary Review

The summary report is being reviewed by the SAC.

Immigration Reform in California: A Preliminary Review

The report was approved by the Commissioners and submitted for final processing.

Immigration Reform in Texas: A Preliminary Review

The report is being prepared for printing.

Immigration Reform and Control Act of 1986: Implementation in Utah

The summary report of a forum held in Salt Lake City on May 18, 1989 was returned to WRD for legal sufficiency corrections.

Indian Civil Rights in Oklahoma

The report is being prepared for publication.

Native American Issues in North Dakota

Staff reviewed the transcript of the community forum held this spring.

MONITORING HIGHLIGHTS

HAWAII

The Senate Select committee on Indian Affairs and the House of Representatives Committee on Interior and Insular Affairs conducted hearings August 7-11 in Hawaii. Testimony was received on issues relating to the status of the Hawaiian Homelands and needs of native Hawaiians. Hearings were held on Oahu, Kauai, Molokai, Maui, and Hawaii and included extensive testimony relating to the continuing trust responsibility of the United States Government and the State of Hawaii, to native Hawaiians. The oversight hearings were chaired by Senator Daniel K. Inouye.

The Hawaii Advisory Committee submitted copies of its September 1988 forum transcript to the joint Committee. The SAC forum had addressed implementation of the Hawaiian Homes Commission Act.

NORTH DAKOTA

The publisher of the Adams County Record in Hettinger, North Dakota, has been sued by the Equal Employment Opportunity Commission for allegedly engaging in sex discrimination when the newspaper's manager laid off a female press operator. The suit further alleges that the female employee was discharged and a less-qualified male was retained. D.A.K. publishing, the owners of the Record and the Bowman County Pioneer, is reviewing the suit.

**U. S. COMMISSION ON CIVIL RIGHTS
COMPLAINT REPORT**

CCR Form 120
OFCRE (Dec 81)

REPORTING MONTH: SEPTEMBER 1989

Total Backlog: (cumulative):	<u>46</u>
Total new complaints received in month:	<u>105*</u>
Total complaints processed in month:	<u>58</u>

BREAKDOWN OF COMPLAINTS RECEIVED: *

By Subject

Employment	<u>20</u>
Housing	<u>2</u>
Education	<u>1</u>
Federal Programs	<u>0</u>
Administration of Justice	<u>37</u>
Voting	<u>1</u>
Public Accomodations	<u>1</u>
Human Rights	<u>0</u>
Other	<u>24</u>
No Jurisdiction	<u>19</u>

By Basis for Complaint

Race or Ethnic Origin	<u>31</u>
Religion	<u>1</u>
Sex	<u>2</u>
Handicap	<u>1</u>
Age	<u>2</u>
Combined	<u>3</u>
Other (no Jurisdiction) Irregularities and Information	<u>49</u>
Unknown	<u>16</u>

*The total of complaints received includes 27 authentic telephone complaints.

The total of Operation Rescue/Police Brutality telephone complaints was 51 (this is separate from the regular telephone complaints recorded).

"800" Number = calls (recorded since September 20) totaled 19.

To date, we have received and answered 161 petitions concerning the incarceration of Dr. Elizabeth Morgan. She was released in September.

XI. Staff Director's Report

A. FOIA Regulations

B. 504 Regulations

(Copy of Regs. already mailed)

XII. Future Agenda Items

(No writtern material)

COMMISSION MEETING
Friday, October 27, 1989
9:00 A.M. - 5:00 P.M.
1121 Vermont Ave., N.W.
Room 512
Washington, D.C. 20425

AGENDA

- I. Approval of Agenda
 - II. Approval of Minutes of September Meeting
 - III. Announcements
 - IV. Draft Report on Economic Status of Black Women: An Exploratory Investigation
 - V. Draft Statement on Intimidation and Violence, Racial and Religious Bigotry in America
 - VI. Proposal -- Education and the Workplace
 - VII. Motion to Request Appropriations Committees to Reimburse Commissioners for Time Worked over the Earmark
 - VIII. Plan on Use of Information on Anti-Asian American Bigotry and Violence
 - IX. SAC Reports and Recharters
 - The Employment of Minorities and Women by Alabama State Government
 - Police Community Relations in Miami
(held over from September)
 - The Employment of Minorities and Women by Kentucky State Government
 - Voter Registration in Louisiana Parishes
 - A Followup Forum on Census Undercounts and Preparations for the 1990 Census
 - Civil Rights Laws and Legislation in West Virginia
 - Discrimination Against Chippewa Indians in Northern Wisconsin
 - Implementation in Utah of the Immigration Reform and Control Act: Phases One and Two
- SAC Recharters

- X. Commission Subcommittee Reports
- XI. Staff Director's Report
 - A. FOIA Regulations
 - B. 504 Regulations
 - C. FY 1990 Budget
- XII. Future Agenda Items

(OFFICIAL USE ONLY)
U.S. COMMISSION ON CIVIL RIGHTS
COMMISSION MEETING
September 15, 1989

The 58th meeting of the reconstituted U.S. Commission on Civil Rights was convened at 1:02 p.m., EDT, in room 512, 1121 Vermont Ave., N.W., Washington, D.C., with Chairman William B. Allen presiding. Present were Vice Chairman Murray Friedman and Commissioners Mary Frances Berry, Esther G. Buckley, Sherwin T.S. Chan, Robert A. Destro (via conference call), Francis S. Guess, and Blandina Cardenas Ramirez. Also present was Acting Staff Director Melvin L. Jenkins. Staff attending were Mary Baltimore, John Binkley, Ella Britton, Barbara Brooks, James Corey, James Cunningham, Bobby Doctor, Debra Doherty, Pamela Dunston, John Eastman, William Howard, Carol-Lee Hurley, Mary Mathews, Brian Miller, Vincent Mulloy, Jeffrey O'Connell, Marcia Tyler, Anthony Wells, Barbara Wilkins, and Nadja Zalokar. Commissioners' assistants present were Gloria Lam, Laura Purswell, and Krishna Toolsie.

AGENDA

The Commissioners agreed unanimously to change the agenda to delete consideration of the Hawaii and Ohio SAC rechararters and to move discussion of the statement on bigotry and violence to follow approval of the agenda.

DRAFT STATEMENT ON BIGOTRY AND VIOLENCE

Commissioner Berry moved that a sentence on page 23 be changed and that the report be approved. Vice Chairman Friedman seconded the motion. Commissioner Destro expressed concern about the scope of the report and its data. Commissioner Guess moved to table the report for one month, as Commissioner Destro had an older copy of the report. Commissioner Buckley seconded the motion, which passed unanimously.

EXECUTIVE SESSION ARRANGEMENTS

Chairman Allen asked for a motion to go into executive session to discuss pending litigation. It was agreed that the session would be held telephonically.

MINUTES

Commissioner Ramirez moved, seconded by Commissioner Buckley, approval of the minutes of the July meeting. Chairman Allen

asked that his vote for the resolution praising the former agency Solicitor be changed to a negative vote. He did not receive a second for his requested change. The minutes were approved by a vote of 5-1, Chairman Allen dissenting. Voting for the motion were Vice Chairman Friedman and Commissioners Buckley, Chan, Destro, and Ramirez.

ANNOUNCEMENTS

The Chairman reported that he had testified September 14 before the Senate Governmental Affairs Committee on congressional exemption from equal opportunity employment laws.

Commissioner Destro and Commissioner Chan spoke on their trip to Toledo, Ohio, for release of the Advisory Committee report.

Commissioner Chan reported on the factfinding trip to Raleigh, North Carolina, undertaken with Commissioners Buckley and Guess, to look into the killing of Jim Loo. Commissioner Chan presented a motion that the Commission examine the effectiveness of Federal civil rights statutes in prosecutions of perpetrators of racial crimes. The motion, cosigned by Commissioners Buckley, Guess, Berry, and Ramirez, called for a briefing in 30 days on the criteria and procedures for prosecuting violators of Federal civil rights laws, for testimony on this subject by top officials of the Criminal Section of the Civil Rights Division of the Department of Justice, and for an analysis of the effectiveness of Federal civil rights statutes by the Office of General Counsel, to be completed before the briefing. Commissioner Buckley seconded the motion.

After extended discussion, Commissioner Ramirez moved that the motion be amended so that the time frame was 30-60 days, which was accepted by the makers. Chairman Allen suggested that the last part of the motion be dropped because of the severe problems it would create for staff, that questions be sent by letter to Justice, and that the Federal civil rights statutes be understood to include sections 241, 242, 245, and CRIPA. Commissioner Chan accepted these changes. With some additional rewording, the motion was approved by a vote of 6-0.

Commissioner Chan then moved that the report Recent Activities Against Citizens and Residents of Asian Descent be updated and released in 3 months. Cosigners of this motion were Commissioners Buckley, Berry, Guess, and Ramirez. Commissioner Destro seconded the motion. After discussion, Commissioner Ramirez suggested that the motion be changed to ask the Acting Staff Director to propose at the next meeting alternative ways of including in published or other materials the information about violence against Asian Americans. The maker of the motion agreed and it was approved as changed by a vote of 6-0.

DRAFT REPORT ON THE ECONOMIC STATUS OF BLACK WOMEN:
AN EXPLORATORY INVESTIGATION

The Commissioners unanimously agreed to table the report for one month.

ADMINISTRATION OF JUSTICE AND NONVIOLENT PROTEST

Vice Chairman Friedman moved that the record of the morning briefing on the administration of justice and nonviolent protest be transmitted to the Department of Justice with a specific request for an investigation of charges of police violations. The motion was seconded by Commissioner Buckley. Commissioner Ramirez expressed support for the motion, noting that it was routine for the Commission to refer such complaints and that in doing so it was not basing the referral on the underlying reasons for the demonstrations that individuals were involved in at the time of the alleged police actions. Vice Chairman Friedman agreed that the motion should contain the caveat that the Commission was not associating itself with any points of views held by the demonstrators.

Commissioner Ramirez asked the Acting Staff Director to inform the Commissioners about the cost of the briefing. Chairman Allen said that, while the briefing was excellent, he would have preferred to have Commissioners extract information from written and videotaped materials.

Vice Chairman Friedman's motion was approved unanimously.

STATE ADVISORY COMMITTEE REPORTS

Commissioner Buckley moved, seconded by Chairman Allen, adoption of the California Advisory Committee report Implementation in California of the Immigration Reform and Control Act: A Preliminary Review. Commissioner Buckley asked that an updating footnote be added on numbers of persons seeking amnesty. The seconder agreed. The report was adopted by a vote of 6-0.

Police-Community Relations in Miami was deferred for one month by unanimous vote.

Chairman Allen moved adoption of Bigotry and Violence in Georgia. Vice Chairman Friedman seconded his motion, which carried by a vote of 4-0, with Commissioners Ramirez and Buckley abstaining.

Adoption of Bigotry and Violence in Minnesota was moved by Commissioner Ramirez and seconded by Vice Chairman Friedman. Commissioner Buckley asked if information from the report would be used in the Commission's document on campus tension, and the

Acting Staff Director indicated that it would, along with information from other Advisory Committee reports on the topic. The report was adopted by a vote of 6-0.

SUBCOMMITTEE REPORTS

Commissioner Destro discussed ideas for the last of the regional forums on "New Perspectives on Civil Rights," suggesting that it might be more fruitful to hold it in a retreat setting. Vice Chairman Friedman said that he still thought it would be better to hold it in Washington. Discussion ensued and it was agreed that the subcommittee would continue to refine the plan, with participation from Commissioner Ramirez.

Chairman Allen reported that the subcommittee is awaiting the most recent installment of the Indian Civil Rights Act draft report.

STAFF DIRECTOR'S REPORT

The Acting Staff Director reviewed activities during the 1989 fiscal year, noting increases in both headquarters and regional activities.

Commissioner Chan (noting that some of the information had been provided) moved that at the October meeting the Acting Staff Director supply a listing of SAC activities for the fiscal year, how resources were allocated and spent, how funding affected SAC meetings, and whether other factors entered into the frequency of SAC meetings. The motion was cosigned by Commissioners Buckley, Guess, Ramirez, Berry, and Destro. Commissioner Buckley seconded the motion, noting that when SAC membership was changed to 11, the Commissioners established four as the number of meetings each Committee should hold every year. The Acting Staff Director pointed out that that number was adopted when the Commission had 10 regional offices, not 3 as now. After discussion, the motion was approved by a vote of 6-0.

Commissioner Destro moved that when staff discuss appropriations with the congressional appropriations committees, that those discussions include reimbursement of Commissioners for time above the limitations placed on Commissioners' days. Commissioner Chan seconded the motion. The vote was 3-2, placing the motion on the October agenda. Commissioner Ramirez and Chairman Allen opposed the motion, and Vice Chairman Friedman did not vote.

The Commissioners approved by a vote of 5-0 a request from the California Advisory Committee for transmittal of a letter to the Department of Justice on police conduct.

The meeting was adjourned at 3:30 p.m., EDT.

ORIGINAL

1 UNITED STATES COMMISSION ON CIVIL RIGHTS

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OPEN TELEPHONIC MEETING OF THE COMMISSION

- - -

Thomas Circle South
U. S. Commission on Civil Rights
Suite 800
1121 Vermont Avenue, N.W.
Washington, D.C.

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FRIDAY, OCTOBER 6, 1989

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9:20 o'clock a.m.

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ANN RILEY & ASSOCIATES, LTD.
1612 "K" Street, N.W. (202)-293-3950 Washington, D.C.

1 COMMISSION MEMBERS PRESENT:

2 WILLIAM B. ALLEN, Chairman

3 MURRAY FRIEDMAN, Vice Chairman

4 MARY FRANCES BERRY, Commissioner.

5 ESTHER G. BUCKLEY, Commissioner

6 SHERWIN T.S. CHAN, Commissioner

7 ROBERT A. DESTRO, Commissioner

8 FRANCIS S. GUESS, Commissioner

9 BLANDINA C. RAMIREZ, Commissioner

10 ALSO PRESENT:

11 MELVIN L. JENKINS, Acting Staff Director

12 JEFFREY O'CONNELL, Acting Solicitor

13 MARY BALTIMORE, present for a portion of the meeting

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PROCEEDINGS

[9:20 a.m.]

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CHAIRMAN ALLEN: We will now reassemble in open session. Ester, you may go ahead.

COMMISSIONER BUCKLEY: All right. I received the memo from Chairman Edwards and I was very concerned as to what continues to happen right before our impending closure or impending de-authorization or whatever. We have had a similar instance before when you went to Arizona and things happened. This time because the Congress advised us, we found out about it.

It just seems like I would like to go on the record as saying that I think either we need a little bit more information about what you actually are going to be doing over there or perhaps I would even recommend that maybe you should reconsider attending this thing tomorrow.

COMMISSIONER BERRY: I only wanted to say that in the paper this morning, in the Post, it states about this letter that Allen spokesman John Eastman said the Commission has considered Gay Rights issues in the past at times at the urging of Gay Rights groups and that Allen has no plans to withdrawn and Allen in the meantime has entitled his speech, "Blacks, Animals and Homosexuals, What is a Minority?"

My only point that I would make about it is that my information is in the past at least since I have been on the

1 Commission whenever issues of Gay Rights have been raised, we
2 have always said that we can never consider any issue unless it
3 is under administration of justice and these have involved
4 police brutality allegations and matters of that kind and every
5 time the Gay Rights groups and even when we discussed AIDS,
6 there was some discussion there of its impact in the community.

7 But whenever the Gay Rights groups have asked us in
8 the past and they have to discuss policy matters like whether
9 there should be a sexual preference law or something or
10 anti-discrimination law and all sorts of issues, we have always
11 said, "no" because we aren't generally supposed to get into
12 that. Our jurisdiction extends to race, sex, national origin,
13 et cetera, as you know and it has been defined as not including
14 sexual preference so that was the only point I would make.

15 VICE CHAIRMAN FRIEDMAN: I have this question. I
16 think we need a little bit more information. When the Chairman
17 went out to, let's say, Arizona or more importantly when the
18 issue arose relative to his participation in the Los Angeles
19 case, it was a clear cut, to me at least, issue having to do
20 with his responsibilities as both the Chairman of the
21 Commission and as a member of the Commission relative to the
22 implementation of our role as a monitoring agency.

23 It was a clear cut thing there. If the Chairman or
24 any of us goes out to make a speech on a subject, let's say he
25 had been invited to make a speech before a group that was not

1 hostile to Gays, let's say, a pro-Gay group, are we not
2 permitted to speak up? We have not lost our role both as human
3 beings and as citizens by virtue of this part-time role we
4 have.

5 I think this also applies to us as well. We all are
6 called upon to speak on a variety of subjects.

7 COMMISSIONER BERRY: Are we paying for this or not,
8 the Commission, I mean? Melvin, or somebody.

9 VICE CHAIRMAN FRIEDMAN: Bill would know that better.
10 Are you going to file for reimbursement?

11 CHAIRMAN ALLEN: I am certainly going as Chairman of
12 the Commission which I think is the relevant question to ask
13 and I will say for the record, I really am not much engaged in
14 the experience at this point, but I will say for the record
15 that I have been asked to talk about the implications by a
16 group which is uncertain where we stand on these questions, to
17 talk about where we stand on the question of homosexuals and
18 civil rights policy.

19 COMMISSIONER BERRY: Bill, are we paying for your
20 going there? That is all I care about.

21 CHAIRMAN ALLEN: I don't know what you mean by my
22 going there.

23 COMMISSIONER BERRY: Is the Commission going to pay
24 your expenses for your participation?

25 CHAIRMAN ALLEN: I am going as Chairman of the

1 Commission.

2 COMMISSIONER BERRY: Are we paying your expenses?

3 CHAIRMAN ALLEN: Nominally, that means the Commission
4 pays.

5 COMMISSIONER BERRY: Then I think you are absolutely
6 out of order. As Murray says, all of us have freedom of
7 speech. I speak to all kinds of groups on all kinds of issues
8 that have nothing to do with the Commission or some of you may
9 think they have something to do with the Commission but I never
10 send in any vouchers to be paid by the Commission.

11 If I am going to be paid by the Commission to do
12 something, then I ought to see to it that what I say and what I
13 do is consistent with the jurisdiction of the Commission and if
14 it is not, then I ought to make those people pay me to come
15 there or pay my expenses or do something. I just think that it
16 is outrageous.

17 CHAIRMAN ALLEN: I think you are jumping to
18 conclusions, Mary.

19 COMMISSIONER BERRY: Well, you just told us you were
20 being paid by the Commission.

21 CHAIRMAN ALLEN: No. I said you are jumping to a
22 conclusion that I am not going to say things that are
23 consistent with the Commission.

24 COMMISSIONER BERRY: The title of your speech, is
25 that erroneous that is in the paper, "Blacks, Animals and

1 Homosexuals, What is a Minority?" Is that erroneous?

2 CHAIRMAN ALLEN: The title of my speech is not a
3 reference to a federal code.

4 COMMISSIONER BERRY: It is not, "Blacks, Animals and
5 Homosexuals?" I don't really care to discuss this any longer,
6 colleagues, because I have decided that the Chairman doesn't
7 care what he does in terms of -- what he is doing is following
8 his own personal agenda and he doesn't care about the
9 jurisdiction of the Commission or what Chairman Edwards thinks
10 or what the Congress thinks or what the public thinks. He has
11 his own agenda so we are just wasting our time.

12 COMMISSIONER GUESS: Mary, given the time sensitive
13 nature of what we are dealing with, at a minimum I would like
14 to suggest that by action of the body so assembled today
15 indicate that this discussion did occur and that the members of
16 the Commission who are so inclined issue public notice that we
17 distance ourselves from the Chairman and do not endorse in any
18 way, shape or form his participation in this conference based
19 on our communication not only from Congressman Edwards but
20 based on what we have been able to glean from the popular
21 press.

22 COMMISSIONER DESTRO: Could I make a suggestion here?
23 Why don't we simply reiterate that the Commission does not have
24 jurisdiction to deal with these issues and that when we have
25 dealt with these issues, we have dealt with them solely under

1 our jurisdiction under Administration of Justice and leave it
2 at that.

3 COMMISSIONER GUESS: I think that the American people
4 need to know that the Members of the Commission have already
5 had a discussion and are viewing with suspicion, at least this
6 Member of the Commission and if anyone called me, I would say
7 so, are viewing with suspicion the Chairman's participation in
8 this symposium.

9 COMMISSIONER BERRY: I will make clear that my
10 objection is based primarily on the fact that he just told us
11 that he is going as Chairman of the Commission and is going to
12 submit vouchers for expenses. Now if he was going on his own
13 book, I wouldn't care what he said.

14 COMMISSIONER DESTRO: Actually, Mary, my view is that
15 I am more concerned because he says he is going to go explain
16 the Commission's position.

17 COMMISSIONER BERRY: That is what I am saying.

18 COMMISSIONER DESTRO: Whether or not he is getting
19 paid for it is a minor consideration because I didn't know we
20 had a position.

21 COMMISSIONER BERRY: We don't have a policy.

22 VICE CHAIRMAN FRIEDMAN: I have another objection
23 which I am surprised no one has made reference to. Bill, the
24 title of your speech, "Blacks, Animals and Homosexuals" is
25 clearly --

1 COMMISSIONER BUCKLEY: Disgusting.

2 VICE CHAIRMAN FRIEDMAN: Really. The word,
3 "disgusting" is okay by me.

4 COMMISSIONER RAMIREZ: It is inflammatory is what it
5 is. I have to go.

6 VICE CHAIRMAN FRIEDMAN: Is that the title of your
7 speech, Bill?

8 CHAIRMAN ALLEN: That is the title of my speech, that
9 is to say I talk about those things and those three things are
10 all, in fact, reflected in the title.

11 VICE CHAIRMAN FRIEDMAN: Bill, being Chairman of the
12 Civil Rights Commission and people identify you as such, this
13 is wildly hostile to all the things we stand for.

14 CHAIRMAN ALLEN: I think it is just the opposite by
15 the way which is almost the first line of the speech.

16 VICE CHAIRMAN FRIEDMAN: All right. Obviously, you
17 thought this through but you are on such sharp collision with
18 the tenor, I think, of your colleagues on this. I am simply
19 shocked.

20 COMMISSIONER BERRY: May we have a resolution asking
21 the Chairman not to discuss the Commission's position in his
22 speech today in that we do not have one on this subject and
23 that we take issue with his attempt to describe our position.

24 VICE CHAIRMAN FRIEDMAN: Second.

25 CHAIRMAN ALLEN: May I say that you misunderstand the

1 term "describe a position." I said, "describe our situation,"
2 also.

3 COMMISSIONER BUCKLEY: Second your motion, Mary.

4 CHAIRMAN ALLEN: Since we do not have a position,
5 they are, in fact, discussing the position.

6 COMMISSIONER GUESS: Could I amend your motion, Mary,
7 to say that we will issue a statement today indicating the
8 nature of our discussion with the Chairman this morning and
9 that we distance ourselves in his participation in this
10 symposium.

11 COMMISSIONER BERRY: Yes, just say that we don't have
12 any position and we have become aware of this and that he is
13 going as Chairman of the Commission, being funded by the
14 Commission, and that we are distressed and distance ourselves
15 from his behavior and actions.

16 COMMISSIONER GUESS: And, furthermore, that we find
17 the title of his speech as he has transmitted to the Post --

18 COMMISSIONER BERRY: To us. He just told us that was
19 the title.

20 COMMISSIONER GUESS: Right, and I am saying that we
21 find it to be utterly disgusting.

22 COMMISSIONER BERRY: And unnecessarily inflammatory.

23 COMMISSIONER GUESS: Unnecessarily inflammatory and
24 that those words be included in there is a quote in our
25 statement.

1 COMMISSIONER BUCKLEY: Can we be sure that that be
2 released today?

3 COMMISSIONER BERRY: We want that released today,
4 Melvin.

5 MR. JENKINS: Yes, we can do that.

6 VICE CHAIRMAN FRIEDMAN: Let me ask since we are
7 throwing in a lot of stuff all together, I would like summarize
8 carefully what we just agreed to because I think it is a
9 resolution.

10 COMMISSIONER BERRY: All right. I will try it and
11 maybe Ester, maybe both of us get can it down.

12 VICE CHAIRMAN FRIEDMAN: Why don't Ester and you,
13 Mary, put this together and serve as the primary authors.

14 COMMISSIONER BERRY: We can do it right now and
15 Melvin can draft it.

16 COMMISSIONER BUCKLEY: Right.

17 COMMISSIONER BERRY: The first point is that he is
18 going as Chairman and funded by the Commission. The
19 information we received from him tells us that that is the
20 case.

21 MR. O'CONNELL: With the permission of the
22 Commission, excuse me, Commissioner Berry, if you will excuse
23 me, but the Acting Staff Director has just gone out for an
24 additional transcriber to make sure that we have the remarks
25 correctly since this will be done today.

1 CHAIRMAN ALLEN: The transcriber has left?

2 MR. O'CONNELL: No. The normal transcriber is still
3 here but we wanted someone who could pick up the precise
4 quotations.

5 COMMISSIONER BERRY: We are not giving you precise
6 quotations. We want you to summarize it. We are just giving
7 you the points that have to be put in it.

8 COMMISSIONER BUCKLEY: Except for those specific
9 words we said having to do with the title.

10 COMMISSIONER BERRY: Yes, right. So the first point
11 is that we have become aware that the Chairman is making the
12 speech and that he is making it as Chairman of the Commission
13 and funded by the Commission and that we want to acknowledge
14 that we have no position on these issues and that our
15 jurisdiction only extends to considering issues of sexual
16 preference under Administration of Justice and that is the way
17 that we have always handled it and that we distance ourselves
18 both from his participation on the basis that he described it
19 to us and the title of his speech which we regard as
20 unnecessarily inflammatory.

21 VICE CHAIRMAN FRIEDMAN: We should include the title
22 in that resolution.

23 COMMISSIONER BERRY: And include the title of his
24 speech, "Blacks, Animals and Homosexuals, What is a Minority?"

25 COMMISSIONER BUCKLEY: And we also said "utterly

1 disgusting and unnecessarily inflammatory."

2 COMMISSIONER BERRY: Right, and we find that title
3 utterly disgusting and unnecessarily inflammatory.

4 COMMISSIONER GUESS: Question.

5 CHAIRMAN ALLEN: You have called for the question.
6 What is your vote?

7 COMMISSIONER BERRY: Aye.

8 COMMISSIONER BUCKLEY: Aye.

9 COMMISSIONER CHAN: Aye.

10 COMMISSIONER DESTRO: Aye.

11 VICE CHAIRMAN FRIEDMAN: Aye.

12 COMMISSIONER GUESS: Aye.

13 CHAIRMAN ALLEN: I think I heard from everyone. I,
14 of course, vote no. That gives us a vote of six to one. Bambi
15 has left. Is there any further discussion?

16 COMMISSIONER BERRY: No.

17 COMMISSIONER GUESS: Mr. Chairman.

18 COMMISSIONER DESTRO: I don't think there is a whole
19 lot more to discuss. I do have a question, Mr. Chairman, I am
20 sorry, Francis, I didn't mean to interrupt.

21 COMMISSIONER GUESS: Go ahead.

22 COMMISSIONER DESTRO: I will simply refer by date to
23 this question, have you received a response to your letter of
24 September 8th to the White House yet?

25 CHAIRMAN ALLEN: I don't know what you are talking

1 about.

2 COMMISSIONER DESTRO: I understand that you have
3 submitted a letter of resignation as Chairman. Have you heard
4 anything back about that yet?

5 CHAIRMAN ALLEN: I don't know what you are talking
6 about, Bob. You have to fill me in.

7 COMMISSIONER BERRY: Mr. Chairman, is it correct that
8 you have submitted a letter to the White House resigning as
9 Chairman? I only ask because the press is asking me and I
10 don't know.

11 CHAIRMAN ALLEN: The press has asked me also and I
12 have told them that I have done nothing.

13 COMMISSIONER BERRY: All right.

14 COMMISSIONER GUESS: The question is, have you
15 written a letter to the White House in the last 90 days
16 pertaining to your role on the Commission in any way, shape or
17 form?

18 CHAIRMAN ALLEN: I have talked to people in the White
19 House in the last 90 days about my role on the Commission in
20 many shapes and many forms.

21 VICE CHAIRMAN FRIEDMAN: You say you have or haven't,
22 can't hear you.

23 CHAIRMAN ALLEN: Have. I have had conversations in
24 the last 90 days with people at the White House.

25 COMMISSIONER GUESS: Have you written them a letter

1 in the last 90 days?

2 CHAIRMAN ALLEN: I have probably written several
3 letters.

4 COMMISSIONER GUESS: All right. Thank you,
5 Mr. Chairman. I move we adjourn.

6 COMMISSIONER BUCKLEY: Second.

7 CHAIRMAN ALLEN: Very good. The meeting is
8 adjourned.

9 [Whereupon, the meeting of the U.S. Commission on
10 Civil Rights was adjourned at 9:40 o'clock a.m.]

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III. Announcements

(No written material)

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IV. Draft Report on Economic Status of Black Women:
An Exploratory Investigation

(Report previously mailed)

V. Draft Statement on Intimidation and Violence,
Racial and Religious Bigotry in America

(Report previously mailed)



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

9/26/89

Memorandum

To: Members of the Commission

From: Mary Frances Berry
Blandina Cardenas Ramirez

Subject: Focusing the Commission's Work on Education and the
Workplace

In view of the political contentiousness of the Reagan years, it is perhaps surprising that the Commission still exists. Our agenda over the last five years has been dictated, for the most part, by the ideologues who dominated the majority and their staff directors. We believe it is past time for the Commission to move beyond the ideological considerations which have impeded our progress to make a constructive contribution to alleviating one of the most serious problems confronting this nation. There can be no equal opportunity for housing, employment, health care or any other objective if minority youth do not gain necessary skills for the workplace of today and tomorrow. The Commission has the authority to address this subject under its responsibility to appraise laws and policies that may present barriers to opportunity. No other agency within the federal government has a mission broad enough to permit a comprehensive, systematic evaluation of the subject. We ask that every other item on the research and studies agenda be deferred so that the Commission's energies and resources can be concentrated on helping to solve this critical national problem.

We propose that a series of hearings be held around the country, and research studies and analyses be undertaken to assess what tangible measures are being taken by states, cities, and the federal government -beyond rhetoric- to educate minority youth. Commission Hearings outside of Washington, D.C. would allow for the receipt and collection of diverse testimony from the private and public sectors. State Advisory Committees could be utilized to monitor and report on the effectiveness of state and locally administered programs for minority youth. Additionally, staff could access the vast array of literature and scientific studies available on the viability and effectiveness of existing programs and policies.

Once testimony and data derived from the hearings and reports has been analyzed, the Commission would be able to initiate further research into necessary areas. Finally, the Commission would issue a report to the President; the Congress; and the people on how effective or ineffective governmental institutions are at discharging their responsibilities, offer recommendations on what goals should be set and met, make specific suggestions for improvements, and follow up with intermittent reports until the goals are achieved. If we commit and concentrate the resources of the Commission on this project, we believe we can help those who have the task of preparing minority youth for the workplace of today and tomorrow. Most importantly, we can see to it that minority youth education as a component of the national drive to achieve educational excellence will remain a vital issue long after President Bush's education summit is nothing more than yesterday's headlines.

We are asking that this proposal be placed on the agenda for the October, 1989 Commission meeting.

cc: Acting Staff Director.

VII. Motion to Requestion Appropriations Committees
to Reimburse Commissioners for Time Worked over
the Earmark

(No written material)



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 16, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Proposed Report on Asian Civil Rights Issues

At the September 15 Commission meeting, Commissioners requested that staff prepare a proposal to respond to a motion presented by Commissioner Chan. The motion called for evidence on anti-Asian activities gathered at the Commission's Asian round tables and evidence on the Loo Ming Hai case to be used to update the Commission's 1986 report, Recent Activities Against Citizens and Residents of Asian Descent. Staff considered various alternatives. Based on discussions with Commissioners Chan and Ramirez, staff proposes a broader report on Asian American civil rights that would incorporate the evidence on bigotry and violence against Asians.

The proposed report would address the full spectrum of civil rights problems facing Asian Americans, including bigotry and violence. It would supplement the evidence presented at the Asian round table conferences with staff research. The final report would summarize and evaluate the concerns voiced at the Asian round table conferences, recommend follow-up actions, and define an Asian civil rights agenda for 1990s.

The proposed report would require two senior staff members working full time for 4 to 5 months. Assuming that work on this project begins in November, I would expect to have a draft of the report ready for discussion at the April Commission meeting.

I believe that the proposed report would incorporate the substance of Commissioner Chan's motion and also provide a comprehensive evaluation of the civil rights issues facing Asian Americans. I recommend that you accept this proposal.

A staff summary of the main issues discussed at the Asian round tables is attached for your information.



MELVIN L. JENKINS
Acting Staff Director

Attachment



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

October 12, 1989

MEMORANDUM FOR JAMES S. CUNNINGHAM
Director, Office of Programs,
Policy and Research

SUBJECT: Asian Round Table Conferences

This past summer the Commission organized community round table conferences in three cities, Houston, New York and San Francisco, to gather information on the civil rights concerns of Asian Americans. This memorandum summarizes the concerns voiced at these forums and recommends a follow-up course of action for the Commission.

The American Asian community has grown substantially over the past decade, primarily through immigration. Recent Asian immigrants have come from many countries, including China, Korea, Vietnam, Laos, and Cambodia. These recent immigrants have joined older, established Asian communities of Japanese, Chinese, and Filipinos whose ancestors immigrated to this country before the exclusionary immigration laws of the 1920s. Thus, the American Asian community is highly diverse and largely but not exclusively immigrant. Many Asian Americans are highly educated and financially successful, but others are not.

Mirroring the diversity of the American Asian community, the civil rights concerns of Asian Americans are quite varied. Many of these concerns are related to the high proportion of Asian Americans who are immigrants and as such are shared by other immigrant communities, most notably Hispanics. Others are unique to the Asian community.

The concerns expressed by participants at the Asian round table conferences are arranged in broad subject areas and summarized below. The speakers addressed many issues, most of them in the area of civil rights. This memorandum attempts to summarize all of the concerns voiced by participants at the round table conferences.

Bigotry and Violence

Perhaps the greatest concern of the round table participants is their perception that the number of incidents of bigotry and racial violence against Asian Americans has increased in recent years. These incidents range from racist speech on the streets and in the schools, to defacing of property, to physical violence, including murder.

Some round table participants felt that the problem of bigotry and violence against Asians is often aggravated by the insensitivity of police and local officials and occasionally by police brutality against Asians.

Participants felt that the rise in anti-Asian sentiment and the number of hate crimes against Asians has several sources. The high rate of Asian immigration has made Asians more visible in many communities. Jealousy of Asians may arise because of their image as a "model minority," who work hard and become successful quickly. Asians are also perceived as undercutting wages and taking jobs away from other groups.

Many examples of violence and bigotry against Asian Americans were offered by round table participants. A particularly disturbing example is the experience of Betty Waki, the only Asian teacher at Sharpstown High School in Houston, a school with a large population of Asian students. In the early 1980s, Waki was transferred to another school in an effort to achieve racial balance in Sharpstown's teaching staff by reducing the number of "white" teachers. This could be done because the Houston Independent School District (HISD) classifies Asians as white. After strong protests by Asian American community organizations, Waki was allowed to stay at Sharpstown. HISD continues to classify Asians as whites, however. A more serious incident took place last spring, when honors students placed a racist parody of the application to work on the school yearbook, for which Waki is faculty advisor, in Waki's mailbox. The students, initially suspended for three days by the school principal, received a lower penalty upon appeal to the District Superintendent. Waki and several local Asian community organizations are protesting the reversal.

Another compelling example, the Loo murder, was not mentioned at the Asian round table conferences because it had not yet occurred. On July 29, Loo Ming Hai, a Chinese American student at North Carolina State University, was accosted by two white men who mistook him for Vietnamese and pistol whipped him to death.

A difficult problem is determining the extent of violence and bigotry against Asians. Because Asians are often immigrants with poor knowledge of the American system of justice and a cultural reluctance to complain to public officials, there is considerable underreporting of hate crimes against Asians. Many round table speakers advocated passage of the Hate Crimes Bill currently before Congress, which would collect national data on hate crimes.

Participants also called for more education at all levels to sensitize Americans to the reality of bigotry and violence against Asian Americans and to Asian American cultures in general.

Education

The civil rights concerns of Asian Americans in the area of education can be divided into those affecting equal educational opportunity at the elementary and secondary level and those effecting educational opportunity in higher education.

At the elementary and secondary level, many round table participants perceive insensitivity and overt racism among teachers and public school administrators. (An example of their concern might be the treatment of Betty Waki by HISD.) Other round table participants voiced concern over the lack of support for Asian immigrant children. They feel that public schools generally have inadequate funding for bilingual education, too few Asian teachers and counselors.

In the area of higher education, Asian Americans have two major concerns. First, they feel that the admissions standards of many universities, especially prestigious universities are unfair to Asians. In particular, some charge that many institutions have informal quotas limiting the number of Asian students they accept. Second, some round table participants charged that there is anti-Asian discrimination in the administration of financial aid for students, including in Pell grants.

Employment

The civil rights concerns voiced by participants in the area of employment can be divided into those affecting highly educated, professional Asians and those affecting less skilled Asians, many of them refugees with poor knowledge of English and little education.

The primary concern of highly educated Asians is the perception that there is a "glass ceiling" that prevents Asian Americans from rising from professional to managerial ranks. The round table participants felt that the glass ceiling stems from stereotyping of Asians as smart but not aggressive enough to be managers, from unduly high English language proficiency requirements imposed by some firms, and from lack of inclusion in networks. They also felt that Asians are often left out when affirmative action plans are implemented, with firms focusing their efforts instead on women, blacks, and Hispanics.

A striking example of the "glass ceiling" is the case of Paul Wong, who spoke at the San Francisco round table conference. Wong says that, based on solid performance, he was promoted to sales manager in a large company. Then upper-level management was replaced, and his new boss was clearly uncomfortable with him. According to Wong, over the next few months, the new boss criticized his "image" without giving any specifics and once asked Wong to "slow down, I can't write as fast as a Chinaman." Eventually Wong was demoted. When asked why, his boss said that it was his "gut feeling" that Wong would not make a good manager.

Several participants felt that the glass ceiling phenomenon is not exclusive to the private sector. They felt that Asians are discriminated against in promotions to management positions in the Federal, State and local governments. Specific examples cited were the San Francisco city government and the Los Angeles Police Department.

The concerns relating to less skilled Asians were more varied. For instance, it was felt that unskilled Asians, primarily immigrants who lack understanding of American law and culture and who do not speak English well, are often exploited by employers who take advantage of their ignorance to violate labor laws, such as minimum wage and overtime laws and health and safety regulations.

Discrimination against Asians by unions was cited by some round table participants as instrumental in keeping Asians out of certain jobs, particularly in the construction industry.

Another concern is the use of employment tests that require good knowledge of the English language or American culture. Asian immigrants have very low pass rates on personality tests often used by employers. They also have problems with aptitude tests. As an example, in Texas, the General Aptitude Test Battery sponsored by the Texas Employment Commission (TEC) is used by many employers to evaluate prospective employees. TEC rules require that all portions

of the test be taken at once, even when some portions are not related to the nature of work at the particular job the person is applying for. Moreover, since the test is viewed as an aptitude test, retaking the exam is not allowed. Participants felt that this exam was discriminatory towards immigrants, because they could not do well on certain portions of the exam if they did not know English and were not allowed to update their scores when their English knowledge improved.

Occasionally, extra requirements are placed on Asian workers, such as a requirement that they be bilingual. As an example, one participant charged that the Los Angeles Police Department would only hire an Asian if he or she spoke an Asian language.

Employer-imposed English-only work places are of great concern to Asian workers. They charge that some employers require that English be spoken at all times, even during breaks and on personal phone calls.

Equal Employment Opportunity Commission (EEOC)

Participants at the round tables seemed to have a general perception that the EEOC is not doing enough for Asians. In particular, one participant charged that the EEOC typically files complaints made by Asians as Title VII national origin complaints rather than as race complaints, thereby depriving Asians of punitive damages and other remedies available under the provisions of the Civil Rights Act of 1866.

Government Programs to Encourage Minority Business

Some participants felt that Asian-owned firms were typically left out of government programs to subsidize and encourage minority business. One participant spoke of a government minority set-aside for which he was held ineligible because it was for an Hispanic neighborhood. Another participant stated that government set asides are often earmarked for a particular minority group, and hence firms owned by a mix of minorities were at a disadvantage in obtaining these contracts.

Voting Rights

In the area of voting rights, many Asians are concerned that voting materials are not often enough provided in Asians' native languages. Some argued that redistricting could be achieved to increase Asian political power in local

elections, particularly in New York City and San Francisco. The 1980 Census undercount of Asians, they charge, undermines their political power. They also acknowledge the extremely low voter participation rates of many Asian groups as a reason for the lack of Asian political representation.

1990 Census

Many round table participants voiced concern about the 1990 Census. They see an accurate count in the 1990 Census as a way to increase their political representation and as a way to gain useful information about Asians. For this reason, they are very concerned about a possible undercount in the 1990 Census. One participant recommended that in addition to a planned publicity campaign to get Asians to participate in the Census, "cultural agents" accompanying census takers are necessary to reach out to immigrant Asian groups. Another participant thought that more Asian census takers should be hired and felt that the Census policy of only hiring citizens was a barrier to achieving an accurate count of Asians. One participant supported the post-enumeration survey planned to estimate the undercount, but felt that its size should be increased.

Participants also voiced concern about their fight to keep various Asian groups as separate boxes on the race question in the 1990 Census. They feel that the separate boxes are necessary to get accurate information about Asian Americans, since there is a great deal of diversity among Asian groups. After a long battle, the Bureau of the Census has agreed to this demand.

A final concern expressed by round table participants was about the timeliness of the Census Bureau's release of information on Asians. They complained that the published volume on Asian and Pacific Islanders for the 1980 Census was not released until 1988, long after the published volumes for other racial and ethnic groups.

Immigration Policy

Asian Americans are very concerned about the discriminatory impact of the Immigration Reform and Control Act (IRCA). They feel that the employer sanctions provision of the Act causes discrimination against Asians. They also charge that Asian and Hispanic-owned firms have been targeted by the Immigration and Naturalization Service (INS) for enforcement efforts. Finally, they are concerned that not enough effort was made to get eligible Asians to apply for amnesty under IRCA.

Round table participants also voiced other concerns about the United States immigration policy. They charged that the INS is illegally using local police to enforce immigration policy by using them in raids of employers. Moreover, they request that immigration raids be halted altogether during the period of the Census count, so as not to discourage Asians from participating in the Census.

A final concern related to the proposed Kennedy-Simpson-Simon bill in the Senate and other possible bills in the House that would substantially reduce the number of immigrant visas granted under family preference. Many participants felt that these bills are motivated out of anti-Asian sentiment. They point to the long history of discrimination against Asians in the United States Immigration Policy as support for their fear.

Provision of Public Services

Many round table participants were concerned that Asians are not given equal access to public services. Reasons for this range from racism or insensitivity of public officials, to difficult access for persons who do not speak English, to insufficient outreach to Asian communities. Sometimes the problem stems from the unwillingness of many Asians to use the services. For instance, many Asians are reluctant to complain to the police when they are harassed or attacked. One speaker said that mental health care for Asians is often hampered by a lack of qualified translators, and often family members are used for this purpose, severely undermining professional standards.

Another speaker said that battered Asian wives are often unable to obtain help because of their lack of knowledge of the system and because of their economic dependency on their husbands. Many immigrant wives are trapped in abusive marriages because they only have conditional permanent resident visa status, and cannot become regular permanent residents unless their husband applies for them.

Several concerns cut across categories and should be given attention:

Stereotypes

Asians are very concerned that they do not have equal opportunity because they are stereotyped. For instance,

they feel that one of the reasons they do not often achieve management positions is that they are stereotyped as non-aggressive and not interested in managing.

Many participants felt that the stereotype of Asians as the "model minority" whose members come to this country and quickly achieve academic and financial success is particularly harmful. First, the prevalence of this stereotype could lead to underestimation of the extent of discrimination against Asian Americans and second, it may detract attention from the need of Asian groups that are less successful. Many participants felt that the model minority stereotype is partially responsible for the lack of funding for educational programs to help immigrant Asian children. They also felt that the model minority stereotype creates resentment of Asians by other minority groups and is partially responsible for the bigotry and violence they experience.

Many participants felt that to combat these stereotypes educational programs need to be instituted to teach students, firms, and others about Asian Americans and that the media should be more sensitive to the consequences of their coverage of Asians in this country.

Minority of Convenience

Asians are concerned that they are being used when educational institutions and employers seek to publicize their success at attracting minorities, but they are given few of the privileges afforded other minority groups.

Diversity of Asian Groups

The round table participants stressed that Asian groups are quite varied. They are concerned when Asians are thought of as a single homogeneous group, the problems facing individual Asian groups, particularly disadvantaged groups are overlooked. They were particularly concerned that data be collected on each group separately in the 1990 Census.

Classification of Asians as Minorities

Related to the concern that Asians not be used as a minority of convenience and the concern that the diversity of the Asian community be recognized is concern that Asians are not consistently classified as minorities. Sometimes, as in the Houston Independent School District, Asians are classified as whites. Other times they are lumped together with other

minority groups. Some Asian groups, most notably Asian Indians and Filipinos, are often not classified as Asian. It was felt that in some instances it would be better to classify each Asian group separately, so that their individual needs could be met. These concerns raise the broader issue of what is a minority, and when should a population group be classified as a minority.

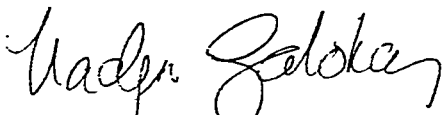
Language Discrimination

Asians are very concerned about discrimination based on English language proficiency. This concern was voiced in the areas of employment, education, and voting rights.

Asian Culture

A final concern that was voiced frequently is that Asians do not have equal access to public services because their culture does not encourage them to seek their rights actively and to complain if they are not granted.

The round table conferences provided a valuable forum for gathering information about the civil rights concerns of Asian Americans. The Asian Americans who participated in these conferences spoke eloquently of their problems, their needs, and their perceptions. Their statements uncover many avenues for investigation, but generally do not provide sufficient evidence for an immediate call for action. Staff feel that in order to reach a good understanding of the civil rights issues facing Asian Americans, more research needs to be undertaken to substantiate the statements made during the round table conferences and to define the issues clearly. Staff recommend that this research be carried out and incorporated in a report that would summarize and evaluate the concerns voiced at the Asian round table conferences, recommend follow-up actions, and define an Asian civil rights agenda for 1990s.



NADJA ZALOKAR
Economist



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

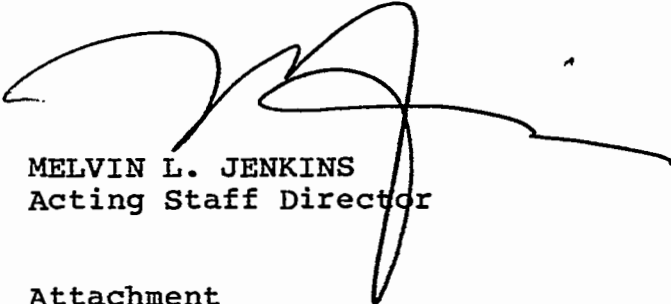
1121 Vermont Avenue, N.W.
Washington, D.C. 20425

October 6, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Alabama SAC Report

I am submitting for your review and action at the October Commission meeting the attached Alabama SAC report on State employment of minorities and women. The SAC approved this report by a 9-0 vote. I recommend Commissioner approval of this report.



MELVIN L. JENKINS
Acting Staff Director

Attachment

THE EMPLOYMENT OF MINORITIES AND WOMEN
BY ALABAMA STATE GOVERNMENT

ALABAMA ADVISORY COMMITTEE
to the
U.S. COMMISSION ON CIVIL RIGHTS

October 1989

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.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

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 discriminatory denials of the right to vote, study of legal developments with respect to discrimination or denial of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denial of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denial 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.

THE STATE ADVISORY COMMITTEES

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 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
October 1989

MEMBERS OF THE COMMISSION

William B. Allen, Chairman
Murray Friedman, Vice Chairman
Mary Frances Berry
Esther G. Buckley
Sherwin T.S. Chan
Robert A. Destro
Francis S. Guess
Blandina C. Ramirez

Melvin L. Jenkins, Acting Staff Director

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

ALABAMA ADVISORY COMMITTEE

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Tuskegee

Odessa Woolfolk
Birmingham

ACKNOWLEDGMENTS: This report was the chief staff assignment of William F. Muldrow, Civil Rights Analyst for the Central Regional Division of the U.S. Commission on Civil Rights. Support services were provided by Jo Ann Daniels. The project was carried out under the overall supervision of Melvin L. Jenkins, Acting Staff Director.

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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. Eleventh Circuit 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
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
Technicians	1,643	100	67	4.1	256	1.6	1,851	100	253 (248)	13.7 (13.4)	445	24
Protective Services	1,548	100	108	7.0	33	2.1	3,304	100	1,135 (1,129)	34.4 (34.2)	293	8
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
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
Skilled Craft	1,477	100	154	10.4	176	11.9	1,004	100	181 (178)	18.0 (17.7)	75	7
Service Maintenance	2,111	100	947	44.9	638	30.2	1,841	100	1,002 (997)	54.4 (54.2)	537	29
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

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	51.57X	48.43X
PRINCIPAL (K-12)	255	40	295	86.44X	13.56X
PRINCIPAL (K-6)	338	209	547	61.79X	38.21X
PRINCIPAL (4-8)	118	28	146	80.82X	19.18X
PRINCIPAL (7-12)	263	20	283	92.93X	7.07X
VOC. ED. ADMINISTRATOR	81	11	92	88.04X	11.96X
ASST. PRINCIPAL (K-12)	103	18	121	85.12X	14.88X
ASST. PRINCIPAL (K-6)	47	75	122	38.52X	61.48X
ASST. PRINCIPAL (4-8)	61	26	87	70.11X	29.89X
ASST. PRINCIPAL (7-12)	263	50	313	84.03X	15.97X
SUPERVISOR	75	81	156	48.08X	51.92X
ATTENDANCE SUPERVISOR	27	11	38	71.05X	28.95X
NUTRITION ADMINISTRATOR	11	29	40	27.50X	72.50X
TRANSPORTATION SUPERVISOR	25	0	25	100.00X	0.00X
SUPERINTENDENT	121	6	127	95.28X	4.72X
ASST. SUPERINTENDENT	71	15	86	82.56X	17.44X
ADMINISTRATIVE ASST	36	9	45	80.00X	20.00X
COORDINATOR	114	98	212	53.77X	46.23X
SPECIAL ED. COORD.	26	67	93	27.96X	72.04X
TOTAL	2,265	1,009	3,274	69.18X	30.82X
SUMMARY:					
SUPERINTENDENTS & ASST'S.	192	21	213	90.14X	9.86X
PRINCIPALS & ASST'S.	1,448	466	1,914	75.65X	24.35X
SUPERVISORS	357	308	665	53.68X	46.32X
ALL OTHER	268	214	482	55.60X	44.40X
TOTAL	2,265	1,009	3,274	69.18X	30.82X
NATIONAL DATA:					
PERCENT OF TEACHERS THAT ARE MEN	21.27				
RANK	44th				

SOURCE: Alabama Department of Education as supplied by Frances

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 EEO and Compliance
Alabama Department of Human Resources, June 23, 1988.

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

FILED

FEB - 1 1988

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.

Myrdal Odom
United States District Judge

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

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Dated: 7/6/87



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425


OFFICE OF STAFF DIRECTOR

October 6, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Kentucky SAC Report

I am submitting for your review and action at the October meeting the attached Kentucky SAC report on State employment of minorities and women. The SAC approved this report by a vote of 11-0. I recommend Commissioner approval of this report.



MELVIN L. JENKINS
Acting Staff Director

Attachment

THE EMPLOYMENT OF MINORITIES AND WOMEN
BY KENTUCKY STATE GOVERNMENT

KENTUCKY ADVISORY COMMITTEE
to the
U.S. COMMISSION ON CIVIL RIGHTS

October 1989

This summary report of the Kentucky 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.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

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 discriminatory denials of the right to vote, study of legal developments with respect to discrimination or denial of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denial of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denial 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.

THE STATE ADVISORY COMMITTEES

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 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

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

October 1989

MEMBERS OF THE COMMISSION

William B. Allen, Chairman
Murray Friedman, Vice Chairman
Mary Frances Berry
Esther G. Buckley
Sherwin T.S. Chan
Robert A. Destro
Francis S. Guess
Blandina C. Ramirez

Melvin L. Jenkins, Acting Staff Director

Attached is a summary report of information received at a community forum conducted by the Kentucky Advisory Committee in Frankfort on the employment of minorities and women in State government. By a vote of 11 to 0, 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 State's affirmative action efforts it did highlight issues which the Committee will continue to monitor.

/s/

Porter G. Peeples, Sr., Chairperson
Kentucky Advisory Committee

KENTUCKY ADVISORY COMMITTEE

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Louisville

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ACKNOWLEDGMENTS: This report was the chief assignment of William F. Muldrow, Civil Rights Analyst of the Central Regional Division. Support services were provided by Jo Ann Daniels. The project was carried out under the overall supervision of Melvin L. Jenkins, Acting Staff Director.

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INTRODUCTION

In keeping with its responsibility to monitor civil rights developments in the State, the Kentucky Advisory Committee to the U.S. Commission on Civil Rights conducted a community forum in Frankfort, Kentucky, on March 14, 1989, to gather information on issues, developments and programs concerning affirmative action and equal opportunity in State employment for minorities and women. Government agency representatives, attorneys, and leaders from employee and community organizations made presentations to the Advisory Committee, and an open session provided opportunity for the general public to participate. A summary of the information received at the forum is presented in this report.

Persons who participated in the forum were Commissioner Thomas C. Greenwell from the Kentucky Department of Personnel and who also represented the Governor's office; Arthur Hatterick, executive director of the State personnel board; Karla Walker, president of Blacks in Government; George Parsons, president of the Kentucky Association of State Employees; Charlesmarie Maxberry, president of the Women in State Government Network; William Coefield, president of the State NAACP; Dr. Betty Sue Griffin, representing the National Council of Negro Women; Daniel Goldberg, directing attorney for the Appalachian Research and Defense Fund of Kentucky, Inc. (APPALRED); Henry J. Curtis, attorney chief for the department of parks; Daniel F. Egbers, attorney for the office of general counsel, cabinet for human resources; Jack O'Nan, personnel branch manager for the natural resources and environmental protection cabinet; Louis Mathias, attorney for the department of State police; Phyllis Alexander, executive director of the Kentucky Commission on Women; Angela Koshewa, assistant compliance director for the Kentucky Human Rights Commission; and

Paul Gholston, Area Director for the Equal Employment Opportunity Commission (EEOC).

Kentucky State government, with more than 32,000 full-time employees, is the largest single employer in the State. It also receives a large amount of Federal money and is subject to Federal and State laws prohibiting discrimination in the disbursement of these funds and in its employment practices. A State affirmative action plan confirmed by Executive Order 84-549, continued in force by Executive Order 88-100 and incorporated into Senate Bill No. 163 in 1988, seeks to ensure equal employment opportunity on the basis of race, color, religion, national origin, handicap, sex, and age by requiring participation and compliance by government agencies. It specifies that the plan be implemented by the commissioner of personnel and that all cabinets, departments, and agencies of State government develop programs consistent with the plan and incorporating goals and timetables. (An organizational chart of State agencies is attached as appendix A.)

In addition, the plan provides for technical assistance in the accomplishment of its objectives, requires an annual analysis to assure that protected persons are not adversely affected by examination and selection procedures, and requires validation of examination procedures where practiced.

Information provided by the Kentucky Human Rights Commission (KHRC) shows that, though there was a steady increase in the percentage of full-time black employees in Kentucky State government between 1971 and 1981 from 4.9 percent to 7.2 percent, the proportion then remained relatively unchanged through 1987 (see table I). Thomas C. Greenwell, commissioner for the State department of personnel, reported at the Advisory Committee's community forum that as of February 28, 1989, nonwhite

employees accounted for 7.81 percent of the statewide work force.

The KHRC reported that, in 1987, the black labor force in Franklin County, where most government offices are located, was 7.5 percent. Table II shows that the proportion of black employees in individual cabinets varies widely. In 1987 the cabinet for natural resources and environmental protection had only 1.2 percent black employees, the lowest statistic for any of the large cabinets, whereas the cabinet of human resources had the highest proportion of black employees, 11.9 percent.

Table III shows that in 1987 there was also wide variation in the proportion of blacks employed in the various occupational services. In health services 19.4 percent of the employees were black, whereas in administrative services 5.8 percent were black, and in educational services 2.5 percent. Table IV shows that on average, black employees in 1987 received only 77.7 percent of the average white salary. This black-white salary gap varies considerably between cabinets as shown in table V. In 1987 the average annual salary for blacks in the transportation cabinet was 71.7 percent of that for whites, whereas in the commerce and labor cabinets it slightly exceeded that for whites.

The KHRC also reported that the proportion of State employees who are women reached the highest level ever in 1986, 48.2 percent. (See table VI.) Commissioner Greenwell said at the community forum that in February 1989 47.3 percent of the work force in State government were women, compared with 52 percent for the statewide work force. Table VIII shows that, as with the employment of blacks, the percentage of women employed varies widely from cabinet to cabinet. In 1986, for example, the transportation cabinet employed 17.2 percent women and the cabinet for human resources employed 71.5 percent. The KHRC also reported (table VIII) that women employed in State government earned an average of 81.8 percent

as much as men. This figure also varied widely among cabinets (table IX), ranging from 42.9 percent in the judicial branch to 89.4 percent in the corrections cabinet. Table X lists the State offices in which the average 1986 salary for women was at least \$10,000 less than that of the average salary for men.

ENFORCEMENT OF THE STATE AFFIRMATIVE ACTION PLAN

Thomas Greenwell, commissioner of the Kentucky Department of Personnel, is the chief enforcer of affirmative action plans in State government. He said that prior to the enactment of Senate Bill 168 in 1988, affirmative action in the public work force was largely voluntary. Until 1988, affirmative action constituted a formal policy only in the department of personnel, though Federal programs administered by the State required the adherence to guarantees and guidelines to provide for equal opportunity. The action of the State general assembly in 1988 placed responsibility for enforcing the law with the department of personnel and the Kentucky Personnel Board.

Mr. Greenwell explained that, though affirmative action had been law in Kentucky for almost a year, the timetable of the plan had only been in effect for three months. He felt that despite the short time since the plan took effect, it could be said that the plan was both comprehensive and effective, made so by the commitment of the Governor and general assembly to it and by its specific goals and timetable. The plan, he said, has virtually adopted the eight EEO occupational categories utilized by the Equal Employment Opportunity Commission (EEOC), and all 1,450 job classifications in Kentucky State government have been coded accordingly. The 13 governmental cabinets of the State are required to design and implement affirmative action plans which comply with State and Federal law with regard to recruiting, hiring, training, and promotion practices. The

responsibility for these practices, he said, lies with the 13 cabinet secretaries and their staffs.

Mr. Greenwell reported that parity for the employment of nonwhite minorities, and the plan's goal of 7.4 percent minority employees, had been achieved and exceeded. He said parity for the employment of women at 52 percent of the statewide work force had yet to be achieved and was presently 47.3 percent. He said that the 13 cabinets are largely in compliance with the State plan, having issued the required policy statements, made utilization reports to the department of personnel, and designated EEO coordinators and counselors. However, 10 of the 13 cabinets have not forwarded their plans to him as the State plan requires, and he used the occasion of the forum to call those 10 cabinets to comply with the law and to direct them to submit their plans by April 1, 1989.

Mr. Greenwell said that the accountability process called for a report every six months from the State EEO coordinator in the department of personnel on the affirmative action record of each cabinet. Upon review and approval this is shared with the Governor. He said this report contains the current breakdown of all employees by race and sex, a statement on compliance with goals and timetables, and the number of women and minorities required for recruitment or promotion in order to be in compliance. He reported that there are 28,000 qualified applicants on job bank registers with Kentucky State government, and enough minorities within the work force to reach affirmative action goals in all categories.

Mr. Greenwell provided statistics showing that 52 percent of the 2,394 new State employees hired during fiscal year 1988 were women and 12 percent minorities. During the same period 4,196 incumbent employees were promoted, 52 percent of them women and 7 percent minorities. The greatest need, he said, is for training and educating incumbent minority workers for

jobs in the middle and upper EEO categories.

He reported that in 1988 supervisors, managers, and policymakers from State and local governments were familiarized with the State affirmative action plan. During the year, he said, the State EEO office within the department of personnel was restructured to elevate the State EEO coordinator to the commissioner's office, reporting directly to him. Deputy Commissioner of Personnel Raoul Cunningham was named to the position and a total staff of three persons work in the area of affirmative action and equal employment opportunity. Mr. Greenwell said that in connection with this restructuring he had appointed a citizen's advisory committee including the 13 cabinet EEO coordinators and representatives of hearing-, vision- and mobility-impaired State workers. He also reported that the employee grievance process, which accommodates EEO complaints, has been merged with the employee assistance program.

Mr. Greenwell said agency heads are given responsibility for identifying and correcting problems and barriers in the achievement of goals and timetables. Corrective action is triggered by any one of five characteristics with regard to target groups: underutilization, retarded vertical or lateral movement, elimination in the selection process, decreased participation in workshops and training events, and evidence of nonadherence to agency policy by managers and supervisors.

He said that a formalized system for resolving grievances and EEO complaints has been provided which brings the aggrieved employee and the immediate supervisor, and in some cases the appointed authority as well, face-to-face. If there is no resolution at this level appeal can be made to the Kentucky Personnel Board, which has authority to render a binding decision resolving the grievance.

Arthur Hatterick stated that the personnel board, of which he is the director, is an independent body designed primarily to hear employee appeals and complaints covered by the State merit system, chapter 18. The board, he said, has a large backlog of appeals and is almost a year behind in scheduling cases. He considered this to be unacceptable but the best that could be done with the present budget appropriation. He reported that, despite the limitations of funds, during the past fiscal year 300 appeals were heard and final orders issued on 500 cases. Six hundred appeals were filed during that year.

These appeals, he said, are all addressed on a first-come, first-served basis, which sometimes generates problems for complainants or for their witnesses because of the timing. He reported that about 10 percent of the appeals filed involve allegations of discrimination, and about half of those relate to race, sex, or age. Many of these involve charges of discriminatory disciplinary action or discrimination in promotion practices.

Mr. Hatterick was hopeful that the formalized procedure referred to above by Mr. Greenwell, which would resolve grievances and EEO complaints at lower levels, would solve a lot of problems for the personnel board by diminishing the number of adversarial confrontations and reducing the number of appeals.

Mr. Hatterick said that the jurisdiction of his board extends to the hiring process and job applicants, and that complainants can file complaints directly with the board, rather than waiting to appeal a decision made at a lower level. He said the board has authority to direct agencies to comply with remedies it prescribes. He went on to explain that either party can appeal decisions of the board to the circuit court within 30 days and, upon winning an appeal before the court, attorney fees may be awarded for cases heard by the personnel board.

Mr. Hatterick reported that there are seven members on the board. Five members are appointed by the Governor, of which three are currently white males and two white females, and two are merit employees elected by the employees themselves. One of these is a white male and one a black male. The current appointed members are professional managers or attorneys and one is a former city mayor. The elected merit employees both have a background of personnel experience.

Mr. Hatterick explained that State employees can file a complaint, with either the personnel board or the KHRC. Filing with the board must be done within 30 days of the alleged action, or with the KHRC within 180 days. The board can enforce its own remedies, but the KHRC must rely on the court to do so.

THE PERSPECTIVE OF EMPLOYEE ORGANIZATIONS

Karla Walker, president of Blacks in Government (BIG), stated that her organization functions as an employee support and advocacy group for equal opportunity, and provides resources and information for black government employees. Ms. Walker stated that the effectiveness of the State's current affirmative action plan cannot be assessed at this point because it has not been fully implemented or enforced. Some agencies, she said, have attempted to meet Federal requirements but none have fully or adequately participated in the State's plan. She believed that if the plan is not enforced most agencies would do only a bare minimum. BIG has observed that, based upon information provided by the KHRC and comments by employees, no progress has been made in nondiscrimination for minorities. Specifically, she alleged that there is lack of opportunity for training, unequal treatment on the job, lack of opportunity for promotion or career development, and disproportionate disciplinary action for blacks.

Ms. Walker said that it should be thoroughly understood that the number of minorities and women hired is not the only determinant in assuring equal opportunity. She charged that no definite steps have been taken to promote minorities and women to upper levels, that blacks are disproportionately found in the lower salary positions, and that few are able to obtain upgrades to higher level positions for which they qualify. She also said that the discipline of black employees at a substantially higher rate than other employees had been reported to the EEOC, the KHRC and the personnel board, but no improvement has occurred. Legal action has not been pursued by black employees, she said, because of the inability to recover legal fees (Mr. Hatterick reported above that State law now allows court awards of attorney fees), and the personnel board provides no legal help for employees when complaints are brought to it.

Ms. Walker listed what she believed to be several problems and barriers in achieving the plan's goals: a lack of commitment by the government extending down through agency heads and department managers, a lack of funding and staff for State EEO programs, a lack of enforcement, a lack of training for employees regarding civil rights laws, and a lack of education in the area of civil rights in the Kentucky educational system. She said that because there was no enforcement there was a lack of adherence to goals and timetables, and lack of confidence in the effectiveness of the EEO system.

There is also, she said, a lack of knowledge and confidence in the complaint procedure which, because it has no legal standing, is inoperable. In her opinion the procedure depended upon good faith and commitment on the part of managers and was designed to frustrate or dissuade individuals from

filing complaints. She said that many employees, including management, are unaware that the EEO complaint procedure exists.

She asserted further that agencies are not trained with regard to the affirmative action plan, are not made to take responsibility for implementing the plan, and fear political retaliation if they set the pace for compliance.

Ms. Walker offered the following as specific recommendations for ending disparities or discrimination in State employment:

1. Staff, funds, and implement needed civil rights and affirmative action programs.
2. Create an EEO compliance and enforcement office that reports directly to the Commissioner of Personnel with the required authority. (According to Commissioner Greenwell, such an office has been created.)
3. Identify and enforce goals and timetables according to the affirmative action plan.
4. Encourage Federal agencies to fulfill their responsibility to monitor and require compliance by State agencies.
5. Provide for the recovery of legal fees for those who successfully pursue civil rights claims before the Kentucky Personnel Board.
6. Provide sanctions against those who violate civil rights laws.

Ms. Walker felt that, although on paper Kentucky has an affirmative action plan, realistic implementation is improbable because of lack of enforcement. She said that her organization had not requested an opportunity to discuss its recommendations with the commissioner of personnel or his deputy but would be open to the opportunity to do so. In response to questions from Advisory Committee members she said that, to her knowledge, there were no black members on the citizen's affirmative action advisory committee.

Charlesmarie Maxberry, president of the Women in State Government Network, explained that her organization provides programs and activities designed to enhance the professional growth of women. With regard to employment in State government she said women experience discrimination beginning with the interview process where, for example, questions were asked about their plans for having children. Women and minorities, she said, are anxious to compete for jobs but some vacancies are never advertised. She reported that a survey of State employed women taken by her organization found that 80 percent of them felt that there were not adequate promotional opportunities in their agencies. Others who were classified as administrators said they were never given supervisory responsibility or allowed to participate in making decisions. She said that women do not file grievances because they feel intimidated and are afraid they will be labeled as troublemakers, especially when the problem involves their immediate supervisors.

Ms. Maxberry said that representatives from the Women in State Government Network had discussed their concerns with the commissioner of personnel and that he had explained the State guidelines under which he is working. She reported that he was receptive to their concerns and offered to continue communication with them.

George Parsons, president of the Kentucky Association of State Employees, stated that the State affirmative action plan has not been implemented, and that despite statements of commitment to equal opportunity, little effort has been made to recruit, hire, or promote minorities, women, and handicapped individuals to management positions. Few employees have seen the plan and few agencies have fully complied with it. He saw no clear policy or direction from the State's executive

staff to assure progress in nondiscrimination, and he charged that there was a lack of commitment, leadership, funds and staff to implement an effective effort in this direction.

Mr. Parsons listed three avenues open to State employees to pursue civil rights concerns: the Kentucky Personnel Board, the Federal EEOC, and the Kentucky Human Rights Commission. Each of these, he said, has serious drawbacks: the State personnel board is not staffed to investigate and monitor civil rights violations and does not provide for the recovery of legal fees by successful complainants, the EEOC cannot enforce a finding of discrimination against State agencies, and the KHRC is a State agency, and many women and minorities are reluctant to pursue complaints against the State with it.

Mr. Parsons suggested that the Governor and all executive officials be advised to implement the law, that all agencies be petitioned to carry out their enforcement and compliance responsibilities, that the reason for the unusually high number of disciplinary activities involving minorities be investigated and the problem remedied, and that all employees be given equal opportunity to achieve promotions and salary increases. He also suggested that jurisdiction of the KHRC be extended to include handicapping condition though the commission has opposed this proposal because of the condition, extra cost involved.

THE PERSPECTIVE OF COMMUNITY ORGANIZATIONS

William Coefield, president of the Kentucky NAACP, provided a comparative review of minority employment by the State of Kentucky in 1983 and 1988. He said that in 1983 there were four agencies which employed no minorities, and that there were no minority cabinet heads. Sixteen

agencies employed from 1 to 7 percent minorities, and nine agencies had more than 7 percent minority employees. In 1988 two agencies had no minority employees and a minority headed one cabinet. Twenty-two agencies had from 1 to 7 percent minority employees, and 10 agencies employed more than 7 percent minorities. In 1983, 6.8 percent of the State government work force was minority, and in 1988 it was 7.8 percent.

Mr. Coefield pointed out that the goal of the affirmative action plan for State government minority employment to achieve parity with the State work force had been achieved, and the proportion of minority employment had increased 1 percent since 1983. He believed that the State affirmative action plan had made a difference in achieving these gains and in the decrease in the number of agencies employing no minorities.

Mr. Coefield also provided comparative statistics of minority employees by job categories for those two years which showed that most minorities continue to be employed in the lower paying positions:

	<u>1983</u>	<u>1988</u>
Officials and Administrators	2.9%	3.0%
Professionals	4.7	5.2
Technicians	5.7	5.8
Protective Services	6.6	5.7
Paraprofessionals	13.4	12.6
Office and Clerical	8.1	7.3
Skilled Craft	4.1	6.2
Service and Maintenance	19.4	16.75

He pointed out that though the State affirmative action plan requires State agencies to develop action plans specifying how goals are to be attained, it does not specify sanctions for agencies that do not make good faith efforts to comply. He felt that without such an enforcement mechanism any gains made were tenuous.

Mr. Coefield said that employees have several avenues for filing complaints of discrimination. These are the State grievance and EEO

complaint process, the Kentucky Personnel Board, the KHRC and the EEOC. The latter three agencies, he said, are administrative bodies whose processes take a year or so, and the remedial avenues when State government agencies are not demonstrably reliable or effective.

Mr. Coefield suggested: (1) the State should devise, implement, and monitor a career advancement program to enhance the pool of qualified minorities; (2) a State EEO coordinator with strong experience in affirmative action and EEO should monitor the progress of each department toward goal achievement, assist with recruitment efforts, maintain current statistics, and make recommendations for correcting deficiencies (Personnel Commissioner Greenwell announced that this position, which had been vacant, was now filled.); (3) sanctions should be explored for agencies in noncompliance with the affirmative action plan; and (4) commitment to achieving results should start with the top officials and filter throughout the work force. Mr. Coefield said that, in the past, agency leaders have been responsive to suggestions from the NAACP.

Dr. Betty Sue Griffin, a representative from the National Council of Negro Women (NCNW), stated that there is a serious problem with State employment practices for minorities and women in Kentucky, and referred to statistics furnished by the KHRC which indicated lower average salaries for black employees than for those who are white. She reported that the NCNW attempted to rectify some of the problems by providing workshops to develop leadership skills and to provide employment information.

A LAWSUIT AND ITS AFTERMATH

Daniel Goldberg, directing attorney for the Appalachian Research and Defense Fund of Kentucky, Inc. (APPALRED), reviewed the particulars of a Federal court case in which Ms. Jo Ann Bowie had alleged that she was

denied advancement to a permanent position in the department of parks because of her race. Statistics presented to the court showed that the department employed 64 blacks (2.10 percent) in a total work force of 2,931 at the peak of the summer season in 1980. From 1978 to 1980, a three-year period, 269 full-time appointments were made, of which five, or less than one percent, were black. There were no blacks employed among officials in the 106 higher level positions who earned \$16,000 or more. At the initiative of the commissioner of parks and the department's attorney, a consent decree signed in 1987 had four key elements: an overall hiring percentage goal of 7.2 percent, a recruitment plan for disseminating job vacancy information with emphasis on minority recruitment sources, additional recordkeeping to maintain a list of black applicants, and a requirement that the plaintiff's attorney be notified of reasons why any black applicant within the top five names on the eligibility register is not hired.

Mr. Goldberg said that the message this case holds is that agencies must "clean up their acts" or expect action in Federal court. He said, however, that progress has been made in this case, not because the court compelled it, but because the responsible officials wanted to make it happen and were willing to do so. Despite initial contentions that blacks were not available for employment in the rural counties where parks are located, in the 1988 summer season the department placed 149 blacks out of 1,053 new hires, raising its seasonal work force to 14 percent black in a single effort. And despite a much slower rate in permanent job categories, black employment went from two percent to five percent in a little over a year. Mr. Goldberg felt that this is an example of what can be done if appointing authorities cease paying lip service to affirmative action and do what is in the public's interest because it is the right thing to do.

Mr. Goldberg indicated that funds for legal services to handle the complaints of poor people, who tend to need help the most in discrimination cases, are scarce. He said only half the number of attorneys needed to provide minimum access to the courts for poor people are available through his office.

Henry J. Curtis, attorney chief for the department of parks, said that the consent decree under which the department now operates resulted from negotiations started because of potentially huge attorney fees and the possibility of a Federal magistrate dictating personnel actions to the department. Implementation of the resulting consent decree has utilized recruiting, testing, and certification assistance from the departments of personnel and employment services. The consent decree, he said, is a simple, streamlined document requiring good faith efforts, with an extended recordkeeping system for use in reporting annually to the plaintiff's attorneys.

Mr. Curtis feels that an important feature of the consent decree is the communitywide effort involved in recruiting minorities. Assistance is provided by such entities as the Job Corps centers, the NAACP branch chapters, the Urban League agencies, vocational schools, and the six major State universities. This network is believed to be at the heart of the success which they have achieved. He reported that the department of parks is on schedule in terms of implementing affirmative action, and that for the first time the department has two black managers who have turned out to be super administrators. He was not certain, however, that the good faith effort involved would work as a voluntary measure by other agencies that are not under pressure by the Federal district court.

THE PERSPECTIVE OF STATE AGENCIES

Daniel F. Egbers, an attorney for the cabinet for human resources, said that over the years disparities have been found in hiring, promotions, salaries, and discipline practices, but that he has never had cause to admit that a complaint of discrimination against a supervisor or institution was well-founded. He said, however, that in several instances where allegations of racial and sexual discrimination were brought to his attention, disciplinary action was taken against supervisors for fostering hostile racial or sexual atmospheres in the workplace. It is the practice of the department, he said, to encourage employees to file legitimate grievances and to take prompt corrective action where evidence of discriminatory conduct is found.

Mr. Egbers stated that in his practice before the State personnel board the large backlog of cases was extremely frustrating to him, and that it had been recommended to the board that hearings be structured to hear cases first in which individuals have been removed from the payroll, rather than on a first-come, first-serve basis. He felt that frivolous civil rights complaints, of the use of minority status as an excuse for poor work performance or misconduct, was antithetical to the civil rights movement and only served to demean valid complaints. When reviewing a request to take disciplinary action, Mr. Egbers said, the practice has been to make no inquiry as to the race of the employee involved unless race itself was the issue.

It was his observation that due to their heavy workload, investigators for the KHRC may turn a jaundiced eye to some of the complaints or appeals they are asked to investigate because of their frivolous nature. He said that the personnel board, however, was required by statute to hear any appeal except where filing is not done on a timely basis.

Mr. Egbers said that, though there are State job classifications in which minorities are underutilized, his department has opposed regulations that would limit consideration of outside applicants for vacancies as this would inhibit opportunities for recruitment of qualified minority applicants and institutionalize the inequity. He also said that he did not wish to suggest that the cabinet for human resources has been successful in meeting all of the affirmative action goals established by the Governor's plan, but that recent information indicated that minorities are underutilized in only one category, officials and administrators, and that women are underutilized in three categories, officials and administrators, protective service workers, and skilled craft workers. Mr. Egbers observed that most minorities employed by the cabinet are at the lower end of the pay scale and that the options available for correcting salary structure are rather limited. Supervisors are required to justify their actions if they do not elect to interview a minority candidate when there is a job opportunity at a higher classification.

Jack O'Nan, personnel branch manager for the natural resources and environmental protection cabinet, stated that his cabinet has a low percentage of minority employees compared to the rest of State government. He said that one of the biggest problems in trying to recruit minorities was the technical orientation of the cabinet in which seven percent of the positions require bachelor degrees, and they do not receive minority applicants as they had hoped. Furthermore, he said, 600 of the cabinet's 1,200 employees are located in small rural areas where it is difficult to recruit. Low salaries, he said, are another obstacle to recruitment. He felt, however, that progress was being made in hiring minorities and women, with a slight increase shown during 1988 for employment in both categories.

Mr. O'Nan reported that his cabinet has developed an affirmative action plan as required by the State plan and that they would like to see the personnel department work actively in helping them to meet the goals and timetables. In this regard, he would like to see full-time involvement by Commissioner Greenwell's office with all agencies.

Louis Mathias, attorney for the department of State police, sought to make it clear that his department is committed to affirmative action and has an affirmative action plan. EEO coordinators have been appointed at both the cabinet and department levels as well as an employee assistant counselor to assist employees with problems in the work force. With the assistance of the personnel department, the affirmative action plan and the tests and selection mechanisms are being reviewed to ensure equality. Currently, of the 890 sworn officers, 40 are minorities and 13 are women. A training class of 50 beginning in July will have 10 minorities and women. Among the 709 civilian employees, 20 are minorities, two of whom are supervisors, and 321 are women.

Mr. Mathias said that, despite an intensive recruitment process, a large number of applicants are lost to better paying jobs in the Louisville and Lexington Police Departments. He said also that it is difficult to get employees to take the test required for promotion, for a promotion would mean a transfer to another area for a rather small salary increment. Plans are in the works to raise the level of supervisory pay to increase the incentives for promotion.

Phyllis Alexander, executive director of the Kentucky Commission on Women, expressed her belief that the situation with regard to the hiring of women in State government has improved and the gap between the salaries of men and women is narrowing. Still, she said, it appears that, though some inroads are being made by women, traditionally male jobs go to men.

THE PERSPECTIVE OF ENFORCEMENT AGENCIES

Angela Koshewa, assistant compliance director for the Kentucky Human Rights Commission, said that though the State affirmative action plan does not directly involve the Commission in either an advisory or a monitoring capacity, through the years it has issued 13 reports on the status of blacks in State government and 8 reports on the status of women in State government. She was pleased with movement in decreasing the salary gaps between whites and blacks and increasing the number of black employees in State government. She said, however, that the overall picture masks problems in some cabinets which are not doing so well. She reported that in 1989 blacks earned 77.7 percent of the average white salary, compared with 76.8 percent in 1985. The percentage of blacks in State government remained unchanged from 1985-1987 at 7.3 percent, though blacks earn only 5.7 percent of the total State payroll, demonstrating that most of them are concentrated in low-paying jobs.

Ms. Koshewa cited the labor, commerce, corrections, and tourism cabinets as leading the way in narrowing the salary gap, while the finance and administration departments and the cabinet for natural resources and environmental protection have the greatest salary gap for white and black employees. She said that half of the State cabinets had black employment rates under 4 percent in 1987. The energy cabinet had no black employees, the cabinet for Natural Resources had 1.2 percent and the revenue cabinet had 2.5 percent. She reported also that the human resources cabinet was the leader in black employment with 11.9 percent blacks, and that the transportation cabinet had gone from the agency employing the lowest proportion of blacks in 1975 to the second best in 1987.

Ms. Koshewa said that the KHRC's main concern with the State affirmative action plan is that its statewide goal of over seven percent black employment allowed a proportion much lower than in some specific areas of the State. She showed that in Franklin County, where many State offices are located, the percentage of blacks employed is 5.4 percent, though the available work force is 7.5 percent. In contrast, she said that in Jefferson County 21 percent of State employees are black, whereas the county labor force is 14.5 percent.

With regard to women in State government, Ms. Koshewa said that the gap between their salaries and men had narrowed only slightly between 1984 and 1986, the last reporting period. This reduction was helped by the addition of 2,100 women to professional jobs during that period. Very much of a concern, she said, was the lower salaries black females earn compared to white females, though that gap, too, is narrowing somewhat.

Another major concern, she said, is that more than one-third of all State job classes employ no women. She suggested that to improve that situation the State affirmative action plan should be revised to include some specific goals for recruiting and educating of existing employees, encouraging women to train for movement into different job grades and classifications that are traditionally male areas.

Ms. Koshewa commended those departments, like the parks department, that have made positive steps toward increasing the employment of blacks and narrowing the salary gaps, and encouraged the rest to do likewise. Overall she felt the outlook was good and that disparities among State agencies in the employment levels of minorities and women were due in part to differences in the individual efforts by the departments. She believed that the affirmative action plan itself is good but only as good as the

efforts of people who are implementing it. She said the actual number of complaints of discrimination received from State employees each year was low, approximately eight last year, which is, in part, a tribute to the internal grievance process.

Paul Gholston, Area Director for the EEOC, provided employment statistics for State and local governments showing that for the fiscal year ending September 1986 there were approximately 66,000 employees, of which 54 percent were white males, 5 percent black males, 36 percent white females and 3.7 percent black females. The median salary for all employees was \$15,676, whereas for black employees it was \$13,546. Women represented only 12 percent of persons employed in the top pay grade, and 53 percent of the black employees were assigned to the lowest three pay grades.

Mr. Gholston said that the number of employment discrimination complaints filed against the State with his agency in which the State was found to be at fault is privileged information and could not be disclosed. He said also that though the EEOC is available to provide technical advice in implementation of the State affirmative action plan, it has no official role in reviewing its implementation.

SUMMARY

Participants in the Kentucky Advisory Committee's March 14, 1989, forum were invited to provide information on the implementation of the State affirmative action plan and on issues related to equal employment opportunity for minorities and women in State government. The plan, which was incorporated into State law and includes provision for goals and timetables, was felt by most participants to be a good one with a resulting steady increase in the number of minorities and women employed. It was pointed out that the plan's goal of 7.4 percent minority employment has

been achieved and exceeded, and that the salary gap between black and white employees, and between women and men, was decreasing, albeit slowly in some agencies. The department of parks was commended as an agency which, operating under a consent decree in Federal court, has made remarkable progress in the hiring of minorities at a variety of job levels through the utilization of an extensive community recruitment network.

During the forum concern was expressed by a number of the participants on a variety of issues that included a lack of full compliance with the plan by some agencies and the lack of provisions in the plan for sanctions against agencies that do not make a good faith effort to comply, unevenness in the records hiring of minorities and women among State agencies, disparities in the average salaries earned by men and women in State employment and between those earned by minority men and white men, the low proportion of women and minorities employed in the higher job classifications in most agencies, and the large backlog of complaint appeals before the Kentucky Personnel Board.

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 that the Advisory Committee may decide merit further investigation.

TABLE I

Number and Percent of Black Full-Time Employment
in Kentucky State Government
1967-1987

	Nov. 1967	Nov. 1971	Nov. 1975	Nov. 1977	Nov. 1979	Nov. 1981	Nov. 1983	Nov. 1985	Nov. 1987
Total Full-time Employees	26,708	31,263	34,924	35,388	40,927	35,832	34,715	36,446	37,504
Black Full-time Employees	1,408	1,540	2,023	2,125	2,707	2,567	2,520	2,667	2,751
Absolute Change in Black Employment	-	+132	+483	+102	+582	-140	-47	+85	+84
Percent Black Employment	5.3	4.9	5.8	6.0	6.6	7.2	7.3	7.3	7.3
Change in Black Share of Employment	-	-0.4%	+0.9%	+0.2%	+0.6%	+0.6%	+0.1%	-	-

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, page 5.

TABLE II

Number and Percent of Black and White
State Employees by Cabinet
November 1987

Cabinet	White	White	Black	Black	Total Black	1987	1985
	Male	Female	Male	Female		Percent Black	Percent Black
Legislative Research Commission	90	125	3	3	6	2.7	1.9
Judicial Branch	560	1,449	23	63	86	4.1	4.3
Revenue Cabinet	396	551	9	15	24	2.3	3.4
General Government	877	796	37	59	96	5.4	5.3
Justice Cabinet	1,274	366	41	18	59	3.5	3.3
Education and Humanities Cabinet	1,781	2,077	57	97	154	3.8	3.6
Cabinet for Natural Resources and Environmental Protection	884	396	6	10	16	1.2	1.0
Transportation Cabinet	5,196	1,147	451	123	574	8.3	7.7
Commerce Cabinet	62	62	6	4	10	7.5	4.8
Cabinet for Public Protection and Regulation	556	330	15	15	30	3.3	3.5
Cabinet for Human Resources	2,851	7,205	390	974	1,337	11.9	12.4
Finance and Administration Cabinet	691	547	40	46	86	6.5	7.5
Energy Cabinet	20	19	-	-	-	-	2.2
Corrections Cabinet	1,355	618	108	63	171	8.0	7.1
Tourism Cabinet	1,255	938	34	29	63	2.8	3.1
Labor Cabinet	141	205	6	9	15	4.2	4.1

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 14.

TABLE III

Distribution of Black Employees
in Ten Service Groupings
November 1987

Code Range	Service Grouping	Total Black	Total Employees	Percent Black
0100-0999	Unclassified Service	43	1,081	4.0
1001-1735	Labor, Trades, Housekeeping and Food Service	557	6,196	9.0
2001-2492	Police and Public Safety Service	167	3,176	5.3
3001-3839	Inspection and Examination Service	41	1,488	2.8
4001-4559	Health Service	522	2,694	19.4
5003-5379	Education Service	52	2,006	2.5
6101-6401	Manpower Resources and Social Worker Services	445	5,226	8.5
7001-7238	Engineering and Scientific Group	76	1,145	6.6
8001-8335	Research, Economic Development and Tourism	20	362	5.5
9001-9854	Administrative Services	648	11,176	5.8

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 35.

TABLE IV

Average Annual Salaries for Black and White
State Employees, 1967-1987

Average Annual Salary	1967	1971	1975	1977	1979	1981	1983	1985	1987
White	5,532	6,995	8,580	10,236	12,198	15,289	17,718	18,579	19,956
Black	<u>3,564</u>	<u>5,010</u>	<u>6,924</u>	<u>8,124</u>	<u>9,509</u>	<u>11,935</u>	<u>13,411</u>	<u>14,263</u>	<u>15,501</u>
Black Salary Gap	1,968	1,985	1,656	2,112	2,689	3,354	4,307	4,316	4,455
Black Salary as a Percent of White Salary	64.4	71.6	80.7	79.4	78.0	78.1	75.7	76.8	77.7

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 3.

TABLE V

Average Annual Salaries for Black and White
State Employees by Cabinet
November 1987

Cabinet	White Salary	Black Salary	1987 Salary Gap	Black Salary as a % of White Salary	1985 Salary Gap
Legislative Research Commission	29,640	27,096	2,544	91.4	3,422
Judicial Branch	21,116	16,717	4,399	79.2	5,107
Revenue Cabinet	19,160	15,443	3,717	80.6	3,834
General Government	22,964	20,047	2,917	87.3	2,885
Justice Cabinet	22,680	18,032	4,648	79.5	4,063
Education and Humanities Cabinet	23,507	18,549	4,958	78.9	4,623
Cabinet for Natural Resources and Environmental Protection	22,478	17,142	5,336	76.3	5,502
Transportation Cabinet	18,226	13,071	5,155	71.7	4,968
Commerce Cabinet	27,389	27,536	-147	100.5	2,245
Cabinet for Public Protection and Regulation	25,491	21,214	4,277	83.2	4,802
Cabinet for Human Resources	18,862	15,123	3,739	80.2	3,443
Finance and Administration Cabinet	22,666	17,088	5,578	75.3	4,099
Energy Cabinet	32,555	--	--	--	3,894
Corrections Cabinet	18,481	18,177	304	98.3	-66
Tourism Cabinet	14,206	12,875	1,331	90.6	2,037
Labor Cabinet	21,868	22,814	-946	104.3	1,278

SOURCE: Black Employment in Kentucky State Agencies, Kentucky Commission on Human Rights, 1988, p. 11.

TABLE VI

Number and Percent of Full-time Female Employment
in Kentucky State Government
July 1965 - November 1986

	July 1965	Nov. 1971	Dec. 1974	Nov. 1976	Nov. 1978	Nov. 1979	Nov. 1980	Nov. 1982	Nov. 1984	Nov. 1986
Total Full-time State Employees	24,280	31,286	32,231	34,615	38,703	40,927	37,936	35,179	33,311	37,353
Female Full-time State Employees	8,024	11,480	13,032	14,419	17,521	18,989	17,879	16,708	15,225	18,015
Absolute Change in Female Employment	NA	+1,439	+1,552	+1,387	+3,102	+1,468	-1,110	-1,171	-1,483	+2,790
Female Share of Total State Government	33.0%	36.7%	40.4%	41.7%	45.3%	46.4%	47.1%	47.5%	45.7%	48.2%
Change of Female Share of Total Employment	NA	+0.5%	+2.0%	+1.3%	+2.6%	+1.1%	+0.7%	+0.4%	-1.8%	+2.5%

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 5.

TABLE VII
Numerical and Percentage Distribution of Male and Female Employees
by Cabinet
November 1982, 1984, 1986

Department	1982		1984		1986		1986	
	1982 Female	Percent Female	1984 Female	Percent Female	1986 Male	1986 Female	1986 Total	1986 Percent Female
Legislative Research Commission	113	56.8	116	56.3	93	126	219	57.5
Judicial Branch	1,427	72.7	1,425	72.7	537	1,464	2,001	73.2
Revenue Cabinet	457	56.7	509	56.3	397	557	954	58.4
General Government	581	51.6	677	48.5	910	879	1,789	49.1
Justice Cabinet	497	24.9	350	20.9	1,355	369	1,724	21.4
Education and Humanities Cabinet	1,964	51.0	1,962	52.1	1,827	2,095	3,922	53.4
Cabinet for Natural Resources and Environmental Protection	341	30.5	344	30.9	865	394	1,259	31.3
Transportation Cabinet	1,007	15.1	1,173	17.0	5,939	1,230	7,169	17.2
Commerce Cabinet	1,246	44.3	156	37.7	67	67	134	50.0
Cabinet for Public Protection and Regulation	500	43.1	315	37.0	551	323	874	37.0
Cabinet for Human Resources	7,402	71.5	7,228	71.0	3,173	7,955	11,128	71.5
Finance and Administration Cabinet	582	42.7	566	42.8	783	582	1,365	42.6
Energy Cabinet	22	39.3	18	41.9	21	20	41	48.8
Corrections Cabinet	569	32.9	600	31.2	1,399	639	2,038	31.4
Tourism Cabinet			997	44.5	1,274	1,096	2,370	46.2
Labor Cabinet	218	58.0	211	58.1	147	219	366	59.8

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 18.

TABLE VIII
Average Annual Salaries For Male and Female
State Employees, 1972-1986

Average Annual Salary	1972	1974	1976	1978	1980	1982	1984	1986
Male Employees	8,224	8,550	10,200	12,251	14,937	17,988	19,992	20,733
Female Employees	<u>5,856</u>	<u>7,092</u>	<u>8,364</u>	<u>9,316</u>	<u>11,471</u>	<u>13,874</u>	<u>15,891</u>	<u>16,964</u>
Female Salary Gap	2,368	1,458	1,836	2,935	3,466	4,114	4,101	3,769
Female Percentage of Male Salary	71.2	82.9	82.0	76.0	76.8	77.1	79.5	81.8

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 3.

TABLE IX

Difference in Average Annual Salaries for Male and Female State Employees by Cabinet
November 1984 and November 1986

Department	1986 Average Male Salary	1986 Average Female Salary	1986 Salary Gap	1986 Female Salary as % of Male Salary +/-	1984 Salary Gap
Legislative Research Commission	31,261	25,342	5,919	81.1	6,040
Judicial Branch	34,469	14,791	19,678	42.9	18,562
Revenue Cabinet	23,273	15,221	8,052	65.4	8,025
General Government	24,842	19,202	5,640	77.3	7,271
Justice Cabinet	23,120	16,050	7,070	69.4	7,785
Education and Humanities Cabinet	24,628	20,229	4,399	82.1	4,565
Cabinet for Natural Resources and Environmental Protection	22,935	17,998	4,937	76.5	5,333
Transportation Cabinet	17,301	15,387	1,914	88.9	2,606
Commerce Cabinet	29,608	23,193	6,415	78.3	2,485
Cabinet for Public Protection and Regulation	28,562	18,508	10,054	64.8	9,975
Cabinet for Human Resources	20,177	16,968	3,209	84.1	3,134
Finance and Administration Cabinet	22,520	18,007	4,513	80.0	4,771
Energy Cabinet	34,382	25,416	8,966	73.9	10,434
Corrections Cabinet	18,649	16,670	1,979	89.4	2,270
Tourism Cabinet	14,633	11,189	3,444	76.5	3,445
Labor Cabinet	26,703	17,910	8,793	67.1	7,935

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 11.

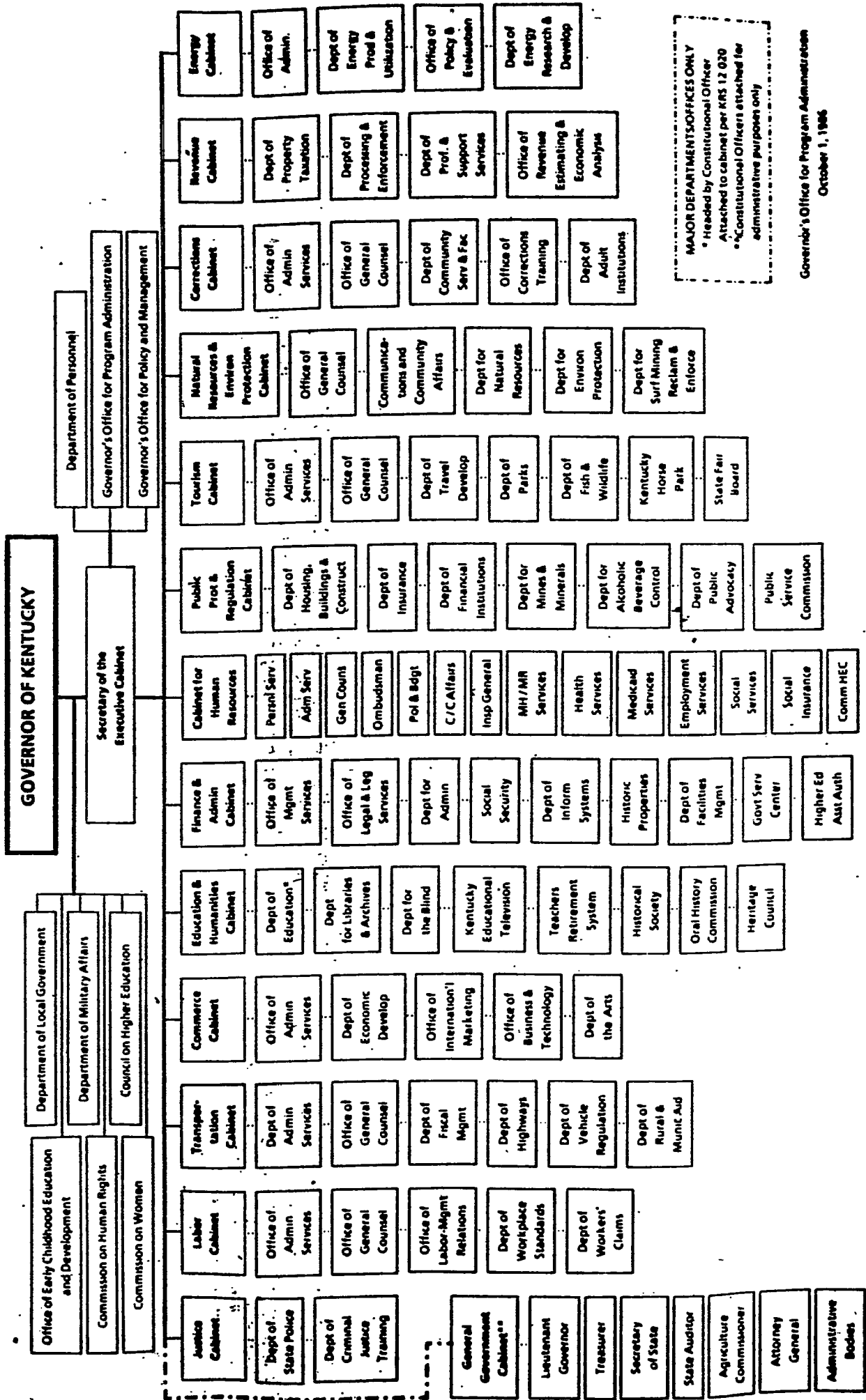
TABLE X

State Agencies With Salary Gaps Over \$10,000
November 1986

Department	Average Male Salary	Average Female Salary	Salary Gap	Female Salary as % of Male Salary
Administrative Office of the Courts	34,513	14,777	19,736	42.8
Revenue Office of the Secretary	62,536	36,486	26,050	58.3
Department of Professional and Support Services	27,888	17,375	10,513	62.3
Council on Higher Education	44,062	25,686	18,376	58.3
Department of Personnel	32,160	19,467	12,693	60.5
Kentucky Retirement Systems	28,749	15,542	13,207	54.1
Office of the Governor	40,263	27,005	13,258	67.1
Office of the Lieutenant Governor	34,565	22,200	12,365	64.2
Office for Policy and Management	34,987	23,024	11,963	65.8
Personnel Board	38,450	19,872	18,578	51.7
Secretary of the Cabinet	62,536	27,146	35,390	43.4
Secretary of State	33,366	16,139	17,227	48.4
Unified Prosecutorial System	26,759	16,360	10,399	61.1
Department of Criminal Justice Training	29,744	16,374	13,370	55.1
NRER Office of Communications and Community Affairs	29,564	17,580	11,984	59.5
Transportation Office of the Secretary	33,500	22,719	10,781	67.8
Transportation Office of General Counsel	37,195	21,981	15,214	59.1
Commerce Office of the Secretary	39,519	25,722	13,797	65.1
Kentucky Development Finance Authority	35,804	20,526	15,278	57.3
PP&R Office of the Secretary	57,740	38,568	19,172	66.8
Department of Insurance	28,482	17,212	11,270	60.4
Department for Mines and Minerals	35,776	14,858	20,920	41.5
Registry of Election Finance	28,772	18,237	10,535	63.4
Human Resources Office of the Secretary	51,711	20,736	30,975	40.1
Human Resources Office of General Counsel	32,978	20,611	12,367	62.5
Human Resources Office of Personnel Management	32,552	19,779	12,773	60.8
Commission for Handicapped Children	32,785	18,619	14,170	56.8
Finance Office of the Secretary	35,485	21,435	14,054	60.4
Office of Governmental Services Center	34,632	18,609	16,023	53.7
Office of Legal and Legislative Services	39,668	25,568	14,102	64.5
Office of Management Services	29,911	18,033	11,878	60.3
Energy Office of the Secretary	49,844	34,932	14,912	70.1
Energy Office of Policy and Evaluation	32,952	21,832	11,120	66.3
Department of Energy Productions and Utilization	33,746	21,989	11,757	65.2
Department of Energy Research and Development	46,314	25,272	21,042	54.6
Corrections Office of the Secretary	47,091	20,817	26,274	44.2
Office of Corrections Training	31,946	18,135	13,811	56.8
Parole Board	35,943	22,811	13,132	63.5
Department of Worker's Claims	26,723	16,500	10,223	61.7

SOURCE: Status of Women in Kentucky State Agencies, Kentucky Commission on Human Rights, 1987, p. 14.

APPENDIX A



MAJOR DEPARTMENTS/OFFICES ONLY
 * Headed by Constitutional Officer
 † Attached to cabinet per KRS 12.020
 ‡ Constitutional Officers attached for administrative purposes only

Governor's Office for Program Administration
 October 1, 1986



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 11, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Louisiana SAC Report

I am submitting for your review and action at the October Commission meeting this Louisiana SAC report on voter registration. The SAC approved this report by a vote of 11-0. I recommend Commissioner approval of this report.

A handwritten signature in black ink, appearing to read 'MELVIN L. JENKINS', written over the typed name and title.

MELVIN L. JENKINS
Acting Staff Director

Attachment

VOTER REGISTRATION IN LOUISIANA PARISHES

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

1989

This summary report of the Louisiana Advisory Committee to the U.S. Commission on Civil Rights was prepared for the information and consideration of the Commission. Statements and viewpoints in the proceedings 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.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

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.

THE STATE ADVISORY COMMITTEES

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 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

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

MEMBERS OF THE COMMISSION

William B. Allen, Chairman
Murray Friedman, Vice Chairman
Mary Frances Berry
Esther G. Buckley
Sherwin T.S. Chan
Robert A. Destro
Francis S. Guess
Blandina C. Ramirez

Melvin L. Jenkins, Acting Staff Director

Attached is a summary report of information received at a community forum conducted on May 12, 1989, by the Louisiana Advisory Committee in Baton Rouge on voter registration procedures in Louisiana parishes. By a vote of 11 to 0 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 and personal observations from a variety of perspectives on current voter registration procedures and proposed legislative changes. Though information received at the forum did not enable a comprehensive assessment of the Louisiana voter registration system, it did highlight issues which the Committee will continue to monitor.

/s/

Michael Fontham, Chairperson
Louisiana Advisory Committee

LOUISIANA ADVISORY COMMITTEE

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ACKNOWLEDGMENTS: This report was the chief assignment of William Muldrow, Civil Rights Analyst of the Central Regional Division of the U.S. Commission on Civil Rights. Support services were provided by Jo Ann Daniels. The project was carried out under the overall supervision of Melvin L. Jenkins, Acting Staff Director.

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Introduction

In keeping with its responsibility to monitor developments in the State, the Louisiana Advisory Committee conducted a community forum in Baton Rouge, Louisiana, on May 12, 1989, to gather information on voter registration and voter-roll purging procedures in Louisiana parishes. Government officials, legislators, voter registrars, and representatives from political parties and community organizations made presentations to the Committee. An open session provided opportunity for the general public to participate. A summary of the information received at the forum is presented in this report.

Persons who participated in the forum were Cynthia Rougeau, a representative for the Governor's office and special counsel to the secretary of State; Jerry Fowler, commissioner of elections; Emile Bruneau, Joe Accardo, and Roy Brun, all State representatives; James Brady, chair of the Louisiana Democratic Party; Marcus Carson, director of the Louisiana Coalition on Voter Reform; Robin Rothrock, president of the Louisiana League of Women Voters; Ernest Johnson, general counsel for the Louisiana NAACP; Nathaniel Bankston, voter registrar for East Baton Rouge Parish; Louis Keller, voter registrar for Orleans Parish; Barbara Bates, voter registrar for St. Helena Parish; and Robert Poche, voter registrar for Ascension Parish.

As shown in a 1988 report of registered voters compiled by the Louisiana Department of Elections and Registration (appendix A), the State is divided into 64 parishes with a total of 2,190,634 registered voters, of which 572,133 (26.1 percent) are black. According to the 1980 census, 29.4 percent of the State's total population was black.

The Louisiana Election Code (R.S. Title 18 as amended through 1988) provides for a registrar of voters in each parish who is appointed by the governing body of the parish. Such appointments are for life and registrars can only be removed from office by vote of the State Board of Election Supervisors. In May 1989, at the time of the Advisory Committee's forum, all applicants for voter registration were required to appear personally before the registrar or deputy registrar of the parish at a designated place of registration. Subsequent to the forum, the State legislature, in July 1989 at its regular session, passed three bills affecting voter registration. H.B. 292 permits citizens to register to vote in State offices when they renew their driver's licenses, and H.B. 259 permits the use of volunteer deputy registrars when they are directly supervised by the voter registrar or the deputy registrar. H.B. 191 requires an annual canvass of the registration rolls to verify the residence eligibility of voters, whereas previously this was done every 4 years.

The Perspective of the Governor's Office

Cynthia Rougeau, special counsel to the Secretary of State, represented the Governor's office at the community forum. She explained that the Secretary of State is the chief elections officer of the State and works very closely with the Governor's office, the commissioner of elections, and local election officials. She reported that the Governor believes that fair and equal access to voter registration and voting are essential, and that the process must be opened up to increase voter registration, participation, and turn out. In this regard, she said that he supports pending legislation that provides for the use of volunteer deputy registrars who would be instructed by and act under the supervision of the registrar of voters. She noted that this legislation is

controversial and would involve working closely with election officials to make sure the program works. She said that the Governor also supports House Bill 1118, which would provide for voter registration at driver's license bureaus, despite financial problems involved with the necessary increase in the staffs of these bureaus.

Ms. Rougeau said the Governor is still studying H.B. 1115, which provides for mail registration, and that he recognizes problems in dealing with alternative methods of registration, such as possibilities for fraud and the mishandling of registration applications by volunteers. In summary, she stated that the Governor's objectives are to make voter registration easier and more accessible, to maintain the integrity of the elections process while doing so, and to encourage and inform an involved electorate.

In response to a question from the Advisory Committee, Ms. Rougeau replied that she did not know of specific problems involving widespread discrimination or denial of equal protection of the laws regarding the privilege of voting because of race, color, religion, sex, age, handicap, or national origin. She believed the registration process is currently open to all qualified voters, though perhaps not as open to all qualified applicants as it could be, and that the attitude of Governor Roemer will result in opening up the process.

The Perspective of the Department of Elections and Registration

Jerry Fowler, commissioner of the Louisiana Department of Elections and Registration, explained that he is an elected official and that the registrar of voter offices in each parish are under the supervision of his department as well as that of the police juries or local governing bodies

of each parish. The parish governments, he said, hire the registrars of voters and pay half of their salaries, the other half being paid by his department.

Mr. Fowler felt that some progress had been made in expanding voter registration but that the task has not been, and never will be, completed. Increased office hours and registration drives have been established in every parish with varying success. Such changes in procedures, he said, require approval by the U.S. Department of Justice and are sometimes cumbersome. He felt that overall the voter registration system is a good one, though it does have some weaknesses. As an example he cited the long distances people in some northern Louisiana rural parishes have to travel in order to register. He advocated a system that would allow all citizens an opportunity to register in the community where they live.

He pointed with pride to Louisiana's computer system which centralized voter registration throughout the State, a first in the United States. As a result, he said, Louisiana has cleaner voter rolls and more accurate data for voter registration. Mr. Fowler advocates easier ways for people to register to vote though, because of problems entailed, he doesn't agree with all the bills that have been proposed to accomplish this. He said that, for example, in other States that have registration by mail, 7 out of 10 of the cards received are illegible. He did support a bill for the use of volunteers. He said also that in opening up the registration process he felt that the system is strong enough to guard against fraudulent practices, and he did not know of any widespread discrimination or denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin.

Mr. Fowler explained that every 4 years voter registration rolls are purged of persons who have not voted during that period. In addition, one-fourth of the rolls are canvassed each year during the month of January to purge those persons who have moved out of the parish. He reported that in some of the smaller parishes, for political reasons, the police juries do not provide the required money to make the purges. Mr. Fowler said his goal was to avoid this by paying for the purges out of his office, but that this would cost the State \$350,000 - \$400,000. He reported that approximately 70 percent of eligible voters in the State are registered, and that 89 percent of the eligible voters aged 55-70 voted in the last presidential election, compared to 37 percent in the 18-25 age group.

The Perspective of State Legislators

State Representative Emile Bruneau, chairman of the House Governmental Affairs Committee, believed that Louisiana has a voter registration system that works well, and that it is easy to register to vote. In answer to a question from the Committee, he said that he knew of no widespread discrimination or denial of equal protection of the laws regarding the privilege of voting because of race, color, religion, sex, age, handicap, or national origin. He felt, however, that there is room for improvement and referred to H.B. 191, currently before the legislature, which provides for an annual canvass and would do away with the requirement to vote every 4 years. He thought bills submitted by what he termed the Voluntary Deputy Registrar Movement would provide opportunity for fraudulent practices, as had occurred in the 1979 gubernatorial elections and on other occasions. He said that he had presented a compromise bill that would permit the use of volunteer deputy registrars but require that they operate under the supervision of the registrar. This would enable more frequent voter

registration drives in schools and shopping centers, which he favored. He explained further that his bill would assure training for volunteer deputies, require direct supervision of their work by the registrar, provide criminal penalties for fraud, and provide for the selection of volunteers on an annual basis. This bill, he hoped, would enable volunteers to make a contribution to government but stop those who intended to perpetrate a fraud.

State Representative Joe Accardo, a member and former chairman of the House Governmental Affairs Committee, believed that Louisiana has the best election code in the country, and that there were no more corrupt officials in Louisiana than in any other State. He pointed out that in the 1979 gubernatorial election referred to earlier there was no finding of fraud as a result of the lawsuits and investigations that followed. He did not believe that the bills offered in the current legislative session would infringe upon the integrity of the election process. He felt that the voluntary deputy registrars bill that he had introduced had all the safeguards necessary, including all of those required for paid deputy registrars. The number of volunteers to be used, he said, would be determined by the registrar and their names drawn out of a hat. This would provide help that is not now available from the State or local government, would not cost the State any money, and would enable more frequent registration drives at various locations in the community.

Representative Accardo also described a bill that he had sponsored to allow citizens to register by post card on a notarized form. Verification of the applicant's identity would be by driver's license or other I.D. and a card mailed to the registrant's address. A third bill would allow voter

registration at the same time a driver's license is reviewed. The statewide computer network would preclude registration in multiple places, he said. He stated his belief that these three bills would not make it any easier for fraud to be committed. Reform of the law in the manner described, Mr. Accardo felt would open up the registration process, make it more convenient, and reduce the number of people in the State who are not presently registered to vote.

Representative Accardo did not believe that there was any conscious plan to deny people the right to vote because of race, color, religion, sex, age, handicap, or national origin, but felt that the process is inconvenient and discriminates against the poor and uneducated, the large majority of whom are black. He believed that because it is made more difficult to register, those who are less mobile or less educated don't get to register to vote because they are intimidated by the process of having to go to a court house or public building. Many people, he said, do not have automobiles, or cannot afford to pay for transportation to register.

In response to a question as to what safeguards there would be in the proposed new provisions for voter registration to prevent illegal aliens from registering, Mr. Accardo replied that evidence of citizenship and residency would be required as it is now. In the case of post card registration, the notaries would be required to verify the identity of the person under penalty of losing their licenses. He said that misrepresentation of citizenship would be considered election fraud with significant penalties under the election code.

State Representative Roy Brun did not believe that present procedures had resulted in the erection of barriers to people exercising their right to vote in Louisiana. His concern with regard to additions to the

registration and voting process was for the possibility of politicizing the registrar's office and the risk of additional fraud and deception. The State, he said, has a history of voter fraud, and he pointed as an example to prosecutions from a congressional race in the fourth district that resulted in over 20 people being convicted of election fraud.

Mr. Brun expressed his concern that, though the proposed bill for the use of volunteer deputy registrars has safeguards to prevent politicization, there are many opportunities for revision of the bill in both the House and the Senate. He thought that there was a risk that people would volunteer to be deputy registrars to serve a political agenda, or to support a particular candidate or political party. He pointed out that this philosophy pervades both parties, and that both parties have registration drives, each choosing precincts that would help them most. The risk would be that political controversy would be brought into the registrar's office. He thought that some people might be hired by a candidate to become volunteer deputies in the same manner they are hired to haul people to the polls. Registration by mail, he felt, would open up the possibility of vote buying and for registering more than once.

Mr. Brun said that persons who are physically handicapped, and people to whom present procedures presented barriers to voter registration, are a relatively small percentage of the total number of those not registered, and that most of these have determined not to register to vote. It is the people who do not care enough to register to vote, he said, that are most susceptible to having their vote purchased. He felt that more could be done in the way of encouraging registrars to provide registration opportunities throughout the parishes, as is done extensively in Caddo Parish, but that many parishes already do provide such opportunities. He

said further that he would be concerned about any persons who might be denied the right to vote, or who encountered undue hardships in registering or voting.

The Perspective of the Louisiana Democratic Party

Darryl Gissell, executive director of the Louisiana Republican Party, was scheduled to make a presentation to the Advisory Committee at the forum, but was called away on business and was unable to do so. James Brady, chair of the Louisiana Democratic Party, believed that Louisiana has a real problem with voter registration that other States do not have. He was encouraged that bills before the legislature proposing changes to eliminate problems have gotten bipartisan support this year.

He said that in the past voter purges by affidavit have been a problem. Though he did not elaborate, he said that a serious incident in 1986, involving purging by affidavit and a blatant attempt to discriminate by persons engaged in a political campaign, affected several thousand people. A bill before the legislature this year would correct that problem.

Mr. Brady said the basic philosophy of his party is that it should be very easy to register, whether it increases participation or not. He felt that proposals to allow registration at driver's license bureaus and the use of volunteer deputy registrars would remove some of the present barriers. His party is on the record supporting these bills.

Mr. Brady provided current voter registration statistics based on census estimates for 1986 as follows:

<u>Age Group</u>	<u>Total Population*</u>	<u>Number Registered*</u>	<u>Percent Registered</u>
18-34	1,300	799	61.5
35-44	576	453	78.6
45-54	392	316	80.6
55-64	359	282	78.6
65+	454	354	80.0
Total	3,081	2,204	71.5

*In thousands

When questioned as to what barriers there were to registering, Mr. Brady said that people are less inclined to register if they cannot conveniently get off from work to do so, or would lose pay if they did. This was particularly a problem in rural areas, where people live some distance from the parish seat. He felt, however, that the majority of registrars were supportive of efforts to make it easy to register to vote, but were restricted by statute or financial constraints in what they could do to make it easier.

In response to a question, Mr. Brady estimated that a disparity exists between the proportion of black and white registered voters of about 10 percent but would not speculate as to how much of this related to inaccessibility to voter registration. Complaints received by his office attest to the fact that there are still problems of access to the registrar of voters in a number of areas of the State. He said, however, that though there are subtle ways to discriminate, the last he had heard of someone being denied the opportunity to register, once they made it to the registrar, occurred in the early 1970s. Mr. Brady said that, though he didn't know whether it would be constitutional or not, he personally would be in favor of mandatory registration but that this would not be practical.

The Perspective of Community Organizations

Marcus Carson, director of the Coalition on Voter Registration Reform, said that, though everyone would agree that voter registration is meant

primarily to ensure the integrity of the voting process, we often get mired in the intricacies of how it is done and lose track of the purpose for the whole thing. He said that though voter registration lists may be used for a variety of things, such as jury selection, its purpose is not to serve as a test of motivation, education, transportation, work schedules, or anything other than to guarantee the integrity of the voting process. He felt that many of these other items become barriers whether they were placed there intentionally or not, and he pointed out that systems used in other States and other counties have removed many of those barriers. He believed that there is no reason why some of these systems could not be put into place in Louisiana.

In response to a suggestion that voter registration tends to be high in countries with very repressive governments, Mr. Carson reported that in nonrepressive governments, such as Australia, voter participation is at 94 percent, in Austria 92 percent, Denmark 88 percent, New Zealand 85 percent, Norway 81 percent, Sweden 89 percent, and West Germany 89 percent. He said that the governments in these countries use more active methods to register their voters than is done in this country. For example, in Sweden people are registered automatically through use of their social security number system, in England people who are not registered are sought out, and in New Zealand and Australia voter registration is a legal requirement. Yet in the United States, he said, voter registration is unnecessarily difficult, and prospective voters must actively seek out the voter registration system.

Mr. Carson said that the most frequent argument against improving the voter registration system in Louisiana is the spectre of fraud. He pointed out that some examples of fraud which have been used as argument refer to election fraud and have nothing to do with voter registration. He said,

for example, that vote buying and voter hauling are all done after the fact of registration.

He reported that a mail-in system, similar to one that has been proposed for Louisiana, is used successfully in 27 States and that the driver's license office registration procedure actually addresses many of the concerns raised about potential abuses of the registration system. Efforts by individuals and organizations to actively seek to register their own constituents, he felt, was a healthy part of a free, competitive democracy.

He believed that voter registration in conjunction with obtaining a driver's license, where positive identification of the applicant is required, would ensure against fraudulent registration, increase convenience, and alleviate the large influx of registrants just prior to elections. With regard to the suggestion that mail-in registration would require the additional inconvenience of using a notary public, Mr. Carson was convinced that this service would be offered as a public service by libraries, banks, and other places of business.

In response to a question as to what impact an increase in the number of registered voters would have on the percentage of people who actually vote, Mr. Carson speculated that if more people registered there would be a corresponding increase in the eligible voting population who actually vote. He agreed that there should also be an effort made to get people who are registered out to vote on election day. He said that, though there will always be people who actively choose not to register to vote for religious or other reasons, he estimated that registration rates would approach 90 percent or better with the added convenience of using driver's license offices.

In response to a question as to the possibility that discrimination on the basis of race, sex, religion, age, handicap, or national origin was a factor in keeping people from voting, Mr. Carson said that the system discriminates against people primarily on the basis of income and education, categories which include a high percentage of blacks and other minorities. He believed that discrimination does exist, but that inconvenience and difficulty in gaining access to the system and actual discrimination form a continuum, so that it becomes difficult to distinguish between the two. He agreed that problems he saw with the voter registration system do not fit cleanly into categories of discrimination that would be actionable under the Federal civil rights act. He did not believe that the present voter registration system was designed to exclude any category of people from registering, and he had heard no one complain of being discriminated against by the system.

Robin Rothrock, president of the Louisiana League of Women Voters (LWV), reported that her organization has been seriously involved in voter registration reform since its beginning in 1943. She said that its position is to support equitable registration and election laws that protect the right of every citizen to vote. At its first convention the LWV adopted a program to reform registration laws in Louisiana. This program, she said, has had many successes and few failures so that Louisiana does indeed have some good laws on the books. She enumerated some of the changes that have taken place. Due in part, she felt, to the efforts of the league, permanent registration has replaced the requirement to register every 4 years, and State residency requirements were reduced from 2 years to 1 year and then eliminated altogether. The registration application has been simplified considerably and questions referring to the

registrants' morality deleted. The league also opposed election measures related to taxes and bonds in which only property owners could vote and which were declared unconstitutional in 1971. In 1975 an open elections law in Louisiana precluded the requirement for closed primaries in which only party members could vote. The league also supported and helped to pass legislation reducing the time between primary and general elections, helped to ensure the confidentiality of absentee ballots and increase the categories of people entitled to vote by absentee mail, and successfully sued the State to make polling places accessible to the handicapped.

Ms. Rothrock said that currently the LWV supports mail-in registration, the "motor voter" concept, the use of volunteer deputy registrars, and same-day registration in order to increase accessibility to registration which would in turn ensure access to voting. In answer to a question, Ms. Rothrock said that she had no personal knowledge of discrimination against individuals because of race, color, religion, sex, age, handicap, or national origin regarding the privilege of voting.

Ernest Johnson, general counsel for the Louisiana NAACP, stated that he saw the fight for voting rights as an ongoing struggle and that statistics don't tell the whole story. He believed that rules and regulations that have been in effect for a long time make it difficult for those rights to be exercised. He pointed out as an example that registration places must be certified by the Justice Department, and that only registrars or deputy registrars could register people to vote.

By way of historical background, Mr. Johnson reported that for 213 years whites in this country have had the right to vote and that, though there was a voting rights act in 1865, blacks have essentially been able to exercise that right only since passage of the Voting Rights Act in 1965.

During all those years whites grew accustomed to going to the courthouse to register to vote, but blacks went to the courthouse to be put in jail, to try to get some of their people out of jail, or because someone was suing them for a debt. Consequently the courthouse is an intimidating place associated with discrimination that blacks continue to fear, subconsciously or otherwise. Mr. Johnson felt that, because of this, to continue to require registration in the courthouse is, in a sense, a denial of their right to do so. Because of psychological, sociological, and historical problems of discrimination, he advocated changing this requirement and providing for registration in driver's license bureaus. He also said that there are socioeconomic disparities that come into play, for whites may be able to leave work in the middle of the day, whereas blacks might be tied to 8:00 - 5:00 jobs. His plea was that voter registration be made easier for everyone.

Statistics regarding the proportion of people who are registered to vote, he said, are misleading because blacks historically have been undercounted in the census. It was his contention that, whatever the percentage is of people who are not registered to vote, the process can be improved.

In response to a question, Mr. Johnson said that he would not be in favor of eliminating the required Justice Department approval for voter registration drives, though a reduction in the time required for getting this approval might be a good thing. He also indicated that he would support mandatory voter registration, though there might need to be some exemptions required to accommodate objections of various religious organizations.

The Perspective of Voter Registrars

Yvonne Allison, registrar of voters for St. Tammany Parish and president of the Louisiana Registrar of Voters Association, felt that all registrars throughout the State were doing their best to register people to vote regardless of their race or color. She reported that in her own parish she and her staff of six, with help from parish organizations, conduct a highly publicized 2-week registration drive each year, visiting three locations per night throughout the parish. Locations include shopping centers, subdivisions, and black housing units in addition to visits to vo-tech schools, universities, and colleges. She said also that her office is accessible to the public, including being open on Saturdays, and on weekdays from 8:30 a.m. until 4:00 p.m. On the day registration closes for any particular election, her office stays open until 8:00 p.m. Because of its size Ms. Allison's parish is able to have a branch office in Slidell in addition to her main office in Covington. She said that the farthest municipality in her parish from one of these offices is 8 miles. She also reported that because of monetary constraints some offices are staffed only by the registrar, while several others have only the registrar and one other person.

Ms. Allison commended Jerry Fowler, the commissioner of elections, for putting a statewide computer system into place which enables the tracking of registered voters without waiting for the required 4-year purge of those who have moved. For this reason the registration rolls are clean and enable the compilation of accurate statistics. She estimated that between 60 and 70 percent of the voting age population in her parish was registered to vote.

She reported that the Registrars of Voters Association had objected to the idea of voter registration in driver's license bureaus because of the long wait that was already entailed in getting a driver's license. She felt that there is nothing, including voter registration, that can't stand improvement but she was reluctant to suggest any particular changes. She pointed out that, as voter registrar in her parish, she was responsible for administering the voter registration law and keeping the records, and that she would want to be assured of control over volunteer deputies if they were used.

In response to a question, Ms. Allison said that she has been voter registrar for 3 years and prior to that was chief deputy registrar for 26 years. She said that her appointment is for life, but that she could only be removed from office by the State Board of Election Supervisors for misconduct. She had no knowledge of that ever happening to a voter registrar. She also stated that she had no knowledge of anyone being denied access to voter registration, and that she felt black and poor people had as much access to her office as anyone. She pointed out that she went into black housing units at least once a year to register voters as well as other places. Most complaints, she said, relate to the 4-year canvass and persons who have moved without changing their mailing address.

Nathaniel Bankston said that he has been the voter registrar in East Baton Rouge Parish for 20 years and that his grandmother was in the office for 25 years prior to him. He reported that, as a member of the Louisiana Election Code Commission, he helped rewrite the State's election laws in 1973 and 1974.

With regard to Louisiana voter registration statistics he said that, statewide, 77 percent of the eligible voters were registered, and that in the East Baton Rouge Parish the figure was 86 percent. He reported the total number of registered voters in the parish as 179,791, of which 48,839 are black. Mr. Bankston said that, despite considerable opposition initially, his parish had initiated a computer system that was subsequently adopted by the entire State, and that has been of great help to the voter registration system.

Mr. Bankston said he had received complaints that, in implementing the voter registration canvass, more blacks were being taken off the rolls than whites. He recalled testifying in court, however, that of the 794 people challenged in East Baton Rouge Parish at that particular time 752 were white. He also said that 193 were Republicans, approximately 380 were Democrats and the rest had no party affiliation. He predicted that the roll-purging system will be changed with the passage of proposed legislation this year. This will provide for a canvass of the rolls each year, instead of every 4 years as now required, and allow for a fairer and more thorough purging process.

Mr. Bankston reported that as far back as 1974 he had long discussions with a representative from the U.S. Department of Justice before establishing hours and procedures for voter registration drives. These were set from 10:00 a.m. until 6:00 p.m. to allow persons with a wide variety of working hours to participate, were widely publicized in the media, and held in various locations. To assist in the registration of minorities and low-income persons, he said that voter registration drives are held in community centers at the time they give out food stamps. He pointed out that all registration drives require approval by the Justice Department, a

procedure that takes a minimum of 59 days and from the local governing authority which takes 30 days. This procedure, he felt, was no longer needed and provided an additional barrier to registration.

Last year, he said, 10 parishes cooperated in announcing longer office hours, closing at 7:00 p.m. during 3 weeks before closing the books prior to a major election. He also reported that for 6 months of every year his office was open every other Saturday to register voters. Though the law requires his office to be open from 8:30 a.m. until 4:30 p.m., it is often open until 6 or 7 o'clock at night. Procedures he outlined for absentee ballots were intended to assure complete confidentiality during the voting process and when the votes are counted.

He felt that many positive things are happening in Louisiana with regard to voter registration, and pointed out that Louisiana ranks among the top 13 States with respect to registration of those who are eligible to vote. With regard to the proposal to register voters in driver's license offices, he didn't feel that it would help in his parish because his office in Baker was right next to a driver's license office. Furthermore, he said, the driver's license office in Baton Rouge serves persons from six parishes which would create additional problems for voter registration. Mr. Bankston said, however, that the door should never be closed on efforts to increase voter registration participation and that he would be in favor of some kind of volunteer deputy registration program as long as the registrars maintain control of it. However, he was not in favor of mail-in registration or same day registration because these methods would not allow the use of safeguards now available for preventing fraudulent registrations.

In response to a question, Mr. Bankston acknowledged that his urban parish had more staff and resources than some others to carry out voter registration outreach. Six parishes, he said, do not have deputy registrars and 19 parishes have only the registrar and one or two other employees. Voter registrars, he said, feel the necessity for providing registration opportunities outside of their offices and they, themselves, introduced legislation requiring outreach into high schools and parishes. He indicated that he would support legislation proposed this year that would permit the use of volunteer deputies and provide additional help to parishes that needed it for outreach programs. He did not favor reducing the 24-day registration cutoff period before elections because he felt this length of time was needed to take care of required administrative functions, such as preparing the rolls for election and taking care of absentee voting.

Louis Keller reported that he was appointed registrar of voters in Orleans Parish in 1988 and became the first black registrar of voters in Louisiana since Reconstruction. Prior to this appointment Mr. Keller served as chief deputy registrar. During his tenure the citizens of his parish had not been, nor ever will be, deprived of their right to register to vote by reason of their race, color, religion, age, sex, physical disability, national origin, political affiliation, or because of fraudulent practices. It is his policy, he said, to operate the office within the law, but to provide assistance to voters under circumstances where the law is silent.

Statistics provided by Mr. Keller showed that the 1988 population of Orleans Parish was 546,325 of which 238,149 or 44 percent were registered to vote. Blacks accounted for 54 percent of those registered to vote, 77

percent were Democrats and 15 percent Republicans. Staff of the voter registrar's office includes 22 full-time employees, with 7 vacancies at the present time. There are five permanent branch offices in his parish in addition to the main office. Mr. Keller reported that the main office in city hall operates 6 days a week Monday through Saturday from 8:30 a.m. - 4:30 p.m., while the branch offices offer services during hours ranging from 8:30 a.m. until 8:00 p.m. during 5 days each week. In addition to visiting colleges, universities, and high schools twice each year, voter registration drives are conducted in major shopping centers and other locations upon request. General information about voter registration and the annual purge and canvass is provided by articles in the New Orleans Times Picayune. During his tenure as voter registrar, and previously as deputy registrar, Mr. Keller had received no complaints regarding the inability of people to register. He said that people are no longer turned down in the registration line because of their race, and even illiterate people can register.

In response to a question, Mr. Keller stated that he would favor any of the current legislative proposals to expand voter registration procedures if they can be shown to improve registration. He believed that registration hours should be limited on election day to assure that the new registrant has time to vote before the polls close. He felt that the use of volunteer deputy registrars, as provided for in one bill, will be a big help to the small parishes, though they would not be as useful in his own parish. He saw no problem with mail registration as long as the language of the bill is appropriate.

Barbara Bates, voter registrar for St. Helena Parish, explained that her parish is small and rural, with a total population of only 10,456, of

which 51.5 percent is black. Greensburg, the parish seat, is the largest community with 860 people. In her parish there are no interstate highways, commercial airlines, railroads, or public transportation systems. There is one bank, one hospital, and one each of elementary, middle, and high schools, but no colleges. There are no malls or shopping centers and only one driver's license bureau. In her office Ms. Bates and one deputy registrar are the only staff.

Ms. Bates said that in her parish 72 percent of the population is registered to vote, though the census figures show fewer people in the parish than there are registered voters. Fifty percent of those registered are black. A registration drive in 1983 to the high schools, before they were consolidated, and to grocery stores in two communities netted a total of 19 registrations. A 1986 registration drive netted 16 registrants and a registration drive in 1987 netted 37. Ms. Bates said that just before the 1988 primary election her office stayed open until 7:00 p.m. for 5 days but had no one register after 4:30 p.m. despite published announcements in the media. A purge of the rolls in 1987 removed only 15 voters who had not voted during the past 4 years.

Ms. Bates said that she would welcome the services of a volunteer deputy registrar though she felt that most everyone in her parish was registered and they might get bored sitting in the grocery stores waiting for registrants.

In the forum's open session Robert Poche, voter registrar for Ascension Parish, made the point that the registrars in many Louisiana parishes are not able to do all they would like by way of registering voters because they are strapped for funds. Funding comes from the parishes and many are economically depressed, making it impossible to raise

money for advertisements. His own parish, he said, is split by the river, necessitating the maintenance of two offices and it lacks the money to do many of the things being done by larger parishes. He felt, however, that registrars try to enhance registration to the best of their ability, and he pointed out that the Voter Registrars Association has gone on record supporting procedures that would do that, including a currently proposed bill to permit the use of volunteer deputies. Personally, he would not be opposed to the concept of voter registration in driver's license bureaus if the logistics of the procedure could be worked out satisfactorily.

Summary

Participants at the May 12, 1989, community forum were invited to provide information and suggestions regarding voter registration procedures in Louisiana parishes. Major points of discussion centered on the adequacy of current procedures, possible limitations of current practices, alleged barriers to voter registration encountered in some parishes, and the merits and disadvantages of proposed legislative changes in registration procedures. Proposals before the legislature at the time of the forum included provisions for voter registration at driver's license bureaus and the use of volunteer deputy registrars. A representative from the Governor's office informed the Advisory Committee that the Governor endorsed both concepts, and most voter registrars who participated favored the use of volunteer deputy registrars as long as they operated under the control and authority of the registrar of voters. The extent to which the revised procedures would encourage or permit fraudulent practices was a matter of disagreement.

Several of the participants pointed to extensive outreach programs in their parishes provided to enhance the accessibility of voter registration

to all citizens under current procedures. In other parishes limitations of financial resources and staff precluded some efforts to register voters that were felt to be desirable. There were no reports of any eligible citizen being denied the right to register to vote. However, some participants felt that the location of some voter registrars' offices, their office hours, and the limited amount of community outreach in some parishes placed low-income citizens, for whom transportation and work hours were a problem, at a special disadvantage.

This report does not purport to be an exhaustive review of issues related to voter registration in Louisiana. It does identify and provide information on concerns that the Advisory Committee may decide merit further investigation or analysis. The report will be disseminated to agencies and organizations in the State who have responsibilities or involvements with voter registration. It will also be made available to the news media and to the general public. The Committee hopes that the information presented will be of value to the Commissioners in its program planning.

PARISH CHECKLIST

1	Acadia	33	Madison
2	Allen	34	Morhouse
3	Ascension	35	Natchitoches
4	Assumption	36	Orleans
5	Avozelles	37	Ouachita
6	Beauregard	38	Plaquemines
7	Bienville	39	Pointe Coupee
8	Bossier	40	Rapides
9	Caddo	41	Red River
10	Calcasieu	42	Richland
11	Caldwell	43	Sabine
12	Cameron	44	St. Bernard
13	Catahoula	45	St. Charles
14	Claiborne	46	St. Helena
15	Concordia	47	St. James
16	DeSoto	48	St. John
17	E. B. Rouge	49	St. Landry
18	E. Carroll	50	St. Martin
19	E. Feliciana	51	St. Mary
20	Evangeline	52	St. Tammany
21	Franklin	53	Tangipahoa
22	Grant	54	Tensas
23	Iberia	55	Terrebonne
24	Iberville	56	Union
25	Jackson	57	Vermilion
26	Jefferson	58	Vernon
27	Jeff. Davis	59	Washington
28	Lafayette	60	Webster
29	Lafourche	61	W. B. Rouge
30	LaSalle	62	W. Carroll
31	Lincoln	63	W. Feliciana
32	Livingston	64	Winn

DEPARTMENT OF ELECTIONS AND REGISTRATION
 DEPARTMENT OF ELECTIONS AND REGISTRATION
 STATE WIDE REPORT OF REGISTERED VOTERS AS OF 09/30/88
 BY PARISH

	***** REGISTERED VOTERS *****				***** DEMOCRATS *****				***** REPUBLICANS *****				***** OTHER PARTIES *****			
	TOTAL REG	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER
PARISH 01	34277	28279	5997	1	30513	24660	5883	0	2699	2638	60	1	1065	981	84	0
PARISH 02	12418	9975	2340	103	11129	8818	2225	86	859	797	55	7	430	360	60	10
PARISH 03	30910	24037	6813	60	25669	19239	6400	30	2881	2723	147	11	2360	2075	266	19
PARISH 04	13856	9497	4359	0	12574	8372	4202	0	790	713	77	0	492	412	80	0
PARISH 05	22815	17564	5221	30	20245	15258	4959	28	1401	1315	86	0	1169	991	176	2
PARISH 06	15791	13811	1937	43	12401	10598	1779	24	1892	1830	54	8	1498	1383	104	11
PARISH 07	10305	6053	4251	1	9250	5078	4171	1	765	712	53	0	290	263	27	0
PARISH 08	38037	32648	5324	65	24058	19123	4909	26	9151	8972	155	24	4828	4553	250	15
PARISH 09	121043	84339	36052	652	81313	47938	33122	253	28114	26880	1057	167	11616	9511	1873	232
PARISH 10	86536	68691	17542	303	68697	52212	16305	180	11057	10477	525	55	6782	6002	712	68
PARISH 11	6692	5637	1048	7	5644	4646	994	4	749	719	29	1	299	272	25	2
PARISH 12	6302	5931	365	6	5485	5146	336	3	357	352	4	1	460	433	25	2
PARISH 13	7685	5877	1794	14	6814	5090	1715	9	634	584	47	3	237	203	32	2
PARISH 14	9391	5482	3903	6	7718	4108	3807	3	1110	958	152	2	563	418	144	1
PARISH 15	12730	8532	4198	2	10736	6715	4019	2	1273	1195	78	0	721	622	99	0
PARISH 16	14591	8877	5123	591	12141	6623	4929	589	1273	1223	48	2	1177	11031	146	0
PARISH 17	186636	136395	50004	237	126123	79731	46323	69	41929	40491	1342	96	18584	16173	2339	72
PARISH 18	6098	2664	3400	34	5098	1912	3155	29	596	535	60	1	406	217	185	4
PARISH 19	10644	6205	3385	1054	8937	4735	3158	1044	1026	919	102	5	681	551	125	5
PARISH 20	21923	16522	5391	10	20453	15130	5316	7	1138	1075	62	1	332	317	13	2
PARISH 21	13395	9904	3487	4	11769	8381	3387	1	1301	1245	54	2	325	278	46	1
PARISH 22	10280	8880	1391	9	8579	7279	1297	3	1069	1016	50	3	632	585	44	3
PARISH 23	36499	26747	9710	42	28988	20155	8812	21	5004	4541	453	10	2507	2051	445	11
PARISH 24	19649	10914	8735	0	18179	9628	8551	0	842	765	77	0	628	521	107	0
PARISH 25	9422	6831	2582	9	8026	5533	2490	3	991	947	42	2	405	351	50	4
PARISH 26	209661	182337	25885	1439	134042	110729	22834	479	53004	51336	1118	550	22615	20272	1933	410
PARISH 27	17908	14815	3082	11	14968	12127	2832	9	1514	1454	59	1	1426	1234	191	1
PARISH 28	85245	69195	15913	137	56336	42903	13393	40	18068	17042	973	53	10841	9250	1547	44
PARISH 29	42145	38452	3645	48	35620	32292	3302	26	3848	3699	137	12	2677	2461	206	10
PARISH 30	9570	8735	745	90	8089	7315	692	82	946	918	22	6	535	502	31	2
PARISH 31	19629	12648	6852	129	13768	7497	6200	71	4029	3760	245	24	1832	1091	407	34
PARISH 32	36696	34522	2160	14	29233	27220	2005	8	3938	3890	47	1	3525	3412	108	5
PARISH 33	7777	3845	3916	16	5913	2247	3653	13	1280	1210	68	2	503	388	195	1
PARISH 34	16495	10863	5623	9	12696	7507	5185	4	2426	2291	133	2	1373	1065	305	3
PARISH 35	20042	12986	6821	235	16187	9809	6202	176	2297	2006	269	22	1558	1171	350	37
PARISH 36	248478	111879	134297	2302	192184	70364	120747	1073	36189	30876	4687	626	20105	10639	8863	603
PARISH 37	66284	49340	16934	10	43883	28387	15493	3	15126	14830	294	2	7275	6123	1147	5
PARISH 38	14527	10751	2779	997	12127	8595	2578	954	1610	1490	90	30	790	666	111	13
PARISH 39	14521	8776	5741	4	13141	7524	5614	3	844	812	32	0	536	440	95	1
PARISH 40	67200	51658	15170	372	49744	35781	13741	222	11523	10874	579	70	5933	5003	850	80
PARISH 41	6599	4347	2247	5	5723	3605	2113	5	431	402	29	0	445	340	105	0
PARISH 42	11729	8098	3617	14	9379	6114	3258	7	1646	1518	123	5	704	466	236	2
PARISH 43	13206	11272	1908	28	11309	9511	1779	19	1223	1152	68	3	674	609	59	6
PARISH 44	41901	40174	1713	14	35573	33952	1614	7	4316	4252	60	4	2012	1970	39	3
PARISH 45	23109	17710	5397	2	17596	12506	5089	1	3660	3555	105	0	1853	1649	203	1
PARISH 46	7782	3921	3861	0	6901	3225	3676	0	500	426	74	0	381	270	111	0
PARISH 47	13520	7219	6291	10	12451	6419	6025	7	597	479	117	1	472	321	149	2
PARISH 48	21455	13532	7897	26	16983	9553	7424	6	2552	2392	146	14	1920	1587	327	6

DEPARTMENT OF ELECTIONS AND REGISTRATION
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 STATE WIDE REPORT OF REGISTERED VOTERS AS OF 09/30/88
 BY PARISH

***** REGISTERED VOTERS ***** ***** DEMOCRATS ***** ***** REPUBLICANS ***** ***** OTHER PARTIES *****

	TOTAL REG	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER	TOTAL	WHITE	BLACK	OTHER
PARISH 49	47859	28881	18916	82	41891	23930	17710	51	3987	3355	615	17	2181	1576	591	14
PARISH 50	25472	17420	8017	35	22933	15335	7580	18	1732	1447	279	6	807	638	158	11
PARISH 51	33520	23640	9814	66	25434	16456	8945	33	4588	4284	289	15	3498	2900	580	18
PARISH 52	70783	63954	6208	621	39963	34011	5671	281	21419	21053	193	173	9401	8890	344	167
PARISH 53	44840	33732	11030	78	35433	25476	9931	26	5382	4982	369	31	4025	3274	730	21
PARISH 54	4690	2416	2274	0	3941	1752	2189	0	616	565	51	0	133	99	34	0
PARISH 55	43691	36338	6791	562	32227	25751	6094	382	7225	6889	260	76	4239	3698	437	104
PARISH 56	12682	9452	3221	9	10569	7444	3122	3	1582	1525	54	3	531	483	45	3
PARISH 57	30139	26270	3826	43	26139	22658	3460	21	2002	1888	105	9	1998	1724	261	13
PARISH 58	19707	17830	1755	122	15236	13686	1519	31	2314	2175	86	53	2157	1969	150	38
PARISH 59	26805	19691	7091	23	23424	16622	6787	15	2094	1962	130	2	1287	1107	174	6
PARISH 60	22856	16534	6322	0	18505	12550	5955	0	2693	2572	121	0	1658	1412	246	0
PARISH 61	11397	7370	4021	8	9982	6141	3838	3	718	687	31	0	697	542	152	3
PARISH 62	6958	5971	980	7	5670	4759	906	5	1022	985	36	1	266	227	38	1
PARISH 63	5519	3073	2421	25	4550	2181	2348	21	541	509	32	0	428	383	41	4
PARISH 64	10312	7708	2604	0	8633	6214	2419	0	831	804	27	0	848	690	158	0
GRN TOTAL	2190634	1607627	572133	10874	1658713	1126256	525937	6520	349214	329976	17022	2216	182707	151395	29174	2138



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 6, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: West Virginia SAC Report

I am submitting for your review and action at the October meeting the attached West Virginia SAC report on civil rights laws and legislation in the State. The SAC approved this report by an 11-0 vote. I recommend Commissioner approval of this report.

A handwritten signature in black ink, appearing to read 'Melvin L. Jenkins', written over a horizontal line.

MELVIN L. JENKINS
Acting Staff Director

Attachment

Civil Rights Laws and Legislation in West Virginia

A Summary Report
of a
Community Forum

October 1989

West Virginia State Advisory Committee
to
the U.S. Commission on Civil Rights

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, first 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 1983 act, the Commission is charged with the following duties pertaining to discrimination or denials of the equal protection of the laws based on race, color, religion, sex, age, handicap, or national origin, or in the administration of justice: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to discrimination or denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to discrimination or denials of equal protection of the law; maintenance of a national clearinghouse for information respecting discrimination or denials of equal protection of the law; and 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.

THE STATE ADVISORY COMMITTEES

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

West Virginia Advisory Committee
to the U.S. Commission on Civil Rights
October 1989

MEMBERS OF THE COMMISSION

William B. Allen, Chairman
Murray Friedman, Vice Chairman
Mary Frances Berry
Esther Gonzalez-Arroyo Buckley
Sherwin T.S. Chan
Robert A. Destro
Francis S. Guess
Blandina Cardenas Ramirez

Melvin L. Jenkins, Acting Staff Director

Dear Commissioners:

The West Virginia Advisory Committee submits this summary report as part of its responsibility to advise the Commission about civil rights issues in the State of West Virginia. The Committee approved the report by a vote of 11 to 0.

The Advisory Committee held a community forum entitled "Civil Rights Laws and Legislation in West Virginia" on March 21, 1989, in Charleston. The date of March 21, 1989, is a historic one for West Virginia because Governor Gaston Caperton proclaimed it as "Civil Rights Day in West Virginia," the first in the State's history. The Advisory Committee naturally chose this date for its forum, which was a significant part of the day-long Civil Rights Day activities held in the State House. This summary report presents the highlights of the forum and the ensuing discussion.

The West Virginia Advisory Committee hopes this report will be of use and interest to the Commissioners as well as to State officials and citizens concerned about civil rights progress in West Virginia.

Respectfully,

Adam R. Kelly, Chairman
West Virginia Advisory Committee

MEMBERS OF THE WEST VIRGINIA ADVISORY COMMITTEE

Adam R. Kelly, Chairman
Sistersville

Gregory T. Hinton
Fairmont

Marcia C. Pops, Vice Chair
Morgantown

Howard D. Kenney
Charleston

Carole A. Boster
Huntington

Samuel N. Kusic
Weirton

Robert A. Brunner
Huntington

Regina S. Lipscomb
Charleston

Bernard Gottlieb
Clarksburg

Nathaniel Nate Ruffin
Huntington

Joan Terri Hairston
Omar

Acknowledgments

The Committee is indebted to the chairman of the planning subcommittee, Robert A. Brunner, and to the staff of the Commission's Eastern Regional Division for organizing the community forum and producing this summary report. For planning the Civil Rights Day activities, the Committee also gratefully acknowledges the assistance given by Phyllis Carter, then-executive director of the West Virginia Human Rights Commission, and David Ellis, staff member of the office of State Senator Lloyd G. Jackson II, chairman of the Senate Committee on the Judiciary. A complete transcript of the forum is available in the Eastern Regional Division office of the Commission.

Ki-Taek Chun, Deputy Director, Eastern Regional Division, was director of this forum project. He was assisted by Juanique S. Caldwell, Edna Nicholson, and Linda R. Raufu. The project was under the overall supervision of John I. Binkley, Director, Eastern Regional Division.

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INTRODUCTION

In 1988 it became apparent to members of the West Virginia Advisory Committee that strong leadership at the highest level of the State government was needed to create catalytic momentum for progress in the civil rights arena in West Virginia. Soon after the November 1988 election, the Advisory Committee approached governor-elect Gaston Caperton to suggest that he proclaim a Civil Rights Day in West Virginia. The purpose would be to call the attention of West Virginians, and to reaffirm the commitment of the State government, to a wide range of civil rights issues. He was very receptive. When he was inaugurated (January 1989), Governor Caperton appointed Phyllis H. Carter as executive director of the West Virginia Human Rights Commission and assigned her to serve as a liaison for Civil Rights Day-related activities.

In collaboration with Ms. Carter and the office of State Senator Lloyd G. Jackson II, chairman of the Senate Committee on the Judiciary, the West Virginia Advisory Committee planned a proclamation ceremony and other activities. On March 21, 1989, which Governor Caperton proclaimed as "Civil Rights Day in West Virginia," three main activities were held: the proclamation ceremony, a joint Senate-House public hearing, and a community forum by the Advisory Committee.

The first segment of the day's activities, between 9:00 a.m and 10:15 a.m., was an official joint Senate-House public hearing on civil and human rights legislation. At this hearing, representatives of the National Organization for Women, the West Virginia chapter of the National Association for the Advancement of Colored People, the West Virginia affiliate of the American Civil Liberties Union, and the West Virginia Human Rights Commission voiced their concerns.

Next was the proclamation ceremony, consisting of addresses by Governor Caperton and by William B. Allen, Chairman of the U.S. Commission on Civil Rights. In his proclamation-address, Governor Caperton reaffirmed the commitment of State government to civil rights progress in West Virginia. In his commemorative address, Chairman Allen described an America without civil rights problems, thereby reminding the audience of many civil rights frontiers where hard battles loom.

The third segment was the community forum held between 1:30 p.m. and 4:20 p.m. by the Advisory Committee, which consisted of three panels. The first panel, "State Civil Rights Laws," addressed such issues as the strengths and weaknesses of West Virginia civil rights laws, the enforcement of these statutes, and needed civil rights legislation.

The second panel dealt with the issue of the at-large vs. single member district systems of electing State delegates.

The third panel discussed the issue of bigotry and violence in West Virginia, focusing on the passage and enforcement of the Unlawful Paramilitary Act of 1987.

PANEL ON CIVIL RIGHTS LAW AND LEGISLATION

Presentation by Charles Brown

State Attorney General Charles G. Brown, accompanied by Deputy Attorney General Sharon Mullens and Assistant Attorney General Kelly Talbot, began the forum by highlighting major civil rights-related activities of his office.

In 1984¹ the State supreme court issued an opinion requiring the State human rights commission (HRC) to clear a backlog of complaints with the assistance of the attorney general's office. Working with the commission and the hearing examiners appointed by the State supreme court, the attorney general's office has contributed to virtual elimination of the backlog. Following the State supreme court instructions, cases are set for hearing within 180 days and adjudicated within a year. Working with the HRC, his office has been successful to a large extent in keeping cases current.

In collaboration with the courts and the HRC, the attorney general's office put together a handbook, The Law and Sexual

¹ Allen v. State Human Rights Commission, 324 S.E.2d 99 (W. Va. 1984).

Harassment. It covers protection of women and men from harassment in the workplace.

Mr. Brown identified three issues in need of greater attention in the future. First, handicap rights of the handicapped, which he called the latest frontier in discrimination. He stated, "I keep pointing out that anybody can become handicapped any day in a car wreck or by disease. Handicap rights, rights for racial or ethnic minorities, rights for women and the aged...all these rights affect everyone and the quality of life in the State." He maintained that "if this is not a good State for all of us, it is not a good State for any of us to live in." He believed that the definition of "handicap" needed to be expanded. A citizen handicap rights task force, established in his office, is identifying handicap issues and recommendations to deal with them. (As a practical matter, he recommended that all State agencies install TDD devices for the deaf.)

Second, he reminded the audience that "there is a growing threat of racial problems on college campuses. It has sprung its ugly head recently," and he believed that the problem of racial tension on campuses deserves collective attention of all those concerned with the future of our society.

Third, regarding the activities of the extremist white supremacy groups in the State, Mr. Brown applauded the passage of the Unlawful Paramilitary Act,² which provides the needed legal basis for monitoring such activities.³ In discussing the passage of this bill, he publicly recognized the contribution of many people present at the forum, including SAC member Bernard Gottlieb and panelist Steve Rutledge. He is convinced that the existing law is a necessary first step, but it may need strengthening in the future.

Presentation by Phyllis H. Carter

The next panelist was Phyllis H. Carter, then-executive director of the West Virginia Human Rights Commission⁴. This agency has as its mandate the protection of civil and human rights of citizens of the State.

Ms. Carter thanked the attorney general and his staff for their continuing support of HRC. She also recognized Sharon Mullens, deputy attorney general for civil rights, who prosecutes the HRC cases and represents the HRC before the West Virginia courts.

² The Unlawful Paramilitary Act of 1987, W. Va. Code Sec. 61-6-21.

³ See the third panel of this forum on "Bigotry and Violence in West Virginia," pp. 21 - 27.

⁴ Ms. Phyllis H. Carter is administrator of the West Virginia Department of Human Services since July 1989.

Ms. Carter stated that the HRC is empowered to receive and investigate complaints, hold hearings, and enforce the State human rights laws. Although there was a backlog of cases with the HRC for some time, the HRC staff is keeping current with cases that are now coming into the office while working at reducing the backlog.

According to Ms. Carter's description of complaint processing, the first step is for someone to file a complaint alleging discrimination. The commission attempts to investigate the complaint and set hearing dates within 180 days. Upon completion of the investigation, there is a determination of probable cause or no probable cause (whether there is enough information to form a reasonable conclusion that a violation of the West Virginia Human Rights Act has or has not occurred.) Upon determination of probable cause, the case goes to an evidentiary hearing with sworn witnesses, held before a hearing examiner who is an attorney.

Upon completion of the hearing, the examiner makes findings of fact and conclusions of law, which are shared with both the respondent and the complainant. The hearing examiner then recommends a decision for the commissioners, who decide whether or not to accept the hearing examiner's recommendation. If they don't accept the recommended decision, the Commissioners can remand the case back to the hearing examiner

for another hearing or clarification on a particular matter. The final decision entered by the commission can be appealed directly to the West Virginia Supreme Court of Appeals.

According to Ms. Carter, the HRC has several remedies or types of relief available to a complaining party. For example, the commission can issue a "cease and desist order," which can contain provisions helpful in the elimination of future discrimination. The commission can also award "frontpay" as well as "backpay" that includes fringe benefits and bonuses. Frontpay takes place when a person has been discriminated against in employment and has been awarded the next available job. This remedy allows the complainant to collect money until the next job becomes available. The commission can also require the losing party to expunge the relevant employment records of the complaining party.

Before December 20, 1988, the commission could award incidental damages to complainants. On that date, the West Virginia supreme court issued an opinion in the Bishop Coal case⁵ holding that the commission did not have authority to issue incidental damages. However, the court granted petition for rehearing filed by the State attorney general's office and in an opinion issued on

⁵ Bishop Coal v. Salyers, No. 18138 (W. Va., Dec. 20, 1988).

May 16, 1989, the court recognized and granted authority to the West Virginia Human Rights Commission to award incidental damages to complainants up to \$2,500.⁶

Presentation by Lloyd G. Jackson II

In opening his presentation, State Senator Lloyd G. Jackson II, acknowledged two members of the Senate Judiciary Committee present at the forum, who were leading proponents of civil rights in the Senate. He introduced Senator Robert K. Holliday as "the Senator who is probably most concerned about the rights and the dignity of those people who find themselves not being treated fairly because of handicap, race, or gender." Senator Jackson also introduced Senator Truman H. Chafin, who, he said, is very much concerned with the protection of citizen rights and puts in a considerable amount of pro bono service as a lawyer.

Referring to what was said at the morning ceremony celebrating the proclamation of "Civil Rights Day in West Virginia," Senator Jackson said he was impressed by the evolving, expanding nature of civil rights. "Civil rights legislation has moved light years from what it was just two decades ago," and he felt that the boundary of civil rights should change to accommodate the shifting currents and needs of the time.

⁶ Bishop Coal Company v. Salyers, 380 S.E.2d 238 (W. Va. 1989)

Regarding the prospects of new civil rights legislation, Senator Jackson pointed out that Governor Caperton is strongly committed to the advancement of a civil rights agenda. Based on the Governor's commitment and the continuing interest of the judiciary committee in civil rights issues, Senator Jackson was optimistic about the prospects of civil rights legislation. He renewed his commitment to legislatively improving handicap access to school facilities, parks, and public buildings.

Senator Jackson believed that the pay equity issue should be dealt with now rather than be deferred "until it comes upon us at a time when we really can't afford for it to happen." The State has already funded a study on the pay equity issue, and he believed that it "is high time that the legislature take a serious look at [the issue]." The pay equity issue, he recommended, should be considered in a broader context. To bring the point home, he asked if those people with young daughters are willing to tell their daughters that however hard they may work, they are not going to be rewarded as well as the boys.

He noted that although the recently passed "Unlawful Paramilitary Act" is a step in the right direction, amendments may be necessary to make the law more useful, effective, and enforceable.

The ensuing discussion between the SAC members and panelists brought about the following clarifications:

(1) In order to implement the Federal Fair Housing Act, as amended in 1988⁷, to include coverage for handicap and familial status, efforts are underway to incorporate expanded definitions of handicap and familial status in the West Virginia Human Rights Act.⁸

(2) It was pointed out that the HRC does not have a backlog of current cases. The backlog at the HRC refers to cases that had been with the commission for a number of years prior to 1985. The HRC staff started tackling the backlog and in the next year and a half all backlog cases will be incorporated into the current case load.

PANEL ON THE AT-LARGE VS. SINGLE-MEMBER DISTRICT SYSTEM

Presentation by Floyd R. Fullen

Floyd R. Fullen, former member of the West Virginia State House of Delegates and an attorney-at-law in private practice, provided a historical background of the delegate election system in the State. Although Congressmen to the U.S. House of Representatives have been elected from single-member districts since 1842,

⁷ 42 U.S.C. Sec. 3601 - 3619

⁸ W. Va. Code Sec.5-11-1 to -19.

delegates to the West Virginia State legislature are elected through a diverse election system, some districts electing single delegates and others as many as 12 delegates.

Mr. Fullen discussed two aspects of the State delegate election system. First, he pointed out that since 1901, as some counties became larger, they were given additional delegates. In Kanawha County, for example, at present 12 delegates are elected from one district. Instead of increasing without limit the number of delegates in proportion to population growth, though, the total number of delegates in the legislature has stabilized at 100 for some time now. Based on a State supreme court decision⁹, the State house of delegates now has the responsibility to decide on the number of delegates.

Second, he noted that prior to a Federal district court decision in 1972¹⁰, every county in West Virginia had at least one delegate regardless of its size. Since then, however, some small counties have been added to adjacent counties to form a larger district with multiple delegates. According to Mr. Fullen, unfair situations sometimes arise from such redistricting. When two adjoining counties are combined into one district, a candidate has to campaign in two counties instead of one,

⁹ Robertson v. Hatcher, 135 S.E.2d 675 (W. Va. 1964).

¹⁰ Goines v. Rockefeller, 338 F. Supp. 1189 (S.D. W. Va. 1971).

boosting campaign expenses. A far more serious situation arises when a section of one county is added to another to form a new district. Compared to candidates from the older district, the candidate from the new area is at a disadvantage because he or she has to cultivate a new constituency, which constitutes a majority of the votes. Thus, a candidate from the added area would have a slim chance of winning a delegate seat. In 1988 two candidates from Tucker County filed suit¹¹ in the State supreme court trying to get the House of Delegates Apportionment Act of 1982¹² declared unconstitutional because Tucker County, which has 8,675 residents, was attached to Preston County which has 30,460 residents. With this imbalance in relative population sizes between the two counties, it was alleged practically impossible for someone from Tucker County to be elected. The court, however, refused to hear the case.

Mr. Fullen cited U.S. Supreme Court decisions in a recent New Jersey case, Karcher v. Daggett,¹³ and an Indiana case, Davis v. Bandemer,¹⁴ as generally supporting the single-member district concept. Since the minority population in West Virginia is only about 4 percent, the normal political forces that have brought

¹¹ Schwartz v. Hechler, Computer No. 881421 (W. Va. filed Nov. 16, 1988, refused Nov. 17, 1988).

¹² W. Va. Code 1-2-2.

¹³ 467 U.S. 1222 (1984) aff'g 580 F. Supp. 1259 (D.N.J.)

¹⁴ 478 U.S. 109 (1986)

about single-member districts in many states have not had an impact in West Virginia. Furthermore, in his opinion, the U.S. Supreme Court decisions regarding redistricting and voting right violation would not apply to West Virginia because of the small percentage of minority population. He thinks that no matter how districts are redrawn, the number of minority or black delegates (now one) is unlikely to change by more than one or two because of the small size of the minority population.

For several years, various members of the House of Delegates, including Mr. Fullen when he was a delegate, unsuccessfully have proposed a constitutional amendment that would mandate the end of the at-large delegate election system. In March 1989 the House Constitutional Revision Committee voted it down by a 14 to 11 vote. This was the nearest that the amendment came to being reported out of the committee.

Mr. Fullen offered a recommendation for dealing with the unfairness of the current delegate election system. He proposed a legislative compromise of 99 single-member delegate districts with 33 senators. There would be three delegate districts within each of 33 senate districts, so that each senator would have three delegates with whom to work.

Presentation by John Overington

Delegate John Overington, a member of the House Constitutional Revision Committee, offered the following reasons in support of the single-member delegate election system.

His first reason was that the single-member district system would allow black voters a greater opportunity to participate in the legislative process. When several districts are lumped together into one multiple-member district, the influence of one group becomes diluted in a larger multimember district, though it may have been prominent in one smaller single-member district. For example, Kanawha County, which elects 12 delegates in an at-large system, has a 5 percent black population. He maintained that if the county is divided into single delegate districts, there will be districts that will have 20 percent or more blacks. One district in Kanawha County, south of the river including Montgomery, Paint Creek, Rend, and Chesapeake, would have 20 percent or more blacks. That would give black voters a greater chance to win a seat in the legislature. Another similar area would be east of the Elk River, which would be approximately 20-25 percent blacks. At present, none of the delegates from Kanawha County is black. There is only one black delegate, and he is reportedly considering retirement soon. Blacks are

underrepresented in the State legislature and something has to be done, he pointed out.

Delegate Overington's second reason was the lower election cost associated with the single-member district system. Campaign cost is bound to be lower when one runs in a single-member district than in an at-large district, because of the smaller geographic size of the former. He stated that the single-member district system is more likely to enable low-income people to run for State offices.

The third reason cited by Delegate Overington was that since the single-member district means a smaller geographic area and a smaller constituency, a delegate can devote more time and attention to the district, enabling the delegate to develop a more personal, responsive relationship with his or her constituents. Since accountability resides clearly with one delegate as opposed to being spread among delegates as in the at-large, multiple-member district, Mr. Overington felt that the single-member district creates an atmosphere where delegates are more attuned to constituents' needs and for that reason the public will be better served.

Mr. Overington was asked if promoting single-delegate districts might not encourage the existing pattern of housing segregation and discrimination. That is to say, by carving out black

communities as distinct delegate districts, one might be unwittingly encouraging blacks to stay where they are and perpetuate discriminatory segregation relating to housing, education, and employment. He said he would rather take a positive outlook on the issue: blacks can elect black representatives to the State legislature who could then make sure that there are no discriminatory policies or practices and tackle the "root cause" of black community problems. During the discussion, Mr. Overington made the following comments:

1) In general in West Virginia there is less of a legal basis to challenge an at-large election system than in Virginia and other States with larger black populations. Some districts, however, have been threatened with law suits and the threat itself has led to single-member districts or the breaking up of some of the larger ones.

2) A candidate to the West Virginia House of Delegates from the eastern panhandle of the State requested that the State legislature create single-delegate districts in his area, and his request was accommodated by the State legislature in the 1982 redistricting.

3) Much needed demographic analysis of delegate districts by race is not available. Demographic data by counties are available in some cases, but counties and delegate districts often do not match up. Considering the importance of such data, a statewide demographic analysis by delegate district should be encouraged.

Presentation by Myron Fields

William Wooten, vice chairman of the House Constitutional Revision Committee, who was scheduled to speak in support of the multimember district system, was unable to attend the forum because of a committee meeting in progress and was represented by Myron Fields.

According to Mr. Fields, when the issue of the single-delegate vs. multiple-delegates district election system came up for vote at a recent meeting of the House Constitutional Revision Committee, it was presented not as a civil rights issue, but as a human rights issue where the principle of one man, one vote figured prominently. The majority of the Constitutional Revision Committee felt that electing delegates on a single-member district basis would lead to counterproductive parochialism. Delegates from rural districts outside of towns would be more concerned with issues facing rural areas. They may possibly work against the delegates from towns whose interest may be at odds with those of the rural delegates. Residents in rural areas will have fewer representatives compared to residents in urban areas, resulting in a weaker representation of those who do not live in town.

In addition, Mr. Fields felt that delegates from multiple-member districts have a better basis for working together as a team, wielding greater political leverage. As an example of teamwork, he noted that several delegates from one district in Raleigh County and Summers County work together as a team on such larger issues like the Turnpike Commission. As a team they can exert greater political leverage and can be more effective than as individual delegates.

During discussion following scheduled presentations, Mr. Fullen was asked about the level of interest among the members of the legislature regarding the single-member vs. at-large district system. Mr. Fullen's assessment was that there is not very much interest. He remarked that since the present system favors the status quo, there is not much political incentive among the incumbents to change the current election system. It was for this reason that he tried to get a constitutional amendment passed for the past several years so that the people voting on the amendment would be separated from the outcome of possible redistricting in 1992.

In this connection State Senators Robert K. Holliday and Thais Blatnik, who were present at the forum, also offered their observation that "there is very little interest in changing the present system." Bernard Hawkins, a representative of the West Virginia NAACP, commented that he did not think redistricting or

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changing the multiple-member district system to the single-member district system is likely to increase the chance of blacks being elected largely because of the small percentage of blacks in West Virginia.

Toward the end of this panel, there was a growing consensus among the panelists and SAC members that the issue has not received the careful attention it deserves and needs to be discussed, taking into consideration such factors as demographic profile by delegate districts, campaign cost and quality of representation as a function of district size, and the chance of electing minority delegates.

2

PANEL ON BIGOTRY AND VIOLENCE IN WEST VIRGINIA

Panelists started the session with a video presentation of a special feature program produced in 1987 by an ABC affiliate TV station based in Washington, D.C., WJLA (channel 7).

The program gave an extensive coverage of the activities of neo-Nazi extremist groups, including a fairly detailed account of the Cosmotheist Church and its 350 acre compound situated in a secluded rural area in Pocahontas County, West Virginia. The leader of this paramilitary force, operating as a religious group, is Dr. William Pierce. As enunciated in his book, The Turner Diaries and elaborated in The Brotherhood of Murder by T. Martinez, he believes that in the mid-1990's there will be a nuclear war wiping out three-fourths of the population; that his people, trained as survivalists, will be able to live underground in their limestone cave network; that and he will emerge as the territorial governor of the neighboring eight States. Through the Cosmotheist Church and its compound, he is carrying out the master plan for everything he has written about for the past 25 years. His people are engaged in paramilitary, survivalist training in the compound.

The video tape contained an interview with one local store owner who seemed unconcerned about either the presence of the Cosmotheist Church and its members or what they stand for. This

white male store owner said that he was not concerned because the church members did not bother him.

Presentation by Steve Rutledge

Steve Rutledge, representing the Citizens for Passage of the Unlawful Paramilitary Act of 1987, explained that for several years in the mid-1980's many citizens and civil rights groups became concerned about Dr. Pierce's group moving into West Virginia and allegedly conducting paramilitary training. At the same time, there were frequent reports of incidents of bigotry throughout the State. The concern of these citizens and civil rights organizations increased, resulting in the formation of a citizen coalition to lobby for legislation to outlaw racist paramilitary activities in the State. According to Mr. Rutledge the coalition was able to marshal a "tremendous" amount of citizen pressure on lawmakers and its efforts significantly contributed to the passage of the Unlawful Paramilitary Act of 1987, which was signed into law on March 25, 1987. This bill prohibits the threat of force to interfere with citizens and the civil rights of West Virginians. It also prohibits any conspiracy to suppress or to teach others any techniques to cause property damage, bodily harm, or death. In addition, it permits law enforcement officials to take action before some type of violence is committed.

In Mr. Rutledge's opinion, the publicity and public awareness generated by rallying against paramilitary, racist activities led to the decision by the Washington, D.C.-based TV station, WJLA, to do a special program on the problems of racist, neo-Nazi, extremist organizations. He noted that, partly as a result of the increasing public concern, the tax status of the Cosmotheist Church was reassessed, resulting in the withdrawal of its tax-exempt status under West Virginia State law, except for a few buildings allegedly used for religious service and Dr. Pierce's residence. Previously, the entire compound was tax-exempt.

Presentation by Bernard Gottlieb

The next speaker was Bernard Gottlieb, chairman of both the Coalition Committee of Religious and Civic Groups and the West Virginia Anti-Defamation League Advisory Board. Based on his experience as one of the key figures who lobbied for the act, he reiterated the need to alert the public and raise public awareness concerning anti-Semitic, racist incidents that seem to be taking place with an increasing frequency in recent years. He pointed out that the issue of vandalism in schools, churches, synagogues, and cemeteries as well as the destruction of property deserves serious public attention. In his opinion, such incidents of vandalism and destruction are frequently motivated by religious, ethnic, and racial bigotry.

When youngsters responsible for such acts are caught by law enforcement officers, the usual penalty is reprimand. At worst they get fined for a misdemeanor because of their age. Mr. Gottlieb believes that there is a need to put "enough teeth in the law to discourage such acts." He reported that his group is working on a legislative proposal for amendments to the Unlawful Paramilitary Act or a new law to curb and discourage acts of religious and racial bigotry.

Presentation by Jerry Dale

Sheriff Jerry Dale of Pocahontas County underscored the usefulness of the Unlawful Paramilitary Act, since it gives law enforcement agencies authority to maintain necessary surveillance and take preventive measures. He pointed out that had it not been for the bill, there would not have been any TV special or any surveillance of the Cosmotheist Church compound in Pocahontas County.

He said that the citizen coalition and some law enforcement officers are planning to meet with Governor Caperton and his State police superintendent to request that a curriculum at the State Police Academy include coverage of the Unlawful Paramilitary Act of 1987 and paramilitary activities in the State, including Dr. Pierce's group.

Sheriff Dale pointed out that the number of people on the Cosmotheist compound varies, but on a regular basis there are about 12 to 14 people on the premises. Dr. Pierce lives there about 90 percent of the time, but on one Labor Day there were as many as 200 people on the compound. Over the last year and a half, women have become residents on the compound. Dr. Pierce applied for and received an alternative teaching permit so that he could teach his young people at the compound instead of having to send them to the public school system.

A discussion followed the panel presentation, and brought about the following comments and clarifications:

(1) In West Virginia there is no mandatory reporting by law enforcement agencies of racially or religiously motivated incidents of bigotry and violence. The Unlawful Paramilitary Act does not contain such a reporting requirement. In lobbying for the bill, its proponents were aware that the bill was not a perfect one, but it was deemed "far better than nothing." There was a consensus that a provision requiring mandatory reporting would be a much needed step in tackling the problem of bigotry and violence in West Virginia. Because there is no institutionalized reporting system in existence, and law enforcement officials are not familiar with the nature and type of incidents motivated by race, religion, or national origin, there exists a real danger of underreporting. For example, when

swastikas are painted on a highway abutment, the State department of highways would clean it up or paint over it, but the incident is never reported anywhere. Underreporting in turn contributes to public apathy, a sense of false security, or a lack of interest in the issues of bigotry and violence.

(2) Local white residents in Pocahontas County have the attitude that "as long as you don't tread on me, I am going to leave you alone." The average person on the street does not understand much about the Cosmotheist Church, the Aryan Nations, and racial supremacist groups. The general public is unconcerned about the issue at this point, and there is a great need for public education and consciousness-raising.

(3) One person in the audience reported sighting a fairly noticeable swastika with "skins" written around it at one of the main streets in Charleston. According to one panelist, although not in any organized fashion yet, small groupings of students have appeared in high schools with shaved heads. He warned that a surge of such groups in high schools is bound to increase the racial conflict on high school campuses. In this connection, it was pointed out that due to insufficient funding, the West Virginia Human Rights Commission has not been able to go out to schools to tackle this problem of graffiti with racial/religious overtones or other acts motivated by bigotry. The need for public education was readily recognized and reiterated. Several

persons expressed hope that radio stations and the news media would pick up the topic to generate public interest and raise public awareness.

(4) The Cosmotheist Church establishment in Pocahontas County is not an isolated development. Similar developments have been reported in Wyoming and Idaho. Although such establishments seem to be spreading across the country and increasing in number, no one can be sure because there is no reporting or monitoring system at the national level. Recognizing the mandatory reporting system in place in Maryland and Pennsylvania, several persons noted the need for such a reporting system both at the State and the Federal levels.



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

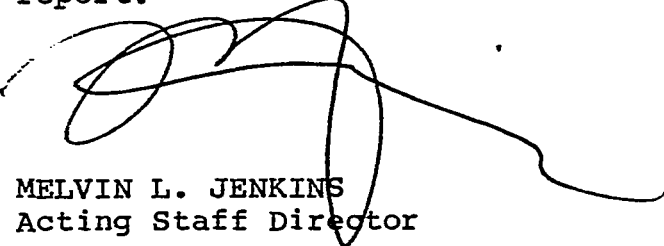
OFFICE OF STAFF DIRECTOR

October 6, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Wisconsin SAC Report

I am submitting for your review and action at the October Commission meeting a Wisconsin SAC report on discrimination against Chippewa Indians. The SAC approved this report by a 7-0 vote (one abstention). I recommend approval of this report.



MELVIN L. JENKINS
Acting Staff Director

Attachment

Discrimination Against Chippewa Indians
in Northern Wisconsin

A Summary Report

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

October 1989

This summary report of the Wisconsin Advisory Committee to the U.S. 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.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

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 discriminatory denials of the right to vote, study of legal developments with respect to discrimination or denial of equal protection; the appraisal of the laws and policies of the United States with respect to discrimination or denial of equal protection; the maintenance of a national clearinghouse for information respecting discrimination or denial 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.

THE STATE ADVISORY COMMITTEES

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 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

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

MEMBERS OF THE COMMISSION

William B. Allen, Chairman
Murray Friedman, Vice Chairman
Mary Frances Berry
Esther G. Buckley
Sherwin T.S. Chan
Robert A. Destro
Francis S. Guess
Blandina C. Ramirez

Melvin L. Jenkins, Acting Staff Director

Attached for Commission review and action is a summary report of a community forum conducted in Wausau on April 27, 1989, to obtain information on discrimination against Chippewa Indians in northern Wisconsin. The Advisory Committee voted 7 to 0 with one abstention to approve submission of this report to you.

The report summarizes information received during background preparations and the community forum convened by the Advisory Committee. Every effort was made to include a diversity of viewpoints on the issues by inviting participation from State officials, local law enforcement officials, Indian and non-Indian community-based organizations, antitreaty and protreaty groups, tribal leaders, and persons knowledgeable about Chippewa Indian treaty rights and the extent to which discrimination against Chippewa Indian people occurs due to resentment of their treaty rights. The Committee considers the views expressed as important and believes they should be shared with appropriate State and local officials and the general public.

The information provided does not result from an exhaustive review of the nature and extent of discrimination against Chippewa Indians, but does identify certain issues and concerns which the Advisory Committee may decide merit further investigation and analysis.

Respectfully,

/s/
JAMES L. BAUGHMAN, Chairperson
Wisconsin Advisory Committee

WISCONSIN ADVISORY COMMITTEE

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Gregory D. Squires
Milwaukee

Acknowledgments: The Wisconsin Advisory Committee wishes to thank the staff of the Commission's Central Regional Division for its help in the preparation of this summary report. The summary report was the principal assignment of Farella E. Robinson, with support from Corrine Sanders.

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Introduction

This report summarizes the Wisconsin Advisory Committee community forum on discrimination against Chippewa Indians in northern Wisconsin, held in Wausau on April 27, 1989. This report includes background information on the historical and legal framework of Indian treaty rights and presentations made by representatives of State government, local law enforcement, Indian and non-Indian community-based organizations, tribal leaders, and persons knowledgeable about Chippewa Indian treaty rights on the extent to which forms of discrimination against Chippewa Indian people occur due to resentment of their treaty rights. It also includes efforts by State and local authorities to protect and enforce treaty rights, efforts that are underway by State and local government to address any discrimination, efforts made to educate and inform the public regarding Indian treaty rights and culture, and recommendations and suggestions for further alleviating any discrimination and injustice against Chippewa Indians.

Background

The rights of the Chippewa Indians in northern Wisconsin have been a subject much discussed for as long as non-Indians have been settled in that area. The U.S. Court of Appeals decision, Lac Courte Oreilles Band v. Voigt, 700 F.2d 341 (7th Cir. 1983), renewed friction between Indians and non-Indians in this part of Wisconsin. Popularly known as the Voigt decision, it upheld the rights of Indian tribes to fish, hunt, and gather timber and other resources as stated in long-standing treaties between the tribes and the Federal Government. The U.S. Supreme Court subsequently declined to review the decision, 464 U.S. 805 53 (1983).¹

Many non-Indians and groups such as Equal Rights for Everyone and Protect America Rights and Resources (PARR) opposed the Voigt decision. As a result, friction between Indians and non-Indians, and fear of potential violence, caused State authorities and Indian leadership to call a conference in 1984 in Cable, Wisconsin. The meeting was conducted as a hearing by the Wisconsin Ad-Hoc Commission on Racism to receive information on instances of or allegations of racism and/or discrimination against Indians in northern Wisconsin. The Commission concluded that racism against Indians had intensified as tribes have gained legal victories and have pursued educational and commercial developments.²

Although tensions between Indians and non-Indians have been present in this area for many years, since the 1983 court ruling tensions have heightened and created much antitreaty rights sentiment as well as racial tensions.³

The Wisconsin Advisory Committee to the U.S. Commission on Civil Rights (Advisory Committee) conducted a community forum on December 7, 1984, in Superior, Wisconsin, on problems between Indians and non-Indians in northern Wisconsin. As a result of this forum, the Committee found that non-Indians' lack of information about Indian treaty rights and their legal implications was a major problem. In a briefing memorandum to the Commissioners, the Committee suggested the following:

1. Inform Indians, through distribution of the Commission's 1980 American Indian Civil Rights Handbooks, of their basic rights under Federal law and how to use remedies available to them.
2. Encourage improvement in the quality and responsiveness of the State and local criminal justice systems in dealing with violations of Indian rights.

3. Suggest inclusion in law enforcement training programs of material and exercises that will enhance police understanding of Indian rights and develop skills in dealing with explosive situations.
4. Request that the Wisconsin Department of Public Instruction promote improvement in the ability of local educational systems to provide accurate historical treatment of Indian rights issues involved.
5. Request that the U.S. Commission on Civil Rights reaffirm the positions taken in its 1981 report, Indian Tribes: A Continuing Quest for Survival, and authorize its reprinting. Distribution of this report, and its utilization by parties in dispute in northern Wisconsin, will serve to clarify the unique status of Native Americans and encourage the use of appropriate enforcement and conciliation mechanisms.⁴

Since the Advisory Committee's 1984 forum, the issue of Indian treaty rights and the effects of their implementation has continued to be a source of much controversy, and the potential for violence has increased. During hunting and spearfishing seasons in recent years, physical threats and racial harassment of Chippewa Indians in northern Wisconsin have been commonplace. A memorandum dated May 1987 submitted to the Wisconsin Equal Rights Council by an instructor at Nicolet College stated that racism and bigotry against Indian people are the result of community resentment of their treaty rights. This memorandum described incidents of racial harassment of Indians at baseball games and local shopping areas. On March 11, 1989, at the University of Wisconsin-Madison, a panel of experts on Chippewa treaty rights examined issues of racism and antagonism caused by the controversy surrounding spearfishing. The panel concluded that antispearfishing protests were the result of racial antagonism.⁵

On September 27, 1988, James Schlender, executive director of the Great Lakes Indian Fish and Wildlife Commission, briefed the Advisory Committee on recent incidents of alleged harassment and discrimination against Chippewa

Indians resulting from enforcement of their hunting and fishing rights. As a result of these reports and briefings the Committee decided to gather more extensive information on the subject at a community forum.⁶

On March 3, 1989, the U.S. district court rejected the State's attempt to set up its own fishing regulations and ruled that the Chippewa Indians have the right to regulate traditional tribal fishing practices as long as they adopt tough safeguards to prevent overfishing. News reports indicated a steady increase in antitreaty sentiment within the community, particularly in the areas of spearfishing. Antitreaty rights groups, such as Stop Treaty Abuse and PARR, urged people to disrupt the Chippewa's spearfishing. There were also organized protests at boat landings. In response to these antitreaty sentiments, protreaty rights groups such as the Witnesses for Non-Violence for Treaty and Rural Rights in Northern Wisconsin and the Madison Treaty Rights Support traveled to the spearfishing sites to monitor and prevent disruption of Chippewa spearfishing. To assure the Chippewa of their court-affirmed rights, local law enforcement agencies in northern Wisconsin developed a massive law enforcement operation to maintain control of the situation.⁷

With the opening of spearing season April 23, 1989, antitreaty forces congregated at the boat landings. Virtually all press accounts indicated that racism fueled the demonstrations. Some protestors tossed rocks at the Chippewa, more threatened them physically. Racist signs and slurs were commonplace. These protests resulted in some 200 arrests.⁸

After requests by the Governor, on May 6, 1989, the most active and largest spearing band, Lac Du Flambeau, suspended early their spearfishing season.⁹ On May 9, 1989, the Governor met with the U.S. Interior Secretary and the State's congressional delegation to ask for Federal assistance in

resolving the Indian treaty rights problems in Wisconsin. Federal officials were reportedly adamantly opposed to any attempt to abrogate, or unilaterally modify the government treaties. The State's lawmakers believe that the only alternative to resolving the treaty rights dispute is a State-tribal agreement in which the tribes agree to curtail spearing in exchange for money or social-economic programs.¹⁰

According to census information provided by the Wisconsin State Department of Demographic Services there are approximately 29,320 Native Americans in Wisconsin consisting of 0.6 percent of the total State population.¹¹ Chippewa Indians in northern Wisconsin consist of six bands numbering approximately 8,409 persons.¹² The Chippewa bands are Bad River, Lac Courte Oreilles, Lac Du Flambeau, St. Croix, Mole Lake, and Red Cliff.¹²

Forum

The community forum brought together 13 participants from different perspectives to share their views and opinions on the extent of discrimination against Chippewa Indians that may have occurred due to their treaty rights. The Committee invited participation from State government, tribal groups, local law enforcement, business, media, and community-based organizations. A summary of information collected as background prior to the forum and at the forum is presented in this report.

Historical Overview and Legal Framework of Chippewa Indian Treaty Rights

Dr. David Wrone, professor of history, University of Wisconsin Stevens Point, and Donald J. Hanaway, Wisconsin attorney general, provided the historical and legal background information on Chippewa Indian treaty rights. Dr. Wrone stated: "From the first years of European contact with the Indian tribes inhabiting North America until the present day, treaties have been employed as an instrument to define relations between the

non-Indian and the Indian nations. A treaty is a formal agreement between two sovereign nations. The Constitution defined the Indian tribes as distinct sovereign nations and through the supremacy clause, treaties with them overrides all contrary Federal and State laws. Supreme Court Justice John Marshall laid down many of these in a famous trilogy of cases: Johnson v. McIntosh in 1823, Cherokee v. Georgia in 1831, and Worcester v. Georgia in 1832. Therefore, Indian nations are domestic sovereign nations. Their relationships are to the Federal Government and not to the States. Treaties with the Chippewas of 1837, 1842, and 1854, the ones presently at the base of much of the social agitation today in Wisconsin, function exactly as do treaties with foreign countries. The Chippewa ceded an abundance of resources to the United States: approximately 100 billion board feet of timber, 13 1/2 billion tons of copper ore, over 150 billion tons of iron ore, 19 million acres of land, water, power sites, ports and harbors. The Chippewa were not granted but reserved reservation sites of a few thousand acres and fishing, hunting and gathering rights".¹³

Attorney General Hanaway provided the following historical and legal analysis of Chippewa Indian treaty rights from the State's perspective: "Two hundred years ago, the land that now constitutes Wisconsin was occupied by a diverse mix of Indian tribes. In 1825 the "Treaty of Prairie du Chien" defined the boundaries of lands held by Indian tribes in this State. In 1836 Wisconsin was declared a separate territory and Federal officials began negotiating with Chippewa Indians for title to their lands. In 1837 the Chippewa agreed to sell the Federal Government title to lands in

northwest Wisconsin. In exchange, the government paid the Chippewa annuities and other financial compensation. While giving up title to the lands, however, the Chippewa reserved the right to hunt and fish and gather timber in the ceded areas.

"In 1850 President Zachary Taylor issued an executive order declaring that the hunting, fishing, and gathering rights in the treaties of 1837 and 1842 were privileges granted temporarily to the tribe and were revoked. The President ordered the Chippewa to leave Wisconsin and relocate to other tribal lands. The removal order was never implemented, hence Chippewa's hunting, fishing, and gathering rights in ceded lands remained unresolved. By the 1900's the State became more active in regulating fishing and hunting and took the position that conservation regulations applied to Indians. In 1908 in an incident foreshadowing today's legal battle, a Chippewa Indian was cited by State conservation wardens for fishing with a net. The case went all the way to the Wisconsin Supreme Court, which ruled that Chippewa treaty rights no longer existed. After that decision, the State continued applying its conservation rules to Indians and non-Indians alike, with no significant challenge by the Chippewa until 1974 when members of the Lac Courte Oreilles band went fishing on an on-off reservation fishing site and were issued citations. It resulted in a lawsuit that continues after 15 years in Federal court, a suit based on rights reserved by the Chippewa in treaties signed with the Federal Government 155 years ago. The lawsuit involves more than the right of Chippewa to fish off reservation, it involves the future of non-Indians and Indians in Wisconsin. Its landmark issues are economic, legal, and emotional."¹⁴

In 1983 the U.S. District Court for the Western District of Wisconsin began its process of defining what rights the Chippewa retained and how they would be exercised. This process of definition has been continued by Judge Barbara Crabb. The following summarizes the rulings made by the court:

1) The Chippewa still have the right to hunt, fish and gather timber and other resources from all the land they ceded to the government more than a century ago.

2) Unlike non-Indians, the Chippewa may use these resources for both personal and commercial purposes.

3) The Chippewa can harvest sufficient resources to maintain a modest standard of living. However, the right to harvest is not exclusive to the tribe. It must be shared with non-Indians.

4) The Chippewa can use harvesting methods not available to other sportsmen, including their traditional methods like spearing and gill-netting fish, as well as modern adaptations of those methods.

5) At present, the Chippewa can harvest off-reservation resources from public lands owned by the State or its political subdivisions and can hunt and fish on private land enrolled in the State's forest cropland program.

6) If harvesting from these lands is insufficient to maintain a modest living, the Chippewa may be able to seek court permission to harvest from private lands in the northern third of the State.

7) The State will be allowed to exercise "reasonable and necessary" regulation of Chippewa harvesting, when the tribes don't have their own effective regulations. State regulation may be justified to prevent depletion of resources or to protect public health and safety, but any regulation must be the least restrictive possible.

8) Chippewa walleye and muskie fishing must follow strict procedures to ensure that spearfishing and gill-netting don't endanger fish populations.

9) The Chippewa are entitled to collect attorneys' fees in their lawsuit.

10) The Federal Government is not a party to the lawsuit. Still to be decided is whether the State will have to compensate the Chippewa for past damages¹⁵ for the decades in which the tribe did not exercise its treaty rights.

State Government

Representing the State's perspective on Indian treaty rights were Donald J. Hanaway, attorney general; Buck Martin, liaison for Indian affairs, Governor's office; and George E. Meyer, enforcement administrator, Department of Natural Resources.

Attorney General Hanaway stated that the Federal Government's fragmented and unfocused positions regarding Indians and government relations has been confusing to all parties involved in the problems of Indian treaty rights. According to Hanaway, since the treaties are Federal treaties interpreted by Federal courts, the Federal Government should be party to the ongoing litigation between the State and the tribes.

Hanaway described some of the reasons for frustrations among Indians and non-Indians residents:

The basis of frustrations by the Indians is a lack of non-Indian understanding of their culture...Frustrations among some non-Indians are fourfold...Economic loss such as income, loss of business and property values...a perception that spearing is ruining the fisheries...and confusion about the dual citizenship of the Indians...¹⁶

Hanaway also indicated that residents of the north are concerned about the lack of Federal assistance and understanding on this matter. Although these are Federal treaties ratified by Congress and coordinated through the Department of the Interior, there is no Federal involvement in the enforcement of these laws or attempts to settle the matter. These frustrations are manifested in racial slurs and epithets at the boat landings by what Hanaway regarded as a small group of people. The State, he said, had taken action to ensure the enforcement of the law. Prosecutors in the north and law enforcement agencies were notified of State statutes and civil rights laws that could be violated by protestors at the boat landings.

Despite the treaty problems, Hanaway maintained that the State continues to have a good relationship with the Indians. He reported that the State has a statutory standing committee to address Indian issues. This committee has been helpful in maintaining good relations between the State and the Indians. At this time the State and the Chippewas are attempting to

develop a clear policy on how to handle Indian treaty issues. A negotiated settlement is much preferred to what is likely to be endless litigation.

Buck Martin stated that the State is committed to assisting the Indian community in meeting its full political, economic, and social potential as tribal members and citizens of the State. In the area of education the State created by statute the American Indian Language and Culture Board. The board advises the four State educational agencies, which are the Higher Educational Aides Board, the University of Wisconsin Board of Regents, the Vocational Adult and Technical Education Board, and the Department of Public Instruction (DPI) on Indian educational issues. He said that the DPI had been urged to create curriculum units that include the history of Native American communities and tribes in Wisconsin to be used in civics and local governmental classes. This curriculum was successfully piloted in the Rhinelander Public Schools. However, it is left to the individual school districts to establish such a curriculum in their schools. Martin indicated that more efforts are needed to encourage the use of this curriculum. The State has already initiated discussions with the Wisconsin School Board Association and the American Indian Language and Culture Board to urge school districts to include Indian culture and government in their curriculum. He also reported that the State's Indian Student Assistance Program provides educational grants to Indian students to match Federal grants from the Bureau of Indian Affairs. This program offers Indian students an opportunity to attend college.

Martin reported on efforts by the State to advance economic development on the reservations. To develop a private economy on the reservations, the Governor recently appointed a Native American to the Vocational Adult and Technical Education Board to coordinate economic development on the reservations. The State hopes to use the vocational system to promote

economic development. He also indicated that a reservation will be identified as an enterprise zone to receive State incentive assistance.

Martin pointed out that the State is also striving to foster more cooperative relationships between tribal governments and the local units of government. Last year the Governor cosponsored, with the Wisconsin Counties Association and the Great Lakes Intertribal Council, a leadership conference to discuss concerns of both groups. Martin indicated that the State has not been as successful in bringing together the tribal leadership and the antitreaty rights groups.

According to George Meyer, administrator with the Department of Natural Resources, the department is responsible for the application of treaty rights to State hunting and fishing regulations. The agency also ensures that treaty rights are exercised, ensures that natural resources are protected, and provides peacekeeping operations.

Meyer believed that the department and the tribes have done a remarkably effective job in maintaining the State's natural resources while accommodating the Indians' recognized fishing rights. He noted that this effort has been successful despite limited Federal assistance, as well as intense opposition from groups who oppose the implementation of Indian treaty rights. He reported that the spearfishing situation is much more difficult this year because the proposed fishing harvest for the Chippewa has increased based upon Judge Crabb's court decision of March 3, 1989. Also, this is the first year that non-Indian fishermen's bag limits have been reduced. He believed that these factors resulted in greater tensions and protest by non-Indians. He indicated that there was a sense of violence at the boat landings. Although racial comments and epithets were made by

protestors, he contended that it is questionable whether racism was the driving force behind this behavior. He believed that the motivating factors behind the current problems are a perception of unfairness due to the methods and amount of fishing allowed for the tribes; non-Indians' lack of knowledge and understanding of treaty rights; and non-Indians' belief that their individual hunting and fishing opportunities and livelihoods are being threatened. Meyer pointed out that the fishing stocks in northern Wisconsin will not be reduced or depleted because of spearfishing. However, the real issue is how the fish are going to be allocated among the users. He said that the groups most adversely affected by this issue are the sports fisherman and the business community. He noted that the local law enforcement agencies had done an outstanding job of keeping the peace.

According to Meyer the following efforts by the State are necessary to solve the current problems: (1) continued condemnation of racist opposition to treaty rights; (2) promotion of education and discussion in the schools about Indian culture and treaty rights and how they are associated with State and Federal laws; and (3) a negotiated settlement of treaty rights that is fair to the Chippewa while recognizing the importance of tourism associated with sport fishing and hunting.

Chippewa Tribal Representatives

Chippewa tribal representatives who addressed the Advisory Committee included James Schlender, executive director of the Great Lakes Indian Fish and Wildlife Commission; Thomas Mulson, Voigt Intertribal Taskforce; and Michael Allen, chairman of the Lac Du Flambeau Band of Lake Superior.

James Schlender contended that violence had occurred as a result of Indians exercising their right to spearfish. He recited numerous incidents in describing racial violence that had taken place. He stated

that rocks were thrown at Indians and other people who work for his organization. He indicated that defamation of Chippewa people appeared on highway signs such as "Save a Deer, Shoot an Indian"; "Save a Walleye, Spear an Indian." Other racially biased signs have also appeared at rallies held by antitreaty rights groups. These acts, he believed, indicated a more direct and violent solution to what the people of the north view as "the Indian problem". According to Schlender, antitreaty rights groups have incited fear in residents that Chippewa fishing will cause economic disaster and the downfall of tourism. Schlender admitted that tourism in the north is changing. Schlender cited figures that show that only 8.3 percent of the tourists come to fish. He stated his belief that spearfishing is not the cause of the changes taking place in tourism.

He reported that racial hatred has spread to non-Indian children and the schools. For example, Indian children were ostracized from a little league at the high school in Minocqua; a racist poem was circulated through a school; and at another school, derogatory statements about Indians were written on doors. He stated that the DPI should increase its efforts to educate students about treaty rights.

Schlender indicated that the Chippewa have cooperated with the State to reduce the likelihood of violence and hostility. On April 19, 1989, tribal officials met with the Governor and agreed to reduce their take to 60 percent on lakes that were open for 100 percent harvest. He stated that this was done in exchange for a peaceful harvest.

In the area of government relations with the tribes, Schlender contended that the municipal and county governments have not been supportive of the Indian community. One local city council adopted a resolution

calling for the abrogation of treaty rights, and some other county governments have called for resolutions opposing spearing and the exercise of treaty rights.

Schlender recommended the following: (1) observation of boat landing protests by the Community Service Division of the U.S. Justice Department; (2) greater Federal scrutiny of problems related to treaty rights; and (3) greater law enforcement intervention by the Federal government.

Thomas Mulson, a tribal judge representing the Voigt Intertribal Taskforce, began his presentation by playing a tape of a recent boat landing protest in which racial slurs and epithets were directed at Indians. According to Mulson, the Chippewa have experienced this type of racial harassment for the last 5 years because of their right to spearfish. He said that despite this racism, the tribal government is committed to nonviolence in the resolution of this problem.

Mulson contended that the non-Indian fishermen are not subjected to the same scrutiny by DNR as Indians regarding the counting of the catches. He noted that the fishes taken by the Indians are counted, measured, weighed, sexed, and the fish scales are sampled, while there is no actual count of the fish taken by the Wisconsin fishermen.

Mulson said that this year the law enforcement effort by the State has improved. He noted that the officers are more professional on the boat landings in comparison to previous years.

Mulson believed that the State had tried to resolve the problems between the Indians and non-Indians regarding treaty rights, but that the tribal government will not discuss treaty rights with antitreaty groups because they are not the spokespeople for northern Wisconsin.

Michael Allen, tribal chairman of the Lac Du Flambeau Band of Lake Superior, said that conflict over treaty rights is the result of ignorance and misunderstanding by non-Indians of Indian history and culture. He maintained that it has now escalated into fear, anger, and racism. He indicated that the Indian community's reaction to this racism is one of fear and a concern for safety. According to Allen, racial slurs are depicted on promotional items such as hats, handguns, bumper stickers, and beer. He reported that, at the boat landings, racial slurs are directed at Indians. He stated that he witnessed a protestor carrying an effigy hanging from a rope with a sign "Joe Indian." He maintained that these incidents are not isolated acts but are planned, encouraged, and organized by anti-Indian organizations. He believed that their goal is the abrogation of treaty rights and termination of tribes as political self-determining bodies with recognized property rights. He reported that these groups have joined other anti-Indian groups in other States to form a national organization called Citizens Equal Rights Alliance.¹⁷

Allen stated that the law enforcement effort had gone well. He suggested that an educational effort is needed to increase the public's awareness and knowledge of Indian treaty rights.

Community-Based Organizations and Advocacy Groups

Community-based organizations and advocacy groups represented at the forum were Dean Crist, Stop Treaty Abuse (STA); Rev. William Wantland, episcopal bishop of the Diocese of Eau Claire; Nick Van Der Puy, Citizens for Treaty Rights; and Sarah Bacchus, Madison Treaty Rights Support Group.

Dean Crist, of STA, stated that STA opposes the exercise of off-reservations rights by the Chippewa. In this effort, his membership of approximately 2,000 is working to eliminate Federal Indian policy. According to Crist this policy calls for huge sums of Federal money to

be used to sustain Indian reservations and their people.¹⁸ He believed that Indian treaties have not been abrogated because States are unwilling to relinquish the huge sums of Federal dollars received for reservations. Federal Indian policy, he maintained, affords Indians fishing and hunting rights denied other American citizens. Crist contended that this policy has racially polarized the community.

Crist indicated that he does not defend or support the racial slurs and signs directed at Indians. STA members have been urged not to participate in such activities. He pointed out that people are frustrated because they believe their livelihoods are threatened and that the State's natural resources will be depleted by the spearfishing. Crist said that he speaks for the majority of residents in northern Wisconsin. STA wants an equitable resolution to this problem and is willing to discuss the issues with the Chippewas.

STA plans to force a solution to Indian treaty rights through the State or the Wisconsin Federal delegation. However, if this is not possible, STA will try to reopen and overturn the 1983 Voigt decision based on the grievous harm the decision has caused the State. Crist recommended that the Wisconsin Federal delegation enact a bill to abrogate off-reservation rights and that efforts be made to eliminate the Indian Federal policy.

Rev. Wantland, bishop of the Episcopal Diocese of Eau Claire, is also a member of the Seminole Nation of Oklahoma. He characterized problems in northern Wisconsin as similar to the pervasive racism that exists against Indian people throughout the United States. He said:

The problem that we are experiencing in northern Wisconsin is identical to the problem currently going on in Oregon and Washington in regard to the fishing rights of Indians. It is the same problem

that is going on in Oklahoma right now with the conflict between the people of the State of Oklahoma and the 35 tribes. It's the same problem that led to the re-federalization of three Indian tribes in Texas last year because of the State's persecution of Indian people. I mention this because we need to put in the full context that we are not dealing with a regional problem. We are dealing with a problem that stems from a pervasive ignorance of the status of American Indian people in the United States of America.¹⁹

Rev. Wantland stated that Indian tribes possess internal independence and a special relationship with the Federal Government that is rooted in treaty making and provisions of the United States Constitution. Most Americans, he believed, do not understand this relationship, which has led to misunderstanding and confrontation.

Rev. Wantland expressed concerns about the extent of racial bias against Indians. He cited the example of a retail store in Eau Claire that displayed a cap depicting a speared Indian with food stamps. He contended that this is a racist comment as well as an incitement to violence.

Rev. Wantland served on the Wisconsin Ad Hoc Commission on Racism which prepared a report in November 1984 concluding that racism against Indians had intensified as tribes had won legal victories and pursued educational and commercial developments. According to Rev. Wantland, the Commission's recommendations were ignored by local and State officials.

Rev. Wantland expressed optimism that the current problems can still be resolved if State and local government, tribal groups, private agencies, and churches begin to collectively dialogue about treaty rights. He suggested that education be a starting point toward this effort. He also recommended that the State should require public schools to provide studies on tribal culture and government.

Nick Van Der Puy, spokesperson for Citizens for Treaty Rights and a hunting and fishing guide, said that northern Wisconsin has always been the white man's domain. As a guide he has seen first-hand acts of discrimination. He cited the example of resort owners who were unwilling to provide accommodations for a black man visiting the area. He stated that everyone in the north is not racist but there is a lack of concern or indifference to the Indian community. He pointed out that he does not believe STA represents the views of most people in the north.

He contended that the non-Indian fishermen have not been adversely affected by spearfishing. One reason, he stated, is because DNR does not have the mechanism to check the catches of non-Indians, therefore, many fishermen are taking more fish than is known.²⁰

He believed that more needs to be done in the area of education but he does not advocate education as the sole answer to the current conflict. He said that at the Rhinelander School District there is an Indian studies curriculum available but is only utilized at the elementary level. At the high school level very little is being done. He believed that there is also a lack of understanding and sensitivity by teachers regarding treaty rights.

Sarah Bacchus, spokesperson for the Madison Treaty Rights Support Group, indicated that she was a witness at the boat landings and was very disturbed about what she heard and saw. She stated that there was a crowd of 400 angry protestors chanting "Spear an Indian, Save a Walleye". She praised law enforcement officers for their high visibility and professionalism.

Business Representative

Thomas Stecker, president of the St. Germain Chamber of Commerce and resort owner, stated that his spring business has dropped about 50 percent in the last 4 years. He contended that the exercise of treaty rights began at the same time a decline in his business began. Some of that decline he said can be attributed to the exercise of treaty rights. He reported that although some businesses have done extremely well, the overall trend for business appears to be downward. Stecker said that spring business this year had been extremely depressed with a decline ranging from 10 percent to 70 percent in the St. Germain area. He believed that the bag limit restrictions for non-Indian fishermen is directly related to the drop in business. Stecker indicated that resort owners intend to take a survey of the tourists who cancelled their reservations this spring to determine whether or not cancellations were due to the fishing restrictions or for other reasons.

Stecker believed that most of the St. Germain community is against the exercise of treaty rights. He admitted that many people do not understand the history and legal aspects of Indian treaty rights. However, he said people are mostly afraid, angry, and frustrated that their livelihoods are being threatened.

Stecker blamed both the Chippewa and those that oppose treaty rights for the tensions. He said that the Chippewa were confrontational by the manner in which they exercised their fishing rights. Specifically, he believed they tried to take as many fish as needed to restrict the bag limits in order to push for a monetary settlement. Spearfishing at the current level will never be accepted in northern Wisconsin he said.

Media Representative

Richard Brooks is manager of WOJB radio station, a Native American operated and controlled radio station in Hayward, Wisconsin.

Brooks stated that misinformation about Indian treaty rights is pervasive in the broadcast and print media. He contended that the media had failed to educate the public fully and accurately on this problem. Brooks cited several examples of subjective and inaccurate reporting of the facts. For example, a local newspaper in Green Bay conducted a readership poll on the treaty rights issues but failed to distinguish between the various tribes in Wisconsin in taking this poll. As a result, the readers blamed the Oneida tribes who are located in Green Bay for the current problems. He believed that the cultural insensitivity and misinformation in the media is being passed on to the readers and listeners.

Brooks reported that the radio station had been a victim of racial vandalism. Last spring the radio billboards were defaced twice with the following racial graffiti: "Government supported radio." "Indian suck." "Welfare hogs, What would sitting bull think." "Sister rapers." The first incident was publicly denounced by Attorney General Hanaway, but the local newspaper did not report on the incident. Both incidents have been investigated by the Wisconsin Department of Justice, Division of Criminal Investigations.

Brooks indicated that the general public needs to be better educated on Indian history and the role that Indians have played in American history. Also more recruitment of Native Americans into the broadcast and print media fields is needed.

Summary

This report summarizes views and opinions provided at a forum conducted by the Wisconsin Advisory Committee in Wausau on April 27, 1989. It reports the perspectives of a number of knowledgeable persons interested in, but with opposing views and opinions on, issues related to Indian treaty rights, which the Advisory Committee may decide merit further investigation and analysis.

The information received primarily focused on the historical and legal framework of Indian treaty rights; efforts by State and local authorities to protect and enforce treaty rights; efforts made to educate and inform the public regarding Indian treaty rights and culture; the extent to which forms of discrimination may occur due to resentment of Chippewa treaty rights; efforts that are underway by State and local government to address discrimination that may occur; and recommendations for alleviating any discrimination or injustice against Indian people. Perspectives on these issues were provided by State government officials, tribal groups, community-based organizations and advocacy groups, and representatives from the media and business. The Committee hopes the information received will encourage ongoing and constructive dialogue on the issues and provide an ameliorating effect on existing problems regarding this matter.

The Advisory Committee found that tensions between Indians and non-Indians have been present for many years in northern Wisconsin. Since the Voigt decision in 1983, affirming the rights of Chippewa Indians to fish, hunt, and gather timber and other resources, tensions have transformed into increased racial hostility and fears of violence. This increased hostility has been particularly provoked by spearfishing. During the spring

of 1989 tensions soared after the ruling by U.S. District Court Judge Barbara Crabb allowing tribal fishermen to take 100 percent of the safe harvest and reducing of bag limits for non-Indian fishermen.

The Wisconsin attorney general and a history professor provided an overview of the historical and legal framework of Indian treaty rights. Both acknowledged that whatever views one has on the reinterpretation of the treaty, the court rulings on this issue are law and must be obeyed.

State officials admitted that the protests at the boat landings had been tainted with racism but contended that this had involved only a small group of people. Enforcement agencies were notified of these anti-Indian activities to ensure that civil rights violations did not occur.

Local law enforcement officials were praised for their professional and prompt response to protests at the boat landings. Since the forum, the Federal Bureau of Investigation is looking into possible civil rights violations by protestors who allegedly threw rocks and shouted racial slurs.

According to reports by the tribal leadership and other protreaty rights groups, "Save a Walleye, Spear an Indian" and "Save a Deer, Shoot an Indian" are examples of slogans directed at Indians and placed on promotional items such as hats, handguns, bumper stickers, and beer.

A spokesman for an antitreaty rights group claimed that his organization does not encourage or sanction racial hostility against Indians. He indicated that any racial hostility exhibited is due to fear that increased fishing and hunting rights by Indians threatens tourism, business, and personal and recreational real estate of the area.

There were numerous complaints regarding the lack of public knowledge about Indian treaty rights. The State and local education agencies were accused of failing to provide courses on Indian and treaty rights. Also, the local print and broadcast media in northern Wisconsin were accused of failing to cover stories related to treaty rights accurately and objectively.

The State and antitreaty rights groups specifically complained of the Federal Government's failure to provide assistance in resolving the problems surrounding treaty rights. Since the forum, the Governor and members of the Wisconsin Congressional delegation have met with the U.S. Interior Secretary to request assistance.

Overall, the information received indicated that little has changed since the Committee's last review of Indian treaty rights in 1984, except for an increase in racial polarization. However, a wide variety of suggestions were made by presenters that they believe should be considered in resolving treaty rights issues and the discrimination that has occurred as a result of their implementation. These suggestions are outlined below:

State Government

1. Continued condemnation of racist acts associated with treaty rights.
2. Promotion of education and ongoing discussion of Indian treaty rights and culture in the schools.
3. A negotiated settlement of treaty rights that is fair to the Chippewas while accommodating the needs of tourism and business.
4. Greater Federal Government involvement and assistance in the resolution of problems associated with treaty rights.

Tribal Representatives

1. Observation of boat landing protests by the U.S. Justice Department, Community Relations Division.

2. Greater Federal scrutiny of the law enforcement efforts in the exercise of treaty rights.
3. Statewide educational efforts to increase public awareness and knowledge of Indian treaty rights.

Community-Based Organizations and Advocacy Groups

Antitreaty Group

1. Eliminate Federal Indian policy.
2. Abrogate Indian off-reservation treaty rights.

Protreaty Groups

1. Review and reconsideration of the recommendation made by the Wisconsin Ad Hoc Commission on Racism in a report dated November 1984.
2. Require mandatory curriculums on Indian treaty rights and culture in public schools.
3. Formation of a coalition involving local and State government, tribal government, churches, and other community groups to address Indian issues.

News Media

1. The news media of northern Wisconsin need to increase their efforts to report accurately and objectively Indian treaty rights issues.
2. Increase efforts to recruit Native Americans into broadcast and print media fields.

Notes

1. Wisconsin Advisory Committee to the U.S. Commission on Civil Rights, Issues of Indian Rights in Northern Wisconsin, briefing memorandum to the Commission (Apr. 1985), p.1, on file at CRD.
2. Ibid, p.2.
3. Ibid, p.1.
4. Ibid, pp. 10-11.
5. Teresa M. Nitzel, "Chippewa Hunting and Fishing Rights," (Memorandum to Wisconsin Equal Rights Council, June 23, 1987); "Treaty Experts Appeal for Calm, Blame Media for Racial Antagoism," Milwaukee Journal, Mar. 12, 1989, on file at CRD.
6. Minutes of Wisconsin Advisory Committee, Sept. 27, 1988, on file at CRD.
7. "Rights Group to Watch Anti-Spearing Protests," Milwaukee Journal, Feb. 26, 1989, on file at CRD; "You're Like KKK, Chippewa Tells Treaty-Rights Foes," Green Bay Press-Gazette, Feb. 21, 1989, on file at CRD; "Spearfishing Police Aid Clears Assembly," Green Bay Press-Gazette, Mar. 16, 1989, on file at CRD.
8. "Spear Protest Leads to About 100 Arrests", Green Bay Press-Gazette, May 6, 1989, on file at CRD; "Spearing Halt Called Gesture of Goodwill," Green Bay Press-Gazette, May 8, 1989, on file at CRD; "FBI Reviews Civil Rights in Protests," Green Bay Press-Gazette, May 10, 1989; "Spearers Scuffle with Protestors," Milwaukee Journal, Apr. 26, 1989, on file at CRD; "Thompson Tries to Cool the North," Wisconsin State Journal, Apr. 30, 1989, on file at CRD; "Protestors' Rock-throwing Frightens Chippewa Spearer," Milwaukee Sentinel, May 1, 1989, on file at CRD; "When Night Falls, Hate is Turned on," Milwaukee Sentinel, May 5, 1989, on file at CRD; "Shaming Wisconsin," Milwaukee Sentinel, May 6, 1989, on file at CRD.

9. "Spearing Halt Called Gesture of Goodwill," Green Bay Press-Gazette, May 8, 1989, on file at CRD.
10. "Thompson Presses U.S. on Spearing Controversy," Milwaukee Journal, May 9, 1989, on file at CRD; "U.S. Not Eager to Step Into Treaty Issue, Lawmakers Say," Milwaukee Journal, May 12, 1989, on file at CRD.
11. Wisconsin State Department of Demographic Services, telephone interview, June 20, 1989.
12. Wisconsin Bureau of Indian Affairs, Tribal Operations, telephone interview, June 22, 1989.
13. Transcript of community forum, pp. 8-18.
14. Don Hanaway, attorney general of Wisconsin, "History of Chippewa Treaty Rights", March 1989, p.4.
15. Ibid.
16. Transcript of community forum pp. 50-51, on file at CRD.
17. Transcript of Wisconsin community forum, p. 187, on file at CRD.
18. Transcript of Wisconsin community forum, p. 169, on file at CRD.
19. Transcript of Wisconsin community forum on file at CRD, pp. 152-153.
20. George Meyer, administrator with the Department of Natural Resources, indicated that the department does spot-check the catches made by non-Indian fishermen. However, the check is not rigorous because the hook and line method of fishing used by non-Indian fishermen is not as effective as spearfishing. He said that Federal court rulings have determined that spot-checks of the catches made by hook and line fishermen is appropriate; telephone interview, July 13, 1989.



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

October 11, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: New York SAC Report

I am submitting for your review and action at the October meeting a New York SAC followup report on census undercounts and preparations for the 1990 census. The SAC approved this report by an 8-0 vote. I recommend approval of this report.

A handwritten signature in black ink, appearing to read 'M. L. Jenkins', written over the typed name.

MELVIN L. JENKINS
Acting Staff Director

Attachment



**UNITED STATES
COMMISSION ON
CIVIL RIGHTS**

**Eastern Regional Division
1121 Vermont Avenue, N.W. Rm. 710
Washington, D.C. 20425**

**A Followup Forum on
Census Undercounts and
Preparations for the
1990 Census**

October 1989

**New York State Advisory Committee
to the
U.S. Commission on Civil Rights**

This summary report of the New York State Advisory Committee to the U.S. 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 the individual participants in the community forum where the information was gathered.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, first 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, as amended, 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: the investigation of discriminatory denials of the right to vote; the study of legal developments 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.

THE STATE ADVISORY COMMITTEES

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 State 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.

New York State Advisory Committee to the
U.S. Commission on Civil Rights

Walter Yasuo Oi, Chairperson
Rochester

Setsuko M. Nishi, Vice Chairperson
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William Gangi
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New York City

James I. Nixon
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Wanda I. Rivera-Alvarado
Rochester

(Joseph Fisher of Philadelphia represented the
Pennsylvania Advisory Committee at the
April 27, 1989 forum.)

Acknowledgments

The New York State Advisory Committee wishes to thank the staff of the Commission's Eastern Regional Division for its help in the preparation of this summary report. The forum and report were the principal assignment of Tino Calabria with support from Tina James Martin, Edna Nicholson, and Juanique Caldwell. The project was carried out under the overall supervision of John I. Binkley, Director of the Commission's Eastern Regional Division.



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

Eastern Regional Division
1121 Vermont Avenue, N.W. Rm. 710
Washington, D.C. 20425

LETTER OF TRANSMITTAL

New York State Advisory Committee
to the
U.S. Commission on Civil Rights

MEMBERS OF THE COMMISSION

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Melvin L. Jenkins, Acting Staff Director

The New York State Advisory Committee submits this summary report to advise the Commission on preparations for the 1990 census and on the issue of adjusting for decennial census undercounts. The report summarizes information received at a community forum conducted by the Committee in New York City on April 27, 1989.

The forum was a followup to the Committee's November 19, 1987, forum on the same topic. Although initially agreeing to participate in the first forum, the Census Bureau of the U.S. Department of Commerce ultimately attended neither forum but submitted an 11-page critique of statements by the panelists who did appear at our first forum. The followup forum was intended to afford the panelists an opportunity to respond to the Bureau's critique and to report upon more recent developments.

As you know from our prior report, persistent undercounts during decennial censuses disproportionately affect minority communities and thereby have an adverse effect on the jurisdictions in which undercounted minorities reside. This is because census figures determine congressional reapportionment and how funds in various public programs are allocated to States and localities.

By a unanimous vote of its 8 incumbent members, the Committee approved this summary report. We hope that it will be useful as you follow developments related to whether the U.S. Department of Commerce Secretary eventually adjusts the census tallies to correct for the anticipated undercount.

Respectfully,

Walter Y. Oi, Chairman
New York State Advisory Committee

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P r e f a c e

On July 17, 1989, an agreement in the U.S. District Court in Brooklyn closed a chapter in a long-standing dispute over how to resolve the problem of undercounts in decennial censuses.¹ Such undercounts of the population have been acknowledged and, since the 1950's, even been measured by the Bureau of the Census of the U.S. Department of Commerce. Many experts in census matters, public officials, and others familiar with the issue claim that undercounts have serious and adverse effects on the apportionment of congressional seats in the U.S. House of Representatives and on the allocation of public funding to the States and localities for various tax-based programs.²

In the early 1980's, both the New York City and New York State governments filed suit against the Commerce Department to have the 1980 decennial count corrected in order to alleviate the perceived problems of undercounting. The city and the State, along with other jurisdictions which joined in the suit, failed to prevail in their suit. However, with prospects of continued undercounts in 1990, the city and State returned to court in November 1988, with a new suit calling for the Department and

¹City of New York v. U.S. Department of Commerce, No. 88 Civ. 3474 (E.D.N.Y. July 17, 1989) (stipulation and order).

²See, e.g., Dr. William P. O'Hare, "Introduction: the 1990 Census and Political Power for Minorities," Redistricting in the 1990s: a Guide for Minority Groups, Population Reference Bureau, Inc., July 1989, who writes, "People not counted by the Census Bureau cause their community to be deprived of its rightful share of public money. In short, the census is connected with money and power." P. 7.

its Census Bureau to lay the groundwork for corrections for the anticipated undercount after the 1990 census.

The Department attempted to convince the court to dismiss the new suit, but finally in mid-July, an agreement was reached. By that agreement, the Bureau will carry out a postenumeration survey (PES).³ Based upon the PES results and guidelines to be published by March 10, 1990, and implemented with the assistance of a panel of 8 outside advisors, the Commerce Secretary may opt to correct for the undercount that many experts believe will occur during the 1990 census.⁴

The New York State Advisory Committee to the U.S. Commission on Civil Rights began looking into the undercount and related issues starting with a forum on November 19, 1987,⁵ and a followup forum on April 27, 1989. In June 1989, the U.S. House Subcommittee on Census and Population invited the Committee to summarize its work during a July 24, 1989, hearing of the subcommittee in New York City. A week prior to that hearing, the agreement between the

³U.S. Census Bureau, Department of Commerce, "Agreement Announced! 1990 Census Agreement Litigation Settled," *Census and You*, vol. 24, no. 9, September 1989, p. 4. See also Richard Levine, "Accord on Census May Bring Change in Minority Data; Undercounting at Issue; Random Home Survey in U.S. Is Agreed to in New York With Trial Due in Suit," *New York Times*, July 18, 1989, p. 1, and Dennis Hevesi, "Census Weighing a Second Survey in '90 to Correct Any Undercounting," *New York Times*, July 24, 1989, p. A-10 (hereafter cited as July 24, 1989 *Times* article).

⁴Whether either side has gained through the settlement is an open question. See, e.g., "New Yorkers Have No Cause Yet to Celebrate Census Settlement," a letter to the editor from U.S. Representative Charles E. Schumer, *New York Times*, Aug. 7, 1989, p. A-14.

⁵New York State Advisory Committee to the U.S. Commission on Civil Rights, *Census Undercounts and Preparations for the 1990 Census*, (December 1988).

Commerce Department, its Census Bureau, and the plaintiffs in the suit was reached. However, the hearing remained scheduled, and Advisory Committee Chairman Walter Y. Oi shared the highlights of the Committee's two forums with the House subcommittee.⁶

Forum Participants and Bureau Commentary

On November 19, 1987, the Committee held its first forum on the undercount issue, and a summary report of the first forum, Census Undercounts and Preparations for the 1990 Census, was approved by the Commissioners the following December. At the forum, elected and appointed officials of the State and the city of New York and their staff advisors, the volunteer chairman of the U.S. Census Bureau's Asian/Pacific Islander Census Advisory Committee, and an independent scholar-researcher were panelists.⁷ The Bureau was also invited, initially indicated it would be represented, but then declined. Nonetheless, after reviewing a draft of the forum report, the Bureau submitted an 11-page commentary on the remarks of the panelists, and it was published in the Committee's report.

⁶Walter Y. Oi, Chairman, New York State Advisory Committee to the U.S. Commission on Civil Rights, "Testimony Offered at Invitation of House Subcommittee on Census and Population," during the U.S. House Subcommittee's hearing in New York City on July 24, 1989. Dr. Oi's testimony is on file at the Eastern Regional Division office in Washington, D.C.

⁷The panelists were: State Assemblyman Angelo del Toro, cochairperson of the State Legislative Task Force on Demographic Research and Apportionment; Jeffrey M. Wice, special counsel to the State Assembly Speaker; New York City Corporation Counsel Peter L. Zimroth and Charles N. Weinstock and John Low-Beer of Mr. Zimroth's staff; Charles P. Wang, chairman of the Census Bureau's Asian-Pacific Islander Census Advisory Committee and executive director of the Chinatown Planning Council; and Erol R. Ricketts, assistant division director at the Rockefeller Foundation. Only Dr. Ricketts did not attend or provide a statement for the second forum.

In order to afford the panelists an opportunity to respond to the Bureau's extensive critique, the panelists and the Bureau were invited to a followup forum held on April 27, 1989. Once again the Bureau declined. Four of the original panelists agreed to participate, and the Pennsylvania Advisory Committee, which had provided testimony to the same House subcommittee prior to the 1980 census, sent a representative to take part in the April forum. What follows are highlights of what the panelists said in the first forum and more detailed highlights of their responses to the Bureau's critique which the panelists made in the second forum.⁸ Where appropriate, other documents are cited to report on subsequent developments or to amplify on the matter under discussion.

First Forum--November 1987

The first forum was convened in New York City less than 3 weeks after the U.S. Department of Commerce announced its decision not to adjust the 1990 decennial census figures. Estimating an undercount of 500,000 New York City residents in the 1980 census, the State and city officials decried the disenfranchisement and the loss of public funding that decennial undercounts may cause and called for an adjustment. Indeed, Jeffrey M. Wice, special counsel to the State assembly speaker, urged that the adjustment be referred to as a "correction" made necessary to compensate for the undercount.

The city of New York's corporation counsel, Peter L. Zimroth, circulated a speech and documents by former or current Bureau officials indicating that adjustment is feasible, and Charles N. Weinstock, a member of the corporation counsel's staff, pointed

⁸This report is based on the December 1988 summary report and the official transcript of the April 27, 1989, forum. The latter is on file at the Eastern Regional Division office in Washington, D.C.

out that the Bureau added 5 million people to the 1970 count and 3.3 million to the 1980 count through an "imputation" process. This form of adjustment is used, for example, when the Bureau is faced with inconsistent answers or no responses to the census questionnaires. Each State and city official appearing at the forum called for adjustment on the grounds of fairness in terms of voting representation and the allocation of public funds to the jurisdictions where the uncounted persons reside.

Charles P. Wang, chairman of the Bureau's Asian/Pacific Islander Census Advisory Committee, expressed fears over the format of the race question to be asked of Asians in the 1990 census questionnaire. This new format differed from that used in 1980; the former called for some write-in responses which, Mr. Wang feared, could result in a drop in accurate returns and a loss in timely reporting of data. He also agreed on the necessity of a postenumeration survey, with corrections based upon the PES to compensate for undercounts.

Erol R. Ricketts, a Rockefeller Foundation official who had carried out demographic studies down to the census tract level prior to serving at the foundation, noted that the 1990 census is basically a large survey. He then explained that one type of undercount adjustment would require a second survey, saying that how well you adjust the first one depends on how well you do the second one. The same point was made by Barbara A. Bailar, when a top official of the Bureau and while president of the American Statistical Association. After resigning from the Bureau, Dr. Bailar became executive director of the association and furnished the Committee with a statement advocating undercount adjustment.

Followup Forum--Responding to Bureau's Comments

In June 1988 the Bureau submitted to Commission staff an 11-page letter commenting on many of the remarks made by the panelists,

plus 17 enclosures. This past April, at the followup forum in New York City, 5 of the Committee's original panelists provided statements and/or discussed the Bureau's comments. The cochair of the State Legislative Task Force on Demographic Research and Reapportionment, Assemblyman Angelo del Toro, expressed his appreciation to the Bureau for its recent "attempts to help those of Hispanic origin differentiate on the census forms between Hispanic, Spanish and other backgrounds." In addition, he thanked the Bureau for its strong opposition to proposals intended to exclude undocumented persons from the 1990 count.⁹

However, Assemblyman del Toro remained concerned that the Bureau has not extended the 14-day period given to local jurisdictions to review the Bureau's preliminary count. That review is to take place in June 1990, and he believed that 14 days is too short a time for an adequate review. On undercount adjustment, he noted that the Bureau reduced its postenumeration survey from 300,000 to 150,000 households, "a number which may prove insufficient to properly analyze the census undercount."

Assemblyman del Toro then reported that on the previous Friday, April 21, 1989, the U.S. district court ordered that the suit calling for an undercount adjustment be heard on the merits in July, thus ruling against the Federal Government's motion to

⁹See Spencer Rich, "Suit to Block Illegal Aliens From Census Count Voided," Washington Post, May 10, 1989, p. A-17, also "Census Suit Thrown Out," Hispanic Link Weekly Report, vol. 7, no. 19, May 15, 1989, p. 1. The lawsuit aimed at barring the Bureau from counting undocumented immigrants in the 1990 census for the purpose of reapportioning congressional seats. The U.S. District Court in Pittsburgh ruled that the plaintiffs had no standing to sue since it could not be determined that any particular plaintiff would be harmed.

dismiss the suit.¹⁰ Both the assemblyman and special counsel Wice speculated that, if the State and other plaintiffs were to prevail, the Federal Government would appeal. Because an appeal would cut into the time required for the preparations needed to adjust for an undercount, Assemblyman del Toro said that efforts in Albany are shifting towards increasing work with the Bureau on ways of achieving the best count possible. However, here, again, problems have cropped up; maps of New York City prepared by the Bureau have omitted or improperly identified streets in some neighborhoods which have been in existence for over 200 years, Assemblyman del Toro reported.¹¹

Commerce Department Reverses Census Bureau

Mr. Wice cited a March 10, 1989, publication by the Congressional Quarterly that indicates that up until June 1987, the Bureau was prepared to announce a decision to make an adjustment aimed at correcting the count.¹² He added that in the early 1980's, the Bureau had appointed a blue-ribbon panel of officials from the National Academy of Sciences that eventually supported efforts aimed at undercount adjustment.

¹⁰City of New York v. U.S. Department of Commerce, No. 88 Civ. 3474 (E.D.N.Y. Apr. 21, 1989). See also, Constance L. Hays, "New York Wins First Step in Effort to Adjust Census," New York Times, May 22, 1989, p. B-4.

¹¹See also a May 3, 1989, letter from New York City Mayor Edward I. Koch to U.S. Secretary of Commerce Robert A. Mosbacher in which the Mayor states that "These errors . . . include misaligned streets, missing, misnamed, or nameless street segments, extra and redundant street segments, census tract boundary misalignments, and census block numbering problems."

¹²Robert K. Landers, "1990 Census: Undercounting Minorities," Editorial Research Reports, Congressional Quarterly, Mar. 10, 1989 (hereafter cited as March 10, 1989 Editorial Research Reports.)

However, with the Commerce Department's decision against any adjustment, the Bureau has reduced its internal research on undercount methods and reduced the size of the postenumeration survey by half, thereby adversely affecting the Bureau's ability to estimate the undercount, according to Mr. Wice. He concluded that debating a decision now to adjust or not to adjust the count may well be 2 years too late; nevertheless, even conceding the possibility that "the overall national implications of overcount [sic] adjustment might not shift congressional seats," at the local level--focusing on New York City in particular--"you're likely to see more of the 150 State legislative assembly seats within New York City than you would have without an adjustment. . . ."

On the timing of a decision on undercount, Mr. Wice also noted that a former Census Bureau official has reportedly stated "that a decision could be made administratively to still correct in time by August of this year."

Reporting Deadline Not Absolute

John Low-Beer, an attorney with the office of the New York City Corporation Counsel, agreed with the State officials. He said that the Bureau acknowledges that, if by August 1989, the court orders the Bureau to take administrative steps towards making an adjustment, the Bureau could adjust the 1990 count. He further indicated that on April 21, 1989, the court suggested that the statutory deadlines for reporting the decennial count are not absolute, "at least to the extent that they conflict with Constitutional rights," and that the court believed that it could grant a reasonable extension of time for the Bureau to accomplish an undercount adjustment, if an extension were necessary.

Mr. Low-Beer also presented the corporation counsel's statement in which Mr. Zimroth asserts that "In early 1987, the [Bureau

director] himself announced to the Commerce Department that the Bureau had the technical ability to correct the census and it was the Bureau's goal to carry out that correction by December 31, 1990." Mr. Low-Beer added that on July 30, 1987, in a statement in Indiana, the Bureau's Deputy Director publicly acknowledged that adjustment of the census is technically feasible.

Mr. Low-Beer then pointed out that, were the postenumeration survey of 300,00 households to take place as previously planned, the results would still have been subject to a review by panels of experts. These experts would be called upon to judge whether the data measured up to preset standards. If the data met those standards, an adjustment would be done; however, if they did not, an adjustment would not be done.

Prediction That Undercount Will Worsen

In his formal statement, Mr. Zimroth, the city's corporation counsel, responded to the Bureau's criticism of the estimate he used in the first forum, a 500,000-person undercount affecting New York City. In the followup forum, Mr. Zimroth explained that this estimate and other percentages he had cited did not differ significantly from one of the Bureau's own sets of estimates, the Bureau's "3-8 Series" estimates. He pointed out that the "3-8 Series" estimates are relied upon almost exclusively by the Bureau in its own internal memoranda and added that "There's broad consensus among knowledgeable experts that these figures are generally accurate."¹³

¹³Temple University professor Eugene Ericksen is quoted as estimating "the range of undercounting in most large cities in 1980" as being in the range of 3 to 7 percent. A Los Angeles official estimated Los Angeles' undercount at 4.6 percent, and a Houston official estimated that the 1990 undercount in Houston would run between 6 to 8 percent. July 24, 1989 Times article.

On the Bureau's reliance on census improvement procedures other than adjustment, Mr. Zimroth stated that the city of New York actively supports the Bureau's outreach programs, but he added that "Bureau officials have been unable to come up with even a single piece of evidence that any of the programs . . . will reduce this differential. In fact, it is very likely that both the overall undercount and the differential undercount will be significantly worse. . . ." His prediction was based on the premise that the national population of blacks and Hispanics has increased over the numbers present in 1980, and, since these minority communities contain the hardest-to-count individuals, the undercount problem will increase for the population as a whole and particularly for these 2 communities.¹⁴

Issues Affecting Asian Americans

Charles P. Wang, chairman of the Asian/Pacific Islander Census Advisory Committee, reported that, with the help of Members of the U.S. Congress and others, a bill was passed in both Houses to restore the question on Asians to the format used in 1980, a goal he had pressed for in the first forum. He stated that, although President Reagan vetoed that bill, the Bush administration later approved the desired format.¹⁵

Despite such progress, other problems persist including delays in the publication of census data on Asians and the scarcity of Asians in the Bureau's top management and in some regional work forces. He also pointed out that the census questionnaire would appear in English and Spanish, but not in any Asian language,

¹⁴Public officials in Los Angeles and Dade County, Florida are reported to believe that the 1990 census undercount will be larger in their jurisdictions. July 24, 1989 Times article.

¹⁵See William Dunn, "Census to Split Asian Count," USA Today, Jan. 16, 1989.

although an instruction booklet will reportedly be of assistance to those speaking any of 30 or so languages.

He continued to urge an adjustment of the count, hoping that "the Voting Rights Act would benefit Asians as well" through an accurate count enabling Asians to gain election districts in the reapportionment for the 1992 elections. He further noted that he had just returned from a forum involving the American Statistical Association and the American Marketing Association, both of which apparently maintain that there are acceptable ways of adjusting the count so that the margin of error approaches zero.

Opposition to Undercount Adjustment

As mentioned at the outset, the Committee was unable to engage the Bureau in its second forum. However, reacting to the first draft of the summary report of that forum, the Bureau submitted an 11-page letter for the record. The Bureau's major points included one statement that the Bureau does not have a single official estimate for the undercount of the total population but a series of estimates based on different assumptions and a second point to the effect that the Bureau does not know how many blacks and Hispanics were undercounted in central cities since it has not produced net undercount rates for them in central cities.

The Bureau also observed that not all statisticians agree about the Bureau's ability to make census counts more accurate through adjustment and that, regarding the New York lawsuit calling for an adjustment of the 1980 census figures, "the Court finds as a matter of fact that the Census Bureau correctly determined that an adjustment of the census is not technically feasible or warranted and that no such adjustment should be made."¹⁶

¹⁶Roland H. Moore, Associate Director for Field Operations, U.S. Bureau of the Census, letter to Tino Calabria, June 30, 1988, p. 3.

While the Bureau declined to appear at the followup forum, the Committee did identify 13 university professors who had submitted a brief joint "Statement on Census Adjustment" to the U.S. House Subcommittee on Census and Population for its hearing of March 3, 1988.¹⁷ (See appendix A.) Their "Statement" opposed the adjustment method which employs statistical techniques and a postenumeration survey, concluding that "real data (with real flaws) would be replaced by complicated and poorly tested mathematical models of data."¹⁸ None of the 3 "Statement" signatories contacted was able to attend the forum. However, the organizer and chief signatory of the "Statement" shared the document with the Committee.

Commenting on the "Statement" during the followup forum, the panelists generally agreed that experts can be found to differ on many complex issues. They then again cited the support for the PES method given by the American Statistical Association, the Bureau's own blue-ribbon task force known as the Panel on Decennial Census Methodology, and former and current officials and technicians in the Bureau. In that regard, the Committee has recently received a new paper by Dr. Bailar, executive director of the American Statistical Association. (See appendix B.) She had been the association's chairperson and also the Bureau official in charge of adjustment methodologies until 1987, when she resigned after the Commerce Department's announcement that

¹⁷David A. Freedman, professor of statistics, University of California/Berkeley, P. Diaconis, professor of mathematics, Harvard University, et al, "Statement on Census Adjustment," unpublished paper submitted to the U.S. House of Representatives' Subcommittee on Census and Population for the Subcommittee's Mar. 3, 1988, hearing.

¹⁸Ibid., p. 2.

no adjustment would be made.¹⁹

Effects of Various Adjustment Procedures

The Committee has also received for its record an article by the Policy Studies director of the Washington, D.C.-based Population Reference Bureau, William P. O'Hare.²⁰ (See appendix C.) His article outlines the various results which would be yielded by the application of eight "scenarios," including one involving no adjustment. The author concludes that none of the "scenarios" would result in "a big difference in the overall apportionment of Congress following the 1990 Census." Apparently there would be no change at all from the three congressional seats already projected to be lost in New York State. Pennsylvania could gain one seat if 6 of the 8 "scenarios" were implemented; however, Pennsylvania would be one of only 2 States that might possibly gain from an adjustment, California being the second State.

Mr. Low-Beer, the attorney with the city corporation counsel's office, observed that there is no unanimity among the experts on the results described in the article; in fact, he asserted that many others believe that a loss of congressional seats would occur if no adjustment is made of the 1990 count. He also mentioned that the city of New York has commissioned a study of the matter by an independent scholar, and it may be that 2 or

¹⁹Barbara A. Bailar executive director, American Statistical Association, "The Use of Statistical Methods to Produce Accurate Census Coverage," an undated 36-page paper sent to Tino Calabia, U.S. Commission on Civil Rights, with a letter of Apr. 20, 1989. (See appendix B.) Some details surrounding Dr. Bailar's resignation from the Bureau are described in March 10, 1989 Editorial Research Reports.

²⁰William P. O'Hare, director, Policy Studies Department, Population Reference Bureau, "Effects of Census Adjustment," appearing in the March 1989 issue of Population Today, pp. 6-8.

2 1/2 congressional seats would shift if no adjustment were made.

While electoral politics would certainly be affected by the outcome of the 1990 census, Mr. Low-Beer emphasized that the work of the Bureau needs to be insulated from politics. For example, he hoped that "as a first step that President Bush [would] appoint a career professional, a statistician or a research scientist as director of the Census Bureau. . . . The Bureau itself has been dealing in a vacuum without a new director since [Bureau director Dr. John G.] Keane left at the end of last year."²¹

Postscript: the Commerce Department Reverses Itself

As mentioned at the outset, on July 17, 1989, the Department of Commerce agreed to lay the groundwork for possible adjustment of the 1990 census tallies. But what prompted the Department to do so despite its past refusal? According to Eileen Shanahan, writing in Governing,

Speculation is that Secretary of Commerce Robert A. Mosbacher and Undersecretary Michael R. Darby simply decided their Reagan administration predecessors were wrong. Reportedly, there were also fears that U.S. District Court Judge Joseph M. McLaughlin might issue a flat order to make the adjustment, without review of its quality, if the case came to trial. And the Census Bureau desperately wanted the litigation out of the way

²¹Ann Devroy and Spencer Rich, "Californian May Take Next Census; Democrats Express Caution About Redistricting Expert Heslop," Washington Post, Apr. 26, 1989, p. A-25. See also "Pollster Is Likely Choice to Head Census Bureau," Washington Post, Aug. 16, 1989, p. A-19, which reported that the vice president of "a top Republican polling firm" appeared to be the White House's nominee to head the Bureau.

for now, so it could devote its attention to the basic 1990 head count.²²

S U M M A R Y

The Committee held 2 forums on decennial census undercounts and on proposals to make adjustments to correct for such undercounts. In the course of its inquiry, the Committee invited proponents of adjustments and also the Bureau and nongovernmental specialists opposed to adjustments. Neither the Bureau nor other opponents of adjustment found it possible to meet with the Committee. But the Bureau eventually reacted in writing to the statements made by each participant during the first forum, and a nongovernment census specialist opposed to adjustment furnished the Committee with a document explaining the opposition views he shares with 12 other academics.

Those who did appear in the forums included elected and appointed officials of the State and the city of New York as well as the volunteer chairman of the Bureau's Asian/Pacific Islander Census Advisory Committee and an independent scholar and researcher. The Committee also benefited from receiving articles and other documents from several expert sources reflecting either arguments for or against adjustment or simply estimating what the results would be depending on which version of adjustments is made.

Only 5 months remain before 400,000 census workers take to the field. The results of the 1990 count--adjusted or unadjusted--will shortly thereafter determine electoral reapportionment and many funding allotments affecting public life until the close of the 20th century.

²²Eileen Shanahan, "Census Will Try to Fix Undercount," Governing, September 1989, pp. 11-12.

To the US House of Representatives
Subcommittee on Census and Population

For the Hearing of March 3, 1988

STATEMENT ON CENSUS ADJUSTMENT

by

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Census counts are used to apportion seats in Congress, and to allocate billions of dollars in tax moneys. There is some evidence to show that there has been a small differential undercount. And there is a proposal to adjust the 1990 Census for this undercount, using statistical techniques and a "Post Enumeration Survey."

These methods are open to serious question. Yet the Bureau is under considerable pressure to adjust the counts-- from some newspapers, from some politicians, and most regrettably from some statisticians. One egregious tactic is to assert that there is a consensus of technical opinion favoring adjustment.

Like any large-scale statistical enterprise, the Census makes mistakes. It misses some people, and includes others who should not be counted. Demographic analysis (itself an imperfect instrument) suggests that on balance there is an undercount, particularly among minorities.

For 1980, the undercount has been reported as about 1% overall, and 5% among blacks and hispanics. If the undercount can be estimated with sufficient reliability by statistical methods, it can be corrected. To help with the allocation of tax money and apportionment of congressional seats, the corrections would have to be done in fine geographical detail; probably at the block level.

The statistical methodology being proposed involves two large samples: an "E-sample" of census records to check for erroneous enumerations, and a "P-sample" of small geographical areas to estimate the gross undercount using capture-recapture techniques. Proposed samples range up to hundreds of thousands of households.

The procedure uses computer matching to see whether persons in the P-sample were previously captured in the census. At best, this is a complex and error-prone process, especially when some of the data are bound to be wrong. Properly identifying persons who moved between census day and the time of the Post Enumeration Survey is a special difficulty. Furthermore, sample weights have to be estimated, to extrapolate from the sample blocks to the rest of the country. If different persons have different response probabilities, these weights are subject to bias; post-stratification might (or might not) mitigate the problem; the magnitude of the bias seems hard to quantify.

Statistical modeling techniques would be needed to smooth the estimates. Such techniques are helpful in theory, if certain assumptions hold. Again, it is hard to assess the degree to which these assumptions would be violated in practice, or the impact of failures in the assumptions. However, adjustment can easily introduce more mistakes than it fixes: for example, if the total undercount is 1%; and the overall error rate in the adjustment process exceeds 1%, as seems likely.

The last element of the proposal: adjust the statistical adjustments themselves, to agree with the totals from the demographic analysis. The latter would have to be augmented by quite speculative estimates for the numbers of illegal aliens.

This entire process needs to be fitted into an already tight Census schedule, and would reduce the time available for field work, degrading the quality of the data.

In sum, real data (with real flaws) would be replaced by complicated and poorly tested mathematical models of data. We do not see that as progress. We are sympathetic to the goal of funneling additional tax money to cities. But we would prefer a cleaner separation between the technical issues and the political ones. So far, the technical case for adjustment is weak.



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April 20, 1989

Mr. Tino Calabia

U.S. Commission on Civil Rights
Eastern Regional Division
1121 Vermont Avenue, NW
Room 710
Washington, DC 20425

Dear Mr. Calabia:

I'm enclosing a copy of a paper I wrote describing Census adjustment. Also, for your interest, I'm enclosing a paper done by Congressional Quarterly's Editorial Research Reports that I think is very good.

Sincerely,

Barbara A. Bailar, Ph.D.
Executive Director

Enclosures

THE USE OF STATISTICAL METHODS TO PRODUCE ACCURATE CENSUS COVERAGE

Barbara A. Bailar

1. Introduction

The United States has taken a population census every ten years beginning in 1790. We are now preparing to take the 1990 census. Taking a census is not a matter of choice; it is written into the Constitution. One of the primary uses of census data, as stated in the Constitution, is to reapportion the House of Representatives. Thus, it was seen at an early date that political power would be dependent on census results. Over the years, the use of census data to define political jurisdictions has grown. Within states, census population counts are used to determine the boundaries of congressional election districts as well as districts for state legislative offices. The census counts are used to insure that these districts are as equal in size as possible. Census counts are also used to classify local governments by size class. In more recent years, census data have been used by both Federal and state governments to allocate funds. Because of the large amounts of money allocated, political jurisdictions are very concerned about the accuracy of census data.

No census is perfect, even though the final tabulation may suggest perfect accuracy. For example, the U.S. census count in 1980 was 226,545,805, with no plus or minus following to indicate a reasonable amount of uncertainty. This is because the census population total is based on counting, not on a sample, so that no sampling error is involved. Yet there are errors involved because a census depends on the work on a great many people, most of them temporary workers, and people make errors. In this paper, I discuss only one error -- that

of imperfect coverage. In other words, the census does not count perfectly all the people who should be counted. This would probably not be too disturbing an event provided that the undercoverage is small. However, the undercoverage is not evenly distributed over all population groups. It is much larger among minority groups than the white population, among men rather than women, and among younger people rather than older people. In 1980, though the white population may have been slightly overcounted, an estimate of undercount for the Black population was 5.3 percent and 8.0 percent for Black males. See Table 1.

It is because of the differential nature of the undercount that legal action was taken against the Census Bureau after the 1980 census. Many cities, such as New York City, with large proportions of Blacks, sued the Census Bureau. They believed that they had been undercounted, and were thus losing political power and millions of dollars. No final legal decisions have been made. Yet the Census Bureau has had to move forward to prepare for 1990. The remainder of this paper describes research done to develop, implement, and test statistical methodology that could be built in as part of the 1990 census to reduce the undercount.

2. History of the Undercount and Undercount Research

Though the U.S. Census achieves high levels of coverage, there has always been an undercount. After the first census in 1790, George Washington and Thomas Jefferson each stated, in letters to friends, that there had been an undercount. They fully expected the population in 1790 to be over 4 million and it was 3.9 million. Similar historical references to an undercount occurred over the years, but, until 1950, there was no way of measuring the undercount.

TABLE 1. Net Undercount Rates by Race and Sex
1950 to 1980 Decennial Censuses

Population Category	1950	1960	1970	1980
Total population	3.3	2.7	2.2	0.5-1.4 ^a
Male	3.8	3.3	3.1	NA
Female	2.8	2.2	1.4	NA
Black population	9.7 ^b	8.0	7.6	5.3
Male	11.2	9.7	10.1	8.0
Female	8.2	6.3	5.3	2.7
White and other races population	2.5 ^c	2.1	1.5	-0.2
Male	2.8	2.5	2.1	0.6
Female	2.1	1.7	0.9	-0.9

A minus sign indicates net overcount.

NA = Not available.

^aLower percentage assumes presence of 2 million undocumented aliens in estimated population; higher percentage assumes presence of 4 million undocumented aliens.

^bBlacks and other nonwhites.

^cWhites only.

SOURCE: The Bicentennial Census, Panel on Decennial Census Methodology, Committee on National Statistics, National Academy Press, Washington, D.C. 1985.

Two methods were developed and used with the 1950 census and those two methods, after much testing and refinement, are with us today.

The first of these methods is called demographic analysis, a demographic accounting method developed by Ansley Coale (1). Basically, demographic analysis depends on using birth records, death records, and estimates of migration into and out of the U.S. Since 1950, estimates of the completeness of the census have been made by using demographic analysis. Estimates from this method are shown in Table 1. Though there are many assumptions made in producing the estimates, the method and the resulting estimates have achieved credibility. However, the estimates are not suitable to use for adjusting census population for an undercount. The reasons are as follows:

- the estimates are available only at the national level and for no sub-national areas.
- the estimates are available only for Whites, Blacks, and a combined residual group. There are no estimates for any other ethnic groups.
- the absence of data on illegal immigrants.

The second method developed was based on case-by-case matching of records. This method requires two samples to estimate net coverage error. One sample is from a source other than the census. It is generally called a Post-Enumeration Survey (PES). It may be another survey or a special coverage measurement survey. It provides an estimate of gross underenumeration. The second sample is a sample selected from the census itself. This sample, usually called the Enumeration Sample, is revisited to determine which census persons were correctly enumerated and which were erroneously enumerated, thus

providing an estimate of gross overenumerations. The two samples together provide estimates of net coverage error. It is this method that I will describe in more detail in the remainder of this paper.

In 1950, this matching method was tried for the first time. The assumption underlying its use was that coverage errors were caused by a failure to carry out census procedures correctly. Thus, specially trained enumerators who were paid higher rates were instructed to re-enumerate sample areas. After the re-enumeration, the records were matched into the 1950 census records. The estimate of undercount from this study was 1.4 percent, about 2 percentage points lower than the estimates from demographic analysis. This downward bias was called "correlation bias", and was described as the tendency for the PES to miss the same types of persons missed in the census.

A similar study was carried out in 1960 with no major changes in methodology. In 1970, the Current Population Survey, the labor force survey carried out monthly by the Census Bureau, was matched to the census, but no Enumeration Sample was selected to measure gross overenumerations. In 1980, the Census Bureau also used the Current Population Survey, selected an Enumeration Sample, and prepared to provide estimates of net census error for the nation, states and large cities, and for major race and ethnic groups. A description of the plan for the program appears in the Conference on Census Undercount, Proceedings of the 1980 Conference (2). As the study data became available, several problems emerged. There were large amounts of missing data, matching errors, problems in getting correct addresses for people who had moved, and other such difficulties. By varying the treatment of the difficult cases, the Census Bureau derived 12 sets of estimates, as shown in Table 2. Because all 12 sets were based on

TABLE 2. 1980 Post Enumeration Program Estimates of Percentage Undercoverage for Demographic Groups at National Level

National	Black	Nonblack Hispanic	Other
1.4	6.7	5.6	0.3
1.3	6.3	5.3	0.2
1.0	5.6	4.4	0.0
.8	5.2	4.1	-0.1
1.6	4.3	6.4	0.8
2.0	5.4	7.6	1.1
0.2	2.7	3.6	-0.4
1.6	6.9	5.5	0.4
1.7	7.2	5.8	0.6
-0.3	2.5	1.2	-0.8
-1.0	0.7	-0.2	-1.4
-1.1	2.0	1.0	-0.6

A minus sign indicates net overcount.

SOURCE: The Bicentennial Census, The Panel on Decennial Census Methodology, Committee on National Statistics, National Academy Press, Washington, D.C. 1985.

assumptions that could not be verified, the Census Bureau was unable to choose among them. That did not mean that others did not. In the trial of the lawsuit brought by the City and State of New York, the city selected a particular estimate as its favorite. Interesting extensions of methodology used by the city appeared in the paper by Ericksen and Kadane (4).

One thing clear from this table is that no matter what the true 1980 census undercount was, there was a differential undercount. Clearly more Blacks and Hispanics were not counted in the census. Given those results, and realizing that the differential undercount was unlikely to disappear before 1990, the Census Bureau began an extensive program of research to develop more robust methods for measuring the undercount in 1990. That research is the focus of the remainder of this paper.

3. Undercount Research Leading to 1990

Every aspect of the measurement of undercount has been under scrutiny since 1980. Testing of methodology was done in the test censuses in 1985 and 1986 and will continue in the test census in 1987 and the dress rehearsal in 1988. Research results, findings, and recommendations refer to five different areas:

- the two surveys that provide estimates of over- and underenumeration.
- the matching methodology.
- the handling of nonresponse.
- the use of a capture-recapture model.
- the use of other models for indirect estimation for smaller geographic areas.

Each of these will be described in turn.

3.1 Surveys to Measure Net Census Error

In 1970 and 1980, the Current Population Survey (CPS) was used to measure gross underenumeration. The CPS is a large survey, about 70,000 housing units and 185,000 persons, carried out monthly by the Census Bureau to measure labor force participation. The samples have a partial overlap from month to month so the Bureau selected the April and the August sample which have no overlap of units. The April sample was seen to be advantageous since Census Day was April 1. Thus, the problem of people moving between Census Day and the CPS interview was minimized. August was the next sample that could be used where no units were in common with the April CPS sample. Additional movers were expected. It was hoped that estimates from the two samples could be combined to produce an estimate with smaller sampling error.

The CPS is a multistage probability sample. In April 1980, it was spread over 626 primary sampling units (PSU's). Clusters of four housing units were selected within these PSU's. These four housing units were close together to reduce interviewer travel.

The Enumeration Sample in 1980 consisted of 110,000 census questionnaires selected in clusters of 10 housing units. For 50 percent of the sample there was a search for duplicate enumerations within the same geographic area. A reinterview was attempted for the full sample. Questions were asked to find any other addresses at which the people in these housing units may have been counted. The interviewers also confirmed the correct geographic location of the housing units.

After the CPS sample data were returned to the Bureau, the census files were searched for persons included in the CPS. However, the search was restricted

to a limited geographic area. Because the April 1980 CPS was based on 1970 census geography, the CPS cases had to be coded to the correct geography to be available for searching. Also, since all searching was done by clerks, there was a limit to the area of research. Because of this, it was possible for a person counted in the census, but within an area outside the CPS segment, to be tabulated as missed in the census. Since the CPS sample was based on segments of size 4, there was no way of searching the CPS files for people counted in the census. It was, thus, a one-way match.

In 1990 we will not depend on a sample selected for another purpose. Instead, we will first stratify the country into 100 strata. The strata will be defined by such things as percentage of minority group population, percentage of owners and renters, urban or rural location, and other such factors. Each block will be placed into one of these strata. Thus, we expect to see a stratum that will contain blocks from the inner cities of New York, Chicago, Detroit, Los Angeles, and so forth. Similarly, we expect to find strata that contain rural, unpopulated areas of Maine, Nebraska, etc. This method of stratification does not force geographical stratification, another weakness of the 1980 design.

Within these strata, blocks will be selected with probability proportional to a measure of size for the Post Enumeration Survey. We expect to select approximately 300,000 housing units altogether which will contain about 750,000 persons.

We intend to produce estimates of total population for each stratum for various demographic categories. The estimate of the total population is

$$\hat{N} = \frac{(N_c - \hat{E})\hat{N}_p}{\hat{N}_m}$$

where N_C denotes the census count for the stratum

\hat{E} denotes the estimates of erroneous enumerations

\hat{N}_p denotes the estimate of the stratum population from the PES

and

\hat{N}_m denotes the estimate of the matched persons between the PES and the census

The variance of this estimator was approximated as follows:

$$V(\hat{N}) = \frac{NP_U[1-P_U][1+(\bar{m}-1)\rho]}{b\bar{m}} + \frac{NP_e[1-P_e][1+(\bar{m}-1)\rho]}{b\bar{m}}$$

where P_U is the proportion of persons expected to be missed by the census

P_e is the proportion of persons erroneously enumerated

\bar{m} is the average block size

b is the number of sample blocks

ρ is the intraclass correlation that arises from a block sample for measuring over and underenumeration.

This estimator assumes no correlation between the estimates of over and underenumeration. The estimator then is conservative, in the sense that any positive correlation would reduce the variance of \hat{N} . We also assumed that we wanted a coefficient of variation for \hat{N} of about 1 percent in each stratum.

Since we must provide for a variety of situations in the PES, we assumed the following situations:

	P_U	P_e	ρ	\bar{m}	Value of Resulting Sample Size
Situation 1	0.05	0.03	0.1	80	100
Situation 2	0.07	0.03	0.1	80	100
Situation 3	0.05	0.04	0.1	80	100

Thus if 10 of the 100 strata were situation 2, 10 were situation 3 and the remaining 80 situation 1, the required sample size is about 300,000. If 10 were situation 1, 10 were situation 2, and 80 were situation 3, the sample size would be about 333,000. These two examples seem to be the extremes of what could happen in 1990.

In the Los Angeles test census of 1986, we tried a small-scale version of this technique. Of course, in an area of less than 400,000 persons, it is difficult to simulate the 1990 census activity. Nonetheless, if there were difficulties in the smaller area, they would be important to solve before the next test.

The Los Angeles test site had three major racial or ethnic groups: Hispanics, Asians, and Whites. Very few Blacks lived in the area. Sampling strata were defined as follows:

- Hispanics in large multiunit structures
- Hispanics in small multiunit structures
- Hispanics in single units
- Asians
- Non-Hispanic, Non-Asian
- Blocks with 2 or fewer housing units

After the data were collected, we post-stratified the sample in order to carry down the estimates of the undercount to the block level. This work is described by Diffendal (3). It had been shown in earlier work that people who rent their units rather than own them are more likely to be undercounted.

Finally, all post-strata were crossed by age and sex. Thus, there were 8 stratification variables x 2 sex variables x 5 age variables, giving 80 post-strata estimates. The post-strata were as follows:

Hispanic renters in multiunit structures in blocks having 50 percent or more Hispanics

Hispanic renters in single unit structures in blocks having 50 percent or more Hispanics

Hispanic owners in blocks having 50 percent or more Hispanics

Hispanics in all other blocks

Asian renters in all blocks

Asian owners in all blocks

Non-Hispanic, Non-Asian renters in all blocks

Non-Hispanic, Non-Asian owners in all blocks

Eighty adjustment factors, the estimates of the population divided by the census count, were derived. Some of these were based on small samples and had large sampling variances. To reduce the sampling error of the adjustment factors, a Bayesian regression model was fit to the 80 adjustment factors. Indicator variables for post-strata, and age, sex, and race within post-strata were the independent variables for the Bayesian regression model. The adjustment factors were averaged with the Bayesian regression estimates to produce the final adjustment factors. Table 3 shows the final results.

Putting together all these considerations, we feel we have made considerable progress since 1980 in designing a sample, showing effective use of

TABLE 3. Results of Smoothing Adjustment Factors in Los Angeles Test Census

Post Stratum	Sex	Age	Adjustment Factors		Standard Error of Adjustment Factors	
			Original	Smoothed	Original	Smoothed
Hispanic renter in Hispanic block	Male	0-14	1.131	1.130	.020	.016
		15-29	1.247	1.211	.030	.021
		30-44	1.165	1.144	.029	.020
		45-64	1.099	1.114	.043	.024
		65+	1.055	1.110	.044	.023
Hispanic renter in Hispanic block	Female	0-14	1.124	1.126	.023	.018
		15-29	1.234	1.203	.032	.022
		30-44	1.084	1.098	.017	.015
		45-64	1.125	1.121	.040	.024
		65+	1.099	1.122	.045	.024
Hispanic owner in Hispanic block	Male	0-14	1.056	1.050	.018	.015
		15-29	1.078	1.084	.018	.015
		30-44	1.087	1.072	.016	.014
		45-64	1.031	1.031	.012	.011
		65+	1.073	1.054	.028	.019
Hispanic owner in Hispanic block	Female	0-14	1.059	1.051	.020	.016
		15-29	1.088	1.090	.016	.014
		30-44	1.033	1.034	.012	.011
		45-64	1.020	1.022	.012	.011
		65+	1.033	1.035	.019	.015
Hispanic in non-Hispanic block	Male	0-14	1.105	1.051	.052	.023
		15-29	1.154	1.106	.054	.025
		30-44	1.131	1.050	.065	.024
		45-64	1.063	1.036	.050	.023
		65+	0.999	0.999	.000	.000
Hispanic in non-Hispanic block	Female	0-14	1.137	1.059	.047	.023
		15-29	1.033	1.060	.022	.017
		30-44	1.079	1.051	.037	.021
		45-64	1.033	1.031	.028	.019
		65+	0.947	1.013	.040	.022
Asian renter	Male	0-14	1.059	1.076	.041	.026
		15-29	1.127	1.137	.044	.028
		30-44	1.195	1.093	.077	.031
		45-64	1.004	1.063	.057	.030
		65+	0.999	0.999	.000	.000

TABLE 3. Results of Smoothing Adjustment Factors in Los Angeles Test Census - continued

Post Stratum	Sex	Age	Adjustment Factors		Standard Error	
			Original	Smoothed	Original	Smoothed
Hispanic renter	Female	0-14	1.067	1.079	.047	.028
		15-29	1.215	1.153	.055	.029
		30-44	1.173	1.087	.105	.032
		45-64	1.012	1.065	.061	.030
		65+	1.212	1.087	.127	.032
Hispanic owner		0-14	1.045	1.041	.030	.019
		15-29	1.059	1.085	.038	.022
		30-44	1.091	1.053	.040	.022
		45-64	1.035	1.033	.020	.016
		65+	1.031	1.037	.051	.023
Hispanic owner		0-14	1.040	1.039	.041	.022
		15-29	1.052	1.086	.046	.024
		30-44	1.035	1.037	.036	.021
		45-64	1.038	1.035	.019	.015
		65+	1.051	1.041	.045	.022
Non-Hispanic, non-Asian renter		0-14	1.037	1.049	.059	.027
		15-29	1.252	1.115	.114	.031
		30-44	1.144	1.062	.066	.028
		45-64	1.055	1.047	.031	.022
		65+	1.068	1.054	.056	.027
Non-Hispanic, non-Asian renter		0-14	1.148	1.064	.062	.027
		15-29	1.126	1.112	.054	.028
		30-44	1.134	1.064	.057	.027
		45-64	1.068	1.049	.041	.025
		65+	0.948	0.992	.021	.018
Non-Hispanic, non-Asian owner		0-14	1.044	1.040	.037	.021
		15-29	1.148	1.103	.064	.025
		30-44	1.006	1.032	.048	.023
		45-64	1.036	1.034	.017	.014
		65+	1.017	1.025	.019	.016
Non-Hispanic, non-Asian owner		0-14	1.159	1.052	.068	.024
		15-29	1.081	1.092	.042	.023
		30-44	0.997	1.011	.017	.014
		45-64	1.025	1.026	.012	.011
		65+	0.997	1.004	.012	.011

Hispanic blocks are blocks in which 50 percent or more of the population is Hispanic.

post-stratification, using regression methods to take care of outliers, and other techniques.

3.2 Matching Records

The blocks selected into the PES are assigned for independent listing. We do not depend on the lists of housing units assembled for the census. This may be one of the strong points of the PES, since unusual living arrangements that do not fit neatly into census definitions abound. For example, we found in Los Angeles that in certain parts of the city, the census had listed a single family house at an address. On closer inspection, one could find out that the garage had been made into a living quarters and that a recreational vehicle such as a van was set up in the backyard as another living quarters. Why do people do this? An explanation offered us was that the rents for the original house are high and to help pay the rent, additional people are brought in. These new living quarters are not revealed to the city, so they would never appear on original census lists. However, in a PES, the listers are in the block, frequently see lights on in the garages and vans, and list these units. Even with this, we do not get them all.

After the listing, PES enumerators go into the sample blocks and interview at all the housing units. They do not repeat the census questionnaire. Instead they concentrate on coverage. They ask additional questions only to help us locate or match individuals.

Matching in 1980 as well as earlier years was the operational stumbling block to success. In 1980, there were 150,000 housing units containing 350,000 people to be matched. This was all done clerically. Every case was handled

in a laborious, time-consuming way. Clerks were trained to look in the census for the housing unit within a geographical area that matched the CPS housing unit and then to match each of the people within the housing unit. It was often difficult for the clerks to know whether they were in the right geographic area. When they matched people, they were instructed to match names, sex, race, and relationship within housing unit. Unless everything matched with no discrepancies, the case was given to another set of clerks to review and make decisions about. Finally, a group of statisticians in Washington reviewed all cases that did not match right away. This operation took months and was prone to much error. Some of the difficulty was caused by the lateness of the operation. The match operation started in the fall of 1980. The followup began in the winter of 1981, almost a full year after the census. Matching continued until the end of 1981, with some sporadic work in 1982.

When planning began for 1990, we decided that computerizing the match should have a high priority. If the computer could match the cases that were simple, a clerical staff could spend their time on more "interesting", more difficult cases. Also, the computer could be used to assist the clerical matching process.

The lists we will be matching in 1990 are from two census processes. One of them is the census itself and the other the PES, compiled a few months after the census. The records on these two files are compared to see how similar they are. The success of matching is dependent on the quality of the records on the file. When two records are identified for which the characteristics match, they are assigned a match code. A record on one file without a record on the other file with enough similar information is assigned a not matched code or, sometimes, a possible match code.

The range of the area over which the searching for like records takes place must be limited. We cannot search the entire census file for a record on the PES file. The census file is blocked into subsets depending on selected characteristics. A probabilistic model, based on theory developed by Fellegi and Sunter (5), is the basis for the matching within these subsets.

3.3 Treatment of Nonresponse

In the 1980 census, nonresponse was a serious problem. Because we used an existing survey, the CPS, we had to accept the nonresponse from that survey. It was 4.4 for April and 5.3 for August. Then, after the matching of records occurred, cases that did not match were sent back to the field for followup. That got more nonresponse. In addition, there were geographical coding problems. So the final nonresponse in 1980 was 8.4 for April and 9.7 for August. Those rates were high for trying to measure something at the level of 1 to 2 percent. Even worse, the nonresponse was not spread evenly over the population. It was difficult to see how the population distribution of the states was going to be improved when the quality of the data was so variable over the states and cities.

In the 1980 study, if the CPS case could not be matched to a census case with certainty, it was sent out to be contacted again by an enumerator. About 13 percent of the cases were sent out for this further follow-up. Among these cases were the cases that could not be resolved. These latter cases were imputed a match status based only on the group of cases that went to follow-up. Thus, only 13 went to follow-up and 15-20 percent of those were never resolved. Those never resolved were imputed from those that were resolved. For that reason, a very high proportion of the unresolved cases were assigned to a

"missed" category. In fact, the percentage of the missed category that came from imputations was over 40 percent.

This method of imputing for the unresolved cases came under a lot of scrutiny. Those who defended the imputation said that the unresolved were difficult cases since they had gone to follow-up in the first place and thus were more likely to be missed cases. However, at least seven percent of those sent to followup were sent because of timing problems. A match to the census had never been attempted. Those who opposed this imputation said the donor pool was too limited. Alternative methods of imputation were tried. Using the entire sample for the donor pool was tried, and so was pulling out parts of the unresolved and treating them differently. The results from these various treatments gave very different results as was shown in Table 2. Some of them showed net overcounting and some net undercounting. It was clear that not only was there too much missing data, but that the strategy for handling it was not robust.

In addition, there was missing data for the Enumeration Sample. About 4.7 of the cases were unresolved and were imputed for. Approximately 30 percent of the erroneous enumerations came from imputation. Again, questions were raised on what the donor pool should be.

With that in mind, we devised a strategy for 1990 and tested it in Los Angeles. First of all, we monitored the nonresponse rate in the field so that steps were taken in a timely way to keep nonresponse at a low level. In 1980, we knew what it was only at the end of the processing. Second, we allowed 3 weeks in the field to complete the PES interviewing compared to only one week in 1980.

In addition, we developed a questionnaire in the PES that had several questions on it to help us locate individuals who moved. Using this strategy in the Los Angeles test, we were able to keep nonresponse rates to 4.5 for the PES sample, about half of what they were in 1980. The Enumeration Sample cases that did not match were sent for follow-up.

The other thing that will be different in 1990 is the imputation strategy. We also developed and tested this in Los Angeles. There were some housing units for which there was no response. We used a weighting adjustment for those units. That means that within a sampled block, the sampling weight, which was identical for every person, was inflated by the inverse of the completed-interview rate for the block. This kind of weighting adjustment is based on the assumption that the households not interviewed are the same as those interviewed. This is probably not the case, but it is a conservative treatment.

In post-stratifying the PES samples, certain key variables need to be present. In the Los Angeles test census, those variables were tenure of housing unit and size of structure, sex, age, and race. When these variables were missing, imputation was used. Table 4 shows the missing data rates for these items in Los Angeles.

TABLE 4. Percent of Missing Data in Los Angeles Test for Characteristics Needed for Post-Stratification

<u>Characteristic</u>	<u>Post-Enumeration Sample</u>	<u>Enumeration Sample</u>
Tenure	3.5 %	0.7%
Structure type	2.3	1.6
Sex	2.1	0.4
Age	0.7	2.1
Race	0.8	7.0

Missing data for these characteristics in both the P and E samples were imputed by means of a hot-deck computer system in which data from recently processed cases were used for imputation. A hot-deck procedure is standard practice at the Census Bureau for the decennial census and many household surveys. The only added feature was that the imputation was done in two passes. On the first pass, tenure, structure, and race were imputed using the most recently observed data. On the second pass, sex and age were imputed at random from distributions tabulated during the first pass using all observed data. The results from the imputation confirmed other experiences. More males were imputed, as were rented housing units, and multi-unit structures.

Another very important characteristic that was missing was the match status for the PES sample and the enumeration status for the Enumeration Sample. This was missing in the PES sample usually because there was not enough information to match or there were movers for which there was trouble finding a Census Day address.

In 1980, a match status was imputed. A person was assigned as matched or not matched. In 1990, we will impute a match probability. This was tested in Los Angeles. A logistic regression approach was used to impute the match probabilities. If X denotes a vector of predictor variables, $Y = M$ or N (matched or not matched) and $p = \Pr(Y = M|X)$, then the parameter vector β of the logistic regression model

$$\text{logit}(p) = \log [p/(1-p)] = X'\beta$$

was estimated from the data for the resolved cases using Bayesian techniques. Then, for an unresolved case j , with $X = x_j$, the imputed match probability was

$$\hat{p}_j = \text{logit}^{-1}(x_j'\hat{\beta}) = \frac{\exp(x_j'\hat{\beta})}{1 + \exp(x_j'\hat{\beta})}$$

where $\hat{\beta}$ is the estimate of β .

Using these techniques in the Los Angeles test, we found the match rate for resolved PES sample cases to be 87.8 percent and the imputed match rate for the unresolved PES sample cases to be 77.4 percent.

For the Enumeration Sample, there will be cases that come back after followup for which there will not be a clearly defined status of correct or erroneous enumeration in the census. This can happen when the respondents in the followup says they have no knowledge of the person in question, a potential indication of fabrication in the census; when the followup is a noninterview; and when not enough information is provided to make a determination.

As with the PES sample, a probability of erroneous enumeration was imputed for each unresolved case in Los Angeles. Since missing correct or erroneous enumeration status resulted solely from followup, only the resolved cases from followup were used in estimating the logistic regression. In the Los Angeles test, the percent erroneous enumeration for the non-followup cases was 1.6 percent. For the imputed cases, it was 2.2 percent.

3.4 Dual-System Estimation

There are alternatives in the ways the data from the PES can be used in a model. For several years, a version of a dual-system estimator based on capture-recapture models has been discussed. Such a model was used in 1980 and was subject to considerable criticism of the underlying assumptions. However, the 1986 paper by Wolter (9) clearly lays out a variety of alternative models with their underlying assumptions and develops very clearly the model the Census Bureau will use in 1990. Again, this model was tested and refined in the Los Angeles Test Census.

The model is as follows:

There is a census and a survey, both used to provide information on the size of the total population. For simplicity, assume first that the sample is a complete enumeration. The assumptions underlying the model are:

1. The population is closed and of fixed size N . Given the long enumeration period in the United States, and the fact that people move in and out of the country as well as within the country, this assumption is incorrect. We use estimates of erroneously enumerated from the Enumeration Sample to correct for this.
2. The joint event that the i -th individual is in the census or not, and in the sample or not, is correctly modeled by the multinomial distribution with the following parameters.

		Survey		
		in	out	
Census	in	P_{111}	P_{112}	P_{11+}
	out	P_{121}	P_{122}	P_{12+}
		P_{1+1}	P_{1+2}	1

3. The census and survey population estimates are created as a series of N mutually independent trials, where N is the fixed but unknown size of the population. There is a multinomial distribution that

is the basis of each trial, where each trial corresponds to a member of the population. The resulting data are

		Survey		
		in	out	
Census	in	x_{11}	x_{12}	x_{1+}
	out	x_{21}	x_{22}	x_{2+}
		x_{+1}	x_{+2}	$x_{++} = N$

where $x_{ab} = \sum x_{iab}$ and x_{iab} is an indicator random variable signifying whether the i -th individual is in cell (a,b) , for $a,b = 1, 2, +$. In the PES situation, x_{11} , x_{12} , x_{21} are observable after the matching operation, and x_{1+} is the census count. Unobserved is x_{22} .

4. Matching of cases between the census and survey can be done without error.
5. Both the census and the sample survey contain no spurious elements. Again, the Enumeration Sample is of value here.
6. Nonresponse can be coped with so that exact matching can proceed.
7. Since post-stratification is desirable, the variables used are completely and correctly recorded in the Census and sample survey.
8. The event of being included in the Census is independent of the event of being included in the sample. That is, the cross-product ratio, θ_i , satisfies

$$\theta_i = \frac{P_{111} P_{122}}{P_{112} P_{121}} = 1 \text{ for } i=1, \dots, N.$$

Wolter has called this causal independence. This assumption has been the focus of much scrutiny. It seems unlikely that this assumption holds for some groups of people -- for example, those that fear the government and any contact with it are likely going to be missed in the census and the survey.

9. The capture probabilities satisfy $p_{i+1} = p_{i+}$ and $p_{i+1} = p_{+i}$ for $i=1, \dots, N$.

The traditional estimator used in this model is $\hat{N} = \frac{x_1 + x_{+1}}{x_{11}}$. When a sample is used, sample-based estimates of x_{+1} and x_{11} are used. Wolter (9) went on to describe the statistical properties of the sample-based estimator of N . An important result was that showing that the estimator has two sources of variability: sampling variability and model variability.

This model was used to estimate the undercount in the Los Angeles test. To meet census conditions, we used the estimator

$$\hat{N} = \frac{(N_c - \hat{E})\hat{N}_p}{M}$$

where these terms are defined on page 10.

3.5 Indirect Estimation

At the completion of the estimation stage, there will be direct estimates at a post-stratum level where a post-stratum might be composed of Black renters in multi-unit structures in cities of over 1 million persons, crossed by age, race, and sex. To be useful in the census, that level of undercount must be distributed to all the components of the stratum, that is, to all the blocks in the stratum. Some questions arise concerning the level at which an improvement over census data will be made and what method should be used

to distribute the undercount. Work on this at the Census Bureau has been going on using synthetic populations to measure any improvement. Use of synthetic populations can always be criticized since they may be different from the real population, but there is no alternative. To cope with this problem, Isaki, Diffendal, and Schultz (6) have constructed three different artificial populations, using different assumptions about the number of illegal aliens in the country. Within the 1980 Census, there are people imputed into the census. The imputations are made by taking people already counted and replicating them again. These cases are called substitutions and they occur when: no census questionnaire was completed but people may have lived in a housing unit, only the number of people who lived in a housing unit was known but not the characteristics, for machine failure, and when the field counts for an area were larger than the counts after machine processing. In all of the artificial populations, these substitutions were used as a proxy for the undercount. An analysis using state data in 1980 showed that the census substitution rate was the most important explanatory variable of several types of nonmatch rates. Since the nonmatched rates are the basis of the missed rates, substitutions were used as a proxy for the undercount. Artificial population 1 (AP1) uses census minus substitutions as the census count and substitutions as the undercount. AP2 and AP3 were constructed so that the totals at the national level by age, race, and sex equaled an independent estimate of the total population provided by the method of demographic analysis, assuming 3.5 million illegal aliens in the U.S. In both AP2 and AP3, the substitution counts are adjusted by factors F_p , the ratio of the difference between

the demographic analysis estimate N_D and the census, to the total substitutions. Thus

$$F_D = \frac{N_D - \text{Census}}{\text{Substitutions}}$$

Thirty factors were required -- five age categories, two sex, and three race or ethnic categories. The three race or ethnic factors were Black, Non-Black Hispanic, and Rest.

The difference between AP2 and AP3 is in the treatment of the Hispanic population. Demographic analysis does not provide an estimate for that population. For AP2, the Hispanics were assumed to be like the Non-Hispanics and those factors were used. For AP3, the Hispanics were assumed to be like the Black population, and those factors were used.

Three different types of synthetic estimators were used. One used age, race, and sex groups by geography, emphasizing urban-rural differences. This estimator, called syn 1, had 90 adjustment factors. A second estimator emphasized census divisions and size of place within division and was called syn 2. This estimator had 96 factors. The third used more detailed age categories in an age-race-sex stratification, but no geographic substrata below the U.S. level. This was called syn 3.

Each of the three estimators were used to estimate the total population and population by race for states and counties for each artificial population. Several summary measures suggested by Preston and Schirm (8), were used to evaluate the performance of the synthetic estimators.

Three of these measures relate to counts of areas with certain characteristics. Table 5 shows these three measures for the three artificial populations and the three synthetic estimators compared to the census. The first measure compares the absolute relative errors of the standard count for the area as represented by the artificial population. So

$$ARE(c_i) = \left| \frac{c_i - s_i}{s_i} \right|$$

where c_i is the census count for the i -th area and s_i is the standard. Similarly,

$$ARE(e_i) = \left| \frac{e_i - s_i}{s_i} \right|$$

where e_i is the estimated count from the synthetic estimator.

In the first measure in Table 5, we are comparing the number of states for which the absolute relative error is less for the census than for the synthetic estimate. Notice that for the total population, this is a small number.

The second measure is the absolute proportional error, ADP, where

$$ADP(c_i) = \left| \frac{\frac{c_i}{N}}{\sum_{i=1}^I \frac{c_i}{N}} - \frac{\frac{s_i}{N}}{\sum_{i=1}^I \frac{s_i}{N}} \right|$$

and

$$ADP(e_i) = \left| \frac{\frac{e_i}{N}}{\sum_{i=1}^I \frac{e_i}{N}} - \frac{\frac{s_i}{N}}{\sum_{i=1}^I \frac{s_i}{N}} \right|$$

TABLE 5. Counts of Areas with Certain Characteristics using Synthetic Estimators Compared to the Census at the State Level Using Three Artificial Populations for Total Population

	AP1				AP2				AP3			
	Syn 1	Syn 2	Syn 3	Census	Syn 1	Syn 2	Syn 3	Census	Syn 1	Syn 2	Syn 3	Census
Number of states where $ARE(c_i) < ARE(e_i)$	9	4	7	-	9	5	8	-	9	7	6	-
Number of states where $ADP(c_i) < ADP(e_i)$	14	12	13	-	13	15	14	-	9	8	8	-
Apportionment	2	2	2	2	2	0	2	6	4	2	4	8

Then the second measure in Table 5 shows the number of states for which

$$ADP(c_i) < ADP(e_i)$$

Again, for all three synthetic populations, the results show that this is a small number of states. Both absolute relative errors and proportional errors are made in substantially fewer states when a synthetic estimator is used.

The third measure pertains to the apportionment of seats in the House of Representatives and shows how many are erroneously assigned. For AP1, the census and all three synthetic estimators behaved equally in error. On AP2, all three synthetic estimators were better than the census, with syn 2 performing best. AP3 showed similar results with higher levels of error.

The next types of summary evaluation measures involve error assessment of the absolute level of the adjustment estimates. These measures are compared in Table 6. The first of the three is just the mean absolute relative error

$$MARE = \frac{1}{N} \sum_{i=1}^N \left| \frac{e_i - s_i}{s_i} \right|$$

The next two are also based on the absolute relative error, one being the maximum, and the other the median. The final measure in their group is the weighted squared relative error, α , where

$$\alpha = \frac{1}{N} \sum_{i=1}^N \frac{(e_i - s_i)^2}{s_i}$$

TABLE 6. Error Measurements Related to Absolute Level of Adjustment Estimates Using Synthetic Estimation Compared to the Census at the State Level Using Three Artificial Populations

	AP1			AP2			AP3							
	Syn 1	Syn 2	Syn 3	Syn 1	Syn 2	Syn 3	Syn 1	Syn 2	Syn 3	Census				
Mean Absolute Relative Error MARE	.0054	.0042	.0052	.0134	.0134	.0134	.0052	.0044	.0053	.0147	.0050	.0045	.0047	.0136
Maximum ARE(e)	.0169	.0147	.0190	.0398	.0398	.0398	.0183	.0200	.0297	.0771	.0184	.0228	.0300	.0773
Median ARE(e)	.0050	.0028	.0048	.0121	.0121	.0121	.0048	.0026	.0047	.0113	.0040	.0026	.0032	.0092
Weighted squared relative error	8336	4504	8533	55221	55221	55221	9074	6179	9925	77513	8979	5866	9344	82339

This latter measure is a favorite of many, because it gives greater weight to errors in larger places.

From Table 6, we see that each of the three synthetic estimators outperforms the census for all three artificial populations. Generally, syn 2 did the best.

The final three quantities measure the error in the proportionate shares of the population derived from the adjustment estimates. Some people are more interested in proportional distributions rather than absolutes. Table 7 shows these results for the three artificial populations. The first of these measures is

$$SADP = \sum_{i=1}^N \left| \frac{c_i}{\sum_{i=1}^N c_i} - \frac{s_i}{\sum_{i=1}^N s_i} \right|$$

the sum of the absolute proportional errors.

The second is:

$$PI = \sum_{i=1}^N \frac{IMPV_i}{M}$$

$$\text{where } M = \sum_{i=1}^N s_i$$

and

$$IMPV_i = s_i \text{ if } \left| \frac{e_i}{\sum e_i} - \frac{s_i}{\sum s_i} \right| < \left| \frac{c_i}{\sum c_i} - \frac{s_i}{\sum s_i} \right|$$

$$= 0 \text{ otherwise}$$

When this measure is greater than 1/2, then the adjustment provides better data for over half of the population.

TABLE 7. Error Measurements Related to Proportionate Shares of the Population Using Synthetic Estimation Compared to the Census at the State Level Using Three Artificial Populations

	AP1			AP2			AP3							
	Syn 1	Syn 2	Syn 3	Syn 1	Syn 2	Syn 3	Syn 1	Syn 2	Syn 3	Census				
Sum of absolute proportional errors SAPP	.0048	.0031	.0048	.0052	.0048	.0052	.0048	.0037	.0049	.0067	.0048	.0033	.0047	.0078
Proportion of population improved PI	.622	.830	.654	-	.757	.703	.694	-	.701	.872	.715	-	-	-
Weighted squared relative error differences	8332	4501	8211	9735	9073	6179	9758	17368	8923	5810	9266	22048	22048	

Finally, there are weighted squared relative error differences,

$$\Phi = \sum_{i=1}^N s_i \left\{ \left[\frac{e_i - s_i}{s_i} \right] - \left[\frac{\sum e_i - \sum s_i}{\sum s_i} \right] \right\}^2$$

With these measures, too, the three synthetic estimators produced better results than the census. Syn 2 almost always indicated smaller error than syn 1 and syn 3. There was some difference in behavior of the estimators over the three artificial populations, especially for syn 2. This is because syn 2 treated Blacks and Hispanics alike which favors its performance under AP3 but not AP2.

All of these results are available by race group and show similar patterns. From these data, it seems that states would be improved by use of synthetic estimation and that the synthetic estimates are generally superior to the census. The same sort of analysis was also done for counties. For counties, syn 3 performed better. The universe of counties, 3137 of them, were then separated by size into three groups. Group 1 included counties with population of 10,000 or less; Group 2 included counties with population between 10,000 and 50,000; and Group 3 included counties with population greater than 50,000. These groups included 25, 50, and 25 percent of all counties, respectively. It turned out that syn 3 did best for Group 1, syn 2 for Group 3 and there was no clear picture for Group 2. The absolute relative error was reduced in about two-thirds of the counties. At the present time, we are examining data for smaller geographic areas than counties.

Regression models were also tested, using one of the twelve 1980 PEP estimates as the standard. All evaluations were made at the state level. The regression models were formed at the district office level of aggregation and were used to predict the district office population counts. These were summed to the state level to compare to the assumed standard.

Three models of net undercount using unweighted linear regression were compared. The assumed model for all three was

$$\underline{Y} = \underline{X} \underline{\beta} + \underline{\epsilon} \text{ where } \epsilon \sim N(0, \sigma^2 I).$$

The variables, \underline{X} , that predict the percent net undercount, \underline{Y} , are census variables. One model used only one variable -- percent of non-vacant renter occupied housing that is lived in by minority populations. The second regression used two variables, adding the variable of the percent of total population that had not attended high school. Model 2 was slightly better than model 1, but neither was too impressive.

In forming the next model, the district offices were divided into three groups and each group had its own model. The three groups were based on the kind of census conducted there. One group was in large cities and had the mailout/mailback census with enumeration followup. A second group was in rural areas with enumerators taking the census. The third group was in suburban areas and for which the mailout/mailback census worked best. This group contained the largest part of the district offices.

Using the three models, each group had different explanatory variables. These were combined into one model using indicator variables. All three models were compared with the census, and were superior to it.

Other approaches, such as weighted regression and Bayesian hierarchical regression models, have also been developed and tested. All approaches seem to provide an improvement, but with many differences among models.

4. Conclusions

The issue of accurate census coverage became a statistical problem when we learned how to measure the undercount. The kinds of statistical issues are many and cut across many areas: conceptualization, measurement and measurement error, modeling, validation of models, and operationalizing statistical procedures in a census. Besides being an extremely interesting statistical problem, the undercount measurement and adjustment program has significant public policy implications.

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PRB

April 5, 1989

Mr. Tino Calabria
U.S. Commission on Civil Rights
Eastern Regional Division
1121 Vermont Ave. NW
Room 710
Washington, D.C. 20425

Dear Tino,

Thanks for your letter of March 31, 1989, inviting me to join you at the New York State Advisory Committee meeting on Census Undercounts and Preparations for the 1990 Census: Part II.

Unfortunately, I will not be able to attend the meeting in New York on April 27th, but I am enclosing a couple of items that you might want to share with your colleagues who share our interest in the topic of census adjustment. The first item is a recent edition of Population Today which contains a short article on the potential impact of several types of adjustments to the Census data. The second item is a PRB Working Paper which I completed last fall. This working paper provides more detailed information about the impact of potential adjustment.

I am sorry I won't be able to join you at the meeting on April 27th. If it is possible, please share the enclosed material with those at the meeting. Let's keep in touch.

Sincerely,

Bill

William P. O'Hare
Director of Policy Studies

DEMOGRAPHER'S PAGE

Effects of Census Adjustment

by William P. O'Hare

With the 1990 Decennial Census a little over a year away, many political observers are beginning to think about the impact the next census will have on the apportionment of Congress. With large population shifts from the Northeast and Midwest to the Sunbelt states, many seats in Congress will change.

These major shifts will unquestionably change the makeup of Congress. But another, separate issue is whether the decennial census count should be *adjusted*, with the theoretical goal of making it more accurate. Such an adjustment has never been done, but several powerful interest groups are now lobbying for it.

Not only whether to adjust, but *how* to adjust are important questions. The potential impact of various adjustment scenarios on the apportionment of Congressional seats following the 1990 Decennial Census follows.

Proposed Adjustments

The change most widely discussed is the possible adjustment of the census count to correct for the undercount of minorities. A long series of studies by the Census Bureau show that over the last several censuses, minorities have been missed at a much higher rate than whites. About 5.9 percent of blacks were missed in the 1980 Census, compared to about 1 percent of whites and other races.¹ While the data are less reliable, it is generally believed that Hispanics are missed at about the same rate as blacks.² Following the 1980 Census, many large cities sued the Census Bureau hoping that the courts would compel the Bureau to adjust its figures to reflect the uncounted minorities. After protracted litigation, the Census Bureau position

prevailed and counts were not adjusted.

The issue of undercount adjustment in the 1990 Census is already being raised by powerful interest groups. For example, a House Bill (HR 3511) which would require the Census Bureau to adjust census figures based on the undercount of minorities was seriously entertained by the House Post Office and Civil Service Committee before going down to defeat, in large part because of the amendments that were added to it. A suit has already been filed in federal court asking that the Bureau be required to make statistical adjustments. No trial date has been set for this case.

The second adjustment issue that has received popular attention involves undocumented aliens. Just prior to the 1980 Census, the Federation for American Immigration Reform (FAIR) sued the Census Bureau in an attempt to have the courts make the Bureau eliminate any illegal aliens from the num-

bers used in Congressional apportionment. That suit was thrown out on technical grounds.

There is a long history of legislative efforts³ to have illegal aliens removed from the census counts that goes back as least as far as 1929. During the last Congress, five separate bills were introduced which would exclude illegal aliens from the population count used to apportion the House of Representatives.⁴ A suit was filed in February 1988 which would accomplish the same thing if successful.

The third type of adjustment that resulted in litigation following the 1980 census involves imputation — a technical procedure employed by the Census Bureau. In a few cases, Census Bureau enumerators are unable to make contact with people in a housing unit, even though neighbors have indicated that the housing unit is definitely inhabited. If enumerators are unable to make contact after several callbacks, the Census Bureau notes that the housing

Table 1. Eight Scenarios for Adjustments to the 1990 Census

-
- | | |
|--------------------|---|
| Scenario 1. | No adjustment to Census figures. |
| Scenario 2. | The minority population (blacks plus Hispanics) in each state is increased by 5 percent. |
| Scenario 3. | The number of undocumented aliens is subtracted from each state's figure. |
| Scenario 4. | The number of imputed persons is subtracted from each state's figure. |
| Scenario 5. | Two adjustments are made simultaneously:
1) The minority population in each state is increased by 5 percent, and
2) The number of undocumented aliens is subtracted from each state's figure. |
| Scenario 6. | Two adjustments are made simultaneously:
1) The minority population in each state is increased by 5 percent, and
2) The number of imputed persons is subtracted from each state's figure. |
| Scenario 7. | Two adjustments are made simultaneously:
1) The number of undocumented aliens is subtracted from each state's figure, and
2) The number of imputed persons are subtracted from each state's figure. |
| Scenario 8. | All three adjustments are made simultaneously |
-

unit is inhabited but the number of inhabitants is unknown. The Bureau then uses a computerized procedure for assigning, or "imputing," a number of inhabitants for the housing unit based on information about surrounding housing units.

This issue is less well known than the issues of minority undercount adjustment or the exclusion of illegal aliens, but the exclusion of imputed persons from a state's population count could affect the apportionment of Congressional seats.

The imputation procedure accounted for approximately 761,000 persons out of a final count of 226.5 million in the 1980 Census (0.34 percent of the total). Not surprisingly, some states have more of these "imputed" persons than others. Following the 1980 Census, the State of Indiana sued the Census Bureau in an effort to have the people that were imputed by the Census Bureau removed from the count of each state's population that is used for reapportionment. The Census Bureau prevailed in court.

The Result

While adjustment has become an issue in which significant political power is presumed to be at stake, what would actually happen to Congressional apportionment if the 1990 Census were adjusted? Analysis of the impact of possible adjustments to census data requires a projection of state populations to 1990 and some underlying assumptions about the undercount in the 1990 Census. The three major assumptions used in this Demographer's Page are outlined below:

1. Blacks and Hispanics will be undercounted by 5 percent in every state.
2. The number of illegal aliens counted in each state in the 1990 Census will be the same as those estimated in the 1980 Census.
3. The number of people "imputed" in each state's total population in 1990 will be the same as in 1980.

Table 2. The Impact of Various Adjustment Scenarios on Reapportionment Following 1990 Census

State	Projected Congressional seats based on no adjustment	Scenarios							
		Difference from column 1 based on results of scenario							
	1	2	3	4	5	6	7	8	
Ala.	7	0	0	0	0	0	0	0	
Alaska	1	0	0	0	0	0	0	0	
Ariz.	7	0	0	0	0	0	0	0	
Ark.	4	0	0	0	0	0	0	0	
Calif.	50	0	-1	0	0	+1	-1	-1	
Colo.	6	0	0	0	0	0	0	0	
Conn.	6	0	0	0	0	0	0	0	
Del.	1	0	0	0	0	0	0	0	
Fla.	22	0	0	0	0	0	0	0	
Ga.	12	0	0	0	0	0	0	0	
Hawaii	2	0	0	0	0	0	0	0	
Idaho	2	0	0	0	0	0	0	0	
Ill.	20	0	0	0	0	0	0	0	
Ind.	10	0	0	0	0	0	0	0	
Iowa	5	0	0	0	0	0	0	0	
Kan.	4	0	0	0	0	0	0	0	
Ky.	7	0	0	-1	0	-1	0	0	
La.	8	0	0	0	0	0	0	0	
Maine	2	0	0	0	0	0	0	0	
Md.	8	0	0	0	0	0	0	0	
Mass.	10	0	0	0	0	0	0	0	
Mich.	16	0	0	0	0	0	0	0	
Minn.	8	0	0	0	-1	-1	0	0	
Miss.	5	0	0	0	0	0	0	0	
Mo.	9	0	0	0	0	0	0	0	
Mont.	1	0	0	0	0	0	0	0	
Neb.	3	0	0	0	0	0	0	0	
Nev.	2	0	0	0	0	0	0	0	
N.H.	2	0	0	0	0	0	0	0	
N.J.	14	0	0	0	0	0	0	0	
N.M.	3	0	0	0	0	0	0	0	
N.Y.	31	0	0	0	0	0	0	0	
N.C.	12	0	0	0	0	0	0	0	
N.Dak.	1	0	0	0	0	0	0	0	
Ohio	19	0	0	0	0	0	0	0	
Okla.	6	0	0	0	0	0	0	0	
Oreg.	5	0	0	0	0	0	0	0	
Pa.	20	0	+1	+1	+1	+1	+1	+1	
R.I.	2	0	0	0	0	0	0	0	
S.C.	6	0	0	0	0	0	0	0	
S.D.	1	0	0	0	0	0	0	0	
Tenn.	9	0	0	0	0	0	0	0	
Tex.	31	0	0	0	0	0	0	0	
Utah	3	0	0	0	0	0	0	0	
Vt.	1	0	0	0	0	0	0	0	
Va.	11	0	0	0	0	0	0	0	
Wash.	8	0	0	0	0	0	0	0	
W.Va.	3	0	0	0	0	0	0	0	
Wis.	8	0	0	0	0	0	0	0	
Wyom.	1	0	0	0	0	0	0	0	

Source: PRB projections.

Eight different scenarios for adjusting the census are listed in Table 1. The results of these scenarios for reapportionment of Congress following the 1990 Census are presented in Table 2.

It is clear that for most states, none of the adjustments described here will make any difference. For 46 out of the 50 states, none of the adjustments
Continued on next page

Demographer's Page

Continued from previous page

alone or in combination would cause the state to gain or lose a seat. The four states that might be affected by an adjustment of the types discussed here are California, Kentucky, Minnesota, and Pennsylvania.

Interestingly, Scenario 2, minority undercount adjustment, the modification of the census figures which has received the most attention, would not result in movement of any seats between states. Some past studies which indicate a big impact from this type of adjustment failed to adjust both the black and Hispanic populations, or made an adjustment in one state or locality but not others.

However, each of the other seven adjustment scenarios would result in a different apportionment of Congress.

The elimination of undocumented aliens from the numbers used for apportionment, Scenario 3, would move a seat from California to Pennsylvania. This is not surprising when you realize that the 1980 Census figures for California included an estimated 1 million illegal aliens. When these million people are taken out of California's projected population, that state loses a seat. Since Pennsylvania is projected to have gained almost enough population for an additional seat anyway, it is not surprising that the seat lost by California goes to Pennsylvania.

Scenario 4 (subtracting imputed persons from the census counts for each state) would result in one seat moving from Kentucky to Pennsylvania.

Scenarios 5 through 8 involve various combinations of adjustments. Scenario 5, which includes minority undercount adjustment and subtraction of undocumented aliens, would result in a seat moving from Minnesota to Pennsylvania.

Scenario 6, minority undercount adjustment and subtraction of imputed persons, would result in the movement of two seats. Under this scenario, Kentucky and Minnesota would each lose a seat, and California and Pennsylvania would gain one seat each.

Scenario 7, which includes subtracting undocumented aliens and imputed persons from each state's figure, would

result in one seat moving from California to Pennsylvania.

Finally, if all three adjustments were made simultaneously (Scenario 8), one seat would move from California to Pennsylvania.

Conclusions

It appears that none of the adjustments to census figures that are being urged upon the Bureau by various interest groups are likely to make a big difference in the overall apportionment of Congress following the 1990 Census. Nonetheless, for those few states that may be in jeopardy of losing a seat, and for those states that see the prospect of gaining an additional seat, the adjustment question is significant.

Under most adjustment scenarios, Pennsylvania is likely to gain an additional seat. Minnesota and Kentucky are not likely to gain an additional seat under any of the adjustment scenarios, but they may lose a seat depending on which adjustments are selected. California is unique in that it may gain a seat under some adjustment scenarios,

or lose a seat under different adjustment scenarios.

It is important to note that even though adjustment of census figures is not likely to have a major impact on Congressional reapportionment in 1990, adjustment of census figures would have a significant impact on the distribution of federal and state funding based on population figures. Furthermore, adjustment would have an impact on the redrawing of election district boundaries for federal, state, and local offices that follows the census. Consequently, it should be clear that adjustment issues are important for many reasons.

References

- 1 U.S. Bureau of the Census, "The Coverage of the Population in the 1980 Census," PHC80-E4 (Washington, DC: GPO, February 1988, Table A 80 4).
- 2 *Ibid.*, Table 7 1
- 3 Black, Hugo L., Remarks in the Senate in *Congressional Record*, Vol 71, May 1929, p 2078
- 4 Williams, Jennifer and David C Huckabee, *Proposed Exclusion of Illegal Aliens from the Population Used to Apportion the House of Representatives: A Methodological and Policy Analysis*, Congressional Research Service Report 88-418 Gov. June 8, 1988.



UNITED STATES COMMISSION ON CIVIL RIGHTS

WASHINGTON, D.C. 20425

OFFICE OF STAFF DIRECTOR

October 11, 1989

MEMORANDUM FOR THE COMMISSIONERS

SUBJECT: Utah SAC Report

I am submitting for your review and action at the October Commission meeting this Utah SAC report on immigration reform. The SAC approved this report by a vote of 10-0. I recommend Commissioner approval of this report.

A handwritten signature in black ink, appearing to read "Melvin L. Jenkins". The signature is stylized and written over the typed name and title.

MELVIN L. JENKINS
Acting Staff Director

Attachment

October 1989

IMPLEMENTATION IN UTAH OF THE
IMMIGRATION REFORM AND CONTROL ACT:
PHASES ONE AND TWO

A Summary Report

Utah Advisory Committee to
the United States Commission
on Civil Rights

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



UNITED STATES
COMMISSION ON
CIVIL RIGHTS

1121 Vermont Avenue, N.W.
Washington, D.C. 20425

LETTER OF TRANSMITTAL

MEMBERS OF THE COMMISSION

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Mary Frances Berry
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Francis S. Guess
Blandina Cardenas Ramirez

Melvin L. Jenkins, Acting Staff Director

The Utah Advisory Committee submits this summary report as part of its responsibility to advise the Commission about civil rights issues in the State of Utah.

The report summarizes information received at a community forum conducted by the Advisory Committee at the State Office Building Auditorium in Salt Lake City on May 18, 1989. The Advisory Committee sought a balanced perspective on the implementation in the State of the Immigration Reform and Control Act of 1986, and invited participation from community representatives, State and Federal officials, and professionals involved in assisting with phase one (amnesty/legalization) and phase two (civics and English language training) requirements.

While not an exhaustive review or analysis, the material provides a historical view of the amnesty/legalization process and an overview of the programs, problems, and successes of the civics and English language training. The Advisory Committee hopes the summary report will be helpful to the Commission in its monitoring of civil rights issues related to the Immigration Reform and Control Act.

The Advisory Committee unanimously approved submission of the report (10-0, 1 not voting) to the Commissioners and believes it will add to the body of research being collected by the Commission on the Immigration Reform and Control Act.

Respectfully,

Robert E. Riggs, Chairperson
Utah Advisory Committee

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Acknowledgments

The Advisory Committee wishes to thank the staff of the Commission's Western Regional Division in Los Angeles, California, for its help in the preparation of this report. The project was the chief assignment of Thomas V. Pilla. Support services were provided by Grace Hernandez and Priscilla Herring. Overall supervision was the responsibility of Philip Montez, Director of the Western Regional Division.

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I. INTRODUCTION

The Immigration Reform and Control Act

On November 6, 1986, President Ronald Reagan signed the Immigration Reform and Control Act (IRCA)¹ into law. The act ended more than 5 years of often bitter debate and controversy and is the most comprehensive reform of immigration law in the Nation since 1952.

The act is based on two cornerstones: employer sanctions for hiring aliens not authorized to work in the United States,² and legalization of aliens who have resided in the United States illegally on a continuous basis since January 1, 1982,³ or who have worked in agriculture for the requisite period. The legalization or amnesty portion is the first phase of the process for illegal aliens to become citizens. The act went into effect May 1, 1987.

¹Also known as the Simpson-Rodino Immigration Act, S. 1200, 99th. Cong., 2d Sess., 132 Cong. Rec. H10, 068-95, Oct. 14, 1986. Pub. L. 99-603, 100 Stat. 3359. Amends the Immigration and Nationality Act (INA), 8 U.S.C. sections 1101 et seq.

²S. 1200, supra n. 1, Section 101. New INA 224A(a)(1), 8 U.S.C. 1324A(a)(1).

³S. 1200, supra n. 1, Section 201. New INA 245A(a)(2)(A), 8 U.S.C. 1255A(a)(2)(A).

IRCA provided an initial amnesty period of 1 year (May 5, 1987, through May 4, 1988) to allow undocumented aliens the opportunity to prove their continued residence in the United States since January 1, 1982. The Immigration and Naturalization Service (INS) extended this period an additional 90 days for those aliens needing documentation if they had filed their initial request within the year.

IRCA also provided for employer sanctions for employment of unauthorized aliens and for failure to comply with employment verification and recordkeeping requirements. Sanctions include fines for a first violation, which range from \$250 to \$2,000 to \$10,000 for second and third violations. For violations of the employment verification and paperwork procedures, civil penalties can be imposed in the amount of \$100 to \$1,000 for each individual violation.

IRCA contains an antidiscrimination provision that prohibits employment discrimination on the basis of national origin and on the basis of citizenship status. This applies to hiring, firing, and referral or recruitment for a fee. The national origin category applies to all employers with more than three workers who are not already covered by Title VII of the Civil Rights Act of 1964. This provision is enforced by the Office of Special Counsel within the U.S. Department of Justice.

The second phase requires that those who have begun the process must show a basic knowledge of English and U.S. history and government. Those aliens who qualified during the first phase must apply for the second stage 18 months after they submitted their initial application. The INS has estimated that 800,000 of the Western Region's more than 1 million applicants for amnesty will have to complete phase two.

The earliest date a legalized immigrant can be granted full citizenship following completion of phase one and two requirements is November 1, 1993. Immigrant advocates have expressed concern that a shortage of English and civics classes and programs may cause some to miss the phase two deadlines.

State Advisory Committee

Utah, located in the southwest, and requiring migrant labor for its agricultural industry, is heavily affected by immigration concerns.

According to Bureau of the Census data, Utah had a population of 1,462,037 in 1980 including 1,383,000 white; 60,302 Spanish origin; 9,000 black; 19,300 American Indian; 2,700 Chinese;

900 Filipino; 5,500 Japanese; 800 Asian Indian; 1,300 Korean; 2,100 Vietnamese; and 36,000 all other. Persons of Spanish origin included 38,021 Mexican; 1,494 Puerto Rican; 283 Cuban; and 20,054 other Spanish origin.⁴

The impact of both phases of IRCA on the States's resources and economy concerned the Utah Advisory Committee to the United States Commission on Civil Rights. At its September 20, 1988, planning meeting, the Advisory Committee discussed IRCA. Members of the Advisory Committee questioned whether phase one had been successful, wanted to ascertain the availability of phase two programs, and raised general concerns about IRCA's implementation in Utah.

At its November 16, 1988 meeting, the Advisory Committee invited Dr. Brent Gubler, adult education services, Utah Office of Education, to discuss the act's educational

⁴Edith R. Hornor, editor. Almanac of the 50 States: Basic Data Profiles with Comparative Tables, Information Publications, Palo Alto, Calif., 1988, p. 356. The figures may not add to the total due to double counting and the Bureau of the Census' use of self-identification. The estimate of the Hispanic population as of July 1, 1985 was 70,600 or 4.3 percent of Utah's population. Bureau of Census, Current Population Reports, P-25, No. 1040, Table 11B, June 1989. The same report noted that blacks had increased to 11,700.

component and programs the State anticipated to meet the needs of aliens attempting to qualify for citizenship. According to Dr. Gubler, the State office of education had identified certain areas that might present problems to the successful implementation of phase two requirements. For example, the law requires a minimum of 40 hours of success in a citizenship training program, but adequate funds were not provided and success was not defined. Other Federal guidelines on numbers of students required for proposal purposes and school district programs were alleged to be unrealistic.

The Advisory Committee believed that confusion about phase two could hamper legalization efforts for those who had qualified during phase one. The Advisory Committee determined that a review of the implementation of IRCA in Utah was critical, and that special emphasis should be placed on gathering information on phase two. An open community forum was proposed as a method to obtain data on the implementation of the act and its impact throughout the State. The forum was conducted May 18, 1989 in Salt Lake City, and the Advisory Committee received information from State and Federal officials, community service organizations, attorneys, and professionals involved in assisting with phase one (amnesty

process) and phase two programs (English and U.S. history and government).⁵ The subjects addressed at the forum were: discrimination, amnesty and legalization, employer sanctions, agricultural workers, employment, and phase two programs.

From the information collected at the forum and additional data gathered by Advisory Committee members, the Committee prepared this summary report of what it learned from participants concerning the implementation of IRCA in Utah.

⁵Participants included: Curtis Garner, special assistant, Office of the Governor; Cindy Haig, director, Office of Assistance Payments, State Department of Social Services; Dr. Brent Gubler, adult education services, State Office of Education; Sue Breckenridge-Potterf, State Department of Health; Sherman Roquero, State Department of Social Services; Silvia Pena-Chacon, Utah Legal Services; Mani Seangsuwan, English, Citizenship and Opportunity Program, Asian Association of Utah; Filia Uipi, attorney; Louis Pickett, director, Utah Employment Service; Joan Gardner, assistant director, Catholic Community Services; Paco Rueda, staff case worker, Catholic Community Services; Patricia Stevens, Catholic Community Services; Meryl Rogers, officer-in-charge, Immigration and Naturalization Service (INS), Salt Lake City; Allan Speirs, chief legalization officer, INS, Salt Lake City; John Renteria, Migrant Seasonal Worker Program, Office of Rehabilitation Services; Rogilio Garza, Utah Rural Development Corporation; Grant Cooper, community representative; Miguel Esquivel, community representative.

II. PHASE ONE

Amnesty/Legalization

IRCA permits undocumented or illegal aliens to establish special status that allows them to remain and work in the United States under certain conditions. Under section 201 of the act, undocumented aliens may qualify if they have been in the United States illegally and continuously since 1982, except for short visits to other countries (45 days per visit; 180 days total). If they are agricultural workers, they must have worked in agriculture for at least 90 days and resided in the United States for at least 6 months in each of the years 1984, 1985, and 1986. In order to qualify, they cannot have more than three misdemeanors and no felonies, and have not and will not receive any form of welfare assistance.

According to INS officials, when undocumented persons applied for legalization, they were issued form I-688A, which allowed them to work for 6 months while their applications were being processed. In April 1988 INS extended this deadline 90 days to accommodate the backlog in processing applications.

When the application was accepted, the applicant received form I-688, an 18-month work permit. Only after receiving the I-688 could an undocumented alien apply for permanent residence. Meryl Rogers, officer-in-charge, Immigration and Naturalization Service (INS), Salt Lake City, said that the amnesty part of the law is virtually completed.⁶ Allan Speirs, chief legalization officer, INS, said the Salt Lake City office processed nearly 3,000 amnesty and over 4,500 special agricultural worker applicants for an approximate total of 7,500 for its region which includes Utah, Colorado, and Wyoming. INS officials noted that the alien must still comply with naturalization requirements.

Sherman Roquero, Department of Social Services, stated that in Utah 6,378 individuals had become eligible legalized aliens (ELAs). This figure included 4,004 special agricultural workers (SAWs) and 2,352 pre-1982 aliens.

⁶This comment is taken from the transcript of the Salt Lake city forum; unless otherwise noted, forum quotations and comments are taken from this transcript. Forum on the Impact in Utah of the Immigration Reform and Control Act, Utah State Advisory Committee to the United States Commission on Civil Rights, May 18, 1989, Salt Lake City, Utah. The transcript is on file in the Commission's Western Regional Division, Los Angeles, Calif.

Silvia Pena-Chacon, an attorney with Utah Legal Services, said IRCA has been good because it gave undocumented people an opportunity to become legalized, but a lot of people had problems. Her agency handled about 40 IRCA applicants and is presently involved in 8 appeals for SAW denials. Although her agency could only help SAW-approved aliens, she had heard that a lot of people were being denied amnesty unfairly because they did not have sufficient proof of their residency and employment records due to uncooperative farmers and farm labor contractors. Their lack of sophistication also hindered their ability to take advantage of the appeal process and many had missed the 30-day appeal period. Ms. Pena-Chacon alleged that there was not enough help for the undocumented. She did not think that the 1 year period for people to apply was long enough. She saw a lot of people who thought they could apply but missed the application deadline because they were not aware of it.

Filia Uipi, an attorney and member of the Tongan community, reported that there are 7 to 10 thousand Tongans in the Salt Lake City area, and he has helped approximately 50 Tongan

individuals obtain amnesty under IRCA. He alleged that there has never been a direct channel to inform the Tongan community of this law, and, as a consequence, he has individuals who come to his office asking whether the opportunity still exists. He believed the Tongan community was hindered from taking advantage of amnesty, adding:

At the very heart of the legalization process was cost and a lot of Tongans could not afford it. The complexity of the process was threatening because they could not get information. Some were afraid to apply because they said, "oh, we are going to be picked up." The availability of support services for the Tongan community is basically nil. Nobody involved appeared to be helping out with the exception of the Tongan Methodist Church and the Asian Association of Utah. A lifetime opportunity has passed because of lack of information and assistance.

According to Allan Speirs, chief legalization officer, the INS opened more than 100 special legalization offices around the

country. In Salt Lake City the INS opened a legalization office and hired and trained 13 new employees.

Anticipating the need for assistance with the amnesty process for undocumented aliens, the INS also created a network of qualified designated entities (QDEs) to provide support in preparing legalization applications. A major QDE in Utah was Catholic Community Services, a nonprofit agency funded primarily by private foundations and donations that established five outreach offices throughout Utah. According to Joan Gardner, assistant director, Catholic Community Services, in addition to its Salt Lake City office, its QDEs were located in Price, which assisted people from Helper and Green River; Provo, which covered Payson, Elberta, and Genoa; Ogden, which covered Brigham City, Tremonton, Logan, and Wendover; and Richfield, which assisted 24 communities located throughout central and southeastern Utah.

Ms. Gardner told the Advisory Committee that Catholic Community Services is:

still assisting people who have applied and who are in the appeal process. Catholic Community Services worked from May 5, 1987, through November 30, 1988,

setting up appointments and participating at the interview with the client. The appeals are still going in. When people are notified that they are denied, they have 30 days to appeal the case to the INS Regional Office in Lincoln, Nebraska.

Paco Rueda, staff case worker with Catholic Community Services, said that his agency submitted around 1,000 cases to the INS office in Salt Lake City from Idaho, Wyoming, and Utah. Of these cases, he estimated that 55 percent were SAWs and the other 45 percent were regular amnesty applicants.⁷ Sixty-five percent of the cases submitted by Catholic Community Services' QDEs have been approved to date, and the impact has been positive. Those who have been denied face uncertainty and problems. Mr. Rueda noted:

The impact on people who have been denied has been negative. Some have returned to their

⁷Mr. Rueda estimated that 94 percent of the applications were from Mexico, and the remaining 6 percent were composed of other Latin Americans and Iranians. Of the 35 percent denials, he estimated that 80 percent were SAWs and 20 percent were regular amnesty cases.

native country, while others are gathering the documentation for appeals. The main problem for those who have been denied is that they can no longer work. There are also a lot of families in which one spouse has obtained amnesty and the other has not, and these people are uncertain as to what will occur.

Ms. Gardner said a lot of people did not come forth in the beginning because there was a lot of fear. Even though INS established separate legalization offices, the undocumented, she added, were not a population that arose and readily ran to immigration.

The INS was cognizant of this fear. Mr. Speirs said:

To encourage the maximum number to come forward, information submitted in support of legalization could not by statute be used for the purpose of deportation. The aspect of confidentiality was such that I could not tell the officer-in-charge about particular cases under penalty of law.

Employees of INS legalization offices would be subject to fines and imprisonment for improperly divulging information provided by applicants. The INS sought to make this clear to the public through as many means as possible including press interviews, radio and television appearances, information supplied through the Spanish-speaking media, and various ethnic and support organizations.

Mr. Rogers said, "I can assure the Advisory Committee unequivocally that there has been no breach in the Salt Lake City office of the confidentiality aspect of IRCA." Mr. Speirs added, "80 percent of the applicants came directly to the INS without going through private attorneys and QDEs." He believed this fact dispelled fear of the INS as an issue. According to INS data, nationwide, approximately 3.1 million individuals applied for amnesty/legalization.

Employment Documentation

IRCA prohibits employers from hiring undocumented aliens and requires that they determine the identity and the eligibility to work of all persons hired since November 6, 1986.⁸ The

⁸Under a "grandfather clause" in IRCA, employers may lawfully continue to employ undocumented aliens hired prior to Nov. 6, 1986.

statute also allowed employees, who had to order documents such as birth certificates from another State or country, or a social security card, to remain working for 21 days while they awaited the requested documentation. For persons hired between November 7, 1986, and May 31, 1987, the employer had to obtain the required documentation by September 1, 1987.

Once the documentation was obtained, the employer and employee were required to fill out an official INS form I-9,⁹ attesting, under penalty of perjury, that the appropriate documents were provided. The attestation form must be kept on file for 3 years after the date of hire or 1 year after termination, whichever is later. According to Mr. Rogers, the I-9 provides the job applicant's biographic information and attests to the applicant's U.S. citizenship or status as a legally authorized alien worker. It must be completed and supported with appropriate documentation within 72 hours after the commencement of employment by everyone. Mr. Rogers said, "this form has never taken me more than 5 minutes to prepare."

⁹The I-9 is an Immigration and Naturalization Service form required from each employee hired after Nov. 6, 1986, which certifies the employee is a citizen of the United States and lists those documents utilized by the employee to verify his or her status.

According to INS officials, the first year of the act's implementation was devoted to educating employers about the provisions; the second year, warnings were issued to employers; and thereafter, fines and, in some instances, imprisonment could follow intentional violations of the employer sanctions provisions of the statute.¹⁰

Mr. Louis M. Pickett, director, employment service, Department of Employment Security, reported that from May to October, 1987, the employment service, in some instances with INS, conducted about 30 seminars throughout the State to educate employers on IRCA. About 800 or 2 percent of the State's employers participated.

The Phoenix District Office of the U.S. Equal Employment Opportunity Commission (EEOC) worked jointly with INS and with community groups to disseminate information regarding IRCA, including distributing INS materials to employers to assist them in conforming with the act.¹¹

¹⁰Enforcement of employer sanctions did not begin until June 1, 1988.

¹¹Hermilo R. Gloria, district director, Phoenix District Office, U.S. Equal Employment Opportunity Commission, May 2, 1989, letter to Thomas V. Pilla, civil rights analyst, Western Regional Division, U.S. Commission on Civil Rights. Hereafter cited as Gloria Letter. On file in the Western Regional Division.

Mr. Pickett noted that his agency trained staff on IRCA and the I-9 forms at all 24 local offices scattered throughout the State. According to Mr. Pickett:

At these local offices, receptionists and interviewers were being hassled by irate clients who often said, "you know I was born here", or "I am a citizen, why are you putting me through this?" Well, we were putting them through the procedure because the law says every one must have an I-9 on file.

In February 1988, Mr. Pickett added, his agency obtained permission from INS to modify its procedure so that an I-9 was no longer required of each client who used the service, but each was advised that he or she would need the I-9 for job referral.

The act provides both civil and criminal penalties for noncompliance with the I-9 certification. Mr. Pickett said that major employers with sophisticated personnel sections pay attention to this detail, but he believed it was not an issue with a lot of Mom and Pop type operations who go about their

business of hiring and do not worry about an I-9. He noted that the employment service anticipated a lot of publicity and frequent cases of sanctions so that employers would be aware, but sanctions have not been that many or that well-publicized to have gotten anybody's attention.

Mr. Rogers reported that since June 1, 1987, the INS has issued 16 to 17 notices of intent to fine in Utah, and about \$20,000 in fines has been collected to date (as of May 18, 1989). He added:

It has been our experience in followup to businesses that have been fined that there are no further violations encountered and all followup visits have shown compliance. Probably 90 percent of the businesses we visit are in compliance or if they are not in compliance, they have minor paperwork mistakes that are a reflection of a need for instruction rather than any willful violation. We are obtaining overwhelming voluntary compliance.

Discrimination

Advisory Committee members were concerned about the potential for discrimination in employment. Section 274B of IRCA prohibits discrimination in employment on the basis of national origin or citizenship status. Mr. Rogers stated:

It is an unfair immigration-related employment practice to discriminate against individuals in hiring, recruitment, or referral solely on the basis of alienage or citizenship status and for the sole purpose of evading the law. To enforce the antidiscrimination provisions of IRCA, a special counsel [in the U.S. Department of Justice] has been appointed to investigate such charges.

Under existing antidiscrimination law, the EEOC also has responsibility for assuring that employers do not discriminate based on national origin. The Phoenix District Office of the EEOC wrote the Advisory Committee:

The District Office has not received any charges or inquiries in the State of Utah, nor have we received any information from the Utah

Anti-Discrimination Division regarding possible IRCA charges.

To date, EEOC has not seen any major impact of IRCA related problems in our district and have yet to see a IRCA-related employment discrimination charge filed in the State of Utah.¹²

Mr. Picket sees no evidence of discrimination on the part of employers. He noted:

I have asked the Anti-Discrimination Division of the Industrial Commission whether they have observed any increase in employment discrimination as a result of this new law and they said no. I also asked the managers of our agency's statewide offices whether minorities, specifically Hispanic, are being avoided as potential employees, and they have responded that they have not seen any indication of such behavior. The Labor Information Section provided data on the percentage of Hispanics as a part of the applicant file and placements from employment service for the past 3 years and these figures have increased.

¹²Gloria Letter.

Rogilio Garza, staff, Utah Rural Development Corporation, said the I-9 has made more of those who are undocumented go underground than the pre-IRCA undocumented. They will not be using State job services to find employment and will continue to be exploited.

Ms. Pena-Chacon said employers are not going to be hesitant in hiring the undocumented even if it is just on a temporary basis, and this may lead to these people working for lower wages and in worse conditions because they do not have papers.

Mr. Rogers noted that exploitation is the big advantage of illegal alien labor, and this will cause hardship to some people who cannot qualify for legalization. But, he added, one of the big benefits of IRCA is the employer sanctions statute that will deny employers that group of exploitable labor.

Mr. Picket suggested that perhaps it is too early to assess employment discrimination concerns based upon IRCA and that additional data would be necessary.

Agricultural Workers

IRCA contains special provisions for agricultural workers. Aliens who could establish that they performed qualifying agricultural field labor¹³ in the United States for at least 90 days during the 12 months ending May 1, 1986, could apply for temporary resident status during the application period from June 1, 1987, to November 30, 1988. According to Mr. Speirs, only a handful of the applicants in Utah qualified under this provision.

Aliens who were granted temporary status through the special agricultural worker (SAW) program may become permanent residents 2 years after the close of the application period. Ranchers and growers in the State were alarmed that labor shortages would occur due to the implementation of IRCA. Mr. Pickett said that agricultural employers were quite concerned about the impact on migrant farm workers upon whom they have relied over the years. Employers were worried that

¹³Mr. Speirs noted that the law is quite specific in regard to precisely what sort of agricultural work made a person eligible. Field work is specified. The U.S. Department of Agriculture issued regulations which define the products and as a general rule that definition includes all plant crops grown for human food consumption with the exception of sugar cane, dairy products, poultry, and livestock. IRCA also contains a provision for a visa program (H-2A) designed to assist growers in obtaining necessary farm labor when a petitioning employer meets wage, housing, and other standards and the Department of Labor has certified that domestic workers are not available to provide those services.

legalization would remove potential employees from the migrant stream causing labor shortages during harvest times. Mr. Pickett noted that for the present, he was not aware of any serious agricultural labor problems in the State.¹⁴

Perhaps the major problem with the SAWs program has been the number of fraud cases. According to Mr. Speirs:

The people who are inclined to take advantage of situations were out there selling phony documents. We have had a case in Idaho where a man was convicted of selling 300, and in Utah another individual sold 200 fraudulently signed support documents. In the Regional Office, they have thousands upon thousands of cases which are suspected of being fraudulent, and INS staff are moving as quickly as they can to review those.

Ms. Pena-Chacon said that under the SAW portion of the law, the percentage of denials has been very large, and she has heard that maybe up to 60 percent of the applications are being denied on the basis of fraud.

¹⁴Mr. Speirs said within IRCA there is a provision for replenishment agricultural workers (RAWs) should there be future labor shortages in the agricultural sector. Beginning in fiscal year 1990 and for 4 additional years, alien farm laborers may be granted temporary residence if there is a scarcity of agricultural workers.

Mr. Rogers noted:

The lax nature of the SAW requirements invited fraud and it got plenty of takers. Thus far, we have had four individuals indicted on felony fraud charges for facilitating submissions of large numbers of fraudulent applications. These indictments do not involve individual applications for SAW status. They involve third parties who are soliciting business for fraudulent affidavits of farm labor employment.

Mr. Rueda wondered if the appeal process for SAW denials could be expedited. Mr. Speirs said that there may be some good cases among the denials, but there is no way that INS manpower can get around to those any quicker than they are.

III. PHASE TWO

State Legalization Impact Assistance Grants

Congress was mindful of the potential costs to States in implementing IRCA and provided reimbursement guidelines in

Section 204 of the act in the form of State Legalization Impact Assistance Grants (SLIAG).¹⁵

SLIAG may be used for education, health care, and other social programs for immigrants. According to Sherman Roquero, Department of Social Services, SLIAG is a reimbursement program through the Federal Government for State costs related to eligible legalized aliens in three program areas: public health, education, and public assistance.

Curtis Garner, special assistant, Office of the Governor, reported that in September 1987, Utah's Governor Norman Bangertter designated the State Department of Social Services as the contact agency for securing and submitting information to administer the funds under SLIAG. According to Cindy Haig, director, Office of Assistance Payments, Department of Social Services, the money that comes to the State of Utah for SLIAG is to provide funds for education, health, and assistance programs.

¹⁵This provision appropriates \$1 billion per year for 4 years (beginning in FY 1988) to reimburse, using a designated formula, State and local governments for the cost of providing public assistance and medical benefits to newly legalized aliens. Funds that are not used may be utilized through FY 1994. Thirty percent of the appropriated funds must be allocated equally among education, health, and public assistance programs.

Ms. Haig noted:

The Office of Assistance Payments contracts with the Department of Health and County Public Health Clinics for public health assistance programs. We contract for education services through the State Office of Education, and they subcontract to local school districts and some private, nonprofit agencies. In 1988, the first year of the program, Utah was allocated \$1.8 million. The allocation is based upon population. Excluding health expenditures which have yet to be tabulated, the State has spent approximately \$900,000 of its allocation. Administration costs for the State are about 10 percent.

Mr. Roquero said:

SLIAG has appropriated \$4 billion for 4 years. Ten States received 94 percent of the first year's billion dollars and California received 60 percent of that money. Thirty-three States including Utah received 6 percent of the SLIAG program money.

Ten States have no SLIAG program. Of the 3.1 million people who have applied nationwide for amnesty/legalization, 1.3 or 42 percent have been SAWs and 1.8 or 58 percent have been pre-1982 applicants. In Utah, there are 6,378 ELAs with 4,004 SAWs (64 percent) and 2,352 (36 percent) pre-1982 applicants.

Programming for phase two is now their major concern.

Education

Phase two, the path to permanent residency, applies to those granted legalization under section 245(a) or amnesty provisions of IRCA and not those under the section 210 or SAW program provisions. Mr. Speirs said that those applicants who have been temporary residents¹⁶ for 18 months become eligible for permanent residency beginning with the 19th month

¹⁶According to Mr. Speirs, temporary resident alien status never existed in law prior to the passage of IRCA. This category of temporary resident alien is something new that Congress enacted. Citizenship is another area. Individuals would have to be a permanent resident for at least 5 years before they become eligible to ask for citizenship with certain exceptions.

after they originally filed for temporary residency. In most cases this date coincides with the issue date on their temporary resident cards, the form I-688.

The law states that in order to become permanent, applicants must meet an education requirement regarding English and knowledge of history and government of the United States. The applicant may either attend an INS-approved class or pass an INS test. All eligible legalized aliens (ELAs) may take the classes, but only the section 245(a) applicants who have been here since before 1982 are required to do so.

The Utah State Office of Education is administering the adult education component of SLIAG. According to Mr. Speirs, there are more than 30 sites operating INS-approved educational courses throughout the State.

Dr. Brent Gubler, State Office of Education, noted that since October 1, 1988, Utah has had 1,592 eligible legalized aliens enter the State's educational structure. He said that the educational system provides a very limited opportunity to obtain speaking and listening skills through up to 40 hours of instruction. Dr. Gubler added, "we are saying that if you

attend school for 40 hours you will meet the INS requirement." The problem, he believes, is that this minimum level of education will not provide the labor force that the Nation needs, adding:

We have 1980 census data which tells us that if a female has 8 years of schooling and is employed full-time, she has an average annual income of \$7,649.00; for males it's \$15,547.00. If you have 12 years of schooling, females are earning \$9,337.00 and \$16,864.00 for males. It is estimated that by the year 2000 anyone with less than a 12th grade reading level will have a very difficult time obtaining and retaining employment.

He suggested that as we tender the American dream to these people we need to shoulder the responsibility of additional legislation, funding, and programming. At present, he noted, the regulations limit administrative costs to .0125 percent, and this is not adequate to even conduct meaningful onsite program evaluations. Because the program is so new, he noted further, there is not a good data base as relates specifically to the eligible legalized aliens.

According to Dr. Gubler, a major problem with the legislation is that before the State can obtain Federal SLIAG funds, there must be a minimum of 500 eligible individuals in individual local school districts. He added:

Although statewide we probably exceed the number, there is not one school district in Utah that has that minimum number and so the State does not qualify for SLIAG funds for children and youth under age 16. These children and youth are being provided for in local school districts utilizing State funds.

Dr. Gubler said he is the only State employee administering, tracking, and programming in education for the eligible legalized aliens over the age of 16. He noted:

There is a lack of awareness of the tremendous costs that are going to be associated with doing the outreach and providing literacy training. Facilities happen to be a major barrier because in some communities the school districts are taxed to the limit and they have been going on year round schools. We will have need for both day and

evening programs to handle those who work. There are other problem areas such as baby-sitting, transportation, materials, and supplies.

Because of the need for services, the State has contracted with private providers and presently has six non-State programs. Mani Seangsuwan, coordinator, Citizenship, English and Opportunity Program, Asian Association of Utah, said that it has enrolled 50 Tongans, 10 Samoans, 7 Hispanics, and 2 Asians in its training program offered at two classroom sites. Some of the problems this program faced included a lack of adequate funding, lack of native language instructors, different levels of English speaking and writing competency within classes, and confusion over the procedure for final certification for the INS.

Ms. Gardner said that a Catholic nun in the Wendover area is providing English language and civics history training to about 150 ELA students, but the funds are being provided by her religious order. She also noted that there is confusion regarding what is required as far as English and civics for the INS test and problems with funding for phase two. Although the programs are receiving SLIAG funds for the classroom hours that students are putting in, it is not enough.

Mr. Speirs noted that phase two education programs only began in February of this year and there has been a very high rate of approval because the ELAs can either take the test or take the 40 hours of instruction. In Utah only about 3,000 applicants will have to take the test. Nationwide, he said, there has not been one final denial of phase two applicants, but we are very early in the program.

Public Assistance and Health

Under the act, the alien is not eligible for "any program of financial assistance furnished under Federal law (whether through grant, loan, guarantee, or otherwise) on the basis of financial need [including the program of aid to families with dependent children (AFDC)], medical assistance under a State plan approved under Title XIX of the Social Security Act, and assistance under the Food Stamp Act of 1977."¹⁷

Sherman Roquero reported that public assistance is basically barred to ELAs for a period of 5 years, adding, "if they were

¹⁷Pub. L. No. 99-603, 100 Stat. 3359 (1986) Sec. 201(h)(1)(A). See also, 42 USC 601; 42 USC 1396; and, 7 USC 2026.

to apply for Federal public assistance programs such as AFDC that could jeopardize their legalization efforts."

The Advisory Committee has learned¹⁸ that a lawsuit¹⁹ was filed in the Federal Eastern District Court²⁰ in California to assist those amnesty/legalization applicants who may have been denied or chose not to apply because of the public charge issue. The matter is pending,²¹ and any decision may not be binding in Utah.

¹⁸Linda Mitchell, Coalition for Humane Immigrant Rights of Los Angeles, "Victory for Immigrant Rights; Judge orders INS to reopen amnesty in Zambrano Lawsuit," News Alert, August 2, 1989.

¹⁹Zambrano v. Immigration and Naturalization Service

²⁰The Federal Eastern District Court of California is located in Sacramento.

²¹On July 31, 1989, Federal District Court Judge Edward Garcia ruled in favor of the plaintiffs in the Zambrano lawsuit. The court decision covers two groups that will now be eligible for amnesty: (1) those applicants that have been denied or those pending denial because of the public charge issue; and, (2) those individuals because of the "public charge" issue who did not file an application prior to May 4, 1988.

Applicants or members of their families must have received some type of public assistance and failed to apply for amnesty because they thought they were ineligible for the legalization program due to INS's overly restrictive interpretation of the law.

On Aug. 10, 1989, the INS appealed the decision to the Ninth Circuit (Doc. No. 89-16014). The Ninth Circuit includes the states of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, and the territory of Guam. If the INS appeal is not successful, it is unclear whether the decision will be applied nationwide.

Ms. Pena-Chacon pointed out that the ELAs are being set loose in the country without any kind of help, and they cannot get public or general assistance.

Mr. Roquero said that ELAs may be eligible for State-funded public assistance programs such as general assistance and the emergency work program. He added that his department had no ELAs in those programs, and no one had applied for them.

The lack of ELAs in these programs did not surprise community activists, who suggested that aliens rarely distinguished between Federal and State programs. Ms. Gardner noted that there is a great deal of confusion over public benefits and whether accepting any form of public benefit will jeopardize their permanent residency.

Sue Breckenridge-Potterf, Department of Health, said that health programs that are available to ELAs are exactly the same basic public health services that are available to every individual in the State of Utah, such as immunizations, TB control, health education, food handlers training, and environmental control issues. She believed health services were adequate, but the problem was in the lack of outreach

that she attributed to the act's lack of funding for such efforts. As a consequence of the lack of information, she believed, most ELAs are fearful of applying for any kind of public assistance because of the public charge issue. Rather than jeopardize their legalization efforts, they just stay away from any assistance including health.

In addition to lack of funding for outreach, Ms. Breckenridge-Potterf noted that she could not contract with migrant health programs because those services are mostly supported by Federal funds. She added that migrant health programs serve an incredibly large ELA population and that she cannot contract with them because of the fact that the alien is not eligible for any program of financial assistance furnished under Federal law.

Mr. Roquero said that all of the State's costs in public assistance have been in the Medicaid program and that "Medicaid in Utah served 522 ELAs for a cost of \$439,000.00 in 1988."

Ms. Breckenridge-Potterf said:

This has been a very frustrating program to administer and operate. In Utah, the Department of Health is responsible for some programs that Federal agencies consider public assistance and therefore ELAs cannot apply. At the local level some covered programs include mental health and TB immunizations. Determining which are allowed expenses and which are not is burdensome administratively.

Another problem is that SLIAG will only reimburse for health programs that are already in place. Ms. Breckenridge-Potterf suggested that for this population, existing programs are only part of the health picture, and she is prevented from developing new programs for any special needs.

Participants suggested that Federal agencies reevaluate their interpretations of the statute so that services can be provided without jeopardizing the path to permanent residency for this population.

IV. SUMMARY

Amnesty/legalization, phase one, has been completed. The Advisory Committee gathered data on the implementation of amnesty/legalization for historical purposes and to assess the problems and successes encountered by applicants, INS, and community activists who assisted in the process. Participants in the Advisory Committee's forum suggested that the 1 year period was not long enough to accommodate the need, and that certain communities did not take advantage of the opportunity. They attributed this to a lack of communication and education about IRCA, costs associated with the process, and fear of the INS.

The INS representatives indicated that the issue of fear was overblown because 3.1 million applicants were processed nationally, and in Utah over 80 percent of those who qualified utilized the INS rather than QDEs for amnesty/legalization. Approved applicants have experienced a positive impact and can move about freely. Community activists are concerned about those applicants whose applications have been denied and are no longer able to find employment. Participants alleged that these individuals will experience exploitation by employers,

poor wages, and difficult working conditions. It was suggested that it is too soon to determine if employment discrimination is occurring.

It was alleged that only a small percentage of Utah's employers took advantage of sessions sponsored by the INS and State agencies to provide information about IRCA. The INS indicated that the majority of employers in the State are complying with I-9 certification procedures and fines have been minimal to date. The impact of employer sanctions has not been determined.

According to INS, the greatest problem during phase one has been the number of fraudulent documents submitted for amnesty/legalization in the SAW program. Final determinations for those SAW applicants who have appealed their denials has been delayed because the INS must take additional time to research the legitimacy of documents and does not have the manpower to expedite this process.

Although it is too early to assess the impact of phase two programs, certain problems have emerged. Participants alleged that funding is not adequate to meet service needs in education, health, and public assistance. Community activists

argued that confusion exists among ELAs over phase two procedures and requirements for final certification. Perhaps the greatest phase two problem is the confusion over public assistance. Because the act prohibits amnesty/legalization applicants from receiving certain public assistance for a period of 5 years, ELAs have been avoiding all public aid including public health. Public health officials believe the guidelines for SLIAG monies are burdensome administratively and do not allow them to meet the health needs of this population.

The 40 hours of basic instruction will meet the INS requirement for temporary resident status. However, education officials questioned whether this limited instruction in English and civics will assist ELAs in furthering their lives. Education officials doubt that this will prepare them for the challenges of a changing workplace.

Participants were concerned that ELAs, particularly in rural areas of Utah, have been cut adrift without access to education, health care, and public assistance.

Participants suggested that Federal agencies reevaluate their interpretations of the statute so that services can be provided without jeopardizing the path to permanent residency for this population.

Participants noted that phase two is a transition period that will allow ELAs an opportunity to participate in society without fear of deportation. The next step, one participant acknowledged, will require individual initiative.

Participants agreed that significant problems will be faced by denied applicants who have chosen to remain and hope for a new amnesty program. An assessment of the success of the 1986 act remains, and the Advisory Committee plans to monitor developments in Utah.